



# CITY OF CANNON BEACH

## AGENDA

Meeting: City Council  
Date: Tuesday, May 3, 2022  
Time: 6:00 p.m.  
Location: Council Chambers, City Hall

### CALL TO ORDER AND APPROVAL OF AGENDA

### CONSENT AGENDA

- (1) **Consideration of the Minutes of the**  
**April 5 Regular Meeting**  
**April 12 Work Session**  
**April 19 Joint Work Session**

### PUBLIC COMMENT

*The Presiding Officer will call for statements from citizens regarding issues relating to the City.  
The Presiding Officer may limit the time permitted for presentations and may request that a  
spokesperson be selected for a group of persons wishing to speak.*

### PUBLIC HEARING

- (2) **Public Hearing and Consideration of Resolution 22-13 a Resolution of the Cannon Beach City Council Adopting Findings to Support an Exemption from Competitive Bidding Requirements for the City Hall/Police Station Project, Declaring such Exemption, and Authorizing a Process to Award an Architectural/Engineer Contract.**  
*If Council wishes to adopt Resolution 22-13 an appropriate motion is in order*

### RESOLUTION

- (3) **Consideration of Resolution 22-14 for the Purpose of Rescinding the City's General Covid-19 Pandemic Emergency Declaration and Resolution 22-15 for the Purpose of Approving a Cannon Beach Limited Emergency Declaration to Extend Overflow Dining Allowances for Restaurants During the Covid-19 Recovery Period**  
*If Council wishes to adopt Resolutions 22-14 and 22-15, appropriate motions are in order*
- (4) **Consideration of Resolution 22-16; for the Purpose of Authorizing a Loan from the Safe Drinking Water Revolving Loan Fund by Entering into a Financing Contract with the Oregon Infrastructure Finance Authority**  
*If Council wishes to adopt Resolution 22-16 an appropriate motion is in order*

## PROCLAMATION

- ( 5)     **Consideration of Proclamation 22-06; National Public Works Week, May 15-21, 2022**  
*If Council wishes to adopt Proclamation 22-06, an appropriate motion is in order*
- ( 6)     **Consideration of Proclamation 22-07; Emergency Medical Services Week, May 15-21, 2022**  
*If Council wishes to adopt Proclamation 22-07, an appropriate motion is in order*

## ACTION ITEMS AND DISCUSSIONS

- ( 7)     **Cannon Beach Rural Fire Protection District Lifeguard Intergovernmental Agreement**  
*If Council wishes to approve the IGA an appropriate motion is in order*
- ( 8)     **EVOO Taxable Amount For Prepared Food Sales Tax Collections**  
*If Council wishes to approve the Administrative Order, an appropriate motion is in order*
- ( 9)     **City Hall/Police Station Architectural/Engineering Request for Proposals (RFP)**  
*If Council wishes to approve the RFP, an appropriate motion is in order*
- (10)     **Pacific Paving Request**  
*If Council wishes to approve the paving, an appropriate motion is in order*
- (11)     **RFP for Phase 2 of the Water Resiliency Project**  
*If Council wishes to approve the RFP, an appropriate motion is in order*
- (12)     **Tree Discussion**

## INFORMATIONAL/OTHER DISCUSSION ITEMS

- (13)     **Monthly Status Report**
- (14)     **Mayor Communications**
- (15)     **Councilor Communications**
- (16)     **Good of the Order**

## ADJOURNMENT

To join from your computer, tablet or smartphone

Join Zoom Meeting

<https://zoom.us/j/99261084699?pwd=TkpjbGcxS0pCOGlMOctSbSsxVWFmZz09>

Meeting ID: 992 6108 4699

Password: 365593

To join from your phone:

Phone: 1.669.900.6833

Meeting ID: 992 6108 4699

Password: 365593

**View Our Live Stream:** View our [Live Stream](#) on YouTube!

**Public Comment:** If you wish to provide public comment via Zoom for this meeting, you may submit it by noon, the day of the meeting, to [cityhall@ci.cannon-beach.or.us](mailto:cityhall@ci.cannon-beach.or.us), or raise your hand using the Zoom feature. Except for a public hearing agenda item, all Public to be Heard comments will be taken at the beginning of the meeting for both Agenda and Non-Agenda items. If you are requesting to speak during a public hearing agenda item, please indicate the specific agenda item number as your comments will be considered during the public hearing portion of the meeting when the public hearing item is considered by the Council. All written comments received by the deadline will be distributed to the City Council and the appropriate staff prior to the start of the meeting. These written comments will be included in the record copy of the meeting.

*Please note that agenda items may not be considered in the exact order listed. For questions about the agenda, please contact the City of Cannon Beach at (503) 436.8052. The meeting is accessible to the disabled. If you need special accommodations to attend or participate in the meeting per the Americans with Disabilities Act (ADA), please contact the City Manager at (503) 436.8050. TTY (503) 436-8097. This information can be made in alternative format as needed for persons with disabilities.*

Posted: 2022.04.27

Minutes of the  
**CANNON BEACH CITY COUNCIL**  
Tuesday, April 5, 2022  
Council Chambers

Present: Mayor Sam Steidel, Council President Mike Benefield, Nancy McCarthy, Robin Risley and Brandon Ogilvie

Excused:

Staff: City Manager Bruce St. Denis, IT Director Rusty Barrett, City Recorder Jennifer Barrett, Public Works Director Karen LaBonte and Chief of Police Jason Schermerhorn

Other: Attorney Emily Matasar

CALL TO ORDER AND APPROVAL OF AGENDA

Mayor Steidel called the meeting to order at 6:00 p.m.

Steidel asked for a motion to approve the agenda.

Motion: Ogilvie moved to approve the agenda as presented; Risley seconded.

Vote: Benefield, McCarthy, Ogilvie, Risley and Steidel voted AYE: the vote was 5:0 and the motion passed unanimously.

CONSENT AGENDA

- ( 1)    Consideration of the Minutes of the  
                    March 1                      Regular Meeting  
                    March 2                      Joint Work Session  
                    March 8                      Work Session

Steidel asked for a motion regarding the minutes.

Risley requested a revision on March 8<sup>th</sup>, first page, to add Steidel the list of volunteers.

Motion: Ogilvie moved to approve the minutes for March 1<sup>st</sup>, 2<sup>nd</sup> and 8<sup>th</sup> as amended; Benefield seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

PUBLIC COMMENT

- Deb Atiyeh PO Box 1426, Cannon Beach spoke about the North Coast Rocky Habitat upcoming hearing on April 29<sup>th</sup> and gave an overview of the program.
- Tabea Gooseen via Zoom provided additional information about the North Coast Rocky Habitat.

## RESOLUTION

### **( 2) Prepared Food Sales Tax Grant: Consideration of Resolution 22-11 for the Purpose of Establishing A Prepared Food Sales Tax Point of Sale Grant Program and Resolution 22-12 for the Purpose of Approving Increases And Decreases To The FY 2021-2022 Budget By Making An Intrafund Transfer Of Appropriations**

St. Denis summarized the staff report. Holland Herbert gave an overview of her scope of work, noting all but one business was able to handle the tax inhouse. Herbert added I contacted everyone on the list, the one system who needed a modification the costs were \$1,800. Herbert noted while almost the majority had no charge to upgrade, there may be a few that may still qualify for a grant. In response to Risley's question did you talk to EVOO, St. Denis replied that is on the work session. In response to McCarthy's question did you talk to EVOO, Herbert gave an overview of the process they may be using.

St. Denis noted to be on the safe side, we are recommending \$30,000, with a cap of \$5,000 even though we anticipate only one applicant. We also recommend having Marc Reckmann and I be the evaluators of request and to decide yes or no so we are able to pay out immediately. Benefield added it seems like \$30,000 is way more than you might expect. St. Denis replied we do not know what to expect, but if others come forward we don't have to go back to you, and we will not hold them up though the process. In response to McCarthy's question if you had questions about the request would you go to Herbert, St. Denis replied yes and she will be a part of the evaluation. In response to Ogilvie's question how would businesses be made aware of this, St. Denis replied we will work through the Chamber, but they knew we were working through this grant throughout the process and will get the word out. McCarthy noted her concerns about the April 30<sup>th</sup> deadline. St. Denis replied we can extend the deadline if you'd like. From the audience Jim Paino from the Chamber said just send me the information to get out. McCarthy asked and you are just asking for a letter, St. Denis replied yes, instead of going through an application process which takes additional time. A discussion ensued regarding EVOO and their concerns which are tax related not point of sale related. St. Denis added I'll send EVOO an email tomorrow to see if he anticipated assistance on the POS system. St. Denis suggested adding number 7 to the Resolution that allows Reckmann and I are able to authorize the grant.

Motion: Ogilvie moved to approve Resolution 22-11 for the Purpose of Establishing a Prepared Food Sales Tax Point of Sale Grant Program with the addition of #7 both CM BSD and FC Marc are in charge of the grants; Mike seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Motion: Benefield moved to approve Resolution 22-12 for the Purpose of Approving Increases and Decreases to the FY 2021-2022 Budget by Making an Intrafund Transfer Of Appropriations; Ogilvie seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

## PROCLAMATION

### **( 3) Consideration of Proclamation 22-02; Sexual Assault Awareness Month**

Chief Schermerhorn read the staff report.

Motion: Ogilvie moved to adopt proclamation 22-02 for the Purpose of Designating the Month of April 2022, as Sexual Assault Awareness Month; Benefield seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Schermerhorn read the Proclamation.

**( 4) Consideration of Proclamation 22-03; National Child Abuse Prevention Month**

Chief Schermerhorn read the staff report.

Motion: Ogilvie moved to adopt proclamation 22-03 for the Purpose of Designating the Month of April 2022, as Child Abuse Prevention Month; McCarthy seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Ogilvie read the Proclamation

**( 5) Consideration of Proclamation 22-04; Arbor Day**

La Bonte read the staff report, adding I'd like to recognize Barb Knop who supports city staff and completes and submits the paperwork for this designation each year.

Motion: Benefield moved to adopt proclamation 22-04 for the Purpose of proclaiming April 29, 2022, as Arbor Day in the City of Cannon Beach; Risley seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Steidel read the Proclamation. Steidel thanked Knop for keeping this going.

**( 6) Consideration of Proclamation 22-05; Earth Day**

La Bonte read the staff report.

Motion: Ogilvie moved to adopt proclamation 22-05 for the Purpose of proclaiming April 22, 2022, as Earth Day in the City of Cannon Beach; McCarthy seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

Steidel read the Proclamation

**ACTION ITEMS AND DISCUSSIONS**

## **( 7) Cannon Beach Architect/Engineer Selection Recommendation and Contract Approval**

St. Denis summarized the staff report, noting the public areas and council involvement. St. Denis introduced Jennifer Beatie and Dustin Johnson from CIDA, adding they are here to answer any questions. St. Denis added La Bonte did an exhaustive look at the references and credentials. La Bonte gave an overview of the reference check, noting a sampling of the attributes given about CIDA. St. Denis noted Barb Knop was responsible for passion. Knop added it was very interesting and a great process to go through. Knop noted it was interesting to see the different dynamics of the group adding they talked to each other, and they were friendly. The tribe is very important to this firm and that is something the community wants and the icing on the cake was they sent us a thank you and shook our hands at the end. I think that this is such an important project, and we picked the right firm. St. Denis thanked Knop for her help on the process. St. Denis noted Johnson's involvement. Beatie added thank you for this opportunity, we are very excited for this to learn and grow. Johnson added I was talking with the Mayor before we started and wanted to reiterate everyone is represented in the proposal. Cannon Beach holds a special place in our hearts and that is why we proposed on this project. It will be fun, extremely complex and getting community to rally around a solution. We are very excited and we are very eager. St. Denis noted we are scheduled for a meeting on Friday with CIDA and the tribe to meet and have an open discussion along with a site visit.

Matasar explained the two motions.

**Motion:** Benefield moved to approve the architect/engineering firm determined to be the most qualified by the Selection Committee for the Cannon Beach Elementary School Rejuvenation Project; McCarthy seconded.

**Vote:** Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

In response to Steidel's question are there any details we need to highlight, Matasar replied the contract was included in the RFP, some edits made during negotiations but it is significantly the same as before. It's not the standard contract, the AIA was used as a template, and it was then edited and negotiated with the firm to protect the City and firms interest.

**Motion:** Ogilvie moved to approve the contract between the City and CIDA for the Cannon Beach Elementary School Rejuvenation Project; Risley seconded.

**Vote:** Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

St. Denis added you will be getting a schedule from us but starting Friday. We are still working on roof project. ZCS received one bid, the project came in at \$499,000. When we finish we will have a good strong resilient building.

## **( 8) Appointment of City Committee/Board/Commission**

Applicants: Aaron Matusick and Kirsten Bergethon

Council discussed the timing of receiving the second application and the need for more time to review applicants before voting.

Motion: Benefield moved to table appointment for applicant until the special meeting at the work session; Risley seconded the motion.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

#### **(9) RFP for Phase 1 of The Water Resiliency Project**

La Bonte read the staff report. Steidel asked that once we get though design and engineering that you come with drawing to see what it looks like. La Bonte replied I will bring back engineering documents before they go out to bid. This phase is just for seismic valves and site improvements. Phase two is lines from springs. In response to McCarthy's question when does SCADA system go in, I really support that system and think it is important. Are you proposing all valves to be part of the SCADA system, or some remain manual operated, La Bonte replied these three will be SCADA but will still have a manual override capability. St. Denis noted La Bonte has been working with the Conference Center and Pacific Power in order to move forward with this project. In response to McCarthy's questions have we found another location for a tank, La Bonte replied we had given three options during a past presentation to council, giving an overview of the options. After reviewing the options, it was decided to stay in the same locations, a discussion ensued. St. Denis gave an overview of phase 2 and phase 3 adding we will have strong tanks and backbone

Motion: Benefield moved to approve the RFP for engineering, design and construction management services for Phase 1 of the Water Resiliency Project; Ogilvie seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

#### **(10) Cannon Beach Police Department 2021 Annual Report**

Schermerhorn presented the 2021 Annual Report. A copy is included in the record. Schermerhorn answered Council's questions.

#### **(11) Wastewater Reserve Fund – Ecola Generator**

La Bonte read the staff report. In response to McCarthy's question does this mean we are no longer applying for FEMA grant, La Bonte replied we had to withdraw our application as they were not comfortable with the building add on. La Bonte gave an overview of events that took place. St. Denis noted during a bad storm, our wastewater guys have been known to sleep in their cars to watch the pump stations in case the generators do not turn on.

#### **(12) Discussion of Expediting the Selections of Various Design Professionals**

St. Denis summarized the staff report, and presented a PowerPoint, a copy is included in the record. S. Denis added I just wanted to present his tonight and we'll do something similar at the workshop. This is something we have to sort through. We are doing things we have not done before and doing it with the same staff that we had 5 years ago. Asking at this point to move forward to April 12<sup>th</sup> for discussion. In



response to McCarthy's question are you leaning towards plan D, St. Denis replied it gets us a good price. I don't think we have to make a decision of E, that was not our intent, we just didn't want to overborrow.

#### INFORMATIONAL/OTHER DISCUSSION ITEMS

##### (13) Monthly Status Report

McCarthy under emergency management it says DOGAMI beat the waves signs scheduled for May 12<sup>th</sup> at Coaster Theatre. Steidel replied Rick Hudson explained it is a presentation at the theatre with DOGAMI folks about the new maps they put out. McCarthy added we should put some information out on that so people show up, R. Barrett replied added Hudson is working on that.

##### (14) Mayor Communications

##### (15) Councilor Communications

##### (16) Good of the Order

St. Denis reported we are working on special edition for the Bulletin for everything that is happening with CBE, it should be out tomorrow.

St. Denis reported we have been in discussion with Paul Dueber and Patrick Lathrop. Paul is going to do everything on Thursdays and is looking to have local people but also some more infamous bands from Portland. Patrick is looking to do a one-month Shakespeare program on Fridays. Andrew will be applying for funds for outdoor concerts and in June the steel band drum orchestra will be playing. There will be some pretty fun stuff this summer.

In response to Ogilvie's question do you have any update on when we may be able to reassemble steps in front of Whale Park, La Bonte replied it will be happening in the coming weeks. The concrete has been difficult to get. Steidel added we may want to mention Larch is being paved, La Bonte replied yes it is, and it's been posted on Facebook. They had to make a sewer repair so were unable to do it last year. It's scheduled for Thursday and Trevor Mount contacted everyone by phone and knocked door to door to talk to business in the area. La Bonte noted the parameters of the project.

In response to McCarthy's question regarding the 4<sup>th</sup> of July parade, St. Denis replied we are 75% positive we are going to have one. There is a meeting next week at the Legion to discuss. I offered to be there and offered to give a grant to the Legion to cover the insurance costs. Nancy Teagle is also working with Chamber.

In response to McCarthy's question is the City getting feedback on what happened at pandemic, St. Denis replied not getting feedback, but people glad when we opened up City Hall. At the next work session, I believe we will be recommending keeping the emergency declaration in place for potential funding and also with it in place we can continue outdoor dining.

McCarthy reported after parade the library opens for book sale.

McCarthy gave an overview of the discussion from Coffee with Councilors.

ADJORNMENT

The meeting was adjourned at 8:36 p.m.

ATTEST:

---

Jennifer Barrett, City Recorder

---

Sam Steidel, Mayor

DRAFT

Minutes of the  
**CANNON BEACH CITY COUNCIL WORK SESSION  
AND SPECIAL MEETING**  
Tuesday, April 12, 2022  
Council Chambers

Present: Mayor Sam Steidel, Council President Mike Benefield, Nancy McCarthy and Brandon Ogilvie in person. Robin Risley via Zoom

Excused:

Staff: City Manager Bruce St. Denis, IT Director Rusty Barrett, Administrative Assistant Katie Hillenhagen, Community Development Director Jeff Adams and Public Works Director Karen La Bonte

Other: City Attorney Ashley Driscoll

CALL TO ORDER AND APPROVAL OF AGENDA

Mayor Steidel called the meeting to order at 6:05 p.m.

Steidel asked for a motion to approve the agenda.

St. Denis recommended moving item #9 on the agenda to have it come after item #5.

Motion: Ogilvie moved to approve the amended agenda; McCarthy seconded.

Vote: Benefield, McCarthy, Ogilvie, Risley and Steidel voted AYE: the vote was 5:0 and the motion passed unanimously.

PUBLIC COMMENT

- Will Rasmussen via Zoom, Miller Nash LLP on behalf of Haystack Rock LLC spoke of his concerns regarding approval for the Roberts small house off Nenana Ave. He noted that he has worked to get notice of this approval. He suggested rescinding the approval and then reapproving it.
- Jan Siebert-Wahrmund spoke on behalf of Cannon Beach Friends of the Trees concerning the pruning of trees performed by Pacific Power. She voiced concerns about the topping of trees.
- Siebert-Wahrmund then spoke on behalf of herself and her husband regarding the candidates for the Planning Commission and restrictions concerning how many members can be of the same profession.

## DISCUSSIONS

### ( 1) Pacific Power Presentation

Mayor Steidel introduced Alisa Dunlap from Pacific Power. Dunlap gave a PowerPoint presentation; a copy is included in the record. Dunlap presented background information related to the company and their community involvement.

Kevin Freeman, Director of Operations for Pacific Power, spoke about how power gets to Cannon Beach. Freeman emphasized their focus on reliability.

Dunlap apologized for improper notification regarding a tree that was recently trimmed. She said proper notification did not happen and that that was on them.

Heather Householder from Pacific Power spoke about vegetation management. She noted that all workers are trained to use arboricultural techniques.

Steidel asked how far ahead door hangers were put out before work began.

Householder said they try to do about a week, but it can be months. She noted that they are restricted by resources and schedules. Householder noted that they have a tree replacement policy.

Dunlap said that they have stringent rules that they are required to follow, however within those restrictions they can improve communications.

Steidel had concerns about paying attention to the aesthetics of trees. Steidel noted that there is concern in the community because they have trees that are aging out.

Householder offered partnering with the City by using planting vouchers.

Benefield asked if they have information on the Pacific Power website that covers what has been presented, specifically to help identify plants that would be best around powerlines, as well recommendation for where to plant.

Freeman noted that 90% of power lines in the area are overhead. He recommended calling before digging even though most lines are overhead.

Householder showed their brochure for planting called 'Right Tree Right Place,' which is also on their website.

Leslie Francis, PO Box 829 CB, asked about oversight and accountability for contractors.

Householder said that the GF manages their team, and she goes out and does audits as well.

Siebert-Wahrmund asked about steps moving forward.

Householder explained the communication issue that happened recently.

Nancy McCarthy asked about the notice distance.

Householder said they leave it on the property that the tree to be trimmed or cut is on.

They discussed the distance and procedure for notice for trimming.

Barb Knop suggested that the Parks Committee have a session with Pacific Power to address issues raised.

Karen La Bonte, Public Works Director, said that there has been a move to use email notification instead of door hangers. She noted that the City tries to post on Facebook and the website when trimming will occur.

Risley said that Householder has been great but felt that there were still issues about direct communication.

## ( 2) Discussion of EVOO Taxable Amount

St. Denis introduced Bob Neroni from EVOO. Neroni spoke of his concerns regarding the taxable amount in his flat rate and how it could impact his business. Neroni gave a brief history of the business. Neroni said that he supports the tax. He noted that his business model includes an entertainment component. He was not sure how or when to apply the tax in their business model. Neroni proposed that \$93.75 be the taxable amount that he use to pay the City.

Benefield asked if he planned on updating this amount annually.

Neroni said that he did. They discussed how review of that amount would happen.

Driscoll discussed the audit process and they discussed how to break down EVOO's flat rate. Driscoll suggested a preliminary audit and then a review by Council at a later date.

Steidel felt that this situation was a one off and issues like this should be dealt with on a case by case basis.

Benefield felt that the formula given by Neroni followed their ordinance and he liked the idea of starting with an audit. He did not feel like EVOO was a special case, but rather that the tax will be based on prepared food revenue.

St. Denis voiced concerns about other businesses making similar claims. He said he would prefer cases be given to Council to decide.

They discussed how this could be applied to a restaurant with an ocean view.

Driscoll proposed an amendment to the code to address combination services. They discussed combination services.

Driscoll summarized what they discussed, noting that they would work with Neroni on coming up with a schedule for review. The Council agreed with Driscoll's recommendation.

Neroni asked for clarification on collecting the tax. He was concerned about when it would go into effect. If a client booked and paid before July 1<sup>st</sup> would he have to tax them?

The Council agreed that money collected before July 1<sup>st</sup> would not be taxed, independent of when the meal was consumed.

( 3)     Roberts Driveway Access Easement

Adams summarized his staff report giving a status update. He noted that the alternative house plan was submitted before the new ordinance requiring expanded notice was adopted. He said that they issued the conditional approval to avoid issues with the 120-day rule.

( 4)     Continuation of Emergency Declaration Parameters (Reimbursement & Zoning)

St. Denis discussed the basis for the Emergency Declaration and their concern about losing the ability to make exceptions based on the Emergency Declaration, such as waving parking and signage restrictions.

Adams said that feedback from businesses was that they were not utilizing outdoor dining space due to staffing issues.

Driscoll discussed issues related to the duration of the Emergency Declaration. She said that the Declaration will end when Council decides it is no longer necessary.

They discussed letting people continue to have outdoor dining through Labor Day and how that could be done. There were concerns about what could be called an emergency and if the recovery phase could be included in the emergency declaration.

They decided to extend the Emergency Declaration through Labor Day as a recovery period.

( 5)     TSP Update

Adams gave an update on the TSP process. He noted that the Draft TSP is now up on the website. There is a new link to the last online open house, which includes an interactive survey. After that there will be a joint work session with the PC. Adams said that some comments in the community indicate that people are not necessarily reading the TSP. He noted that there were things on social media that were not in the TSP and that this concerned him. He recommended people go to the site, where they can read the draft and give feedback on that.

( 9)     City Hall and Police Station Construction Delivery Proposal

St. Denis summarized his staff report and described the CM/GC process, adding that if there is a consensus to proceed, the Public Hearing and Resolution will be on the May 3<sup>rd</sup> agenda.

Ogilvie had concerns about the bid process. St. Denis clarified the process.

Council agreed to move forward and have it put on the May 3<sup>rd</sup> agenda.

( 6) Information for City Hall/Police Station Bond Issue Timing

St. Denis summarized his staff report and went over the preliminary schedule and how the bond process fit in. He emphasized that due to fluctuating rates it may be beneficial to start the bond process sooner. He asked Council to consider moving forward with the RFPs so they can stay on schedule and go to the bond market sooner.

Ogilvie asked about where funding will come from before the bonds are obtained. It would be paid through general funds and then reimbursed through the bonds. Council discussed the bond timing and funding issues in general.

( 7) Cannon Beach Elementary Rejuvenation Project CM/GC RFP

St. Denis recommended they put this on the May 3<sup>rd</sup> agenda.

( 8) City Hall and Police Station A/E RFP Review

St. Denis asked council to also consider approval of the Police Station A/E at the May 3<sup>rd</sup> meeting.

Council discussed the RFPs and gave feedback for edits.

Council agreed to move forward on the RFPs and A/E

Steidel closed the Work Session and Started the Special Meeting.

ACTION ITEMS

(10) Appointment of City Committee/Board/Commission

**PLANNING COMMISSION:** One (1) vacancy to fill four-years term

Driscoll commented on concerns about having more than two members of the same profession or occupation serving on the Planning Commission. She noted that what those terms mean and how they are interpreted is up to the Council. Is a retired person still considered an attorney if that was their previous profession? Driscoll said that information she was given indicated that there is one practicing attorney on the PC and three retired members. She said that considering this information, it does not look like appointing another attorney would violate the ordinances.

Benefield thought that, considering the scope of their work, having legal expertise on the Planning Commission would be beneficial.

Risley had concerns about having too many lawyers on the Planning Commission.

Lisa Kerr, a current member of the PC, confirmed that she is no longer a practicing attorney.

Applicant Aaron Matusick spoke via Zoom: Matusick introduced himself and clarified that he is general counsel for a real estate company.

They discussed how many lawyers were on the Commission. There is one retired, one with a change of occupation, and one practicing.

Council discussed the threshold of whether or not the current makeup would restrict who they could appoint. They also discussed Matusick as a candidate and his involvement in the community.

Council agreed that in this case they were not violating the restriction.

Applicant Kirsten Bergethon was not able to attend the meeting to introduce herself.

Council voted by roll call. Councilors McCarthy, Benefield, and Ogilvie voted for Aaron Matusick, Councilor Risley and Mayor Steidel voted for Kirsten Bergethon

Motion: Benefield moved to appoint Aaron Matusick to the Planning Commission; Ogilvie seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, and Mayor Steidel voted AYE; Councilor Risley voted NAY, the vote was 4:1 in favor and the motion passed.

#### (11) Cannon Beach Elementary School Gym Roof Award

La Bonte read the staff report.

Motion: Ogilvie moved to approve the contract award to O'Brien & Company for the Cannon Beach Elementary gym roof; Benefield seconded.

Vote: Councilors Benefield, Ogilvie, McCarthy, Risley and Mayor Steidel voted AYE; the vote was 5:0 in favor and the motion passed unanimously.

#### (12) Good of the Order

St. Denis mentioned a letter from Mayor Bruce Jones from Astoria. Jones had met with Jeff Adams and Ogilvie and hoped to bring issues they discussed before the Council at a later date.

St Denis noted that the generator price rose from \$60,000 to \$75,000 and they are moving forward with that.



Ogilvie asked about review of St. Denis' performance.

Driscoll went over the process.

Mcarthy reminded everyone that Coffee with the Councilars was on Monday, April 18th.

Reminder for DOGAMI presentation, *Beat the Wave*, which will be at 6:30 PM on May 19th.

ADJORNMENT

The meeting was adjourned at 9:29 p.m.

ATTEST:

\_\_\_\_\_  
Katie Hillenhagen, Administrative Assistant

\_\_\_\_\_  
Sam Steidel, Mayor

Minutes of the  
**CANNON BEACH CITY COUNCIL WORK SESSION**  
Tuesday, April 19, 2022  
Council Chambers

Present: Mayor Sam Steidel, Council President Mike Benefield, Nancy McCarthy, Robin Risley and Brandon Ogilvie

Planning Commission: Barb Knop, Mike Bates, Clay Newton, Lisa Kerr, Anna Moritz, Aaron Matusick and Charles Bennet

Design Review Board: Alicia Blalock and Mike Morgan

Excused: Design Review Board members Jennifer Yih, Dave Doering and Michelle Valigura

Staff: City Manager Bruce St. Denis and Community Development Director Jeff Adams

Others: Keith Liden and Marcy McInelly from Urbsworks

**CALL TO ORDER AND APPROVAL OF AGENDA**

Mayor Steidel called the meeting to order at 6:00 p.m.

Steidel asked for a motion to approve the agenda.

Motion: Ogilvie moved to approve the agenda as presented; Risley seconded.

Vote: Benefield, McCarthy, Ogilvie, Risley and Steidel voted AYE: the vote was 5:0 and the motion passed unanimously.

Sam noted we will have public comment, it will be 3 minutes each. We will go around the room to introduce ourselves.

**PUBLIC COMMENT**

There was no public comment

**DISCUSSION**

**( 1) Code Audit Joint Work Session with Planning Commission and Design Review Board**

**Presentation (PowerPoint)**

- McInelly
- Talk about character survey
- Code Audit process is to identify areas where Code does not support the Comp Plan
- Said whole group would break into sub-groups and have small visioning discussions

-

4 categories of code audit issues (Keith w/ PowerPoint)

- 1. Clerical (i.e. definitions that are not used in the code, missing references)
- 2. Structural /organizational issues (Code ordering can follow the comp plan)
- 3. Administrative issues (unclear or conflicting definitions)
- 4. Did not hear the 4<sup>th</sup> but it is in the P/P

Each of the categories had more examples than I included here

Village Character Surveys (McInelly - PowerPoint)

- Showed photo examples of structures
- McInelly went over survey results

McInelly – Talked about limitations not in the control of the city (“Reality checks”)

- What state laws allow (limitations)
- Village character of existing downtown structures
- Dilemma of required parking vs good street scape design
- Architectural design elements (only need two to comply to build a Single-family structure)

Group splits into 2 groups to discuss 3 questions (read by McInelly)

McInelly monitored the group at the dais about what they want the city to be (or not to be)

- They went around the room and individuals responded.
- “Discussion ensued”
- Request list of questions from Marcy

Keith went over the comments from the group on ZOOM

- Discussion ensued
- Request list of questions from McInelly

ADJORNMENT

The meeting was adjourned at 8:01 p.m.

ATTEST:

---

Jennifer Barrett, City Recorder

---

Sam Steidel, Mayor



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

PUBLIC HEARING AND CONSIDERATION OF RESOLUTION 22-13 A RESOLUTION OF THE CANNON BEACH CITY COUNCIL ADOPTING FINDINGS TO SUPPORT AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS FOR THE CITY HALL/POLICE STATION PROJECT, DECLARING SUCH EXEMPTION, AND AUTHORIZING A PROCESS TO AWARD AN ARCHITECTURAL/ENGINEER CONTRACT.

---

**Agenda Date:** May 3<sup>rd</sup>. 2022

**Prepared by:** Bruce St.Denis, City Manager

## BACKGROUND

On April 12<sup>th</sup>, 2022 you were presented with the draft Resolution and finding of fact detailing why the city staff is recommending that Construction Management/General Contractor (CM/GC) is the best construction delivery system for the City Hall/Police Station project.

## ANALYSIS/INFORMATION

This is a public hearing for consideration of the Resolution and Findings.

## RECOMMENDATION

Suggested motion:

“I move to Adopt Resolution 22-13 a Resolution of the Cannon Beach City Council Adopting Findings to Support an Exemption from Competitive Bidding Requirements for the City Hall/Police Station Project, Declaring Such Exemption, and Authorizing a Process to Award construction professional contracts in accordance with the Construction Manager/General Contractor (CM/GC) construction delivery method.”

## List of Attachments

A Resolution 22-13

## BEFORE THE CITY OF CANNON BEACH

A RESOLUTION OF THE CANNON BEACH CITY ) RESOLUTION NO. 22-13  
 COUNCIL ADOPTING FINDINGS TO SUPPORT AN )  
 EXEMPTION FROM COMPETITIVE BIDDING )  
 REQUIREMENTS FOR THE NEW CANNON BEACH )  
 CITY HALL AND POLICE STATION PROJECT, )  
 DECLARING SUCH EXEMPTION, AND )  
 AUTHORIZING A PROCESS TO AWARD A )  
 CONSTRUCTION MANAGER/GENERAL )  
 CONTRACTOR (CM/GC) CONTRACT. )

**WHEREAS**, ORS 279C.335(2) authorizes the City of Cannon Beach (“City”) City Council to exempt specific projects from the competitive bidding requirements of ORS 279C.335(1) upon approval of certain findings of fact and allows the City to use alternate contracting methods.

**WHEREAS**, OAR 137-049-0610 defines permissible alternative contracting methods to include the Construction Manager/General Contractor (CM/GC) contracting method for public improvements.

**WHEREAS**, the City Council has determined that using the CM/GC form of contracting for the renovation of the New Cannon Beach City Hall and Police Station Project (Project) will be most beneficial to the City and its residents based on the findings attached as Exhibit A.

**WHEREAS**, selection of a CM/GC firm for the Project will be made using a Request for Proposal that identifies the specific criteria the City will use to evaluate proposals and select a contractor, and the criteria that govern how a guaranteed maximum price for the Project will be established. The CM/GC will also be required to provide full performance and payment bonds for the work following detailed review of the design documents.

**WHEREAS**, ORS 297C.335(4) requires the City Council to hold a hearing to allow public comments on the City Council’s draft findings, and ORS 297C.335(5) requires the City to publish notice of the hearing at least 14 days in advance. Notice of the public hearing was advertised in the Oregon Daily Journal of Commerce and The Astorian and the hearing was held May 3, 2022.

**NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Cannon Beach that:**

1. The City Council of the City Cannon Beach, hereby:
  - a) Adopts the Findings of Fact described in Exhibit A to support an exemption from competitive bidding for the contract to construct the Project.
  - b) Declares an exemption from competitive bidding for the contract to construct the Project.
  - c) Authorizes and directs City staff to proceed with the process of soliciting for a CM/GC contract for the Project according to applicable statutes and rules for such solicitations.

- d) Directs the City Manager, and such persons as the City Manager may direct, to negotiate a CM/GC contract with the selected firm in a form approved by the City Attorney.

2. This resolution is effective immediately upon its enactment by the City Council.

PASSED by the Common Council of the City of Cannon Beach this 3rd day of May 2022, by the following roll call vote:

YEAS:

NAYS:

EXCUSED:

---

Sam Steidel, Mayor

Attest:

---

Bruce St. Denis, City Manager

## **Exhibit A – Findings of Fact**

Pursuant to ORS 279C.335(2), the Cannon Beach City Council makes the following Findings of Fact to support an exemption from competitive bidding to permit the award of a CM/GC contract for the New Cannon Beach City Hall/Police Station Project:

1. The CM/GC process will provide the City of Cannon Beach with the following advantages:
  - a) Cost savings, as described below;
  - b) Reduction of schedule risk typically associated with multiple construction agreements;
  - c) Opportunity to select a qualified CM/GC firm that will work closely with the architect and engineers rather than separating the design and construction elements;
  - d) Ensuring accurate cost data for project decisions;
  - e) Greatest assurance of successful schedule management; and
  - f) Higher confidence in obtaining quality construction.
2. Project Description.

The purpose of the project is to develop a City Hall/Police Station that will:

  - a) Provide a seismically resilient facility for City Hall and Police Department functions by building to Risk Category IV standards
  - b) Create a facility that will survive most seismic events and will be able to host emergency and restorations of public facilities and recovery of private property in a fully functioning EOC after a seismic event.
  - c) Provides a safe facility that recognizes and addresses the potential health hazards under which employees are sometime required to work.
  - d) Enhance the mid-town area with a facility that exemplifies and enhances the small-town scale of Cannon Beach
3. Responsibilities of the CM/GC Firm.
  - a) Design Phase.

The CM/GC firm will provide scheduling, bid packaging, cost estimating, and review design documents prepared by the architect or engineer from the standpoint of value, long lead procurements, design feasibility and constructability, and negotiate a Guaranteed Maximum Price (GMP) for the work prior to completion of the construction documents.
  - b) Bid Process.

All material procurement and work by subcontractors will be competitively bid. The CM/GC firm will coordinate the bid process for all work with full oversight and participation by City staff and Architect/Engineer. The CM/GC firm will provide a recommendation to the City for each subcontract. Upon approval from the City, the CM/GC will execute a contract with the approved subcontractor.
  - c) Construction Phases.

The CM/GC firm will be responsible for completing the construction project, including scheduling of subcontractors, materials procurement and delivery. The CM/GC is responsible for completing the project on schedule, within budget, and at, or above, the quality defined in the specifications prepared by the design engineering firm.

4. Rationale for Using CM/GC Method.

a) No Diminished Competition or Encouragement of Favoritism.

Because a CM/GC will be selected through an open, competitive process among qualified contractors including formal proposals, successful experience criteria, interviews, and cost proposals, it is unlikely that the exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts.

Furthermore, because the work subcontracted by the CM/GC will be awarded to the lowest responsive bidder, this bid process will not result in favoritism in the awarding of public contracts.

b) Value Engineering.

The CM/GC will work with the design architect or engineer to perform value engineering to identify potential problem areas in terms of constructability, try to find alternatives to lower the cost of the project and to find the lowest-cost approach to sequencing and completing the required improvements.

Furthermore, because the CM/GC will have adequate time to prepare bid packages, review and analyze bids received from subcontractors, subcontractors are more likely to be well-qualified subcontractors, which should result in better quality and cost savings.

c) Change Order Cost Control.

The CM/GC method should help control change order costs. Having the Contractor perform cost analysis and feasibility reviews is expected to reduce the potential for change orders caused by unforeseen conditions. Reduction of change orders should result in cost savings.

d) Reduced Construction Time.

Using the CM/GC method of contracting will reduce the overall time it takes for the project by allowing the contractor to plan construction and phasing during the design portion instead of after bids are opened. The CM/GC method also provides greater scheduling flexibility and allows improvements to begin at an earlier date because the builder is involved in developing the design of various project elements.

e) Qualified Oversight/Management.

The Cannon Beach City Manager has successfully utilized the CM/GC construction delivery system for improvements to construct a new City Hall, new Police Station and Public Works Facility, an Animal Control Facility and is qualified to manage the complexities of this CM/GC construction process.



g) Operational, Budget, and Financial Data.

The total estimated budget for this Project is \$17,500,000 which is also the estimated total cost of the work. However, the costs may come in higher because of the recent spike in construction costs which occurred after the estimated cost was received. The lower design costs associated with a CM/GC contract will enable more funds to be spent on the actual construction.

h) Specialized Expertise Required.

Utilizing a CM/GC on this project will be better than using just City staff to complete the project. Having a firm with general contractor experience on the design team will yield many benefits when it comes time for construction. The CM/GC can address constructability issues related to the of City Hall/Police Station during the design phase.

i) Public Benefits.

The potential cost of the project will be reduced by combining the expertise of a general contractor during the design phase to address constructability, material choices, design of bid packages and phasing.

j) Public Safety.

No significant public safety benefits are anticipated as a result of using the CM/GC contracting method.

k) Technical Complexity.

The City Hall /Police Station will be constructed to Risk Category IV standards to maximize the probability that the operations housed within the facility will survive to serve the residents after a seismic event. Because the CM/GC process requires close coordination between the architect, engineers and CM/GC builder, it will help to ensure that modern construction materials and techniques can be matched to the existing buildings.

l) Funding sources

Funding for the debt service for the project is anticipated to come from the proceeds of the prepared food tax approved by voters on November 2<sup>nd</sup>, 2021.



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

CONSIDERATION OF RESOLUTION 22-14 FOR THE PURPOSE OF RESCINDING THE CITY'S GENERAL COVID-19 PANDEMIC EMERGENCY DECLARATION AND RESOLUTION 22-15 FOR THE PURPOSE OF APPROVING A CANNON BEACH LIMITED EMERGENCY DECLARATION TO EXTEND OVERFLOW DINING ALLOWANCES FOR RESTAURANTS DURING THE COVID-19 RECOVERY PERIOD AND

---

**Agenda Date:** May 3, 2022

**Prepared by:** Ashley Driscoll, City Attorney

## BACKGROUND

At the work session on April 12, 2022, the Council discussed that although the original conditions giving rise to the pandemic have generally receded, the recovery efforts are on-going and the risks associated with a resurgent variant remain high. More specifically, the Council believes the pandemic risks remain high and the recovery on-going for restaurants that had to close for long periods of time and then had to invest in materials and infrastructure to accommodate outdoor dining. These businesses would continue to suffer substantial impacts if required to tear down and then reconstruct outdoor dining infrastructure in the case of a resurgent variant that impacts dining.

## ANALYSIS/INFORMATION

In response to these changing circumstances, staff recommends the City rescind the City's general emergency declaration from spring of 2020 and replace it with a more limited declaration that provides only for accommodations for restaurants. This limited declaration would extend through Labor Day and then sunset automatically, unless extended by the Council.

## RECOMMENDATION

Staff recommends Council adopt Resolution 22-14 and Resolution 22-15.

### Suggested Motions

"I move to adopt the Resolution 22-14 for the Purpose of Rescinding the City's General Covid-19 Pandemic Emergency Declaration"

"I move to adopt the Resolution 22-15 for the Purpose of Approving a Cannon Beach Limited Emergency Declaration to Extend Overflow Dining Allowances for Restaurants During the COVID-19 Recovery Period"

### List of Attachments

- A Resolution 22-14
- B Resolution 22-15

BEFORE THE CITY OF CANNON BEACH

FOR THE PURPOSE OF RESCINDING THE CITY'S ) RESOLUTION NO. 22-14  
GENERAL COVID-19 PANDEMIC EMERGENCY )  
DECLARATION )

WHEREAS, Governor Kate Brown, on March 8, 2020, declared a state of emergency due to the COVID-19 virus, finding that COVID-19 had created a threat to public health and safety, and constituted a statewide emergency under ORS 401.025(1); and

WHEREAS, the World Health Organization, on March 11, 2020, declared COVID-19 to be a pandemic that causes respiratory distress with the potential to cause serious illness and loss of life; and

WHEREAS, on March 16, 2020, the Cannon Beach City Council declared a local state of emergency pursuant to ORS 401.309(1) in Resolution 20-09 and pursuant to the Cannon Beach Municipal Code chapter 2.42 in Resolution 20-10 and;

WHEREAS, the City Council has extended the emergency declaration and protective measures in Resolutions 20-14, 20-15, 20-16, 20-17 and 20-19; and

WHEREAS, Resolution 20-19 established that the local state of emergency would stay in effect until such time as the City Council determined the conditions giving rise to the pandemic no longer existed; and

WHEREAS, as of April 2022 the State of Oregon lifted the statewide emergency declaration as the peak of the pandemic appears to have receded; and

WHEREAS, while the City Council concurs with the state of Oregon and other local jurisdictions that many of the original conditions giving rise to the pandemic have receded, the City Council remains concerned about the threat of variants such as Omicron and the potential for conditions to worsen once again; and

WHEREAS, further, the City Council recognizes that the City and many local businesses are still in recovery from the impacts of the pandemic and need additional time to transition back to normal operations; and

WHEREAS, as a result, the City Council has decide to rescind the general emergency declaration with the understanding that if conditions change again in the future, the Council may again impose an emergency declaration; and

WHEREAS, in its place, the Council will impose a more limited emergency declaration in Resolution 22-15 addressing only businesses still in recovery and where the financial impact of transitioning back and forth is significant.

NOW THEREFORE, the Cannon Beach City Council, resolves as follows:

**Section 1:** The City of Cannon Beach rescinds the declaration of state of emergency most recently imposed in Resolution 20-19 and replaces it with the more limited declaration in Resolution 22-15.

**Section 2.** This Resolution is effective immediately.

Dated and effective this 3rd day of May, 2022.

PASSED by the Common Council of the City of Cannon Beach this 3rd day of May 2022, by the following vote:

YEAS:

NAYS:

EXCUSED:

ATTEST:

---

Sam Steidel, Mayor

---

Bruce St. Denis, City Manager

BEFORE THE CITY OF CANNON BEACH

FOR THE PURPOSE OF APPROVING A CANNON ) RESOLUTION NO. 22-15  
BEACH LIMITED EMERGENCY DECLARATION TO )  
EXTEND OVERFLOW DINING ALLOWANCES FOR )  
RESTAURANTS DURING THE COVID-19 RECOVERY  
PERIOD

WHEREAS, Governor Kate Brown, on March 8, 2020, declared a state of emergency in Oregon due to the COVID-19 virus, finding that COVID-19 has created a threat to public health and safety, and constitutes a statewide emergency under ORS 401.025(1); and

WHEREAS, the World Health Organization, on March 11, 2020, declared COVID-19 to be a pandemic that causes respiratory distress with the potential to cause serious illness and loss of life; and

WHEREAS, the City of Cannon Beach on March 16<sup>th</sup>, 2020, declared a local state of emergency for Cannon Beach, pursuant to ORS 401.309(1); and

WHEREAS, the City of Cannon Beach, under the direction of the State of Oregon, restricted restaurants and other indoor service providers, to abide by “social distancing,” masking and other public health related requirements throughout the emergency, to secure public health; and

WHEREAS, the City of Cannon Beach, on May 21, 2020, issued Emergency Zoning Parameters, allowing a relaxation of Off-Street Parking, Signage and Outdoor Merchandizing Zoning Ordinance requirements to respond to social distancing requirements to provide indoor service providers the opportunity to expand into parking areas, common areas and other approved outdoor areas under an approved Emergency Outdoor Service & Parking Plan; and

WHEREAS, the City of Cannon Beach Community Development Department received a dozen such Emergency Outdoor Service and Parking Plans to allow for COVID-related expansion into outdoor areas, including parking areas, with increased signage to redirect and warn customers of emergency measures; and

WHEREAS, those Cannon Beach businesses providing overflow outdoor services, which were placed in an economically vulnerable position during the emergency, limiting their normal operations by as much as fifty percent, while making emergency expenditures to provide outdoor services, including tables, seating, tenting, perimeter barricades, etc., must make provisions to return to normal operations; and

WHEREAS, Emergency Management, under FEMA guidance requires four phases, mitigation, preparedness, response, and recovery, although the COVID-19 social distancing requirements have been lifted, the recovery period for restaurants and other indoor service providers will require more time to transition back to normal operations; further these same

businesses will experience significant hardship if required to transition back to emergency operations in the future; and

WHEREAS, FEMA explains, “during the recovery period, restoration efforts occur concurrently with regular operations and activities. The recovery period from a disaster can be prolonged,” and

WHEREAS, recovery, according to FEMA, includes “preventing or reducing stress-related illnesses and excessive financial burdens, while reducing vulnerability to future disasters,” in which case indoor service providers will remain vulnerable to economic stress as long as COVID-variants are spreading; and

WHEREAS, as of April 20, 2022, many states across the country, including Oregon, Washington and California have continued to see a recent rise in COVID-cases related to emergent variants; and

WHEREAS, as of April 20, 2022, the Oregon Health Authority stated that the average reported case numbers have risen to more than 600 per week and may be 5 to 10 times greater, due to unreported cases, which they will continue to monitor; and

WHEREAS, on May 3, 2022 the City of Cannon Beach rescinded its general COVID-19 Pandemic Emergency Declaration, while recognizing the threat of variants and that many businesses still remain in recovery; and

WHEREAS, as of May 3, 2022, the City of Cannon Beach extends the recovery period to September 5<sup>th</sup>, 2022, at which time the Extension of Emergency Outdoor Service and Parking Plans will be required to come into conformance with Cannon Beach Municipal Code, unless extending by the Common Council of the City of Cannon Beach; and

NOW, THEREFORE, BASED ON THE FOREGOING FINDINGS, THE COMMON COUNCIL OF THE CITY OF CANNON BEACH DECLARES AN EXTENSION OF OVERFLOW DINING ALLOWANCES WILL BE GRANTED FOR RESTAURANTS WITH EXISTING EMERGENCY PLANS, AS FOLLOWS:

**Section 1:** Pursuant to the City of Cannon Beach’s authority in CBMC 2.42 and ORS 401.309(1), the Council declares a state of emergency. Pursuant to CBMC 2.42(C), the Council declares the following:

- (a) The nature of the emergency is the continuing threat of COVID-19 variants and the recovery of restaurants and similar businesses where the expense of transitioning between emergency conditions and normal operations is significant;
- (b) The designated geographical area is the city boundaries;
- (c) The estimated number of individuals at risk is all residents and visitors;
- (d) COVID-19 can cause respiratory disease, with the potential to cause serious illness or loss of life and spreads from person to person through coughing and sneezing, close personal contact and touching surfaces with the virus on it and then touching the mouth, nose or eyes thereby creating the potential to cause serious illness or loss of life to a broad segment of the City’s population;
- (e) The estimated length of the emergency declaration is through September 5, 2022;

- (f) The type of emergency assistance necessary is the extension of overflow dining allowance granted for restaurants with existing emergency plans.

**Section 2:** This Resolution is effective immediately and will automatically sunset unless extended on September 5, 2022.

PASSED by the Common Council of the City of Cannon Beach this 3rd day of May 2022, by the following vote:

YEAS:

NAYS:

EXCUSED:

ATTEST:

---

Sam Steidel, Mayor

---

Bruce St. Denis, City Manager



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

CONSIDERATION OF RESOLUTION 22-16; FOR THE PURPOSE OF AUTHORIZING A LOAN FROM THE SAFE DRINKING WATER REVOLVING LOAN FUND BY ENTERING INTO A FINANCING CONTRACT WITH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY

---

**Agenda Date:** May 3, 2022

**Prepared by:** Karen La Bonte, Public Works Director

## BACKGROUND

In the 2021-2022 fiscal year, the City of Cannon Beach Public Works department budgeted several Capital Improvement Projects (CIP) utilizing low-interest loans as a revenue source. Utilizing these loans, the City can obtain funding for an improvement now and pay over 20 to 40 years instead of today's residents paying 100% of an improvement that has a long useful life.

On March 2, 2021, the City applied for a loan from the Safe Drinking Water Revolving Loan Fund to move forward with Phase 2 of the Water Resiliency Project. The project is replacement of the lines between the springs, tank, water plant and RV Park.

The goal of the Water Resiliency Project is to be able to distribute drinking water to the public within 72 hours after a large-scale earthquake – such as a Cascadia Subduction Zone (CSZ) event – and to build a hardened water system “backbone” that mitigates earthquake damage and allows for accelerated recovery.

## ANALYSIS/INFORMATION

On February 14, 2022, the City was approved for a loan in the amount of \$3,215,000 through the Safe Drinking Water Revolving Loan Fund for Phase 2 of the Water Resiliency Project. This loan is eligible for \$515,000 of principal forgiveness and an interest rate of 1% for the 30-year term. The City has budgeted debt services for this loan.

## RECOMMENDATION

Staff recommends adoption of the Resolution and approval of the signature card for the purpose of authorizing a loan from the Safe Drinking Water Revolving Loan Fund by entering into a financing contract with the Oregon Infrastructure Finance Authority.

Suggested motion:

“I move to adopt the Resolution and approve the signature card for the purpose of authorizing a loan from the Safe Drinking Water Revolving Loan Fund.”

## List of Attachments

- A Resolution 22-16
- B Signature Card
- C Contract



## BEFORE THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AUTHORIZING A LOAN FROM ) RESOLUTION NO. 22-16  
 THE SAFE DRINKING WATER REVOLVING LOAN )  
 FUND BY ENTERING INTO A FINANCING CONTRACT )  
 WITH THE OREGON INFRASTRUCTURE FINANCE )  
 AUTHORITY )

The City Council of the City of Cannon Beach (the "City") finds:

A. The City is a community or nonprofit non-community water system as defined in Oregon Administrative Rule 123-049-0010.

B. The Safe Drinking Water Act Amendments of 1996, Pub.L. 104-182, as amended (the "Act"), authorize any community or nonprofit non-community water system to file an application with the Oregon Infrastructure Finance Authority of the Business Development Department ("OBDD") to obtain financial assistance from the Safe Drinking Water Revolving Loan Fund.

C. The City has filed an application with the OBDD to obtain financial assistance for a "safe drinking water project" within the meaning of the Act, and the OBDD has approved the City's application for financial assistance.

D. The City is required, as a prerequisite to the receipt of financial assistance from the OBDD, to enter into a Financing Contract with the OBDD, number S22015, substantially in the form attached hereto as Exhibit 1. The project is described in Exhibit C to that Financing Contract (the "Project").

E. Notice relating to the City's consideration of the adoption of this Resolution was published in full accordance with the City's charter and laws for public notification.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Cannon Beach as follows:

1. Financing Loan Authorized. The City Council authorizes the City Manager to execute the Financing Contract (the "Financing Documents") and such other documents as may be required to obtain financial assistance including a loan from the OBDD on the condition that the principal amount of the loan from the OBDD to the City is not more than \$3,215,000 with \$515,000 eligible for principal forgiveness if contract conditions are met. For the balance of the loan (\$2,700,000) the interest rate is 1.0% if contract conditions are met (and 1.7% if not met). The proceeds of the loan from the OBDD must be applied solely to the "Costs of the Project" as such term is defined in the Financing Contract.

2. Sources of Repayment. Amounts payable by the City are payable from the sources described in Section 4 of the Financing Contract and the ORS285A.213(5) which include:

- (a) Revenue from City's water system, including special assessment revenue;
- (b) Amounts withheld under ORS285A.213(6);
- (c) The general fund of the City;
- (d) Any combination of sources listed in paragraphs (a) to (c) of this subsection; or
- (e) Any other source.

3. Additional Documents. The City Manager is hereby authorized to enter into any agreements and to execute any documents or certificates which may be required to obtain financial assistance from the OBDD for the Project pursuant to the Financing Documents.

4. Tax-Exempt Status. The City covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the City pursuant to the Financing Documents not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The City Manager of the City may enter into covenants on behalf of the City to protect the tax-exempt status of the interest paid by the City pursuant to the Financing Documents and may execute any Tax Certificate, Internal Revenue Service forms or other documents as may be required by the OBDD or their bond counsel to protect the tax-exempt status of such interest.

Passed by the Common Council of the City of Cannon Beach this 3rd day of May 2022, by the following roll call vote:

YEAS:

NAYS:

EXCUSED:

\_\_\_\_\_  
Sam Steidel, Mayor

Attest:

\_\_\_\_\_  
Bruce St Denis, City Manager

Authorized Signature Card for Cash Payments on Oregon Business Development Department Awards	
Recipient	Project Number
<b>Signatures of Delegated Authorized Individuals to Request Payments</b> (Two signatures are required to request disbursement of funds)	
_____ Typed Name and Title  (1) a _____ Signature (Highest Elected Official must <b>not</b> sign here)	_____ Typed Name and Title  (1) b _____ Signature (Highest Elected Official must <b>not</b> sign here)
<b>Additional Signatures (if desired)</b>	
_____ Typed Name and Title  (1) c _____ Signature (Highest Elected Official must <b>not</b> sign here)	_____ Typed Name and Title  (1) d _____ Signature (Highest Elected Official must <b>not</b> sign here)
<b>I certify that the signatures above are of the individuals authorized to draw funds for the cited project.</b>  _____ Typed Name, Title and Date  (2) _____ Signature of Highest Elected Official or duly authorized official for the Recipient (Must <b>not</b> be listed in item (1) a through (1) d above)	<b>Agency Use Only: Date Received:</b>

Oregon Business Development Department/Authorized Signature Card

**Preparation of the Authorized Signature Card Form:** If a mistake is made, or a change is necessary during the preparation of the signature card form, please prepare a new form, since erasures or corrections of any kind will not be acceptable. If you want to change individuals authorized to draw funds from the project, then please submit a new signature card. Any updated signature card will replace the previous one, so please be sure to include the names of all authorized individuals.

**Item # Explanation**

- (1) a-d Type the names and titles, and provide the signatures of the officials of your organization who are authorized to make draws on project funds. (Note: **Two** signatures are required. We recommend showing three or four signatures to allow adequate signature coverage.)
- (2) Enter the typed name, title, date and signature of the Highest Elected Official, or other official duly authorized by the governing body of the Recipient, certifying the authenticity of the signatures of individuals listed in Item (1) a through (1) d. The person signing here **must not be listed in Item (1) a through d.**
- (3) Leave blank—Oregon Business Development Department will sign here.

Complete one form and return it to: Oregon Business Development Department  
 775 SUMMER ST NE STE 200  
 SALEM OR 97301-1280

SAFE DRINKING WATER REVOLVING LOAN FUND  
FINANCING CONTRACT

Project Name: Backbone Resiliency Project Phase II

Project Number: S22015

This financing contract (“Contract”), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through its Oregon Infrastructure Finance Authority of the Oregon Business Development Department (“OBDD”), and the City of Cannon Beach (“Recipient”) for financing of the project referred to above and described in Exhibit C (“Project”). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following exhibits, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

Exhibit A	General Definitions
Exhibit B	Loan Security
Exhibit C	Project Description
Exhibit D	Project Budget
Exhibit E	Information Required by 2 CFR § 200.331(a)(1)
Exhibit F	Certification Regarding Lobbying

**SECTION 1 - KEY TERMS**

The following capitalized terms have the meanings assigned below.

“Estimated Project Cost” means \$3,215,000.

“Forgivable Loan Amount” means \$515,000.

“Section 2A. Loan Amount” means \$2,700,000.

“Interest Rate” means 1% per annum.

“Maturity Date” means the 29th anniversary of the Repayment Commencement Date.

“Payment Date” means December 1.

“Project Closeout Deadline” means 90 days after the earlier of the Project Completion Date or the Project Completion Deadline.

“Project Completion Deadline” means 36 months after the date of this Contract.

“Repayment Commencement Date” means the first Payment Date to occur after the Project Closeout Deadline.

**SECTION 2 - FINANCIAL ASSISTANCE**

The OBDD shall provide Recipient, and Recipient shall accept from OBDD, financing for the Project specified below:

- A. A non-revolving loan in an aggregate principal amount not to exceed the Section 2.A. Loan Amount.
- B. A non-revolving loan in an aggregate principal amount not to exceed the Forgivable Loan Amount.

“Loan” means, collectively and individually without distinction, as the context requires, the loans described in this section 2.

Notwithstanding the above, the aggregate total of Financing Proceeds disbursed under this Contract shall not exceed the Costs of the Project.

### SECTION 3 - DISBURSEMENTS

- A. Reimbursement Basis. The Financing Proceeds shall be disbursed to Recipient on an expense reimbursement or costs-incurred basis. The Recipient must submit each disbursement request for the Financing Proceeds on an OBDD-provided or OBDD-approved disbursement request form (“Disbursement Request”).
- B. Financing Availability. The OBDD’s obligation to make, and Recipient’s right to request, disbursements under this Contract terminates on the Project Closeout Deadline.
- C. Payment to Contractors. The OBDD, in its sole discretion, may make direct payment to suppliers, contractors and subcontractors and others for sums due them in connection with construction of the Project, instead of reimbursing Recipient for those sums.
- D. Order of Disbursement. OBDD shall allocate any disbursement equally between the Section 2.A. Loan and the Forgivable Loan. Notwithstanding the preceding sentence, those portions of the Forgivable Loan indicated in the budget line-items for Labor Standards Compliance and Project Management remain dedicated to those specific line-item activities and not affected by any equal division allocation.

### SECTION 4 - LOAN PAYMENT; PREPAYMENT; FORGIVENESS

- A. Promise to Pay. The Recipient shall repay the Loan and all amounts due under this Contract in accordance with its terms. Payments required under this Contract are, without limitation, payable from the sources of repayment described in the Act and this Contract, including but not limited to Exhibit B, and the obligation of Recipient to make all payments is absolute and unconditional. Payments will not be abated, rebated, set-off, reduced, abrogated, terminated, waived, postponed or otherwise modified in any manner whatsoever. Payments cannot remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of purpose, any change in the laws, rules or regulations of the United States of America or of the State of Oregon or any political subdivision or governmental authority, nor any failure of OBDD to perform any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project or this Contract, or any rights of set off, recoupment, abatement or counterclaim that Recipient might otherwise have against OBDD or any other party or parties; provided further, that payments hereunder will not constitute a waiver of any such rights.
- B. Interest. Interest accrues at the Interest Rate on each disbursement from the date of disbursement until the Loan is fully paid. All unpaid interest accrued to the Repayment Commencement Date is (in addition to the first regular installment payment due) payable on the Repayment Commencement Date. Interest is computed by counting the actual days occurring in a 360-day year.

The Recipient authorizes OBDD to calculate accrued interest as necessary under this Contract, including for purposes of determining a loan amortization schedule or determining the amount of a loan prepayment or loan payoff. Absent manifest error, such calculations will be conclusive.

- C. Loan Payments. Starting on the Repayment Commencement Date and then on each succeeding Payment Date, Recipient shall make level installment payments of principal and interest, each payment sufficient to pay the interest accrued to the date of payment and so much of the principal as will fully amortize the Loan by the Maturity Date, on which date the entire outstanding balance of the Loan is due and payable in full.
- D. Loan Prepayments.
- (1) Mandatory Prepayment. The Recipient shall prepay all or part of the outstanding balance of the Loan as required by this Contract.
  - (2) Optional Prepayment. The Recipient may prepay all or part of the outstanding balance of the Loan on any day except a Saturday, Sunday, legal holiday or day that banking institutions in Salem, Oregon are closed.
- E. Application of Payments. Regardless of any designation by Recipient, payments and prepayments by Recipient under this Contract or any of the Financing Documents will be applied first to any expenses of OBDD, including but not limited to attorneys' fees, then to unpaid accrued interest (in the case of prepayment, on the amount prepaid), then to the principal of the Loan. In the case of a Loan prepayment that does not prepay all the principal of the Loan, OBDD will determine, in its sole discretion, the method for how the Loan prepayment will be applied to the outstanding principal payments. A scheduled payment received before the scheduled repayment date will be applied to interest and principal on the scheduled repayment date, rather than on the day such payment is received.
- F. Forgiveness. Subject to satisfaction by Recipient of any special conditions in Exhibit C, if Recipient completes the Project by the Project Completion Deadline in accordance with the terms of this Contract, and provided that no Event of Default has occurred, OBDD shall, 90 days after the Project Completion Date, forgive repayment of the Forgivable Loan Amount and any interest accrued thereon and cancel the Forgivable Loan. The Forgivable Loan Amount and any interest forgiven remain subject to the requirements of OAR 123-049-0050, which survive payment of the Loan.

Notwithstanding the preceding paragraph, if, at the Project Completion Date, the average monthly residential water rates for the water supplied by the System are not at or above the affordability rate of \$52.96 per 7,500 gallons, then \$400,000 of the amount due under the Forgivable Loan will not be forgiven. Further, the Section 2.A. Loan and the Forgivable Loan will, at OBDD's discretion and after notice to Recipient, be modified as follows:

Interest accrues from the Project Completion Date at the rate of 1.69% per annum.

The above-described modification will be effective without the necessity of executing any further documents. However, at OBDD's request, Recipient shall execute and deliver to OBDD such additional agreements, instruments and documents as OBDD deems necessary to reflect such modification, including but not limited to an amendment to the Contract.

## SECTION 5 - CONDITIONS PRECEDENT

- A. Conditions Precedent to OBDD's Obligations. The OBDD's obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its Counsel:
- (1) This Contract duly signed by an authorized officer of Recipient.
  - (2) A copy of the ordinance, order or resolution of the governing body of Recipient authorizing the borrowing and the contemplated transactions and the execution and delivery of this Contract and the other Financing Documents.

- (3) An opinion of Recipient's Counsel.
  - (4) Such other certificates, documents, opinions and information as OBDD may reasonably require.
- B. Conditions to Disbursements. As to any disbursement, OBDD has no obligation to disburse funds unless all following conditions are met:
- (1) There is no Event of Default.
  - (2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.
  - (3) The OBDD, in the reasonable exercise of its administrative discretion, has sufficient moneys in the Fund for use in the Project and has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.
  - (4) Recipient delivers to OBDD an estimated schedule for Disbursement Requests for Project design, covering anticipated number, submission dates, and amounts. Prior to beginning construction, Recipient must also deliver to OBDD an estimated schedule for Disbursement Requests for construction, covering anticipated number, submission dates, and amounts.
  - (5) The OBDD (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as OBDD may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act and any implementing administrative rules and policies.
  - (6) The Recipient has delivered documentation satisfactory to OBDD that, in addition to the Financing Proceeds, Recipient has available or has obtained binding commitments for all funds necessary to complete the Project.
  - (7) Any conditions to disbursement elsewhere in this Contract or in the other Financing Documents are met.

## **SECTION 6 - USE OF FINANCIAL ASSISTANCE**

- A. Use of Proceeds. The Recipient shall use the Financing Proceeds only for the activities described in Exhibit C and according to the budget in Exhibit D. The Recipient may not transfer Financing Proceeds among line items in the budget without the prior written consent of OBDD.
- B. Costs of the Project. The Recipient shall apply the Financing Proceeds to the Costs of the Project in accordance with the Act and Oregon law, as applicable. Financing Proceeds cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project and cannot be used for pre-Award Costs of the Project, unless permitted by Exhibit C.
- C. Costs Paid for by Others. The Recipient may not use any of the Financing Proceeds to cover costs to be paid for by other financing for the Project, whether from OBDD or from another State of Oregon agency or any third party.

## **SECTION 7 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT**

The Recipient represents and warrants to OBDD:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded. The Recipient will have adequate funds available to repay the Loan, and the Maturity Date does not exceed the usable life of the Project.
- B. Organization and Authority.
- (1) The Recipient (a) is a Municipality under the Act, and validly organized and existing under the laws of the State of Oregon, and (b) owns a community water system, as defined in the Act and OAR 123-049-0010.
  - (2) The Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract and the other Financing Documents, (b) incur and perform its obligations under this Contract and the other Financing Documents, and (c) borrow and receive financing for the Project.
  - (3) This Contract and the other Financing Documents executed and delivered by Recipient have been authorized by an ordinance, order or resolution of Recipient's governing body, and voter approval, if necessary, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings.
  - (4) This Contract and the other Financing Documents have been duly executed by Recipient, and when executed by OBDD, are legal, valid and binding, and enforceable in accordance with their terms.
- C. Full Disclosure. The Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Project, or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract and the other Financing Documents is true and accurate in all respects.
- D. Pending Litigation. The Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.
- E. No Events of Default.
- (1) No Events of Default exist or occur upon authorization, execution or delivery of this Contract or any of the Financing Documents.
  - (2) The Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.
- F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract and the other Financing Documents will not: (i) cause a breach of any agreement, indenture, mortgage, deed of trust, or other instrument, to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) cause the creation or imposition of any third party lien, charge or encumbrance upon any property or asset of Recipient; (iii) violate any provision of the charter or other document pursuant to which



Recipient was organized or established; or (iv) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.

- G. Governmental Consent. The Recipient has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the other Financing Documents, for the financing or refinancing and undertaking and completion of the Project.

## SECTION 8 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

- A. Notice of Adverse Change. The Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to make all payments and perform all obligations required by this Contract or the other Financing Documents.
- B. Compliance with Laws. The Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract or the other Financing Documents, the Project and the operation of the System of which the Project is a component. In particular, but without limitation, Recipient shall comply with the following, as applicable:
- (1) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C. Oregon state procurement regulations will satisfy federal procurement requirements of 2 CFR part 200, subpart D.
  - (2) State labor standards and wage rates found in ORS chapter 279C, and federal prevailing wage provisions in accordance with the federal Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 to 3144, 3146 and 3147 (2002).
  - (3) The Recipient is required to place a sign at construction sites supported under this Loan displaying the U.S. Environmental Protection Agency (“EPA”) logo in a manner that informs the public that the Project is funded in part or wholly by the EPA. The sign must be placed in a visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period. Recipient is required to comply with EPA signage requirements at: [http://www2.epa.gov/sites/production/files/2015-01/documents/signage\\_required\\_tc.pdf](http://www2.epa.gov/sites/production/files/2015-01/documents/signage_required_tc.pdf)
  - (4) SAFE DRINKING WATER IN OREGON: Program Guidelines & Applicant’s Handbook for the Federally Funded Safe Drinking Water Revolving Fund & Drinking Water Protection Loan Fund, as amended from time to time (“Safe Drinking Water Handbook”), available at <https://www.orinfrastructure.org/assets/docs/IFA/SDWhandbook.pdf>.
  - (5) Federal Crossing-Cutting Authorities. All federal laws, executive orders and government-wide policies that apply by their terms to projects and activities receiving federal financial assistance, regardless of whether the Act makes them applicable (“Cross-Cutting Authorities”). The Safe Drinking Water Handbook contains a link to a list of the Cross-Cutting Authorities.
  - (6) Lobbying. The Recipient acknowledges and agrees that the Costs of the Project will not include any Lobbying costs or expenses incurred by Recipient or any person on behalf of Recipient, and that Recipient will comply with federal restrictions on lobbying at 40 C.F.R. Part 34 and will not request payment or reimbursement for Lobbying costs and expenses. “Lobbying” means influencing or attempting to influence a member, officer or employee of a governmental agency or legislature in connection with the awarding of a government contract, the making of a

government grant or loan or the entering into of a cooperative agreement with such governmental entity or the extension, continuation, renewal, amendment or modification of any of the above. The Recipient shall submit to OBDD a Certification Regarding Lobbying, the form of which is attached as Exhibit F, and any applicable quarterly disclosure statement of covered lobbying activity. The Recipient will cause any entity, firm or person receiving a contract or subcontract utilizing Loan proceeds in excess of \$100,000 to complete the same certification and any applicable disclosure statement, and submit them to Recipient. The Recipient shall retain such certifications and make them available for inspection and audit by OBDD, the federal government or their representatives. The Recipient shall forward any disclosure statements to OBDD.

- (7) Federal Audit Requirements. The Loan is federal financial assistance, and the Catalog of Federal Domestic Assistance (“CFDA”) number and title is “66.468, Capitalization Grants for Drinking Water State Revolving Funds.” Recipient is a sub-recipient.
- (a) If Recipient receives federal funds in excess of \$750,000 in the Recipient’s fiscal year, it is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at its own expense submit to OBDD a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to OBDD the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Contract.
- (b) Audit costs for audits not required in accordance with 2 CFR part 200, subpart F are unallowable. If Recipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the funds received under this Contract.
- (c) Recipient shall save, protect and hold harmless OBDD from the cost of any audits or special investigations performed by the Federal awarding agency or any federal agency with respect to the funds expended under this Contract. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and the State of Oregon.
- (8) Disadvantaged Business Enterprises. The Recipient will implement the good faith efforts for solicitation and contracting with Disadvantaged Business Enterprises (“DBE”) described in the Safe Drinking Water Handbook. This applies to all solicitation and contracting for construction, equipment, supplies, engineering or other services that constitute the Project financed by this Contract. The Recipient will maintain documentation in a Project file and submit the required forms, as described in the Safe Drinking Water Handbook. The Recipient will ensure that all prime contractors implement the good faith efforts for solicitation and contracting, and comply with all DBE procurement forms, statements, and reporting requirements. The Recipient agrees to apply the current regional fair share objectives.

The Recipient will ensure that each procurement contract includes the following term and condition:

“The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out

these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.”

- (9) Property Standards. Recipient shall comply with 2 CFR 200.313 which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.
- (10) Contract Provisions. The contract provisions listed in 2 CFR Part 200, Appendix II are obligations of Recipient, as applicable, and must be included, as applicable, by Recipient in its contracts related to the Project.
- (11) Iron and Steel Products. Pursuant to the 2016 Consolidated Appropriations Act (P.L. 114-113), none of the Financing Proceeds may be used for any part of the Project unless all of the iron and steel products used in the project are produced in the United States. “Iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
- (12) Incorporation by Reference. The above state and federal laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

C. Project Completion Obligations. The Recipient shall:

- (1) When procuring professional consulting services, provide OBDD with copies of all solicitations at least 10 days before advertising, and all contracts at least 10 days before signing.
- (2) Provide OBDD with copies of all Oregon Health Authority – approved plans and specifications relating to the Project, and a timeline for the construction bidding / award process, at least ten (10) days before advertising for bids.
- (3) Provide a copy of the bid tabulation, notice of award, and contract to OBDD within ten (10) days after selecting a construction contractor.
- (4) Complete an environmental review in accordance with the state environmental review process and in compliance with state and federal environmental laws prior to any construction work on the Project.
- (5) Permit OBDD to inspect the Project at any time.
- (6) Complete the Project using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.
- (7) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by OBDD in writing.
- (8) Obtain and maintain as-built drawings for all facilities constructed as part of the Project.

D. Ownership of Project. During the term of the Loan, the Project is and will continue to be owned by Recipient. The Project will be operated by Recipient or by a person under a management contract or operating agreement with Recipient. Any such management contract or operating agreement will be structured as a “qualified management contract” as described in IRS Revenue Procedure 97-13, as amended or supplemented.

E. Operation and Maintenance of the Project. The Recipient shall operate and maintain the Project in good repair and operating condition so as to preserve the long term public benefits of the Project,

including making all necessary and proper repairs, replacements, additions, and improvements during term of the Loan. On or before the Project Closeout Deadline, Recipient shall adopt a plan acceptable to OBDD for the on-going operation and maintenance of the Project without reliance on OBDD financing and furnish OBDD, at its request, with evidence of such adoption. The plan must include measures for generating revenues sufficient to assure the operation and maintenance of the Project during the usable life of the Project.

- F. Insurance, Damage. The Recipient shall maintain, or cause to be maintained, insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried by governmental units constructing, operating and maintaining similar facilities. Nothing in this provision precludes Recipient from asserting a defense against any party other than OBDD, including a defense of immunity. If the Project or any portion is destroyed, any insurance proceeds will be paid to OBDD and applied to prepay the outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees in writing that the insurance proceeds may be used to rebuild the Project.
- G. Sales, Leases and Encumbrances. Except as specifically described in Exhibit C, Recipient shall not sell, lease, exchange, abandon, transfer or otherwise dispose of any substantial portion of or interest in the Project or any system that provides revenues for payment or is security for the Loan, unless worn out, obsolete, or, in the reasonable business judgment of Recipient, no longer useful in the operation of the Project. Nevertheless, OBDD may consent to such disposition if it has received 90 days' prior written notice from Recipient. Such consent may require assumption by transferee of all of Recipient's obligations under the Financing Documents and payment of OBDD's costs related to such assumption, and receipt by OBDD of an opinion of Bond Counsel to the effect that such disposition complies with applicable law and will not adversely affect the exclusion of interest on any Lottery Bonds from gross income for purposes of federal income taxation under Section 103(a) of the Code. The term "Bond Counsel" means a law firm determined by OBDD to have knowledge and expertise in the field of municipal law and whose opinions are generally accepted by purchasers of municipal bonds. In the case of sale, exchange, transfer or other similar disposition, Recipient shall, within 30 days of receipt of any proceeds from such disposition, prepay the entire outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees otherwise in writing. If Recipient abandons the Project, Recipient shall prepay the entire outstanding balance of the Loan immediately upon demand by OBDD.
- H. Condemnation Proceeds. If the Project or any portion is condemned, any condemnation proceeds will be paid to OBDD and applied to prepay the outstanding balance of the Loan in accordance with section 4.D.(1).
- I. Financial Records. The Recipient shall keep accurate books and records for the revenues and funds that are the source of repayment of the Loan, separate and distinct from its other books and records, and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time. The Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient.
- J. Inspections; Information. The Recipient shall permit OBDD, and any party designated by OBDD, the Oregon Secretary of State's Office, the federal government and their duly authorized representatives: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial

standing. The Recipient shall supply any related reports and information as OBDD may reasonably require. In addition, Recipient shall, upon request, provide OBDD with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of Recipient that are issued after the date of this Contract.

- K. Records Maintenance. The Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Financing Proceeds for a minimum of six years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Closeout Deadline. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- L. Economic Benefit Data. The OBDD may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion date. The Recipient shall, at its own expense, prepare and submit the data within the time specified by OBDD.
- M. Professional Responsibility. A professional engineer or architect, as applicable, registered and in good standing in Oregon, will be responsible for the design and construction of the Project. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty. The Recipient shall follow standard construction practices, such as bonding requirements for construction contractors, requiring errors and omissions insurance, and performing testing and inspections during construction.
- N. Notice of Event of Default. The Recipient shall give OBDD prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.
- O. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OBDD and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors; however, the provisions of this section are not to be construed as a waiver of any defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.
- P. Further Assurances. The Recipient shall, at the request of OBDD, authorize, sign, acknowledge and deliver any further resolutions, conveyances, transfers, assurances, financing statements and other instruments and documents as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Contract and the other Financing Documents.
- Q. Exclusion of Interest from Federal Gross Income and Compliance with Code.
  - (1) The Recipient shall not take any action or omit to take any action that would result in the loss of the exclusion of the interest on any Lottery Bonds from gross income for purposes of federal income taxation, as governed by Section 103(a) of the Code. OBDD may decline to disburse

the Financing Proceeds if it finds that the federal tax exemption of the Lottery Bonds cannot be assured.

- (2) The Recipient shall not take any action (including but not limited to the execution of a management agreement for the operation of the Project) or omit to take any action that would cause any Lottery Bonds to be “private activity bonds” within the meaning of Section 141(a) of the Code. Accordingly, unless Recipient receives the prior written approval of OBDD, Recipient shall not permit in excess of ten percent (10%) of either (a) the Financing Proceeds or (b) the Project financed or refinanced with the Financing Proceeds to be directly or indirectly used in any manner that would constitute “private business use” within the meaning of Section 141(b)(6) of the Code, including not permitting more than one half of any permitted private business use to be “disproportionate related business use” or private business use unrelated to the government use of the Financing Proceeds. Unless Recipient receives the prior written approval of OBDD, Recipient shall not directly or indirectly use any of the Financing Proceeds to make or finance loans to persons other than governmental units, as that term is used in Section 141(c) of the Code.
- (3) The Recipient shall not directly or indirectly use or permit the use of any of the Financing Proceeds or any other funds, or take any action or omit to take any action, which would cause any Lottery Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.
- (4) The Recipient shall not cause any Lottery Bonds to be treated as “federally guaranteed” for purposes of Section 149(b) of the Code, as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to “federally guaranteed” obligations described in Section 149(b) of the Code. For purposes of this paragraph, any Lottery Bonds will be treated as “federally guaranteed” if: (a) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof, or (b) five percent (5%) or more of the proceeds of the Lottery Bonds will be (i) used in making loans if the payment of principal or interest is guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof, or (ii) invested directly or indirectly in federally insured deposits or accounts, and (c) none of the exceptions described in Section 149(b)(3) of the Code apply.
- (5) The Recipient shall assist OBDD to ensure that all required amounts are rebated to the United States of America pursuant to Section 148(f) of the Code. The Recipient shall pay to OBDD such amounts as may be directed by OBDD to satisfy the requirements of Section 148(f) applicable to the portion of the proceeds of any tax-exempt bonds, including any Financing Proceeds or other amounts held in a reserve fund. The Recipient further shall reimburse OBDD for the portion of any expenses it incurs related to the Project that is necessary to satisfy the requirements of Section 148(f) of the Code.
- (6) Upon OBDD’s request, Recipient shall furnish written information regarding its investments and use of the Financing Proceeds, and of any facilities financed or refinanced therewith, including providing OBDD with any information and documentation that OBDD reasonably determines is necessary to comply with the arbitrage and private use restrictions that apply to the Lottery Bonds.
- (7) Notwithstanding anything to the contrary, so long as is necessary to maintain the exclusion from gross income for purposes of federal income taxation of interest on any Lottery Bonds, the covenants contained in this subsection will survive the payment of the Loan and the Lottery Bonds, and the interest thereon, including the application of any unexpended Financing

Proceeds. The Recipient acknowledges that the Project may be funded with proceeds of the Lottery Bonds and that failure to comply with the requirements of this subsection could adversely affect any exclusion of the interest on the Lottery Bonds from gross income for federal income tax purposes.

- (8) Neither Recipient nor any related party to Recipient, within the meaning of 26 C.F.R. § 1.150-1(b), shall purchase any Lottery Bonds, from which proceeds were used to finance the Project, in an amount related to the amount of the Loan.

## **SECTION 9 - DEFAULTS**

Any of the following constitutes an “Event of Default”:

- A. The Recipient fails to make any Loan payment when due.
- B. The Recipient fails to make, or cause to be made, any required payments of principal, redemption premium, or interest on any bonds, notes or other material obligations, for any other loan made by the State of Oregon.
- C. Any false or misleading representation is made by or on behalf of Recipient, in this Contract, in any other Financing Document or in any document provided by Recipient related to this Loan or the Project or in regard to compliance with the requirements of section 103 and sections 141 through 150 of the Code.
- D.
  - (1) A petition, proceeding or case is filed by or against Recipient under any federal or state bankruptcy or insolvency law, and in the case of a petition filed against Recipient, Recipient acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal;
  - (2) The Recipient files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up or composition or adjustment of debts;
  - (3) The Recipient becomes insolvent or bankrupt or admits its inability to pay its debts as they become due, or makes an assignment for the benefit of its creditors;
  - (4) The Recipient applies for or consents to the appointment of, or taking of possession by, a custodian (including, without limitation, a receiver, liquidator or trustee) of Recipient or any substantial portion of its property; or
  - (5) The Recipient takes any action for the purpose of effecting any of the above.
- E. The Recipient defaults under any other Financing Document and fails to cure such default within the applicable grace period.
- F. The Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through E of this section 9, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. The OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

## SECTION 10 - REMEDIES

- A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract or any other Financing Document, and any other remedies available at law or in equity to collect amounts due or to become due or to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to:
- (1) Terminating OBDD's commitment and obligation to make any further disbursements of Financing Proceeds under the Contract.
  - (2) Declaring all payments under the Contract and all other amounts due under any of the Financing Documents immediately due and payable, and upon notice to Recipient the same become due and payable without further notice or demand.
  - (3) Barring Recipient from applying for future awards.
  - (4) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract, pursuant to ORS 285A.213(6) and OAR 123-049-0040.
  - (5) Foreclosing liens or security interests pursuant to this Contract or any other Financing Document.
  - (6) Exercising any remedy listed in OAR 123-049-0040.
- B. Application of Moneys. Any moneys collected by OBDD pursuant to section 10.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD; next, to pay interest due on the Loan; next, to pay principal due on the Loan, and last, to pay any other amounts due and payable under this Contract or any of the Financing Documents.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract or any of the Financing Documents shall preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 9 of this Contract.
- D. Default by OBDD. In the event OBDD defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD's obligations.

## SECTION 11 - MISCELLANEOUS

- A. Time is of the Essence. The Recipient agrees that time is of the essence under this Contract and the other Financing Documents.
- B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.
- (1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.
  - (2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.



- (3) This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and permitted assigns.
- (4) The Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract or any other Financing Document without the prior written consent of OBDD. The OBDD may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to OBDD, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of OBDD's Counsel and Bond Counsel. Any approved assignment is not to be construed as creating any obligation of OBDD beyond those in this Contract or other Financing Documents, nor does assignment relieve Recipient of any of its duties or obligations under this Contract or any other Financing Documents.
- (5) The Recipient hereby approves and consents to any assignment, sale or transfer of this Contract and the Financing Documents that OBDD deems to be necessary.

C. Disclaimer of Warranties; Limitation of Liability. The Recipient agrees that:

- (1) The OBDD makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.
- (2) In no event are OBDD or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract or the existence, furnishing, functioning or use of the Project.

D. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or OBDD at the addresses set forth below, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

If to OBDD: Assistant Director, Economic Development  
Oregon Business Development Department  
775 Summer Street NE Suite 200  
Salem, OR 97301-1280

If to Recipient: Public Works Director  
City of Cannon Beach  
163 E Gower  
Cannon Beach, OR 97110

- E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.
- F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.

- G. Amendments, Waivers. This Contract may not be amended without the prior written consent of OBDD (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and executed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
- H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to OBDD by its attorneys. The Recipient shall, on demand, pay to OBDD reasonable expenses incurred by OBDD in the collection of Loan payments.
- I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

- J. Integration. This Contract (including all exhibits, schedules or attachments) and the other Financing Documents constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.
- K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



**STATE OF OREGON**  
acting by and through its  
Oregon Infrastructure Finance Authority  
of the Oregon Business Development  
Department



**CITY OF CANNON BEACH**

By: \_\_\_\_\_  
Chris Cummings, Assistant Director  
Economic Development

By: \_\_\_\_\_  
The Honorable Sam Steidel,  
Mayor of Cannon Beach

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:**

/s/ Wendy Johnson as per email dated 25 March 2022  
Wendy Johnson, Senior Assistant Attorney General

## EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

“Act” means “Safe Drinking Water Act,” 42 U.S.C. Sec. 300f, and all subsequent amendments, including the Amendments of 1996, Public Law 104-182.

“Award” means the award of financial assistance to Recipient by OBDD dated 04 February 2022.

“C.F.R.” means the Code of Federal Regulations.

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

“Costs of the Project” means Recipient’s actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Financing Proceeds under applicable state or federal statute and rule.

“Counsel” means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, OBDD or Recipient.

“Financing Documents” means this Contract and all agreements, instruments, documents and certificates executed pursuant to or in connection with OBDD’s financing of the Project.

“Financing Proceeds” means the proceeds of the Section 2.A. Loan and the Forgivable Loan.

“Forgivable Loan” means the forgivable Loan described in section 2.B.

“Section 2.A. Loan” means the Loan described in section 2.A. of this Contract.

“Lottery Bonds” means any bonds issued by the State of Oregon that are special obligations of the State of Oregon, payable from unobligated net lottery proceeds, the interest on which is exempt from federal income taxation, together with any refunding bonds, used to finance or refinance the Project through the initial funding or refinancing of all or a portion of the Loan.

“Municipality” means any entity described in ORS 285B.410(9).

“ORS” means the Oregon Revised Statutes.

“Project Completion Date” means the date on which Recipient completes the Project.

“System” means Recipient’s drinking water system, which includes the Project or components of the Project, as it may be modified or expanded from time to time.

## EXHIBIT B – LOAN SECURITY

- A. Full Faith and Credit Pledge. The Recipient pledges its full faith and credit and taxing power within the limitations of Article XI, sections 11 and 11 b, of the Oregon Constitution to pay the amounts due under this Contract. This Contract is payable from and secured by all lawfully available funds of Recipient.
- B. Pledge of Net Revenues of the System
- (1) All payment obligations under this Contract and the other Financing Documents are payable from the revenues of Recipient's System after payment of operation and maintenance costs of the System ("Net Revenues"). The Recipient irrevocably pledges and grants to OBDD a security interest in the Net Revenues to pay all of its obligations under this Contract and the other Financing Documents. The Net Revenues pledged pursuant to the preceding sentence and received by Recipient will immediately be subject to the lien of this pledge without physical delivery, filing or any other act, and the lien of this pledge is superior to and has priority over all other claims and liens, except as provided in subsections 2 and 3 of this section B, to the fullest extent permitted by ORS 287A.310. The Recipient represents and warrants that this pledge of Net Revenues complies with, and is valid and binding from the date of this Contract as described in, ORS 287A.310. The lien of the pledge made under this subsection 1 is hereinafter referred to as the "OBDD Lien".
  - (2) The Recipient shall not incur, without the prior written consent of OBDD, any obligation payable from or secured by a lien on and pledge of the Net Revenues that is on parity or superior to the OBDD Lien.
  - (3) Notwithstanding the requirements of subsection 2 of this section B, loans previously made and loans made in the future by OBDD to Recipient that are secured by the Net Revenues may have a lien on such Net Revenues on parity with the OBDD Lien; provided that nothing in this paragraph will adversely affect the priority of any of OBDD's liens on such Net Revenues in relation to the lien(s) of any third party(ies).
  - (4) The Recipient shall charge rates and fees in connection with the operation of the System which, when combined with other gross revenues, are adequate to generate Net Revenues each fiscal year at least equal to 120% of the annual debt service due in the fiscal year on the Loan and any outstanding obligation payable from or secured by a lien on and pledge of Net Revenues that is on parity with the OBDD Lien.
  - (5) The Recipient may establish a debt service reserve fund to secure repayment of obligations that are payable from or secured by a lien on and pledge of Net Revenues that is on parity with the OBDD Lien, provided that no deposit of the Net Revenues of the System into the debt service reserve fund is permitted until provision is made for the payment of all debt service on the Loan and any other obligations payable from or secured by a lien on and pledge of Net Revenues that is on parity with the OBDD Lien (including any obligations described in subsection 3 above) for the 12-month period after such deposit.

### EXHIBIT C - PROJECT DESCRIPTION

Recipient, with the assistance of a professional engineer licensed in Oregon, will design and construct/install the following improvements:

- Water transmission lines from the Recipient's springs to the treatment plant.
- Water transmission line from the treatment plant to the Main Reservoir.
- Water transmission line from Main Reservoir to the "Primary Distribution Point" (during design phase final location will be determined from either the Recipient's RV Park or the Recipient's Public Works Yard).
- Reservoir risk mitigation measures as detailed in the Capital Improvement Plan that involve reduced risk of failure and reduced altercations.
- Fill station facilities allowing for filling of trucks and smaller containers providing flexibility for operations to provide water in a variety of ways.
- Six connection points for connecting future water system backbone infrastructure components.

Lastly, Recipient will purchase spare parts and pipe to allow for emergency System repairs following a seismic event.

### EXHIBIT D - PROJECT BUDGET

Line Item Activity	OBDD Funds	Other / Matching Funds
Design / Engineering	\$475,000	\$0
Construction	\$2,560,000	\$0
Pipe and spare parts	\$165,000	\$0
Labor Standards	\$15,000	\$0
Total	\$3,215,000	\$0

**EXHIBIT E - INFORMATION REQUIRED BY 2 CFR § 200.331(A)(1)**

Federal Award Identification:

- (i) Subrecipient\* name (which must match registered name in DUNS): Cannon Beach, City of
- (ii) Subrecipient's DUNS number: 096253695
- (iii) Federal Award Identification Number (FAIN): 98009020
- (iv) Federal Award Date: 9 September 2020
- (v) Sub-award Period of Performance Start and End Date: 36 months after the date of this Contract.
- (vi) Total Amount of Federal Funds Obligated by this Contract: \$3,215,000
- (vii) Total Amount of Federal Funds Obligated by this initial Contract and any amendments: \$3,215,000
- (viii) Total Amount of Federal Award to the pass-through entity: \$14,487,000
- (ix) Federal award project description: Oregon's Drinking Water State Revolving Fund: This Fund increases the capacity of Oregon to ensure that its public water systems continue to provide safe drinking water. This is done by (1) continuing loan financing to public water systems and support for newly proposed priority projects, (2) providing grant support for covering administrative expenses, small public water system technical assistance, State program management and local assistance, and (3) continuation of the loan fund to finance source water protection project initiatives, including acquiring conservation easements.
- (x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:
  - (a) Name of Federal awarding agency: U.S. Environmental Protection Agency
  - (b) Name of pass-through entity: Oregon Business Development Department
  - (c) Contact information for awarding official of the pass-through entity: Ed Tabor, Programs & Incentives Manager, 503-949-3523
- (xi) CFDA Number and Name: 66.468 Safe Drinking Water State Revolving Fund  
Amount: \$3,215,000
- (xii) Is Award R&D? No
- (xiii) Indirect cost rate for the Federal award: N/A

\* For the purposes of this Exhibit E, "Subrecipient" refers to Recipient and "pass-through entity" refers to OBDD.

**EXHIBIT F - CERTIFICATION REGARDING LOBBYING**

(Awards in excess of \$100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signed \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_





# CANNON BEACH CITY COUNCIL

## STAFF REPORT

CONSIDERATION OF PROCLAMATION 22-06; NATIONAL PUBLIC WORKS WEEK,  
MAY 15-21, 2022

---

**Agenda Date:** May 3, 2022

**Prepared by:** Karen La Bonte, Public Works Director

## BACKGROUND

Since 1960, the American Public Works Association has sponsored National Public Works Week. Across North America, the more than 30,000 members in the U.S. and Canada use this week to energize and educate the public on the importance of public works to their daily lives: planning, building, managing and operating at the heart of their local communities to improve everyday quality of life. This year's NPWW theme is "Ready & Resilient".

The City of Cannon Beach would like to acknowledge its Public Works Department for the hard work and dedication given during any hour of any day when needed to support our City.

## RECOMMENDATION

Staff recommends that Council adopt the proclamation.

Suggested motion:

"I move to adopt Proclamation 22-06, National Public Works Week".

## List of Attachments

A Proclamation 22-06; National Public Works Week, May 15-21, 2022

BEFORE THE CITY OF CANNON BEACH

FOR THE PURPOSE OF DESIGNATING MAY ) PROCLAMATION NO. 22-06  
15-21, 2022, AS NATIONAL PUBLIC WORKS )  
WEEK - "READY & RESILIENT" )

WHEREAS, Public Works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the citizens of Cannon Beach; and

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees, and who are responsible for rebuilding, improving and protecting our city's streets, water supply, wastewater treatment, parks, beach access and public buildings for our citizens and visitors; and

WHEREAS, it is in the public interest for the citizens, civic leaders and children of Cannon Beach to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their community; and

WHEREAS, the American Public Works Association has celebrated the annual National Public Works Week since 1960.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of Cannon Beach does hereby proclaim May 15-21, 2022, to be

**NATIONAL PUBLIC WORKS WEEK  
"READY & RESILIENT"**

in the City of Cannon Beach. We urge citizens to recognize the substantial contribution our public works team makes to protecting our city's health, safety and quality of life.

PASSED by the Common Council of the City of Cannon Beach this 3rd day of May 2022, by the following roll call vote:

YEAS:  
NAYS:  
EXCUSED:

---

Sam Steidel, Mayor

Attest:

---

Bruce St. Denis, City Manager



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

CONSIDERATION OF PROCLAMATION 22-07; EMERGENCY MEDICAL SERVICES WEEK, MAY 15-21, 2022

---

**Agenda Date:** May 3, 2022

**Prepared by:** Jason Schermerhorn, Police Chief

## BACKGROUND

Representatives from Emergency Medical Services are asking that cities across the country, including the City of Cannon Beach, adopt a proclamation to designate the week of May 15-21, 2022, as "Emergency Medical Services Week".

The purpose of this endeavor is to increase public awareness and recognize the importance of Emergency Medical Service Teams. Emergency Medical Service is a vital public service and it is important to recognize the value and the accomplishments of emergency medical services providers.

## RECOMMENDATION

Staff recommends that Council adopt the proclamation.

Suggested motion:

"I move to adopt Proclamation 22-07, Emergency Medical Services Week".

## List of Attachments

A Proclamation 22-07; Emergency Medical Services Week May 15-21, 2022

BEFORE THE CITY OF CANNON BEACH

FOR THE PURPOSE OF DESIGNATING THE WEEK OF ) PROCLAMATION NO. 22-06  
MAY 15-21, 2022 AS EMERGENCY MEDICAL )  
SERVICES WEEK )

WHEREAS, emergency medical services is a vital public service; and

WHEREAS, the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, emergency medical services has grown to fill a gap by providing important, out of hospital care, including preventative medicine, follow-up care, and access to telemedicine; and Whereas, the emergency medical services system consists of first responders, emergency medical technicians, paramedics, emergency medical dispatchers, firefighters, police officers, educators, administrators, pre-hospital nurses, emergency nurses, emergency physicians, trained members of the public, and other out of hospital medical care providers; and

WHEREAS, the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating emergency medical services week; now

NOW THEREFORE, the Common Council of the City of Cannon Beach, in recognition of this event do hereby proclaim the week of May 15-21, 2022, as

**EMERGENCY MEDICAL SERVICES WEEK**

PASSED by the Common Council of the City of Cannon Beach this 3rd day of May 2022, by the following roll call vote:

YEAS:  
NAYS:  
EXCUSED:

---

Sam Steidel, Mayor

Attest:

---

Bruce St. Denis, City Manager



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### CBRFPD INTERGOVERNMENTAL AGREEMENT

---

**Agenda Date:** May 3, 2022

**Prepared by:** Jason Schermerhorn, Police Chief

## BACKGROUND

Cannon Beach Rural Fire Protection District has been in the process of rebuilding their water rescue program over the last several years. More recently, Division Chief Jason Smith reached out to see if they could assist the lifeguard program by partnering with the city.

## ANALYSIS / INFORMATION

After several discussions between the Fire Department and the Police Department, we were able to work together with City Attorney Ashley Driscoll to complete an Intergovernmental Agreement. The IGA allows for the Cannon Beach RFPD employees and volunteers to provide lifeguard coverage before and after the “typical” lifeguard season. It also allows for Cannon Beach RFPD employees and volunteers to supplement the city’s lifeguards during the summer. The Cannon Beach RFPD lifeguards will be reimbursed an hourly rate for lifeguard services provided.

## RECOMMENDATION

Staff recommends Council allow City Manager St. Denis to sign the Intergovernmental Agreement.

Suggested Motion

“I move to approve the CBRFPD Intergovernmental Agreement for additional lifeguard coverage”

## List of Attachments

A CBRFPD Intergovernmental Agreement

## **INTERGOVERNMENTAL AGREEMENT FOR SERVICES**

This Agreement, by and between Cannon Beach Rural Fire Protection District (Cannon Beach RFPD) and the City of Cannon Beach (City) made and entered into the 3rd day of May, 2022, for the purpose of having Cannon Beach RFPD provide lifeguard coverage for Cannon Beach Police Department.

### **RECITALS**

Whereas, Oregon Revised Statutes (ORS) Chapter 190 authorizes units of local government to enter into written agreements with other units of local government for any or all of the functions and activities of a municipality to the agreement; and

Whereas, both Parties are duly organized local governments; and

Whereas, a strong working relationship is an asset to both entities; and

Whereas, the parties wish to allow Cannon Beach RFPD to provide lifeguard coverage to assist the City's Police Department with coverage of the ocean shore from Silver Point to Chapman Point.

### **AGREEMENT**

Now, therefore, in consideration of each Party's performance of the covenants, terms and conditions herein as they run to the benefit of the other, the Parties mutually agree:

#### **SECTION 1 - PURPOSE**

- 1.1 The purpose of this Agreement is for Cannon Beach RFPD to provide lifeguard coverage to City, specifically coordinated through the Cannon Beach Police Department .
- 1.2 Recognizing the purpose and the spirit with which this Agreement is entered, both Parties agree to cooperate, consult, meet and work together in resolving, to the mutual satisfaction of Parties, any question or problems which may hereafter arise in connection with the performance of this Agreement.

#### **SECTION 2 - TERM**

This Agreement shall be effective from the date this Agreement is signed and remain in effect until one entity decides to terminate the agreement. At any time during the term of this Agreement, either Party may terminate the Agreement upon ninety (90) days' written notice to the other Party.

### **SECTION 3 - SERVICES TO BE PROVIDED BY CANNON BEACH RFPD**

Beginning with the effective date of, and for the duration of this Agreement, Cannon Beach RFPD shall provide personnel and equipment, including but not limited to:

- Firefighter/ Lifeguards who shall be trained to the American Red Cross Lifeguard Standard.
- Minimum staffing level will of two (2) Firefighter/ Lifeguard personnel.
- Unless otherwise directed by the Police Chief or his designee, or Cannon Beach RFPD Duty Officer, the above minimum staffing levels will be maintained Friday, Saturday, and Sunday until normal Lifeguard staffing is achievable. Additional dates and times may be added based off operational necessity at the approval of the Police Chief.
- The duty shift will begin at 1000hrs, and personnel will be available on the beach no later than 1100hrs. Personnel will remain on the beach until 1915hrs. The duty shift will end at 2000hrs each day.
- Cannon Beach RFPD will be required to equip all Firefighter/ Lifeguards with all required life safety equipment to include but not limited to wetsuit, booties, rescue buoy, life vest, helmet, and fins.
- Cannon Beach RFPD will provide 4-wheel drive vehicles to transport personnel to the beach, as well as assist with patrolling the beach. All apparatus will be owned, properly insured, repaired, and maintained by Cannon Beach RFPD.
- Firefighter/ Lifeguards shall be responsible for the cleanliness of all equipment used during daily operations.

### **SECTION 4 - SERVICES TO BE PROVIDED BY CITY**

Beginning with the effective date of, and for the duration of this Agreement, City via the Cannon Beach Police Department shall provide access to Lifeguard equipment, including but not limited to:

- Access and use of all Lifeguard equipment stored at the Lifeguard shed located behind Cannon Beach PD to include but not limited to Lifeguard radios, rescue boards, monocular, binoculars, wetsuits, fins, rescue buoys, semaphore flags, etc....
- Access to the lifeguard tower located near Haystack Rock.
- Permitted use of all designated Lifeguard 4-wheel drive vehicles to include ATV and side-by-side. All Firefighter/ Lifeguards shall maintain required certifications to operate any city-owned vehicle. City shall maintain ownership and insurance of all vehicles and shall be responsible for properly maintaining and repairing all city-owned vehicles.

•

## **SECTION 5 - COSTS**

In consideration of the services provided to Cannon Beach Police Department, the City shall reimburse Cannon Beach RFPD an hourly rate of \$17.00, plus taxes and PERS if required for each Cannon Beach RFPD lifeguard who provides services to the City under this Agreement. Cannon Beach RFPD will maintain accountability of lifeguard coverage hours and bill City monthly. Invoices shall be due the month following services and paid within 30 days of receipt.

## **SECTION 6- REVIEW, EVALUATION, AND QUALITY ASSURANCE**

Both Parties shall notify the other as soon as possible of incidents that affect the quality-of-service delivery under this Agreement. Both Parties agree to work diligently towards resolving any issues that may arise for the mutual benefit of the Parties.

## **SECTION 7 – LIABILITY/INDEMNITY**

- 7.1 To the extent permitted by the Oregon Tort Claims Act and the Oregon Constitution, Cannon Beach RFPD shall defend, indemnify, and hold harmless City, and each of City's elected officials, officers, agents, and employees, from and against any and all losses, claims, actions, costs, judgments, damages, or other expenses resulting from injury to any person (including injury resulting in death) or damage to property (including loss or destruction), of whatever nature, arising out of or incident to the performance of this Agreement by Cannon Beach RFPD, including, but not limited to, any acts or omissions of Cannon Beach RFPD officers, employees, agents, volunteers, and others, if any, designated by Cannon Beach RFPD to perform services under this Agreement.
- 7.2 Cannon Beach RFPD shall not be held responsible for any losses, claims, actions, costs, judgments, damages, or other expenses directly, solely, and proximately caused by the negligence of City. Cannon Beach RFPD shall be liable to the City for any damage to City equipment, vehicles or facilities caused by the negligence of Cannon Beach RFPD employees, volunteers, or agents performing activities under this Agreement.
- 7.3 To the extent permitted by the Oregon Tort Claims Act and the Oregon Constitution, City shall defend, indemnify, and hold harmless Cannon Beach RFPD, and each of its officers, agents, and employees, from and against any and all losses, claims, actions, costs, judgments, damages, or other expenses resulting from injury to any person (including injury resulting in death) or damage to property (including loss or destruction), of whatsoever nature, arising out of or



incident to the performance of this Agreement by City of Cannon Beach, including but not limited to, the acts and omissions of City's employees, agents, volunteers, and others, if any, designated by Cannon Beach RFPD to perform services under this Agreement.

- 7.4 City of Cannon Beach shall not be held responsible for any losses, claims, actions, costs, judgments, damages, or other expenses directly, solely, and proximately caused by the negligence of Cannon Beach RFPD.
- 7.5 This section does not confer any right to indemnity on any person or Party other than the Parties, waive any right of indemnity or contribution from any person or Party; or waive any governmental immunity.
- 7.6 The obligations of Cannon Beach RFPD and City under this section will survive expiration or termination of this Agreement.
- 7.7 The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.

#### **SECTION 8 - NOTICE**

Any notice required or allowed to be given by this Agreement shall be given by hand delivery or by placing said notice in the United States Mail, first class postage pre-paid, and addressed as follows:

To City of Cannon Beach

City Manager  
163 E. Gower  
P.O. Box 368  
Cannon Beach, OR 97710

To Cannon Beach RFPD

Fire Chief  
188 Sunset Blvd.  
P.O. Box 24  
Cannon Beach, OR 97110

Said notice shall be deemed to be received when hand delivered or, if mailed, three (3) days after said mailing. If the mailing address of either Parties changes, notice of the change of address shall be given to the other district in writing.

#### **SECTION 9 – DEFAULT**

A Party to this Agreement who has cause to believe that the other Party is in default of the terms or conditions of this Agreement, shall give the Party alleged to be in default written notice of said default, and allow not less than ten (10) days for the default to be

cured. If the default cannot be cured within ten (10) days, it shall be sufficient if the defaulting Party begins addressing the alleged default and continues with its best effort regarding resolution. If the default is not cured within that time or the time reasonably allowed for cure, the following remedies are available to the Parties:

- Declare this Agreement to be terminated, at which time the provisions of Section 10 of this Agreement shall be complied with.
- Bring an action in the Clatsop County Circuit Court to enforce any provision of this Agreement.
- Request arbitration of any dispute pursuant to ORS 190.710 to ORS 190.180.

Each of the above remedies is deemed to be cumulative and non-exclusive of any other remedy.

#### **SECTION 10 – TERMINATION**

- 10.1 This Agreement may be terminated for cause after the terminating Party has complied with the requirements of Section 9 herein.
- 10.2 This Agreement may be terminated by either Party, without cause, by the terminating Party giving the other Party written notice of its intention to terminate this Agreement. Such notice shall be given at least ninety (90) days prior to the termination of this Agreement, although, by mutual consent of the Party, this Agreement may be terminated on shorter notice.
- 10.3 City shall compensate Cannon Beach RFPD for services rendered under this Agreement up to the date of termination.

#### **SECTION 11 – PERSONNEL**

The Cannon Beach RFPD lifeguard personnel shall at all times remain and be employees of Cannon Beach RFPD, subject to the rules and regulations. Cannon Beach RFPD shall maintain workers compensation coverage for its employees as required by law. Cannon Beach RFPD will supervise all of their personnel while performing duties under this Agreement. The intent of this provision is to prevent the creation of any “special employer” relationship under Oregon workers’ compensation laws, PERS regulations or other state or federal laws.

#### **SECTION 12 - ENTIRE AGREEMENT**

This written Agreement is the entire agreement of the Parties hereto regarding the subject matter of this Agreement and contains all of the terms and conditions of the Agreement between the Parties. All prior agreements, understandings, or the like, whether written or verbal, are superseded by this Agreement and shall be of no force or

effect whatsoever. Any amendment to this Agreement shall be in writing and signed by the representatives of the Parties as duly authorized by the governing body of each Party.

### **SECTION 13 – GENERAL PROVISIONS**

- 13.1 Oregon Law and Forum. This Agreement, and all rights, obligations, and disputes arising out of it, will be governed by and construed in accordance with the laws of the State of Oregon without giving effect to the conflict of law provisions thereof. Any claim between Cannon Beach RFPD and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clatsop County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by either Party of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. The Parties, by execution of this Agreement, hereby consents to the in personal jurisdiction of the courts referenced in this section.
- 13.2 Compliance with Applicable Law. Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- 13.3 Non-Exclusive Rights and Remedies. Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- 13.4 Access to Records. The Parties shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy, or litigation arising out of or related to this Agreement, whichever is later.
- 13.5 Severability. If any provision of this Agreement is found to be unconstitutional, illegal, or unenforceable, this Agreement nevertheless shall remain in full force

and effect and the offending provision shall be stricken. The court or other authorized body finding such provision unconstitutional, illegal, or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.

- 13.6 Interpretation. The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- 13.7 Independent Contractor. Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee, or contractor of one Party shall be deemed to be a representative, agent, employee, or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture, or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- 13.8 No Third-Party Beneficiary. The City and Cannon Beach RFPD are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- 13.9 Subcontract and Assignment. No Party shall assign or transfer any of its interest in this Agreement, by operation of law or otherwise, without obtaining prior written approval from the other Party, which shall be granted or denied in that Party's sole discretion.
- 13.10 Counterparts. This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- 13.11 Necessary Acts. Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- 13.12 Successors in Interest. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective authorized successors and assigns.
- 13.13 Force Majeure. Neither the City nor Cannon Beach RFPD shall be held responsible for delay or default caused by events outside of the City's or Cannon

Beach RFPD's reasonable control including, but not limited to, fire, terrorism, riot, pandemics, acts of God, or war. However, each Party shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

13.14 No Attorney Fees. In the event any arbitration, action, or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each Party shall be responsible for its own attorneys' fees and expenses.

#### **SECTION 14 - EXECUTION**

The execution of this Agreement by each of the undersigned is done pursuant to the authorization of the governing body of each Party, voted upon in an open meeting in accordance with Oregon Law, and each person executing this Agreement hereby certifies that they are authorized to execute this Agreement on behalf of City of Cannon Beach and Cannon Beach RFPD. In witness whereof, the Parties, through their duly authorized representatives, have executed this Agreement on the date or dates set forth below.

#### **Cannon Beach Rural Fire Protection District**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: Marc Reckmann  
Title: Fire Chief

#### **City of Cannon Beach**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: Bruce St. Denis  
Title: City Manager



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### EVOO TAXABLE AMOUNT FOR PFT COLLECTIONS

---

**Agenda Date:** May 3rd, 2022

**Prepared by:** Bruce St.Denis, City Manager

## BACKGROUND

Bob and Lenore Neroni are the owners of EVOO in Cannon Beach. EVOO charges a package price for the meal, beverages and the experience of leisurely watching their food being prepared. Because of that it has not been a simple matter to establish a price for the taxable portion (the dinner) of the package price.

The City Council and staff have had discussions with the Neroni's. At the April 12<sup>th</sup> work session a proposal was made in which \$93.75 (based on Bob's calculations) would be reported as the taxable amount for every dinner served by EVOO over the next year. The amount would be adjusted annually.

Based on that discussion staff is bringing you an Administrative Order to memorialize the agreement for EVOO to report a charge of \$93.75 per patron.

A second issue is that EVOO collects 100% of the cost of the experience at the time the reservation is made. Recently they have been taking and being paid for reservations for dates after July 1<sup>st</sup>. The Council agreed that money collected before July 1st would not be taxed, independent of when the meal was consumed.

## ANALYSIS/INFORMATION

To staff's knowledge the situation with the package price issue is totally unique to EVOO so it is unlikely that there will be many direct precedents set based on your decision. However, establishments with lodging and a restaurant may have occasional specials or offers with an all-inclusive price about which we are not aware at this time.

## RECOMMENDATION

If Council is amenable to the proposal discussed at the work session, "Motion to approve Administrative Order 22-02"

## List of Attachments

- A Administrative Order 22-02
- B EVOO Email



# CITY OF CANNON BEACH

## Administrative Order 22-02

### Setting the Prepared Food Taxable Amount for EVOO Cannon Beach (EVOO) a culinary experience restaurant

Pursuant to the Cannon Beach Municipal Code (CBMC) 3.30.010(H), EVOO is a restaurant subject to the tax imposed by CBMC 3.30.020. CBMC 3.30.020 imposes a 5% tax on the amount paid for the purchase of food. EVOO charges a composite amount for food, alcohol and the culinary experience. This order determines the current taxable portion of the culinary experience, the annual audit and the tax implementation date for EVOO.

The City Council orders as follows:

#### Taxable Portion Determination

The City has worked with the owners of EVOO to determine the most appropriate taxable amount. EVOO charges \$225 per person for the culinary experience, of which it attributes \$93.75 to the food.

The City audited records provided by EVOO and determined the amount attributed to the food portion of the composite amount was reasonable under the circumstances.

#### Annual Audit Requirement

The City will make such an audit each year prior to July 1 to review the prior year and to determine the taxable amount for the upcoming year. EVOO is responsible for initiating the audit with the City in prior to March 1 of each year. If EVOO fails to initiate the audit, the taxable amount will default to the total cost of the meal minus the wholesale cost of alcohol until such time as the audit is complete.

#### Tax Implementation Date

The tax will be imposed on all funds received after the effective date of the tax, or July 1, 2022.

#### General

Unless specifically addressed herein, all other portion of the CBMC apply to EVOO. This order is specific to EVOO and is non-precedent setting.

---

Mayor Sam Steidel

---

Date

**From:** [Bob Neroni](#)  
**To:** [Jennifer Barrett](#)  
**Cc:** [Bruce St. Denis](#); [Mike Benefield](#); [Sam Steidel](#); [Robin Risley](#); [Brandon Ogilvie](#); [Nancy McCarthy](#); [Bob Neroni](#); [EVOO Cannon Beach Cooking School](#)  
**Subject:** Re: 5/3 Council Meeting  
**Date:** Monday, April 25, 2022 2:10:57 PM  
**Attachments:** [image001.png](#)  
[image001.png](#)

---

To: city council

As requested by the city attorney and city manager, I would like to recap what we believe was the consensus at the city council work session relative to EVOO Cannon Beach Cooking School.

It is our understanding that by council consensus, we will charge the PFT on \$93.75. This represents a 32% food cost sales price based on an inclusive food cost of \$30.

In addition it was unanimous that this should go into affect for all reservations taken on the physical date of July 1, 2022 going forward. In other words, any sales/money received prior to July 1, 2022 implementation date will not be assessed for tax even though the funds were received for shows after July 1, 2022.

I will be in attendance for the May 3 meeting, and if there any additional questions I will be available.

Respectfully, Bob Neroni  
Chef owner /EVOO Cannon Beach Cooking School

Sent from my iPhone

On Apr 21, 2022, at 3:05 PM, Jennifer Barrett <[barrett@ci.cannon-beach.or.us](mailto:barrett@ci.cannon-beach.or.us)> wrote:

Hi Bob,

I chatted with Bruce, please send an email noting the highlights of why this is needed and the proposal moving forward.

Thanks  
Jen

**Jennifer Barrett**  
City Recorder / Assistant to the City Manager



**City of Cannon Beach**

p: 503.436.8052 | tty: 503.436.8097 | f: 503.436.2050

a: 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110

w: [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) | e: [barrett@ci.cannon-beach.or.us](mailto:barrett@ci.cannon-beach.or.us)

DISCLOSURE NOTICE: Messages to and from this email address may be subject to Oregon Public Records Law.

---

**From:** Jennifer Barrett

**Sent:** Thursday, April 21, 2022 12:46 PM

**To:** Bob Neroni <[chefbobneroni@gmail.com](mailto:chefbobneroni@gmail.com)>

**Cc:** Bruce St. Denis <[stdenis@ci.cannon-beach.or.us](mailto:stdenis@ci.cannon-beach.or.us)>

**Subject:** 5/3 Council Meeting

Hi Bob,

We are working on the upcoming Council meeting for May 3<sup>rd</sup>. Do you want us to use the correspondence we received so far as justification for your request? That is a possibility, however we do recommend submitting a new request. Please let me know your thoughts or send a new email by noon on Monday to be included in the packet.

Thanks

Jen

**Jennifer Barrett**

*City Recorder / Assistant to the City Manager*

**City of Cannon Beach**

p: 503.436.8052 | tty: 503.436.8097 | f: 503.436.2050

a: 163 E. Gower St. | PO Box 368 | Cannon Beach, OR 97110

w: [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) | e: [barrett@ci.cannon-beach.or.us](mailto:barrett@ci.cannon-beach.or.us)

DISCLOSURE NOTICE: Messages to and from this email address may be subject to Oregon Public Records Law.



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### CITY HALL/POLICE STATION ARCHITECTURAL/ENGINEERING REQUEST FOR PROPOSALS (RFP)

---

**Agenda Date:** May 3rd, 2022

**Prepared by:** Bruce St.Denis, City Manager

## BACKGROUND

Council has directed staff to move forward with the City Hall/Police Station (CH/PD) project.

A funding source to pay debt service for the project (Prepared food tax) will come on-line on July 1, 2022.

The next step to move the project forward is to go through the selection process for the Architect/Engineer (A/E) and initiate the Construction Manager/General Contractor (CM/GC) shortly thereafter. Both selections start with the issuance of a Request For Proposals or RFP that must be approved by the City Council.

## ANALYSIS/INFORMATION

Because of the cost and scope of the CH/PD project the City Council is required to approve the RFPs for the Architect/Engineer (A/E) and Construction Manager/General Contractor before they can be issued. The attached A/E RFP is essentially the same as the one that was successfully used for the selection of the architect for the Cannon Beach Elementary School Rejuvenation project. There are fewer details in this version as the project is well defined in the Facility Program Document. Critical dates for the RFP process will be filled in once the approval has been received.

It is important that the City Council approve the CH/PD architectural RFP as it has a long lead time item and a requirement to get the project started. For example, if the RFP were to be approved on May 3rd we still would not have the A/E selection completed until July or August.

There is a special (voting) meeting scheduled for May 12<sup>th</sup> in the event that Council is comfortable taking action at that time.

## RECOMMENDATION

Staff recommends Council approves the request for proposals. Suggested Motion

“I move to approve the City Hall/Police Station Architectural/Engineering Request for Proposals (RFP)”

## List of Attachments

A City Hall/Police Station RFP for architectural services.



## **REQUEST FOR PROPOSALS**

### **Cannon Beach City Hall/Police Department Design and Construction Documents**

**DATE:  
May 6, 2022**

CITY OF CANNON BEACH  
PO Box 368  
163 East Gower Street  
Cannon Beach, Oregon 97110  
(503) 436-1581

## TABLE OF CONTENTS

<b>SECTION 1 – INVITATION.....</b>	<b>3</b>
<b>SECTION 2 – INTRODUCTION AND GENERAL INFORMATION .....</b>	<b>5</b>
<b>SECTION 3 –SCOPE OF WORK.....</b>	<b>14</b>
<b>SECTION 4 – PROPOSAL AND PROPOSER REQUIREMENTS.....</b>	<b>22</b>
<b>SECTION 5 – PROPOSAL SELECTION AND EVALUATION .....</b>	<b>28</b>
<b>SECTION 6 – CONTRACT REQUIREMENTS .....</b>	<b>31</b>
 <b>ATTACHMENTS:</b>	
<b>A: CERTIFICATIONS.....</b>	<b>32</b>
<b>B: FORM OF PROFESSIONAL SERVICES AGREEMENT.....</b>	<b>34</b>

**INVITATION**  
**CANNON BEACH**  
**REQUEST FOR PROPOSALS (RFP)**  
**CANNON BEACH CITY HALL/POLICE STATION**  
**DESIGN AND CONSTRUCTION DOCUMENTS**

***Proposals Due by 4:00 p.m., June 2, 2022***

The City of Cannon Beach (“City”) is requesting proposals from qualified design firms (“Design Firm”) to provide complete planning, design, bidding and construction administration services for a new City Hall/Police Station.

The City intends the project to be located on the eastern side of the current City Hall/Police Station site. The scope of services will include the hiring and management of subconsultants necessary for the successful completion of the project.

The entire site is 1.22 acres and the available land for construction is 0.76 acres.

The Cannon Beach City Council reviewed and approved an exemption to traditional competitive bidding to deliver the redevelopment of the property through a Construction Manager/General Contractor (“CM/GC”) delivery method. This RFP will be used to select a Design Firm well qualified to deliver the requested services within a CM/GC context. Responses to this RFP will be reviewed, scored, and ranked according to the criteria and process defined in this RFP. The City will select a Design Firm it determines to be the most qualified to provide the necessary services to redevelop the property through a CM/GC delivery method.

**There will be a mandatory Pre-Proposal meeting to be held on May 18, 2022 at the site of the current City Hall/Police Station located at 163 East Gower St. in Cannon Beach.** The purpose of the meeting is to share information and answer questions about the project. **Anyone or any firm intending to submit a proposal must have a representative at this meeting.**

RFP documents are available by contacting Rusty Barrett, Contract Coordinator City of Cannon Beach, at 503-436-8093, or [e-mail: rbarrett@ci.cannon-beach.or.us](mailto:rbarrett@ci.cannon-beach.or.us) The RFP may also be downloaded from the City’s website at [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us).

Proposals must be received by 4:00 p.m., June 2, 2022, by Rusty Barrett at [rbarrett@ci.cannon-beach.or.us](mailto:rbarrett@ci.cannon-beach.or.us) or at City Hall 163 E Gower St., PO Box 368 Cannon Beach, OR 97110. Proposals may be submitted electronically or by mailed or delivered paper copy. Facsimile proposals will not be accepted. Proposals received after the designated time and date may not be considered.

The City may reject any proposal not in compliance with all prescribed solicitation procedures and requirements and other applicable law and may reject any or all proposals in whole or in part when the cancellation or rejection is in the best interest of the City.

Dated 6th day of May 2022  
Bruce St. Denis, City Manager

DRAFT

## **SECTION 2 – INTRODUCTION AND GENERAL INFORMATION**

### **2.1 INTRODUCTION**

The City of Cannon Beach (“City”) is an Oregon municipal corporation with a 2020 census population of approximately 1,489. The City is governed by a City Council comprised of four Councilors and the Mayor. The City is now accepting proposals to provide professional services for the design and construction documents for a new City Hall/Police Station at the current location of those facilities.

The project estimated cost is \$17.7M and the City’s target completion date for this project is September, 2024.

The scope of services will include the hiring and management of subconsultants necessary for the successful completion of the project. Subconsultants will be paid through the fee paid to the Design Firm selected for the work. The City will deliver construction of the project through a Construction Manager/General Contractor (“CM/GC”) method. The selected Design Firm must demonstrate it has a history of successfully working with public agencies and contractors as part of a CM/GC team.

The already completed facility program projects the total square footage to be approximately 16,000 square feet. The actual size of the facility will be determined during the design process. The new facility will and house the Police Department, Community Development Department, Administration, Public Works Admin, I/T, Finance, Emergency Management, the Haystack Rock Awareness Program, Farmers Market and City Council Chamber that will double as an Emergency Operations Center.

The City Hall / Police Station project website is located [here](#). Look for the Facilities Reports listed under the materials provided for previous studies.

### **2.2 ISSUING OFFICE AND SUBMITTAL LOCATION**

Rusty Barrett, Contract Coordinator, is the point of contact for the City for questions and protests concerning this RFP. Rusty Barrett can be reached at 503-436-8093 or [rbarrett@ci.cannon-beach.or.us](mailto:rbarrett@ci.cannon-beach.or.us).

In order to be considered for this project, proposals must be received no later than June 2, 2022, at 4:00 p.m. The City is allowing proposals to be submitted

electronically or by printed copy. Electronic submittal is preferred. Electronic proposals should be submitted to Rusty Barrett at [rbarrett@ci.cannon-beach.or.us](mailto:rbarrett@ci.cannon-beach.or.us).

If paper copies are submitted, the Proposer must provide **five** total bound copies of the proposal; one copy should be marked “ORIGINAL”. **The outside of the sealed envelope containing the proposal should state “Design Services for the construction of a City Hall/Police Station” and shall be addressed to:**

City of Cannon Beach  
Rusty Barrett, Contract Coordinator  
163 East Gower Street  
PO Box 368  
Cannon Beach, OR 97110

## 2.3 ANTICIPATED RFP SCHEDULE

The City anticipates the following general timeline for receiving and evaluating the proposals and selecting a firm/individual for design development and construction documents. The schedule may be changed if it is in the City’s best interest to do so.

- RFP Advertised in Daily Journal of Commerce
- **Mandatory Pre-Proposal Meeting**
- Deadline to Submit Changes/Solicitation Protest
- Last Date for an Addenda
- Receive Proposals
- Proposer Interviews
- Notice of Intent to Award
- Award Protest Period Ends
- City Council Approval
- Commence Contract Activities
- A/E Services Completion Date
- Target Completion Date

Schedule will be based  
on approval date from  
Council

JUNE 2024

**There will be a mandatory Pre-Proposal meeting to be held on May 18, 2022 at the site of the current City Hall/Police Station located at 163 East Gower St. in Cannon Beach.** The purpose of the meeting is to share information and answer questions about the project. **Anyone or any firm intending to submit a proposal must have a representative at this meeting.**



## **2.4 CHANGES TO THE SOLICITATION BY CITY ADDENDA**

The City reserves the right to make changes to the RFP by written addendum, which shall be issued to all prospective Proposers who attended the mandatory pre-proposal meeting.

A prospective Proposer may request a change in the RFP by submitting a written request to the address set forth above. The request must specify the provision of the RFP in question and contain an explanation for the requested change. NOTE: All requests for changes or additional information must be submitted to the City no later than the date set in the RFP Schedule. The City will evaluate any request submitted but reserves the right to determine whether to accept the requested change. If in the City's discretion, additional information or interpretation is necessary, the information will be supplied in the form of an addendum.

Any addenda shall have the same binding effect as though contained in the main body of the RFP. Oral instructions or information concerning the scope of work of the project given out by employees, or agents to the prospective Proposers are not binding on the City and may not be relied on by Proposers.

- a) Addenda will be emailed or delivered to all prospective Proposers who attended the mandatory pre-proposal meeting.
- b) No addenda will be issued later than the date set in the RFP Schedule, except an addendum, if necessary, postponing the date for receipt of Proposals, withdrawing the invitation, modifying elements of the proposal resulting from a delayed process, or requesting additional information, clarification, or revisions of proposals leading to obtaining best offers or best and final offers.
- c) Each Proposer shall ascertain, prior to submitting a Proposal, that the Proposer has received all Addenda issued, and receipt of each Addendum shall be acknowledged in the appropriate location on each Addendum and included with the Proposal submittal.

## **2.5 CONFIDENTIALITY**

All information submitted by Proposers is a public record and is subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the Proposals for which Proposer requests exception from disclosure consistent with Oregon Law. All requests shall be in writing, noting specifically which portion of the Proposal the Proposer requests exception from disclosure. Proposer shall not copyright, or cause to be copyrighted, any portion of any said document

submitted to the City as a result of this RFP. Proposer may not mark the entire proposal document "Confidential."

## **2.6 CANCELLATION**

The City reserves the right to cancel award of this contract at any time before execution of the contract by both parties if the City deems cancellation to be in the City's best interest. In no event shall the City have any liability for the cancellation of award.

## **2.7 LATE PROPOSALS**

All Proposals that are not received by the deadline stated in the RFP schedule will be considered late. The City, in its sole discretion, may choose to accept or reject late proposals. Delays due to mail and/or delivery handling, including, but not limited to delays within City's internal distribution systems, do not excuse the Proposer's responsibility for submitting the Proposal to the correct location by the stated deadline.

## **2.8 DISPUTES**

In case of any doubt or differences of opinions as to the items or service to be furnished hereunder, or the interpretation of the terms of the RFP, the decision of the City shall be final and binding upon all parties. Disputes must be in writing and should be addressed to Rusty Barrett, Contract Coordinator 163 E. Gower Street, P.O. Box 368, Cannon Beach, OR 97110 or to [rbarrett@ci.cannon-beach.or.us](mailto:rbarrett@ci.cannon-beach.or.us). Any dispute or protest to the terms of the RFP must be submitted no later than the deadline identified above to request changes or to submit a solicitation protest.

## **2.9 PROPOSER'S REPRESENTATION**

Proposers, by the act of submitting a Proposal, represent that:

- a) They have read and understand the Proposal Documents and their Proposal is made in accordance therewith;
- b) They have familiarized themselves with the site and the general location of the project;
- c) They can demonstrate a successful history of providing professional services to public owners through a CM/GC delivery method.
- d) The Proposal is based upon the requirements described in the Proposal Documents without exception (unless exceptions are clearly stated in the response).

## **2.10 CONDITIONS OF SUBMITTAL**

By submitting a Proposal, the Proposer certifies that:

- a) The Proposer and each person signing on behalf of any Proposer certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no elected official, officer, employee, or person, whose salary is payable in whole or in part by the City, has a direct or indirect financial interest in the Proposal, or in the services to which it relates, or in any of the profits thereof other than as fully described in the Proposer's response to this solicitation.
- b) The Proposer has examined all parts of the RFP, including all requirements and contract terms and conditions thereof, and, if its Proposal is accepted, the Proposer shall accept the contract documents thereto unless substantive changes are made in same without the approval of the Proposer.
- c) The Proposer, if an individual, is of lawful age; is the only one interested in this Proposal; and that no person, firm, or corporation, other than that named, has any interest in the Proposal, or in the proposed contract.

## **2.11 PROPOSER REQUESTS INTERPRETATION OF RFP DOCUMENTS**

Proposers shall promptly notify the City of any ambiguity, inconsistency or error, which they may discover upon examination of the Proposal Documents.

Proposers requiring clarification or interpretation of the Proposal Documents shall make a written request for same to Rusty Barrett, at the submittal address located in Section 2.2. Any such request must be submitted no later than the deadline identified above to request changes or to submit a solicitation protest.

The City shall make interpretations, corrections, or changes of the Proposal Documents in writing by published Addenda. Interpretations, corrections, or changes of the Proposal Documents made in any other manner will not be binding, and Proposers shall not rely upon such interpretations, corrections, and changes.

Should any doubt or difference of opinion arise between the City and a Proposer as to the items to be furnished hereunder or the interpretation of the provisions of this solicitation, the City's decision is final and binding on all parties.

## **2.12 PROPOSER REQUESTS FOR ADDITIONAL INFORMATION**

Requests for information regarding City services, programs, or personnel, or any other information shall be submitted in writing directly to Rusty Barrett at the address in the Invitation. All requests for additional information shall be submitted in writing. Any such request must be submitted no later than the deadline identified above to request changes or to submit a solicitation protest. Answers shall be provided to all Proposers of record on the date that answers are available.

## **2.13 COMPETITION**

No later than the deadline identified above to request changes or to submit a solicitation protest, a Proposer may comment in writing on any specification or requirement within this RFP that the Proposer believes will inordinately limit competition.

## **2.14 COMPLAINTS AND INEQUITIES**

Any complaints or perceived inequities related to this RFP or award of work referenced herein shall be in writing and directed to Rusty Barrett at the contact information listed in Section 2.8 and shall be received no later than the date identified above to request changes or to submit a solicitation protest. Such submittals will be reviewed upon receipt and will be answered in writing.

## **2.15 COST OF RFP AND ASSOCIATED RESPONSES**

The City is not liable for any costs incurred by a proposer in the preparation and/or presentation of a proposal. The City is not liable for any cost incurred by a proposer in protesting the RFP or the City's selection decision.

## **2.16 CITY TO REQUEST CLARIFICATION, ADDITIONAL RESEARCH, & REVISIONS**

The City reserves the right to obtain clarification of any point in a Proposal or to obtain additional information necessary to properly evaluate a particular Proposal. Failure of a Proposer to respond to such a request for additional information or clarification could result in a finding that the Proposer is non-responsive and consequent rejection of the Proposal.

The City may obtain information from any legal source for clarification of any Proposal or for information on any Proposer. The City need not inform the Proposer of any intent to perform additional research in this respect or of any information thereby received.

The City may perform, at its sole option, investigations of the responsible Proposer. Information may include, but shall not necessarily be limited to credit history, recent financial statements, current litigation, bonding capacity and related history, and contacting references. All such documents, if requested by the City, become part of the public records and may be disclosed accordingly.

The City reserves the right to request revisions of Proposals after submission and before award for the purpose of obtaining best offers or best and final offers.

## **2.17 REJECTION OF PROPOSALS**

The City reserves the right to reject any or all Proposals received as a result of this request. Proposals may be rejected for one or more of the following reasons, including but not limited to:

- a) Failure of the Proposer to adhere to one or more of the provisions established in this RFP.
- b) Failure of the Proposer to submit a Proposal in the format specified herein.
- c) Failure of the Proposer to submit a Proposal within the time requirements established herein.
- d) Failure of the Proposer to adhere to ethical and professional standards before, during, or following the Proposal process.

The City may reject any Proposal not in compliance with all prescribed public procurement procedures and requirements and may reject for good cause any or all Proposals upon a finding of the City that it is in the public interest to do so.

## **2.18 MODIFICATION OR WITHDRAWAL OF PROPOSAL BY PROPOSER**

A Proposal may not be modified, withdrawn, or canceled by the Proposer for (90 (ninety) calendar days following the time and date designated for the receipt of Proposals.

Prior to the time and date designated for receipt of Proposals, Proposals submitted early may be modified or withdrawn only by notice to Rusty Barrett, at the Proposal submittal location, prior to the time designated for receipt of Proposals. Such notice shall be in writing and contain the signature of the Proposer. All such communications shall be so worded as not to reveal the

amount of the original Proposal or any other material contents of the original Proposal.

Withdrawn Proposals may be resubmitted up to the time designated for the receipt of Proposals provided that they are then fully in conformance with these Instructions to Proposers.

## **2.19 PROPOSAL OWNERSHIP**

All Proposals submitted become and remain the property of the City and, as such, are considered public information and subject to public disclosure within the context of the laws governing public records in Oregon. As required by Oregon law, all proposals are exempt from disclosure until the City issues a Notice of Intent to award a contract to a Design Firm.

Unless certain pages or specific information are specifically marked "proprietary" and legally qualify as such, the City shall make available to any person requesting information through the City's processes for disclosure of public records, any and all information submitted as a result of this solicitation without obtaining permission from any Proposer to do so after the Notice of Intent to award has been issued.

## **2.20 DURATION OF PROPOSAL**

Proposal prices, terms and conditions shall be firm for a period of at least ninety (90) days from the deadline for receipt of submittal. The successful proposal shall not be subject to future price escalation or changes of terms if accepted during the ninety (90) day period. Price decreases or changes in terms by others after the acceptance of a proposal will not be considered.

## **2.21 INTERGOVERNMENTAL COOPERATIVE AGREEMENT**

Not applicable to this solicitation.

## **2.22 AFFIRMATIVE ACTION/NONDISCRIMINATION**

By submitting a proposal, the Proposer agrees to comply with the Fair Labor Standard Act, Civil Rights Act of 1964, Executive Order 11246, Fair Employment Practices, Equal Employment Opportunity Act, Americans with Disabilities Act, and Oregon Revised Statutes. By submitting a proposal, the Proposer specifically certifies, under penalty of perjury, that the Proposer has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts.

### **2.23 PERFORMANCE AND PAYMENT BONDS**

No performance and payment bonds are required.

DRAFT

## SECTION 3 - SCOPE OF WORK

The following is a general description of the scope of services that the City wants the selected Design Firm to provide. A detailed scope of services will be developed with the selected Design Firm.

### 3.1 **Services Provided By City:** Proposers shall assume that the City will provide specialty services as follows:

- Geotechnical
- Environmental Testing
- Specialty inspections and/or materials testing as needed for items such as steel and concrete and roofing
- Archeological surveys

#### **Information Provided by City:**

- Provide the use of existing maps, aerials and AutoCAD base map for design and reproduction purposes.
- Provide existing studies or community development plans that may affect decisions or recommendations. The City will provide any zoning and land division ordinances or information that is relevant to the project.
- Provide stakeholder contact information.
- Schedule and facilitate City Council meetings and prepare agendas as needed.

### 3.2 **Design Phase Responsibilities and Deliverables**

3.2.1 Have a project “kick-off” meeting that introduces a review of existing conditions review including: 1) Introduction of team members, 2) site tour 3) review any existing design or scoping information.

3.2.1 Develop projected project design schedule.

The schedule will be comprised of 6 distinct phases that are part of the overall “**Design Process**”:

- A. **Pre-design Phase:** This is a time for the selected firm to become familiar with the Cannon Beach design aesthetic and the ongoing efforts to re-capture and maintain it’s village



atmosphere. The site is located in what is known as “Mid-Town” and the current facility does little to add to the area’s ambiance. Pre-design is a time designated for the Design Firm to become familiar with the site including the physical and environmental aspects of the site, adjacent properties, traffic patterns and to conduct multiple sessions with Council, the public and other interested parties to learn about what people want to see from the project.

- B. **Schematic Design Phase:** This phase is where ideas are put to paper to explore options. Over time ideas will coalesce into concepts that reflect the ideas of residents and interested parties. At some point this phase will produce a single concept that is adopted by the city council that will become the “Base” for future design phases. The Schematic Design Phase is where conversations regarding sustainability elements of the project are introduced.

The space available for construction of the new facility is very limited as it is being shared with the current City Hall/Police Station and associated parking. The city would like to see some design options to maximize the opportunities of the site that may include removing the existing structures to have the new facility have a maximum positive impact on the Mid-Town neighborhood.

The residents want the new facility to enhance and reflect the aesthetic values of the community.

- C. **Design Development Phase:** This is where the “base” concept from the schematic design phase is further developed including more detailed drawings of interiors/exterior, finishes and preliminary ideas about required structural improvements and mechanical systems begin to develop.

Prior to completion of the design development phase, hold a meeting to present the design to the City Council and public for final comment. If needed, revise design development documents until approved.

- D. **Contract Drawing Phase:** this is where decisions about finishes, design details for interiors and exteriors and the literal “nuts and bolts” decisions regarding floor, wall, mechanical, structural, lighting, sound system specifications are finalized down to the allowable options list.
- E. **Bidding Phase:** This is where that bidding for the subcontractors submit their proposals based on the Contract Drawings.
- F. **Construction Administration Phase:** This is where the contractor undertakes the work of completing the improvements and the Design Firm monitors the work for quality and compliance with the Contract Drawings.

- 3.2.3 Throughout the design process and especially during the schematic design phase the selected Design Firm is expected to work closely with the City Council, City staff, and the broader community to provide conceptual designs as options for the new Facility.
- 3.2.4 Assist the City in selecting a CM/GC and work closely with the selected CM/GC from the design development phase to complete the design up to the point of construction documents.
- 3.2.5 Take primary responsibility for planning and coordination with local planning and building officials during pre-design to ensure compliance with City requirements.
- 3.2.6 Throughout the design process as needed, conduct progressive reviews with City staff and the CM/GC to obtain City approvals with design and specification decision, and adherence to design schedule and budget. Work with CM/GC to permit CM/GC to present City with Guaranteed Maximum Price (GMP) proposal for construction phase.
- 3.2.7 Meet regularly and as necessary with appropriate city officials to assure that developing and final designs and drawings are

consistent with applicable codes as interpreted by the officials having jurisdiction.

- 3.2.8 Prior to completion of the design development phase, hold a meeting to present the design to the City Council and public for final comment. If needed, revise design development documents until approved.
- 3.2.9 In coordination with City staff and the CM/GC, the Design Firm will present each successive design phase to the public for comments and to the City Council for comment and direction. City Council approval is required prior to commencing to the successive design phase.
- 3.2.10 Advise and coordinate implementing costing, savings, value engineering, and control procedures and documentation to meet budgetary limitations.
- 3.2.11 Ensure design progresses in accordance with the design schedule.
- 3.2.12 Consult with City staff and the CM/GC on all material specifications and selections to assure installation of low maintenance products with the highest life cycle value. Provide various construction options and implementation methods to optimize material performance and cost savings.
- 3.2.13 Advise in the selection of any additional consultants and contractors as needed.

### **3.3 Construction Documents Phase Responsibilities and Deliverables**

- 3.3.1 Develop Construction Documents, including detailed designs, drawings, specifications and any other documentation needed for the CM/GC to obtain subcontractor bids.
- 3.3.2 Consult with City and CM/GC regarding bid packages for subcontractors and assist CM/GC as needed in preparation of bid packages.

- 3.3.3 Assist the City and CM/GC in evaluating subcontractor bids or proposals.
- 3.3.4 Obtain permitting agency plan checks and permits prior to the release of subcontractor bid packages.

### **3.4 Construction Phase Activities**

- 3.4.1 Perform a detailed analysis of the CM/GC's proposed schedule to identify flaws in logic or potential points where claims are most likely to occur. Continue to monitor and report schedule compliance or issues to the City.

Visit construction site to monitor progress, workmanship and to conduct project design and specification compliance inspections.

- 3.4.2 Alert City to any concerns or potential problems as soon as they are recognized by the Design Firm. Convey alternatives to the City and make recommendations regarding solutions that are in the City's best interests.
- 3.4.3 Attend construction meetings and maintain project documentation as necessary.
- 3.4.5 Review and track all shop drawings submittals to assure compliance with Construction Documents. Closely coordinate status of shop drawing with CM/GC to ensure project will progress smoothly. This is a critical component of the Construction Document phase and a key responsibility of the Design Firm. This will be monitored regularly by the City.
- 3.4.6 Review, track and respond to CM/GC on all Requests For Information (RFI's). This is a key responsibility of the Design Firm and will be monitored regularly by the City. This is a critical component of the Construction Administration phase and a key responsibility of the Design Firm. This will be monitored regularly by the City.
- 3.4.7 Review payment requests and recommend payment or appropriate modification of progress payment billings from

CM/GC and review recommendations with City before approval.

- 3.4.8 Immediately notify City of any potential or actual CM/GC claims, investigate, conduct analysis and make recommendations for options for City action.
- 3.4.9 Closely monitor schedule compliance for all subcontractors, construction documents and other documentation and notify City of any potential claims and recommend action to eliminate or mitigate potential claims.

### **3.5 Close-out Phase Activities**

- 3.5.1 Prepare and monitor punch list.
- 3.5.2 Confirm status and completion of punch list and prepare Certificate of Final Completion to be issued upon City's direction.
- 3.5.3 Continue coordination with appropriate local building officials.
- 3.5.4 Receive, review and approve for completeness and accuracy contract closeout documentation, as-builts, O&M's and recommend final acceptance when appropriate. Provide hard and digital copies of all construction/as-built documents for archiving by City.
- 3.5.5 Review and make recommendation for final payment to the CM/GC.

### **3.6 Responsibilities**

***Responsibility of Design Firm*** – It is understood and agreed that the services the Design Firm will be required to perform under this contract shall be rendered directly by or under close personal supervision by the Design Firm, and that the work shall be faithfully performed with care and diligence.

The Design Firm will make sure that the appropriate individuals return all calls or other contacts from the City and/or CM/GC within a reasonable time. If it is not possible for the called or contacted party to respond, the

Design Firm will make arrangements for a qualified member of the Design Firm to respond to the contact.

If issues related to design, construction, materials, cost, or other items are identified by the Design Firm or CM/GC during the construction phase, the Design Firm shall investigate the issue, review the project contracts to determine who is responsible for resolving the problem and to bring options to the City for consideration.

If there is a problem identified by the Design Firm or CM/GC during the construction phase, the Design Firm shall investigate the facts regarding the issue, review the project contracts to determine who is responsible for resolving the problem and to bring options to the owner for consideration.

The Design Firm will provide cell phone numbers of the lead designer, their supervisor, the lead construction administrator and their supervisor, the principal in charge of this project and the lead principal of the local firm, as applicable, where the design is being managed and construction work responses originate.

***Responsibility of the City*** – The City will provide the Design Firm with a list of designated City employees who are authorized to contact the Design Firm. The City will also provide a point of contact for all service and billing issues.

If issues arise during the construction phase, the City is responsible for selecting an appropriate resolution from among options presented by the Design Firm or other option identified by the City.

The City will hold meetings on site, no less than monthly, during the construction phase to meet with the project representatives of the Design Firm and the CM/GC. **A principal of the Design Firm and a principal of the CM/GC will be required to attend the meetings.** The purpose will be to discuss progress that was accomplished in the previous month and what is expected in the next month. Discussions will occur regarding product delivery schedules, potential substitutions, progress and status of RFI's and shop drawing submittals, schedule compliance or changes, status of compilation of as-builts and reviews. The intent is to identify any current

or upcoming issues that that may affect the project quality, schedule or final documentation.

***Responsibility of the CM/GC-*** The specific obligations of the CM/GC will be established through a future RFP and a subsequent contract with a qualified CM/GC. Generally speaking, the CM/GC will:

- (i) Provide preconstruction services to the City including closely advising the Design Firm on conditions of the existing facilities, constructability issues, material selection, construction techniques;
- (ii) Optimize a schedule for construction;
- (iii) Develop and submit for the City's approval a Guaranteed Maximum Price ("GMP") proposal; and, if City accepts a GMP proposal, construct the improvements.
- (iv) The CM/GC will work closely with the Design Firm during design development and the CM/GC's preconstruction services will include constructability reviews of the design as it progresses.
- (v) The CM/GC may also be required to procure certain items with long lead times in advance of construction and perform early construction work.

### **3.7 Changes of Scope and Additional Work**

The Proposer may be requested to perform special projects for the City. Because of variations in the demand for additional services from time to time, such work shall be agreed upon in advance, contracted for, provided and billed separately to the City on a pre-arranged basis.

## SECTION 4 – PROPOSAL AND PROPOSER

### REQUIREMENTS 4.1 SUBMITTAL OF PROPOSALS

In order to be considered for this project, proposals must be received no later than June 2, 2022 at 4:00 p.m. **The proposal is to be submitted without proposed fees.**

The City is allowing proposals to be submitted electronically or by printed copy. Electronic submittal is preferred. Electronic proposals are to be submitted Rusty Barrett at [rbarrett@ci.cannon-beach.or.us](mailto:rbarrett@ci.cannon-beach.or.us) If paper copies are submitted, the Proposer must provide five total bound copies of their proposal; one copy should be marked “ORIGINAL”. **The outside of the sealed envelope containing the proposal should state “Design Services for the Construction of a new City Hall/Police Station for Cannon Beach and shall be addressed to:**

City of Cannon Beach  
Rusty Barrett, Contract Coordinator  
168 Gower Street  
PO Box 368  
Cannon Beach, OR 97110

### 4.2 PROPOSER REQUIREMENTS

Mandatory Requirements (Pass/Fail). These requirements will not be scored. Failure to meet any of these qualifications will render your proposal non-responsive.

- 1) Introductory Letter. This letter (no more than 2 pages) shall specifically stipulate that the Design Firm accepts all terms and conditions contained in the RFP and supporting documents. The letter shall name the person(s) authorized to represent the Design Firm in any negotiations and the name of the person(s) authorized to sign any contract that may result.
- 2) Proof of Licensure. Design Firm shall submit proof that they and any sub-consultants have current, active license to practice architecture in the State of Oregon. Design Firm and any sub-consultants shall obtain a City business license if selected.
- 3) The following minimum criteria will apply:
  - A. Proposer shall include sufficient evidence as to the Proposer’s ability to perform the work. This information shall disclose and include all



- pertinent facts as may be appropriate and shall include a description of past performance on projects of similar type, scope and size.
- B. Proposers shall have a minimum of providing design and construction services for three similar construction projects on tight sites delivered through a CM/GC method.
  - C. Proposers shall have experience in conducting public workshops to collect input from the public and interested parties, for seeking direction from the City, and develop quality public presentations.
  - D. Proposers shall demonstrate the ability to provide the services required within the Scope of Work, within the timeline indicated to the City and shall demonstrate a proven history of providing such services.
  - E. Proposers shall not have a record of providing substandard services. The City will verify this requirement by communication with the licensing authority, the Proposer's clients and references, and as many other references as may be deemed appropriate.

#### **4.3 PROPOSER REPRESENTATIONS**

The Proposer further agrees to the following:

- A. To examine all specifications and conditions thoroughly.
- B. To provide for appropriate insurance, deposits, and performance bonds if required.
- C. To comply fully with the scope of services for the agreed contract.
- D. That any and all registration and certification requirements required for any subconsultants are met as set forth in the Oregon Revised Statutes.

#### **4.4 PROPOSER REPRESENTATIVE**

The selected Proposer shall assign a competent representative acceptable to the City who will represent the Proposer in providing contracted services to the City. If the representative is removed by the Proposer, the new representative must be acceptable to the City.

#### **4.5 PROPOSAL FORMAT AND REQUIREMENTS – MANDATORY**

Each Proposer shall provide the following:

##### **4.5.1 Format Proposal shall be submitted with the following formatting limitations:**

- A. Proposals must be submitted on letter-sized (8.5" X 11") paper. Margins must be at least 1/2" on all sides. Font size can be no smaller than 12 point.
- B. **Proposals must not exceed fourteen (14) single-sided pages or seven (7) double-sided pages.** Proposers must include an introductory letter (described below) with the proposal. The letter must not exceed two pages and the letter is not **included** within the 14/7 page limitations.
- C. The proposal should be focused on the specifics of how you see your firm managing this project and why you are the best firm to deliver this project for the city. It should clearly and succinctly demonstrate why the proposer believes they are the most qualified Design Firm for the project. Additional information may be submitted. However, the information that is contained within the 14/7 page limitation will serve as the basis of the City's review and evaluation.
- D. Provide detailed information on the specifications and features of the proposed services as listed below. Provide any suggestions for services you would recommend that were not requested in the scope and why you recommend those services. Please provide answers in this format and as straightforwardly as possible.
- E. Proposers must submit Proof of Licensure, which will not count against the total page limitation. Proposers may submit resumes, which may not exceed two (2) single-sided pages, or one (1) double-sided page. Such resumes will not count against total page limitation.

#### **4.5.2 Introductory Letter**

Include the name of the proposing firm or individual and its principal business address and phone number. The letter should address the Proposer's willingness and commitment to provide the services as outlined in the Scope of Work. The letter should be addressed to Bruce St. Denis, City Manager and should be signed by an officer of the firm authorized to bind the firm to the proposal and a subsequent contract, as applicable. Please provide all contact

telephone, fax numbers, e-mail addresses, and addresses of your office(s).

#### **4.5.3 Proposer Profile and References**

The Proposal must include the following information:

- A. An overview of the firm's structure and organization, a description of the firm including when it was founded, staffing level and expertise, Identify who will be the City's contact during design, bidding and construction and the scope of services available. Provide the proposed organizational structure under which the Proposer will provide the requested services to the City, including the designation of the Principal in Charge and other key personnel.
- B. Describe firm's recent experience in providing architectural services in the design and construction of at least the three (3) most recent projects that are similar in size and scope to that contemplated for this project and that were delivered preferably using a CM/GC method. The description should include any other services provided by Proposer not specifically listed in the solicitation. Include any procured services or personnel located within Clatsop County. Include the same information for key sub-consultants, such as engineering firms, as well. When citing specific examples, always clarify the following:
  - (1) The name, location, client entity, and year of completion of the project.
  - (2) Project scope, size in square feet, bid costs of project, and final cost of the built project. Projects in progress may be described with the current anticipated scope, size and estimated cost.
  - (3) Define roles each member of the project team had, if any, on the project.
  - (4) Contracting type and firm's role in delivery of the project (e.g. Construction Manager/General Contractor (CM/GC), Design-Build, Design-Bid-Build, Private Bid).
  - (5) Project References should include the names, position or role, and current contact information for client representatives or other persons who became familiar with your firm's work and performance on the project.

- C. A description of all projects which the Proposer is currently working on which may pose a potential conflict with the completion of this project.
- D. Key Personnel. Provide a company-wide organizational chart that highlights the key personnel that will be assigned to the work should your firm be selected for contract award. Identify Principal, Project Manager, and other key staff, and extent of their involvement should your firm be selected. Identify staff from key sub-consultants mentioned above. Describe individual roles, responsibilities, credentials, and related experience that will allow the City to evaluate the qualifications of the individuals proposed for the project. Include each individual's percentage of overall time that can be dedicated to the project. Upon execution of the contract, Design Firm shall notify the City of any changes to key personnel assigned to the project.

#### **4.5.4 Proposer's Services**

Please provide detailed information on the specifications and features of the proposed services as listed below. Provide any suggestions for services you would recommend that were not requested in the scope and why you recommend those services. Please provide answers in this format and as straightforwardly as possible.

- A. Indication that the Proposer has a clear understanding of the requested services by describing your scope of services for pre-design activities through construction close-out.
- B. Outline and description of project tasks, how they will be accomplished within the specified timeframe, any challenges the Proposer foresees and how those challenges will be addressed. Please provide a description of assumptions regarding City staff responsibilities as they pertain to this project.
- C. Estimated project timeline showing all major milestones and other relevant information.

- D. Furnish a disclosure statement of involvement in any civil or criminal litigation or investigation regarding your business practices during the past five years.

#### **4.5.5 Proposed Fees**

Proposed fees are not to be included with the initial proposal. Fees will be requested from the top ranked firm at the end of the interview process.

Proposed fees are not to be included with the proposal. After the initial scoring, the Design Firm the City determines to be most qualified will have three business days to submit their proposed fees. Failure to do so may result in the proposal being deemed non-responsive and the City will request proposed fees from the next highest scoring proposer

#### **4.5.6 Certifications (Attachment A)**

Please complete the attached certification form for non-collusion and conflict of interest,

Attachment A, with the required signature and other information.

#### **4.5.7 Sample Professional Services Agreement (Attachment B)**

Review sample agreement. The City expects Proposers to raise concerns or questions regarding the agreement no later than the deadline to submit requests for changes or to file a solicitation protest. The City is under no obligation to negotiate changes to the attached agreement, particularly if a Design Firm did not seek a change or raise the issue prior to the deadline to request changes.

#### **4.5.8 Addenda**

All Addenda of this RFP shall be submitted as part of the Proposal. Receipt of each Addendum shall be acknowledged by the Proposer by signing in the appropriate designated location. Each Proposer shall ascertain, prior to submitting a Proposal, that the Proposer has received all Addenda issued by the City. Returning signed addenda, if any, does not count against the 14/7 - page limitation.

## **SECTION 5 – PROPOSAL SELECTION AND EVALUATION**

### **5.1 GENERAL INFORMATION**

The City intends to award all of the tasks to the selected Design Firm. Each proposal will be judged on its completeness and quality of its content as well as the results of the interviews. The City reserves the right to reject any or all proposals and is not liable for any costs the Proposer incurs while preparing or presenting the proposal. All proposals will become part of the public file without obligation to the City. Upon the completion of the evaluation process, the City intends to negotiate a contract with the Proposer whose proposal is deemed to be most advantageous to the City.

### **5.2 SELECTION REVIEW COMMITTEE**

The Selection Review Committee may be comprised of up to five members. The role of the Selection Review Committee is to evaluate the proposals submitted, conduct interviews and make a recommendation of award to the City Council. The City may also seek independent expert advice with no apparent or perceived conflicts of interest to help review proposals. However, any such person that is contacted by the City for their expert advice shall not, from first being contacted until the RFP process is completed, or otherwise brought to an end, have communications with any Proposers regarding their proposals or the process.

Scoring will be completed covering all areas as described below in the Evaluation Criteria. All scores for each Proposer shall be added together to arrive at an evaluation score for each Proposer. Proposals will then be ranked in descending order by the total Proposal score.

Interviews will be conducted with all or a select few of the Proposers after the written Proposals are evaluated. The interview scores will be considered in conjunction with the written proposals in making a decision regarding a recommendation to City Council. City will enter into contract negotiations with the highest ranked Proposer. If the City in its sole discretion determines that a contract with the highest ranked Proposer cannot be reached, the City will commence negotiations with the second highest ranked Proposer, and so on.

### **5.3 INTERVIEWS**

Proposers selected for final evaluation may be required to make an oral presentation of their proposal to the Selection Review Committee. Such presentation shall provide an opportunity for Proposers to clarify their proposal to

ensure thorough mutual understanding. The Selection Review Committee may interview the Proposers and ask additional questions related to the proposal and the scope of work. A principal and the individual designated as the Project Manager must attend the interview. The City expects the individual that the firm has delegated to be the project manager to lead the presentation to ensure the person with day-to-day responsibility for the project has a thorough understanding of the project. The City will schedule the time and locations of the interviews. Interviews will take place at a location to be determined in the City. Firms invited to the interview will be responsible for making and paying for their own travel arrangements.

#### **5.4 SCORING AND EVALUATION CRITERIA**

The criteria listed below will be used to evaluate the Proposers to determine the finalists and apparent successful Design Firm. **Total possible evaluation points prior to interviews will be 300. If interviews are conducted, an additional 200 points are available to determine the final scores.**

##### **5.4.1 Comprehensiveness of Proposed Services (40 points) 13%**

Completeness of proposed services compared to requested services.

##### **5.4.2 Evaluation of Proposer's Services (70 points) 23%**

Evaluation of proposer's process to complete project including how tasks will be performed within the agreed-upon timeframe.

##### **5.4.3 Experience of firm to provide proposed services (70 points) 23%**

Overall capabilities and experience of the Proposer to provide the requested services described in this RFP.

##### **5.4.4 Qualifications of Proposed Staff (120 points) 41%**

The credentials and experience of the key staff selected to perform the requested services.

##### **5.4.5 Interviews, if held (additional 200 points)**

The purpose of the interviews is to evaluate presentations of proposals and Proposer's ability to work with City staff. Interview scores will be added to the scores from 5.4.1 through 5.4.4.

#### **5.4.7 Reference Check (no points)**

The City reserves the right to contact references as part of the decision-making process and prior to making a final selection.

### **5.5 RANKING OF PROPOSALS**

- A. Proposals may be ranked by the Selection Review Committee based on evaluation of responses and interviews (if any), with the first-ranked Proposer being that Proposer which is deemed to be the most qualified, and the second ranked Proposer being the next most qualified, and so on, all in the sole judgment of the Selection Review Committee.
- B. Proposer's scores will be totaled and ranked. Any Proposer's response to this RFP shall be considered de facto permission to the City to disclose the results, when completed, to selected viewers at the sole discretion of the City.



## **SECTION 6 – CONTRACT REQUIREMENTS**

### **6.1 CONTRACT AWARD**

The award of a contract is accomplished by executing a written agreement that incorporates the entire RFP, Proposer's response, clarifications, addenda, and additions. All such materials constitute the contract documents. The Proposer agrees to accept the contract terms provided by the City unless substantive changes are made without the approval of the Proposer. Otherwise, exceptions to the contract must be submitted by the Proposer no later than the solicitation protest period. Proposers may protest pursuant to CBMC 2.08.160.

### **6.2 REQUIREMENTS**

The firm must be covered by Workers' Compensation Insurance, which will extend to and include work in Oregon. In addition, the firm must also submit documents addressing general liability insurance, automobile and collision insurance, professional liability insurance, and indication that there is no conflict of interest on the part of the Contractor's submission of a proposal for the services being solicited under this RFP.

### **6.3 CONTRACT ADMINISTRATOR**

The City Manager, Bruce St. Denis, shall be the Contract Administrator for this project.

## **ATTACHMENT A – CERTIFICATIONS**

### **Non-Collusion**

The undersigned Proposer hereby certifies that it, its officers, partners, owners, providers, representatives, employees and parties in interest, including the affiant, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, potential Proposer, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other Proposers or potential Proposers, or to secure through any unlawful act an advantage over other Proposers or the City. The fees and prices submitted herein have been arrived at in an entirely independent and lawful manner by the Proposer without consultation with other Proposers or potential Proposers or foreknowledge of the prices to be submitted in response to this solicitation by other Proposers or potential Proposers on the part of the Proposer, its officers, partners, owners, providers, representatives, employees or parties in interest, including the affiant.

### **Conflict Of Interest**

The undersigned Proposer and each person signing on behalf of the Proposer certifies, and in the case of a sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of the City Council, officer, employee, or person, whose salary is payable in whole or in part by the City, has a direct or indirect financial interest in the award of this Proposal, or in the services to which this Proposal relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein. The undersigned hereby submits this Proposal to furnish all work, services systems, materials, and labor as indicated herein and agrees to be bound by the following documents: Request for Proposal, Professional Services Agreement, and associated inclusions and references, specifications, Proposal Form, Proposer response, mutually agreed clarifications, appropriately priced change orders, exceptions which are acceptable to the City, and all other Proposer submittals.

### **Reciprocal Preference Law - Residency**

Resident Proposer ( ) Non-Resident Proposer ( )

## Signature Block

The Proposer hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

---

Proposer Name Proposer

---

Telephone Number

---

Proposer Mailing Address, City, State, Zip

---

Proposer Facsimile Number

---

Proposer E-mail Address

---

Signature

---

Date

## **ATTACHMENT B – SAMPLE PROFESSIONAL SERVICES AGREEMENT**

DRAFT



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### PACIFIC PAVING REQUEST

---

**Agenda Date:** May 3, 2022

**Prepared by:** Karen La Bonte, Public Works Director

## BACKGROUND

Property owners located on the dead-end section of S. Pacific Street, just past Center Street, reached out to City staff on March 22, 2022. They requested permission to pave the remaining 120 feet of the unpaved portion of the street at their own expense. S. Pacific is currently a paved street that dead ends down a steep slope, ending with a beach access point leading to Haystack Rock. Drivers are required to make a U-turn once they reach the dead end to exit the street in the same direction from which they came.

## ANALYSIS/INFORMATION

Per the Cannon Beach road standards in **municipal code 12.34.090**, property owners may request to pave their gravel streets. As required in the City ordinance, the requesting property owners have received approval from two-thirds of the surrounding property owners before obtaining a quote from a local paving company and submitting this paving request to City staff.

City staff conducted a detailed evaluation to determine if paving would benefit that area. The review considered the current infrastructure in place and if there are any pending repairs or replacements scheduled that would require cutting of the proposed pavement. Additional evaluation included the number of undeveloped lots that remain on that section of the street that might require cutting for future utility connections.

There are no water or sewer repairs scheduled or necessary for this area. Storm drain improvements have already been made by the City, as well as the private homeowners, over the past years to try to mitigate water run-off from the steep slopes above. With this section being gravel, and the number of cars that travel this area, it is difficult to maintain the proper crown on the gravel street to successfully control and direct water run-off in that area. City staff feels that paving this remaining gravel area would help further control surface water run-off.

## RECOMMENDATION

Because this section of road is difficult to maintain, staff recommends that the residents be allowed to pave the 1900 block of S. Pacific Street, at their own expense.

Suggested motion:

“I move to approve the paving the 1900 block of S. Pacific Street, with the expense to be paid by the property owners making this request.”

## List of Attachments

- A Municipal Code 12.34.090
- B Paving bid
- C Map of section to be paved

## Cannon Beach, Oregon Municipal Code

### Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

#### Chapter 12.34 ROAD STANDARDS

#### **12.34.090 Property owner requests to pave gravel street.**

A. The following outlines the process for property owners who desire to have their residential gravel street paved. Property owners will pay eighty percent of the cost of the asphalt paving and the city will contribute twenty percent of the cost, not to exceed five thousand dollars, subject to fiscal year budget availability, and meeting the paving criteria.

1. Owners shall submit a written request to the director, describing the street segment to be paved, with documented support of at least two-thirds of the property owners who are adjacent to the street segment. The request shall identify the property owners who will be financially contributing to the project.

B. City staff will evaluate the request and prepare a street site design using the street design standards for local streets in this document. City staff will estimate the total cost of the project which includes paving costs and additional costs for work needed prior to paving (including storm drain, sewer and/or water work).

1. If the city budget can support the cost of paving and all additional costs in the current budget year, staff will proceed with the remainder of the process for the project in the current fiscal year.

2. If the city budget can support all additional costs but not the paving costs, property owners will be given the option to pay the total paving costs in order to proceed in the current budget year. If they elect not to pay the total paving costs, the project will be deferred to a subsequent budget year when the funds are available.

3. If the city budget cannot support the paving costs and all additional costs, the project will be deferred to a subsequent budget year when the funds can be allocated.

4. If the additional costs for the project are prohibitive for the current or future budgets, the project will be denied, even if the owners agree to pay the total paving costs.

C. City staff will communicate with the associated paying property owners to present the estimated costs and projected timeline based on budget availability.

D. Staff will prepare a final project cost estimate and obtain a signed agreement from property owners who are contributing to the project to pay their relative portion of the project cost. Financial agreements must be completed and signed, and payment received by the city before the project will be scheduled for construction.

E. Staff will manage the paving project and determine the final project costs. Final cost of paving shall be based on actual quantity installed or measurement. Final costs in excess of the cost estimate amount shall be billed to the property owners who requested the paving. Property owner payments to the city will be due in full no later than thirty days after project completion. Property owners who fail to provide payment within the thirty-day time frame shall have a lien filed against their property in the amount owed. (Ord. 19-4 § 1)

---

## Contact:

City Hall: 503-436-8052, Email: [cityhall@ci.cannon-beach.or.us](mailto:cityhall@ci.cannon-beach.or.us)

Published by Quality Code Publishing, Seattle, WA. By using this site, you agree to the terms of use.



# BAYVIEW ASPHALT INC.

A DIVISION OF LAKESIDE INDUSTRIES, INC.

AN EQUAL OPPORTUNITY EMPLOYER

PO BOX 619 SEASIDE, OR 97138 Phone: (503) 738-5466 Fax: (503) 738-9517

## PROPOSAL/CONTRACT AGREEMENT

<b>To:</b>	Hans Lindstrom	<b>Contact:</b>	Hans Lindstrom
<b>Address:</b>	1956 Pacific Street Cannon Beach, OR 97110	<b>Phone:</b>	(253) 686-3169
		<b>Fax:</b>	
<b>Project Name:</b>	Hans Lindstrom - 1956 Pacific St., Cannon Beach	<b>Bid Number:</b>	
<b>Project Location:</b>	1956 Pacific St, Cannon Beach, OR	<b>Bid Date:</b>	3/14/2022
<b>Attachments:</b>	Bayview Terms and Conditions 11.08.2020.pdf		

Item #	Item Description	Total Price
001	<b>Pave At 3" Depth:</b> Sawcut Edge Of Existing Asphalt On Pacific Street To Match Into. Furnish & Install Level 2 1/2 Inch ACP At An Approximate <b>3 Inch Depth Compacted (1 Lift Process)</b> For Approximate 92 FT. Length Of Pacific Street Connecting To Driveways (Approximately 3516 SQ. FT. Total). <u>Install Water Bar Around Future Catch Basin North Of Project.</u>	\$12,750.00

**Total Bid Price: \$12,750.00**

### Notes:

- **Price based on current petroleum cost. Price escalation to be linked to the ODOT asphalt binder index as of 3/14/2022.**
- **Installation of HMA only. Subgrades must be firm and unyielding. All prep to be done by others.**
- Price Based on 1 Mobilizations. Additional Mobilizations are \$N/A Each.
- **Price Excludes:** Layout, Survey, or Engineering; Erosion Control; Utility Adjustment; Utility Patching; Premium Pay for Night, Holiday, or Weekend Work; Prime Coat; Insurance Premium over Standard Insurance; Base Repair; **Rock/Grading;** Temp Ramp Placement/Removal; Grinding; MTV/MTD; Cleaning Between Lifts; Permits; Bond; Testing; Traffic Control; Curbing; **Concrete Protection;** Crack Sealing; Seal Coat; Striping.
- Working Hours to be Monday through Friday 7:00am - 6:00pm.
- Performance Bond not included in bid price. If required please add 1% to total cost of bid.
- Bid based on approved contract. **This proposal & Bayview Provisions to be a part of all contract documents.**
- Total price to be based on actual quantity or measurement unless otherwise specified.
- Bayview Asphalt Inc. is not responsible for designed cross slopes of less than 1.2% that hold water after paving is complete.
- Bayview Asphalt Inc.'s proposed prices herein assume that Bayview Asphalt Inc.'s work hereunder will be substantially complete on or before: **4/30/2022.**
- Unless Contracting Party has signed and returned this Agreement with in thirty (30) days of the date first stated above, BAYVIEW ASPHALT INC.'S proposal shall be null and void.
- CONTRACTING PARTY'S SIGNATURE ON ONE COPY RETURNED TO BAYVIEW ASPHALT INC. WILL RENDER THIS A LEGAL CONTRACT FOR THE PERFORMANCE OF THE ABOVE WORK. CONTRACTING PARTY'S SIGNATURE ALSO ACKNOWLEDGES RECEIPT OF BAYVIEW ASPHALT INC.'S NOTICE TO CUSTOMER STATEMENT ATTACHED HERETO.
- **Oregon CCB: 63551/WA #BAYVIAI817C6**

### Payment Terms:

Payment is due within 10 days of receipt of invoice.

<b>ACCEPTED:</b> The above prices, specifications and conditions are satisfactory and are hereby accepted.  <b>Buyer:</b> _____ <b>Signature:</b> _____ <b>Date of Acceptance:</b> _____	<b>CONFIRMED:</b> <b>Bayview Asphalt Inc</b>  <b>Authorized Signature:</b> _____ <b>Estimator:</b> Jordane Lampi (503) 738-5466 jordane.lampi@bayviewasphalt.com
---	---







# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### RFP FOR PHASE 2 OF THE WATER RESILIENCY PROJECT

---

**Agenda Date:** May 3, 2022

**Prepared By:** Karen La Bonte, Public Works Director

## BACKGROUND

On March 2, 2021, the City applied for a loan from the Safe Drinking Water Revolving Loan Fund through Business Oregon to move forward with Phase 2 of the Water Resiliency Project. The project is replacement of the lines between the springs, tank, water plant and RV Park.

The goal of the Water Resiliency Project is to be able to distribute drinking water to the public within 72 hours of a large-scale earthquake – such as a Cascadia Subduction Zone (CSZ) event – and to build a hardened water system “backbone” that mitigates earthquake damage and allows for accelerated recovery.

## ANALYSIS/INFORMATION

Business Oregon has already reviewed and approved this RFP. It is similar in style and structure to the RFP from Phase 1 of this project.

## RECOMMENDATION

If Council is ready to proceed with this RFP, an appropriate motion is in order.

Suggested motion:

“I move to approve the RFP for engineering, design and construction management services for Phase 2 of the Water Resiliency Project.”

## List of Attachments:

- A. RFP – Phase 2 of the Water Resiliency Project



**REQUEST FOR PROPOSALS**

**WATER RESILIENCY PROJECT – PHASE 2**  
**BACKBONE TRANSMISSION REPLACEMENT**

**for the**

**City of Cannon Beach, Oregon**

**June 14, 2022**



**Submittals Due: 2:00 pm on July 12, 2022**

**Karen La Bonte, Public Works Director**  
**City of Cannon Beach**  
**163 E. Gower**  
**PO Box 368**  
**Cannon Beach, OR 97110**

## REQUEST FOR PROPOSALS

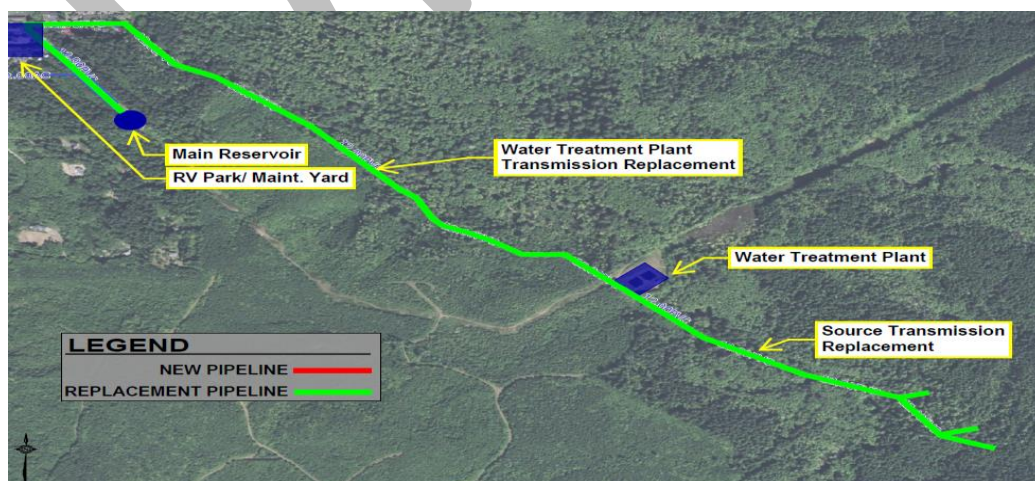
The City of Cannon Beach is seeking firms to provide engineering, design and construction management services for a water resiliency project funded through a loan from Business Oregon. The consultant selected through this proposal process will be asked to provide engineering and construction plans, a construction cost estimate, as well as construction management of the work performed and administering the funding and loan reporting requirements.

The project described in this RFP is “phase 2” of a three-phase water resiliency plan. Work under this contract is funded by the federal Safe Drinking Water Revolving Loan Fund through Business Oregon and a partnership of Local and/or Private Funds. The City of Cannon Beach has secured Business Oregon loan funding for phase 1 and is pursuing Business Oregon loan funding for phase 3.

### BACKGROUND

The City of Cannon Beach intends to upgrade its water utility to mitigate damage and mitigate potential consequences associated with earthquake and/or tsunami events. A “Phase 1” capital project has been defined as “Seismic Valves & Associated Piping”. A “Phase 2” capital project has been defined as “Source to City Transmission Replacement and is described in this document. There will also be a “Phase 3” which will include replacement of the Main Reservoir and installation of a north/south backbone pipeline. Also included in this document is a preliminary Phase 2 Scope of Services and a list of recommended qualification requirements for engineering firms.

The City has three spring sources in the City’s watershed. The pipelines from the springs to the water treatment plant and from the water treatment plant to the Main Reservoir are vulnerable to failure during a seismic event. All the pipe shown in ‘green’ in the graphic below will be replaced as the key focus of a Phase 2 project. Additionally, a fill station will be created either at the RV Park or at the City’s Maintenance Yard. The fill station would allow water to be distributed into containers or tanker trucks for public use following an emergency that damaged the distribution systems to individual homes and businesses.



## **PROJECT DESCRIPTION**

The project will consist of the following:

- Funding Agency Reporting and Coordination
- Surveying
- Preliminary Design
- Design
- Permitting
- Bidding
- Construction
- Construction Oversight

The estimated value of this contract is \$490,000. The estimated total project cost is \$3,215,000. This work is anticipated to start on August 25, 2022, pending necessary approvals, forms, insurance and executed agreement. The estimated project duration is 12 months, with the work being broken down into the following phases:

- Survey and Design: 4 months
- Oregon Health Authority review: 1 month
- Bid & Award: 2 months
- Construction: 5 months.

Anticipated project elements are described below:

### **Springs Pipelines**

- Each of the three springs have individual sections of pipelines that connect to the shared transmission line.
- These segments of pipe will be replaced by HDPE lines.
- The access road that the pipelines are in will be repaired to original condition.
- Where appropriate, access road grading may be improved as it relates to maintainability, accessibility, and safety.
- A determination will be made during pre-design about how to best remove or abandon the existing pipeline segments.

### **Springs to Water Treatment Plant Transmission Pipeline Replacement**

- This segment of pipe will be replaced by HDPE lines.
- The access road that the pipelines are in will be repaired to original condition.
- Where appropriate, access road grading may be improved as it relates to maintainability, accessibility, and safety.
- The new pipeline will – where practical – be installed adjacent to the existing pipeline so the existing line can stay in service until the new line is installed.
- A determination will be made during pre-design about how to best remove or abandon the existing pipeline segments.

### **Water Treatment Plant to RV Park/Maintenance Yard Transmission Pipeline Replacement**

- This segment of pipe will be replaced by HDPE lines.
- The access road that the pipelines are in will be repaired to original condition.
- Where appropriate, access road grading may be improved as it relates to maintainability, accessibility, and safety.
- The new pipeline will – where practical – be installed adjacent to the existing pipeline so the existing line can stay in service until the new line is installed.
- A determination will be made during pre-design about how to best remove or abandon the existing pipeline segments.

#### **Maintenance Yard to Main Reservoir Pipeline Replacement**

- This short piece of pipeline is within the Pacific Power pipeline easement and is also on Cannon Beach Conference Center property.
- It will be replaced by HDPE pipeline.
- Where appropriate, access road grading may be improved as it relates to maintainability, accessibility, and safety.
- A determination will be made during pre-design about how to best remove or abandon the existing pipeline segments.

#### **Interconnection Replacements**

- Each of the three spring connection points will be considered during design. The best method of connecting for reliability and cost effectiveness will be determined.
- The Ranney Well system alongside Ecola Creek will be connected to the new pipeline.
- The connections to the system at the RV Park, Maintenance Yard and Main Reservoir will be evaluated and design will include reliable and cost-effective means of connecting the ‘new’ with the ‘old.’

#### **Bridge Crossings**

- Design measures will be taken to address areas where the new waterline needs to cross a bridge (or bore under streams).

#### **Security Improvements**

- Some potential improvements to security were identified in a recent study. Any such items that pertain to the Ranney Well, the springs, and to the Public Works yard, may get incorporated into the design of Phase 2 improvements.

#### **Environmental Analysis**

- The project includes stream crossings and work in a protected watershed. An environmental report will be completed to identify any environmental constraints and mitigation requirements.

### **I. SCOPE OF SERVICES**

The selected consultant shall further develop a detailed scope of services as part of contract development. The scope of services will include, at a minimum the following tasks:

***City of Cannon Beach***  
***Water Resiliency Project Phase 2— Backbone Transmission Replacement***

- Task 1. Kickoff Meeting
  - o Agenda development
  - o Coordination with City
  - o Attendance
  - o Meeting Notes
- Task 2. Gathering Information
  - o Review of available data
  - o Request for information memo
  - o Identification of applicable code requirements
  - o Collecting all necessary documents to manage funding & associated reporting
- Task 3. Preliminary Assessments
  - o Alignment Survey - identify location of existing pipeline segments, and appropriate topo and road width surfaces
  - o Transmission System Hydraulics – hydraulic modeling and review of system to determine sizing requirements and pipe wall thickness requirements.
  - o Schematic Design (10% drawings of all improvements)
  - o Environmental Constraints Analysis
  - o Geotechnical Analysis
  - o Basis of Design Report to summarize above
- Task 4. Agency Coordination
  - o Coordination with City
  - o Manage Funding Agency Reporting
  - o Coordination with Pacific Power
  - o Coordination with Cannon Beach Conference Center
  - o Coordination with Oregon Health Authority
  - o Coordination with Other Property Owners – as required
  - o Coordination with Other Agencies for environmental permitting purposes
  - o Identification of needs of each agency and communications with City about necessary deliverables, permits, and check-in dates/milestones
- Task 5. Design
  - o Springs Pipelines
  - o Springs to Water Treatment Plant Transmission Pipeline Replacement
  - o Water Treatment Plant to RV Park/Maintenance Yard Transmission Pipeline Replacement
  - o Maintenance Yard to Main Reservoir Pipeline Replacement
  - o Interconnection Replacements
  - o Bridge Crossings
  - o Security Improvements
  - o Environmental Mitigation Measures
  - o Discipline Engineering Design to Accommodate Above Tasks

**City of Cannon Beach**  
*Water Resiliency Project Phase 2— Backbone Transmission Replacement*

- Civil Design
  - Structural Design (only at fill station at RV Park/Maintenance Yard)
  - Electrical Design (minor if required for any pump connections or security items)
  - Instrumentation and Control Design (if required)
  - Security Design
  - Mechanical Design (if required)
  - SCADA Design (if required)
  - o Bid Documents including full specifications
- Task 6. Bid Period Services
  - o Prepare bid documents and publicly bid the project
  - o Answer questions
  - o Prepare addenda
  - o Review bids
- Task 7. Construction Services
  - o Conformed Drawings
  - o Periodic Site Visits/Construction Oversight
  - o Respond to RFIs
  - o Review Change Orders
  - o Review Pay Requests
- Task 8. Startup, Testing, and Closeout
  - o Record Drawings
  - o Review of O&M Submittals from Contractor
  - o Manage Funding Agency Coordination
- Task 8. Presentations and Meetings
  - o Presentation/Meeting with Public Works Committee (1x)
  - o Presentation to City Council (1x)
  - o Presentation to Other Agencies (power company, property owner) – (1x)
  - o Project Meetings with City staff (4x)
- Task 9. Permitting
  - o Local City Permitting
  - o Power Company Permitting
  - o Environmental Permitting
  - o Oregon Health Authority Permitting
- Task 10. Project Management
  - o Budget oversight
  - o Schedule management
  - o Communications



- o Invoicing
  - o Subconsultant management
- Task 11. Quality Assurance / Quality Control
  - o Review of submittals prior to issuance
  - o Assignment of senior technical advisors to project team

## II. PROPOSAL SUBMISSION REQUIREMENTS

Submittals should be prepared in generally the following format for the ease of the selection committee in reviewing multiple submittals:

### General Overview

Provide a general overview of the firm or individual, including a discussion relative to the Qualifications section of this RFP. Include relevant information for the firm/individuals included in your staffing plan.

### Project Approach and Work Plan

Describe the strategy for achieving the goals and deliverables of each phase. Include a schedule for completion of the entire project.

### Consultant Identification and Team

Provide the name of the consultant, the consultant's principal place of business, and the name and telephone number of the contact person. Clearly identify team members, their roles, and qualifications.

Any professional services required but not proposed by the qualified consultant firm shall be listed and reasons should be provided for not including them as part of the proposal.

### Related Project Examples and References

Provide recent (within last 5-8 years) visual examples of relevant projects completed by the consultant that exhibit the team's ability to successfully complete a range of services as outlined in this RFP. Along with each example, please include descriptive information such as location of the project, date, scope and scale, contract amount, name of the team member(s) involved in the project and their roles, name of the client, and email address and telephone number of the client contact.

## III. QUALIFICATION EVALUATION AND SCORING

Minimum qualifications include:

- STAFF
  - o Consultants shall be licensed to practice engineering in the State of Oregon and insured at the levels required in the example Professional Services Agreement.

**City of Cannon Beach**  
*Water Resiliency Project Phase 2— Backbone Transmission Replacement*

- Engineer of record shall be licensed as a professional engineer in the State of Oregon.
- A water system security expert shall be included on the consultant team.
- Consultant shall be able to provide the majority of services in-house, with qualified subconsultants included as needed to provide a full-service team.
- Project manager and key consultant team members located within a three-hour drive of Cannon Beach is preferred for efficiency of project meetings and site visits.
- **EXPERIENCE**
  - Consultant team shall have experience with seismic engineering services.
  - Consultant team shall have a minimum of five years of consulting experience on municipal water systems in Oregon.
  - Consultant team shall have experience with Oregon Health Authority coordination and reviews.
  - Consultant team shall have knowledge of utility right-of-way permitting and review requirements, specifically Pacific Power.
  - Knowledge of the City of Cannon Beach water system is preferred.
  - Consultant team shall be qualified to provide consulting advice and design services related to drinking water storage.
  - Experience with public water projects in coastal environments is preferred.
- **GENERAL**
  - Consultants are required to certify non-discrimination in employment practices, and identify resident status as defined in ORS 279A.120.
  - All consultants are required to comply with the provisions of Oregon Revised Statutes and Cannon Beach City Municipal Code.
  - Consultants must have the financial resources to perform their obligations under the contract or the ability to obtain the necessary resources.
  - Consultants must be an equal opportunity employer and being otherwise qualified by law to enter into a contract with the City.

Submittals which conform to the qualification instructions will be evaluated. Proposals will be evaluated by the City on the basis of what is most advantageous for the City of Cannon Beach. The evaluation will consider:

- Approach and understanding.
- Experience and reputation in the field. Experience with projects of similar size/complexity. Familiarity with local site conditions and local experience
- Project team experience and utilization of locally procured services or personnel.
- References.

Scoring

**City of Cannon Beach**  
*Water Resiliency Project Phase 2– Backbone Transmission Replacement*

Item	Description	Scoring
1. Approach and Understanding	The proposal shall be of such scope and depth to sufficiently describe and demonstrate the consultant’s understanding of approach to the project. Please include all conditions and assumptions.	35
2. Similar Project Experience	Knowledgeable of consultant’s experience with similar projects, familiarity with local site conditions and local experience.	50
3. Project Team	Qualifications of consultant project team and utilization of locally-procured services.	10
4. References	References from successfully completed projects.	5
	<b>Initial Total</b>	<b>100</b>
5. Interviews (if applicable)		10
6. Price Proposals		15
	<b>Final Total</b>	<b>125</b>

#### IV. CONSULTANT SELECTION PROCESS

The City’s objective in soliciting submittals is to enable it to select respondents that will provide high quality, effective, and professional services to the citizens of the City of Cannon Beach in a timely manner. The City will consider submittals only from respondents that, in the City’s sole judgment, have demonstrated the capability and willingness to provide high quality services to the citizens of the City in the manner described in this RFP.

The City will utilize the following general selection process in determining the most qualified and best consultant to provide these services for the City:

- A selection committee will review and rank all submittals based upon the criteria established in this RFP.
- If the selection committee believes interviews are necessary, the interview scores will be combined with the other criteria to obtain a total score.
- After completing the evaluation, the City may determine that up to three of the top-ranked proposers are qualified to perform the services the City seeks through this RFP and may request from each of them a pricing proposal based on the “Scope of Services” identified in this RFP.
- Pricing Proposal:
  - Must contain a schedule of hourly rates that the proposer will charge for the work of each individual or each labor classification that will perform the services the City requires;
  - Must be in the form of an offer that is irrevocable for not less than 90 days after the date of the pricing proposal; and
  - Must provide a reasonable estimate of hours that the proposer believes will be needed to perform the services the City requires.

**City of Cannon Beach**  
*Water Resiliency Project Phase 2– Backbone Transmission Replacement*

Pricing proposals must be submitted no later than the date and time identified in the City's written request, which will be at least seven days from the date of the request. The City will award a total of 15 points to a pricing proposal. After reviewing and scoring the pricing proposals, the City will add the score of the pricing proposal to the existing scores and the City will begin contract negotiations with the highest-ranked proposers. Pursuant to ORS 279C.110(6), the negotiations will seek to finalize the scope of services. If negotiations are successful, the City will issue a notice of intent to award a contract to the highest-ranked proposer.

If negotiations with the top-ranked proposer are not successful, the City in its sole discretion may terminate negotiations and begin negotiations with the second-ranked proposers and may continue in this manner through successive proposers until an agreement is reached or until the City cancels the RFP.

## V. SUBMISSION REQUIREMENTS

### Submission of Proposals

Submittals must be received by the City no later than 2:00 p.m. prevailing time on July 12, 2022, by mail or hand delivery to the address below. Any submittal received after this time will be returned unopened. Submittals delivered by email or facsimile will not be accepted. It is the Proposer's responsibility to ensure that Proposals are received prior to the stated submission deadline.

To be responsive, submittals must provide all requested information, and must be in conformance with the instructions set forth herein. Submittals must be signed and acknowledged by the respondent.

Submittals will be evaluated by staff. The City reserves the right to reject any or all submittals.

### Number of copies

Respondents must submit one (1) signed original. Completed submittals shall be addressed to:

City of Cannon Beach  
Attn: Karen La Bonte  
Public Works Director  
163 E Gower  
PO Box 368  
Cannon Beach, OR 97110

## VI. SITE TOUR /PRE-SUBMITTAL CONFERENCE

A mandatory site tour/pre-proposal conference will be held on June 28, 2022, at 2:00 pm. The tour group will meet at City Hall and navigate to the site together.

## VII. ANTICIPATED SELECTION SCHEDULE

**City of Cannon Beach**  
*Water Resiliency Project Phase 2— Backbone Transmission Replacement*

RFP Advertised	June 14, 2022
Mandatory Pre-Proposal Meeting	June 28, 2022
Deadline to Submit Changes/Solicitation Protest	July 1, 2022
Last Date for Addenda	July 8, 2022
Submittals Due	July 12, 2022
Evaluation of Submittals	July 13-18, 2022
Notification of Interviews, if Conducted	July 19, 2022
Interviews, if Conducted	July 26-28, 2022
Notice of Intent to Award	August 1, 2022
Council Approves Award	August 9, 2022
Award	August 10, 2022

#### VIII. METHOD OF AWARD

The City reserves the right to award this contract to the consultant that demonstrates the best ability to fulfill the requirements of the contract. The successful consultant will be chosen based on the selection criteria described above.

The consultant selected will be given the first right to negotiate an agreement acceptable to the City. In the event that an agreement satisfactory to the City cannot be reached, the City may enter into negotiations with one or more of the remaining consultants who submitted their proposals. The successful consultant shall commence work only after execution of an acceptable agreement and approval of insurance certificates. An example of our agreement has been attached. Review the sample agreement and detail the requirements in the agreement that your firm cannot comply with or would request modified. The City will not consider contract modification requested after selection. The successful consultant will perform services indicated in the RFP in compliance with the negotiated agreement.

#### IX. INQUIRIES

Any questions related to this request must be submitted in writing and sent via email to [labonte@ci.cannon-beach.or.us](mailto:labonte@ci.cannon-beach.or.us). Inquiries must be submitted no later than **12:00 noon July 1, 2022**. Questions answered via email will be followed up by written addenda as deemed necessary; oral interpretations shall have no effect.

#### X. OTHER PROVISIONS AND NOTICES

Consultants may submit a written protest of anything contained in the RFP and may request a change to any provision, specification or Contract Term contained in the RFP, no later than 10 calendar days prior to the date submittals are due. Each protest and request for change must include the reasons for the protest or request, and any proposed changes to the RFP provisions, specifications or Contract Terms. The City will not consider any protest or request for change that is submitted after the submission deadline.

***City of Cannon Beach***  
*Water Resiliency Project Phase 2– Backbone Transmission Replacement*

The City will evaluate any request submitted, but reserves the right to determine whether to accept the requested change. If, in the City's opinion, additional information or interpretation is necessary, such information will be supplied in the form of an Addendum. Any addenda shall have the same binding effect as though contained in the main body of the RFP. Oral instructions or information concerning the scope of work of the project given out by City managers, employees, or agents to the prospective Proposers shall not bind the City.

The City reserves the right to make changes to the RFP by written addendum, which shall be issued to all prospective Proposers known to the City to have received the Proposal document.

The City will provide to all consultants responding to the RFP a copy of the notice of intent to award. Consultants responding to the RFP but not selected may submit a written protest no later than seven (7) calendar days after the date of the intent to award notice. The protester must meet the requirements in OAR 137-048-0240.

Consultants responding to the RFP do so solely at their expense, and that the City is not responsible for any Consultant expenses associated with the RFP.

The City reserves the right to cancel the RFP, reject all or portions of any or all submittals, to waive irregularities and technicalities, to re-advertise, or to proceed to provide the services otherwise, in the best interest of the City. The City may, at its sole discretion, modify or amend any and all provisions herein. The City will not pay for any information herein requested, nor is it liable for any costs incurred by the participating consultant.

The City reserves the right to extend the RFP submittal date if needed. All changes and/or clarifications will be distributed to all consultants indicating interest in the form of addenda. Addenda will be distributed via email only.

The City reserves the right to request additional information or request clarification from those making a submittal and request personal interviews.

Every submittal should be valid for a minimum of ninety (90) days after the RFP submittal deadline.

All submissions are the property of the City of Cannon Beach and are public records. If you believe your documents are exempt public records, please clearly mark each document and/or portion of document as such and indicate what exemption may apply. The City makes no guarantees that document submitted to the City will be kept confidential.

**CITY OF CANNON BEACH  
PROFESSIONAL SERVICES CONTRACT**

THIS PROFESSIONAL SERVICES CONTRACT ("Contract") is made and entered into by and between the City of Cannon Beach a municipal corporation in the State of Oregon ("City") and \_\_\_\_\_. ("Consultant") identified as follows:

Company \_\_\_\_\_

Federal ID # \_\_\_\_\_

Mail Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

Phone # \_\_\_\_\_

Fax # \_\_\_\_\_

E-Mail \_\_\_\_\_

**1. EFFECTIVE DATE AND DURATION OF CONTRACT.** This Contract shall become effective on \_\_\_\_\_ ("Effective Date"). This Contract shall bind the City when it is authorized or ratified by the City. Unless earlier terminated, this Contract shall remain in full force and effect until City accepts Consultant's completed performance or on \_\_\_\_\_, whichever first occurs.

**2. PROJECT MANAGERS.** City's project manager is \_\_\_\_\_. Consultant's project manager is \_\_\_\_\_. Each party shall give the other timely written notification of any change in their respective project manager.

**3. FUNDS AVAILABLE AND AUTHORIZED.** City has sufficient funds currently available and authorized for expenditure to finance the costs of this Contract.

**4. RELATIONSHIP OF THE PARTIES.**

**4.1. Professional consultant.** The Consultant shall provide the Services for the Project as described in Section 5 in accordance with the terms and conditions of this Contract. The Consultant's performance of Services shall be as a professional consultant to City to carry out the activities of the Project and to provide the technical documents and supervision to achieve City's Project objectives.

**4.2. City oversight/other consultants.** In administering this Contract, City may retain the services of an independent project manager, and potentially, other consultants or other contracts for additional or related work as needed to fulfill City's objectives. Consultant shall fully cooperate with such additional contractors and with any City employees concerned with such additional or related work and shall coordinate the performance of work under this Contract, with such additional or related work. Consultant shall not commit or permit any act which will interfere with the performance of work by any other Contractor or by any City employee.

**4.3. Written consent for sub-contracts, assignment, successors-in-interest.** Consultant shall not make any sub-contract with any other party for furnishing any of the Project's Services or assign or transfer any interest in this Contract, without obtaining the express prior written consent of City. In any case, this

Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any. Should sub-contracts be allowed, the Consultant shall provide a list of all Sub-contractors which the Consultant intends to utilize on the Project. This list shall include such information on the qualifications of the Sub-contractors as may be requested by City. City reserves the right to review the Sub-contractors proposed, and the Consultant shall not retain a Sub-contractors to which City has a reasonable objection.

**5. SCOPE OF WORK.** The Consultant shall provide to the City all services related to completion of the project (the "Project") as more particularly described in Consultant's proposal ("Proposal"), attached to this Contract as Exhibit A and incorporated herein by reference. In the event of inconsistencies between this Contract and Exhibit A, the provisions of this Contract shall control. Generally, the services to be performed by the Consultant on the Project consist of the following and as more specifically described in Exhibit A (the "Services"): architect, engineer or survey services.

Consultant is required to obtain all necessary licenses (state and local) necessary to operate its business in the City and to perform the Services.

**6. PAYMENT.** City agrees to pay Consultant on the schedule and the amounts set forth in the attached Exhibit A (Budget) incorporated by reference herein for satisfactory completion of the Project. Any work or Services to be provided beyond that set forth in Exhibit A must be approved in writing in advance by the City. In the event such authorization is not obtained, the Consultant shall not be entitled to compensation for the performance of such work.

**6.1** Unless otherwise agreed to by the City in writing, Consultant shall submit monthly billings for work performed. The billings shall describe all materials supplied and work performed with particularity and shall itemize and explain all expenses for which reimbursement is claimed. Unless the amount and rate of reimbursement are specified in an attached exhibit to this Contract, the City will not reimburse Consultant for any expenses under this Contract.

**6.2** City shall pay Consultant for the amount billed each month within 30 (thirty) days after receiving Consultant's billing in a format acceptable to the City. City shall not pay any amount in excess of the compensation amounts set forth above nor shall City pay Consultant any fees or costs which City reasonably disputes. If such a dispute arises, Consultant will continue to perform its duties under this Contract.

**7. CONTRACT PERFORMANCE.** Consultant shall at all times perform the Services diligently, without delay and punctually fulfill all requirements herein, consistent with the schedule for the performance of Consultant's services set forth in Exhibit A. Expiration of this Contract shall not extinguish or prejudice City's right to enforce this Contract with respect to any breach of a warranty of Consultant or any default or defect in performance that has not been cured. Consultant shall perform such additional work as may be necessary to correct errors in the work performed without undue delay or additional cost. Time is of the essence in the performance of this Contract.

**8. CHANGES.** This Contract, including all exhibits attached hereto, shall not be waived, altered, modified, supplemented, extended or amended, in any manner whatsoever, except by written instrument, executed by both parties. Such waiver, alteration, modification, supplement, extension or amendment, if made, shall be effective only in the specific instance and for the specific purpose given. The parties acknowledge and agree that, to the extent permitted by law, this Contract may be amended to specifically provide for additional Consultant services that are within or directly related to the Project. Failure of Consultant to secure authorization for extra work shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Consultant thereafter shall be entitled to no compensation whatsoever for the performance of such work.

**9. EXECUTION AND COUNTERPARTS.** This Contract, and any amendments to this Contract, may be executed in counterparts (each of which shall be an original and all of which shall constitute one and the same instrument) or in multiple originals. A faxed or email form of this Contract or any amendment thereto,



executed by one or more of the parties, will constitute a counterpart hereof, as long as the counterpart bearing the party's original signature is transmitted to the other party and received by that party forthwith.

**10. DUTY TO INFORM.** Consultant shall give prompt written notice to City's Project Manager if, at any time during the performance of this Contract, Consultant becomes aware of actual or potential problems, faults or defects in the project, any nonconformity with the Contract, or with any federal, state, or local law, rule or regulation, or has any objection to any decision or order made by City. Any delay or failure on the part of City to provide a written response to Consultant shall constitute neither agreement with nor acquiescence in Consultant's statement or claim and shall not constitute a waiver of any of City's rights.

**11. NOTICE.** Except as otherwise expressly provided in this Contract, any communications between the parties or notices to be given hereunder shall be given in writing by personal delivery, facsimile or mailing, postage prepaid, to Consultant or City at the address or number set forth on this Contract, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed shall be deemed to be given 5 (five) calendar days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed to be given when the transmitting machine generates a transmission receipt. To be effective against City, such facsimile transmission must be confirmed by telephone notice to the City's Project Manager identified in this Contract and shall not be deemed to be given until such confirmation is completed. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Email may be used in addition to the other methods described in this section.

**12. CONFLICT OF INTEREST.** Except with City's prior written consent, Consultant shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear, to compromise Consultant's professional judgment with respect to this Project, including, without limitation, concurrent employment on any project in direct competition with the Project.

**13. NO THIRD-PARTY BENEFICIARIES.** City and Consultant are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

**14. PROJECT INFORMATION & CONFIDENTIALITY.** Consultant agrees to share all Project information, to fully cooperate with all corporations, firms, contractors, governmental entities, and persons involved in or associated with the Project. No reports, information or data given to or prepared or assembled by Consultant under the Contract shall be made available or used for anything other than the work set forth under the Contract by Consultant to any individual or organization (except City) without the prior written approval of City which approval is in the City's sole and absolute discretion.

**14.1 Intellectual Property.** All work performed under this Contract including but not limited to documents, drawings, papers, computer programs, and photographs performed or produced by the Consultant under this Contract shall be the property of the City. The interest in any intellectual property, including but not limited to copyrights and patents of any type, arising from the performance of this Contract shall vest in the City. Consultant shall execute any assignment or other documents necessary to effect this paragraph. Consultant may retain a nonexclusive right to use any intellectual property that is subject to this paragraph. Consultant shall transfer to the City any data or other tangible property generated by Consultant under this contract and necessary for the beneficial use of intellectual property covered by this paragraph.

**15. RECORDKEEPING.** Consultant and Sub-contractors shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Consultant and Sub-contractors shall maintain any other records pertinent to this Contract in such a manner as to clearly document the Consultant's and Sub-contractors' performance hereunder. All such fiscal records, books, documents, papers, plans, and writings shall be retained by Consultant and Sub-contractors and kept accessible for a minimum of 6 (six) years after the Contract's expiration, except as required longer by law,

following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later. If for any reason, any part of this Contract, any Project-related consultant contract or any Project-related construction contract(s) is involved in litigation, Consultant shall retain all pertinent records for not less than 6 (six) years or until all litigation is resolved, whichever is longer. Consultant shall provide City with full access to these records in preparation for and during litigation.

**16. ACCESS TO RECORDS.** Consultant agrees that City and its authorized representatives shall have access to all books, documents, papers and records of the Consultant which are directly related to the Contract for the purpose of making any audit, examination, copies, excerpts and transcripts.

**17. INDEPENDENT CONTRACTOR STATUS.** Consultant shall be free from City's direction and control over the means and manner of providing Project labor or service, subject only to the specifications of the desired results. Consultant is responsible for obtaining all assumed business registrations or professional occupation licenses required by state or local law. Consultant shall furnish the tools or equipment necessary for the contracted labor or services. Consultant agrees and certifies that:

**17.1** Consultant is engaged as an independent contractor and will be responsible for any federal or state taxes applicable to any payments made under this Contract.

**17.2** Consultant is not eligible for any federal social security, unemployment insurance, pension, state retirement system or workers' compensation benefits from compensation or payments paid to Consultant under this Contract.

**17.3** Consultant has filed federal and state income tax returns in the name of the business as part of the personal income tax return, for the previous year, for labor or services performed as an independent contractor in the previous year.

**17.4** Consultant is not an employee any special district, or local government, including City, the federal government or the State of Oregon.

**18. PAYMENT OF LABORERS; PAYMENT OF TAXES.**

**18.1** Consultant shall:

**18.1.1** Make payment promptly, as due, to all persons supplying to the Consultant labor and material for the performance of the work provided for in the Contract (ORS 279B.220(1));

**18.1.2** Pay all contributions or amounts due to the Industrial Accident Fund incurred in the performance of this Contract and shall ensure that all Sub-contractors pay amounts due from their performance (ORS 279B.220(2));

**18.1.3** Not permit any lien or claim to be filed or prosecuted against the City on account of any labor or material furnished (ORS 279B.220(3)); and

**18.1.4** Be responsible for all federal, state and local taxes applicable to any compensation or payments paid to the Consultant under this Contract and pay to the Department of Revenue all sums withheld from employees under ORS 316.167. Unless the Consultant is subject to backup withholding, the City will not withhold from such compensation or payments any amount(s) to cover the Consultant's federal or state tax obligation (ORS 279B.220(4)).

**18.2** The Consultant shall promptly as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident

to sickness or injury, to the employees of the Consultant, of all sums that the Consultant agrees to pay for the services and all moneys and sums that the Consultant collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the service (ORS 279B.230(1)).

**18.3** Consultant, its subcontractors and all employers, if any, providing services, labor or materials under the Contract are subject to Oregon Workers' Compensation Law, which requires all subject employers working under this Contract are either employers that will comply with ORS 656.017 or are employers that are exempt under ORS 656.126. Consultant shall ensure that each of its subcontractors, if any, complies with these requirements (ORS 279B.230(2)).

**19. COMPLIANCE WITH APPLICABLE LAW.** Consultant shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Services under the Contract.

**19.1** Without limiting the generality of the foregoing, Consultant expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract and incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated:

**19.1.1** Titles VI and VII of the Civil Rights Act of 1964, as amended;

**19.1.2** Sections 503 and 504 of the Rehabilitation Act of 1973, as amended;

**19.1.3** the Americans with Disabilities Act of 1990, as amended;

**19.1.4** Executive Order 11246, as amended;

**19.1.5** the Health Insurance Portability and Accountability Act of 1996;

**19.1.6** the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended;

**19.1.7** the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended;

**19.1.8** ORS Chapter 659, as amended;

**19.1.9** all regulations and administrative rules established pursuant to the foregoing laws;  
and

**19.1.10** all other applicable requirements of federal, state and municipal civil rights and rehabilitation statutes, rules and regulations.

**19.2** City's performance under the Contract is conditioned upon Consultant's compliance with the provisions of ORS 279B.220, 279B.225, 279B.230, and 279B.235 which are incorporated by reference herein.

**19.3** Any person employed on work under this Contract shall be paid at least time and a half for all overtime worked in excess of 40 (forty) hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime (ORS 279B.235(3)).

## **20. REPRESENTATIONS AND WARRANTIES.**

**20.1** Consultant represents and warrants to City that:

**20.1.1** Consultant has complied and will continue to comply with all Oregon laws relating to the performance of Consultant's obligations under this Contract;

**20.1.2** Consultant shall be qualified, professionally competent and duly licensed to perform the Services at all times during the term of this Contract;

**20.1.3** Consultant has the skill and knowledge possessed by well-informed members of its industry, trade or profession and will apply that skill and knowledge with care and diligence to perform the Project under this Contract in a professional manner and in accordance with standards prevalent in Consultant's industry, trade or profession;

**20.1.4** Consultant has the power and authority to enter into and perform this Contract;

**20.1.5** When executed and delivered, this Contract shall be a valid and binding obligation of Consultant enforceable in accordance with its terms;

**20.1.6** The persons executing this Contract on behalf of the Consultant have the actual authority to bind the Consultant to the terms and conditions of this Contract;

**20.1.7** Consultant prepared its Proposal, Exhibit A to this Contract, independently from all other proposers, and without collusion, fraud or other dishonesty; and

**20.1.8** The provisions of this Contract do not conflict with, or result in a default under, any agreement or other instrument binding upon the Consultant and do not result in a violation of any law, regulation, court decree or order applicable to the Consultant

**20.2** Upon City's request, Consultant shall provide City with evidence reasonably satisfactory to City confirming the foregoing covenants and warranties. The warranties set forth in this paragraph are in addition to, and not in lieu of, any other provided warranties.

**21. INSURANCE.** Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage an "occurrence" form and with coverage that is satisfactory to the City. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under this Contract and is made on an occurrence basis. Coverage shall be a minimum of \$2,000,000 per occurrence and \$2,000,0000 aggregate. The policy shall name the City as an additional insured and the additional insured endorsement shall provide coverage for ongoing and completed operations and be written as primary and non-contributory. Contractor shall provide written notice of cancellation to the City at least 60 days prior to cancellation. Contractor shall provide City with a certificate of insurance within 5 business days after the date the contractor receives notification of award of contract as evidenced by receipt from the City of prepared contract documents.

b. Contractor shall also obtain, at their own expense, and keep in effect during the term of contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$2,000,000.

c. "Waiver of Subrogation" clause. The "contractor" shall obtain from its insurance carriers endorsements waiving their respective subrogation rights in favor of the City on General Liability policies affected by this agreement.

**21.1 WORKERS' COMPENSATION COVERAGE.** Consultant certifies that Consultant has qualified for State of Oregon Workers' Compensation coverage for all Consultant's employees who are subject to Oregon's Workers' Compensation statute, either as a carrier insured employer as provided by ORS 656.407 or as a self-insured employer. Consultant shall provide to City within 10 (ten) days after Contract Effective Date, a certificate of insurance evidencing coverage of all subject workers under Oregon's Workers' Compensation statutes insured by an insurance company satisfactory to City, if any. The certificate and policy shall indicate that the policy shall not be terminated by the insurance carrier without 30 (thirty) days' advance written notice to City. A copy of the certificate of self-insurance issued by the State shall be provided to City if the Consultant is self-insured. Consultants based in the State of Washington shall comply with Workers' Compensation coverage as required by the Labor and Industry insurance laws of the State of Washington and show proof of Washington Stop Gap coverage in the amount of \$1,000,000.

**21.2 PROFESSIONAL ERRORS AND OMISSIONS.** Consultant shall provide City with evidence of professional errors and omissions liability insurance for the protection of the Consultant and its employees, insuring against bodily injury and property damage and arising out of or resulting from Consultant's negligent acts, omissions, activities or services in an amount not less than \$2,000,000 per occurrence or claim. In the event Consultant's coverage is written on a claims made basis, Consultant is responsible for purchasing extended reporting period/tail coverage for a minimum of one (1) year and showing proof to the City at the completion of the contract.

**22. INDEMNIFICATION.** Consultant shall indemnify, defend, save and hold harmless City, its elected and appointed officials, officers, agents, employees and volunteers against all liability, claims, suits or actions of whatsoever nature, loss or expenses, including attorney fees, based upon or arising out of the acts or omissions of the Consultant or its Sub-contractors, agents, or employees under this Contract except that arising out of the sole negligence of the City. In addition, Consultant expressly agrees to indemnify, defend, save and hold harmless the City, its elected and appointed officials, officers, agents, employees and volunteers against all liability, claims, suits, actions, loss or expenses, including attorney fees, arising out of or related to any claims that the Project, Services, or any other tangible or intangible items delivered to City by Consultant that may be the subject of protection under any state of federal intellectual property law or doctrine, or the City's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design or other proprietary right of any third party.

**23. BREACH OF CONTRACT.** Consultant shall remedy any breach of this Contract within the shortest reasonable time after Consultant first has actual notice of the breach or City notifies Consultant of the breach, whichever is earlier. If Consultant fails to remedy a breach in accordance with this Section, City may terminate that part of the Contract affected by the breach upon written notice to Consultant, may obtain substitute services in reasonable manner, and may recover from Consultant the amount by which the price for those substitute services exceeds the price for the same services under this Contract.

**23.1.** If the City determines that the breach is material and Consultant fails to remedy the breach in accordance with this Section, City may declare Consultant in default and pursue any remedy available for a default.

**23.2.** Pending a decision to terminate all or part of this Contract, City unilaterally may order Consultant to suspend all or part of the services under this Contract. If City terminates all or part of the Contract pursuant to this Section, Consultant shall be entitled to compensation only for services rendered prior to the date of termination, but not for any services rendered after City ordered suspension of those services. If City suspends certain services under this Contract and later orders Consultant to resume those services, Consultant shall be entitled to reasonable damages actually incurred, if any, as a result of the suspension.

**23.3** To recover amounts due under this Section, City may withhold from any amounts owed by

City to Consultant, including but not limited to amounts owed under this or any other contract between Consultant and City.

**24. FORCE MAJEURE.** Neither City nor Consultant shall be held responsible for delay or default caused by fire, riot, acts of nature, or war where such cause was beyond, respectively, City's or Consultant's reasonable control. Consultant shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

**25. WAIVER.** The failure of City to enforce any provision of this Contract shall not constitute a waiver by City of that or any other provision.

**26. DEFAULT.** City, by written notice of default (including breach of contract) to Consultant, may terminate the whole or any part of the Contract:

**26.1** If Consultant fails to provide Services called for this Contract within the time or manner specified herein, or any extensions thereof; or

**26.2** If Consultant fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such longer period as City may authorize in writing.

**27. TERMINATION.**

**27.1** This Contract may be terminated at any time by written mutual consent of both parties.

**27.2** Consultant may terminate this Contract upon 30 (thirty) days' written notice to City if City fails to pay Consultant pursuant to the terms of this Contract and City fails to cure within 30 (thirty) days after receipt of Consultant's notice or such longer period of cure as Consultant may specify in such notice.

**27.3** City, in its sole discretion, may terminate this Contract, in whole or in part, at any time upon written notice to Consultant by specifying the termination date of the Contract.

**27.4** In the event of termination under this Section, Consultant's sole remedy shall be a claim for the sum designated for accomplishing the Services performed through the termination date. Consultant shall submit an itemized invoice for all un-reimbursed Services completed before termination for costs actually incurred by Consultant. City shall not be obligated to pay for any such costs invoiced to and received by City later than 30 (thirty) days after termination.

**27.5** Upon receiving a notice of termination, Consultant shall immediately cease all activities under this Contract, unless expressly directed otherwise by City in the notice of termination. Further, upon termination, As directed by City, Consultant shall deliver to City all Contract documents, information, works-in-progress and other property that are or would be deliverable had the Contract been completed. Upon City's request, Consultant shall surrender to anyone City designates, all documents, research or objects or other tangible things needed to complete the Project or Services. By Consultant's signature on this Contract, Consultant allows City to use said Work Product and other property for its intended use. The rights and remedies of City provided in this Section related to defaults by the Consultant shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**28. GOVERNING LAW; JURISDICTION; VENUE.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "the claim") between City and Consultant that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Clatsop

County for the State of Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon, Portland Division. Consultant, by its execution of this Contract, hereby consents to the *in personam* jurisdiction of said courts.

**29. MEDIATION; TRIAL WITHOUT A JURY.** Should any Contract related dispute arise between the Parties it is agreed that such dispute will be submitted to a mediator prior to any litigation and the Parties hereby expressly agree that no claim or dispute arising under the terms of this Contract shall be resolved other than first through mediation and only in the event said mediation efforts fail, then through litigation. Any litigation arising under or as a result of this Contract shall be tried to the court, without a jury.

**29.1** The Parties shall exercise good faith efforts to select a mediator who shall be compensated equally by the Parties. Mediation will be conducted in Cannon Beach, Oregon, unless the Parties agree in writing otherwise. Parties agree to exercise good faith efforts to resolve all Contract related disputes through the mediation process. If a party requests mediation and the other party fails to respond within ten (10) days, or if the Parties fail to agree on a mediator within ten (10) days, a mediator shall be appointed by the presiding judge of the Clatsop County Circuit Court upon the request of either party. The Parties shall retain all rights with respect to any dispute not covered by this Section.

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

**31. MERGER CLAUSE; CONTRACTOR CERTIFICATION.** THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES ON THE SUBJECT MATTER ADDRESSED HEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THIS CONTRACT EXCEPT AS CONTAINED, INCORPORATED OR REFERENCED HEREIN. CONSULTANT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT THE SUPPLIED CONTRACTOR DATA IS TRUE AND ACCURATE AND CONSULTANT HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

**32. CANNON BEACH BUSINESS LICENSE.** Prior to beginning work, the Contractor shall have a current City of Cannon Beach business license per Cannon Beach Municipal Code Chapter 5.04 Business License. Before permitting a subcontractor to begin work, Contractor shall verify that subcontractor has a current City of Cannon Beach business license.

**33. DUNS NUMBER AND SAM REGISTRATION.** All entities that enter into contracts with a Safe Drinking Water Revolving Loan Fund (SDWRLF) recipient (i.e. contractors) must have both a DUNS number and be a SAM Registration.

<b>SAM Registration:</b> <a href="https://www.sam.gov/SAM/">https://www.sam.gov/SAM/</a> NOTE: The SAM registration expires annually and must be kept active until the SDWRLF project is closed	<b>DUNS Number</b> <a href="http://www.dnb.com/get-a-duns-number.html">http://www.dnb.com/get-a-duns-number.html</a>
--	--

**34. SOURCE OF FUNDS.** Work under this Contract is funded by the federal Safe Drinking Water Revolving Loan Fund through Business Oregon and a partnership of Local and/or Private Funds.

**35. WHISTLEBLOWER.** Contractor receiving SDWRLF funds shall under or through this Contract to, post notice of the rights and remedies provided to whistleblowers under No Fear Act Pub. L. 107-174. 29 CFR § 1614.703 (d).

**36. NON-DISCRIMINATION.** The Contractor shall not discriminate on the basis of race, color, national

origin or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in the termination of this contract or other legally available remedies.

**37. TERMINATION FOR CAUSE AND FOR CONVENIENCE & BREACH OF CONTRACT.** In addition to Sections 26 and 27 above, Contractor shall address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement. In addition, contractor shall address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

**38. INTELLECTUAL PROPERTY.** Contractor hereby grants to the U.S. E.P.A. a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes, any intellectual property developed under this Contract. Contractor shall secure from third parties the same license in the name of the U.S. E.P.A. regarding any intellectual property developed by third parties as subcontractors to perform this project, or developed under contract with the Contractor specifically to enable Contractor's obligations related to this project.

**39. INSPECTIONS; INFORMATION.** In addition to Sections 15 and 16 above, Contractor shall permit, and cause its subcontractors to the City, the State of Oregon, the federal government and any party designated by them to:

- (1) Inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursement, contracts, and any other matters relating to the Project, and to its financial standing, and shall supply such reports and information as reasonably requested.
- (2) Interview any officer or employee of the Contractor, or its subcontractors, regarding the Project. Contractor shall retain all records related to the Project for three years after final payments are made and any pending matters are closed.

**40. AMERICAN IRON STEEL.** The Contractor acknowledges to and for the benefit of the City ("Water System") and the State of Oregon (the "State") that subsequent construction activities funded under this agreement are being funded with monies made available by the Drinking Water State Revolving Fund that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States ("American Iron and Steel Requirement"). The Contractor hereby represents and warrants to and for the benefit of the Water System and the State that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, and (b) all engineering design, plans and specifications, and cost estimates shall facilitate compliance with the American Iron and Steel Requirement. While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

**41. PROHIBITION ON THE USE OF FEDERAL FUNDS FOR LOBBYING.** For any contracts in excess of \$100,000, the following form will be completed and returned to the City.



## CERTIFICATION REGARDING LOBBYING

(Awards to Contractors and Subcontractors in excess of \$100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signed \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

FOR THE CONSULTANT:

FOR THE CITY:

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Name (Printed)*

Bruce St. Denis  
\_\_\_\_\_  
*Name (Printed)*

\_\_\_\_\_  
*Company*

City Manager  
\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Title*



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### TREES DISCUSSION

---

**Agenda Date:** May 3<sup>rd</sup>, 2022

**Prepared by:** Bruce St.Denis, City Manager

## BACKGROUND

At the May 10<sup>th</sup> joint work session the City Council will have an in-depth discussion with the Planning Commission regarding the adoption of the Draft Transportation System Plan (TSP). In preparation for that discussion, there have been many comments made on social media that the TSP project will negatively impact the City's trees.

## ANALYSIS/INFORMATION

Staff will be presenting information in an attempt to correct the record in advance of the May 10<sup>th</sup> discussion.

## RECOMMENDATION

Listen and discuss the staff presentation.

## List of Attachments

None

**City of Cannon Beach  
Monthly Status Report**

**To:** Mayor and City Council

**From:** City Manager Bruce St. Denis

**Date:** May 3, 2022

**Planning Commission: The Planning Commission met on April 28th, to consider the following items:**

- Public Hearing and Consideration of CU# 21-03, Jacqueline O. Brown request, for a Conditional Use Permit for shoreline stabilization at 116 N. Laurel St.
- Public Hearing and Consideration of SR#22-01, David Vonada request, on behalf of Clark & Kathryn Reed, for a Setback Reduction for the conversion of an existing structure into an Accessory Dwelling Unit at 2316 Pacific St.

**Design Review Board: The Design Review Board met on April 21st, to consider the following items:**

- Public Hearing and Consideration of DRB 22-07, Tolovana Architects application on behalf of Clark & Kathryn Reed for an Accessory Dwelling Unit at 2316 Pacific St.
- Continuation of Public Hearing and Consideration of DRB 21-37, Jillian Eyerman application for tenant improvements for a new retail space at 273 Beaver Ave.
- Consideration of FS 22-01, a request by Darwin Turner on behalf of West Premium Cannabis for approval of a freestanding sign at 3115 S Hemlock St.

**The Chair of the DRB, approved minor modifications for the following addresses:**

- 107 E Jackson, Fence Replacement

**Short-term Rentals:** Staff continued to process short-term rental permits in March:

Program	Number of permits
14-day permit	130
Lifetime Unlimited permit	45
5-year Unlimited permit	24
Total permits	199
New short-term rentals this month	2
Pending short-term rentals	0

**Building Permits:** Staff processed a total of 7 building, 11 mechanical and 9 plumbing permits in March:

Permit Type	# of permits	Permit Fees	Value	Affordable Housing Surcharge, Current Month	Affordable Housing Surcharge, Fiscal Year to date	Affordable Housing Surcharge, Total to Date
Building	7	\$11,383.05	\$ 815,000.00	\$ 8,150.00	\$ 96,055.88	\$ 273,805.88
Mechanical	11	\$1,574.,36				
Plumbing	9	\$1,506.00				
Monthly Total	27	\$12,889.05				

**Other Planning/Building Matters:**

- The CD Staff supported the City Manager' Office completing 1 Public Record(s) Request(s) for the month, accounting for approximately .5 hours;
- The CD Department hosted the PAC & Open House #4 and launched the Draft TSP Online Open House for April;
- The CD Director & Councilor Ogilvie met with representatives from the City of Astoria, Clatsop County and the City of Warrenton to discuss regional workforce and affordable housing;
- The CD Director attended FEMA Senior Officials Workshop at Camp Rilea;
- The CD Department posted the RFP for the Shoreline Drone Project;
- The CD Director was selected for the Oregon Department of Conservation and Development's Housing Capacity Work Group;
- The CD Director was interviewed by ODOT-DLCD, regarding the *Traditional Housing Choices Guidebook*;
- The CD Department launched the Housing Matters webpage supporting the regional housing initiative;
- The CD Department worked with Code Audit consultants to provide Joint Commission survey and Work Session materials;
- The CD Director and City Planner met with Friends of the Trees representatives to discuss the tree ordinance;
- The CD Department Posted TSP Adoption Notice and Materials to DLCD;
- The CD Director worked with City Attorney and Emergency Manager to draft Emergency Zoning Provisions, regarding roll-back of COVID restrictions, while extending outdoor services through recovery;

### **Tree Report – March**

Date	Name	Location	# Removed	Removed Dead/Dying	Required to Replant
3/1/2022	City of CB	Ecola Creek Park path (tax lot 51020CC00100)	1	0	2
3/8/2022	Smith	156 Ross Ln	2	1	1
3/18/2022	Feris	263 E Monroe	1		1
3/18/2022	Sedar	417 Chilkoot	2	2	2
3/18/2022	Bennett	647 N Laurel	6	6	4
3/21/2022	Black	890 Ecola Cr. Rd.	1	1	0
3/21/2022	Salinas	3787 E Chinook	2	1	2
Number of Native Trees Planted by City Staff: 0 Number of Native Trees Planted by City Staff same time last year: 1 Replanting of Trees occurs during the appropriate tree planting season					

### **Public Works Department Report – April**

#### **Water**

- Installed new water service at 107 Ross Lane.
- Assisted in cleanup of Recycle Center.
- Installed Warren Way standpipe and 910 can replacement for fire hydrant.
- Moved meter and box out of work zone at Matanuska pump station.
- Plumber assist – installed new check valve at 647 N Laurel.
- Installed dual check and set box at 148 W Jackson.
- Plumber assist – repaired broken customer service (contractor error) at 140 Nelchena.
- Raised box at 159 W Chisana.
- Cut pavement, vactored and replaced failed meter boxes at The Wayfarer and 1216 Pacific.
- Installed new service at 915 S Hemlock.
- Repaired CL17 chorine monitor at PW yard.
- Conducted monthly meter reads.
- Serviced water tank at Coaster Properties Building (designated Red Cross emergency resource).
- Completed weekly locates and work orders.
- Notified multiple users of water leaks and high use.

#### **Parks**

- Pressure washed tennis & basketball courts.
- Cleared 15-18 blown down trees from the Ecola Creek Forest Reserve footpath.

- Replaced a few shingles at the bandstand.
- Deployed extra seasonal trash cans.
- Conducted landscape maintenance around the Cannon Beach Elementary site to provide easier construction access for re-roof project on gym.
- Reopened the ballfield at Main Park.
- Ordered and received two new soccer nets, which will be installed when the goals go out this spring.
- Ordered four replacement swings and a new ADA access wedge for Main Park playground.
- Installed two new memorial plaques at bandstand.
- Planted seven replacement trees to compensate for removals of hazard trees in ROW.
- Put up purple martin house and started site prep for second purple martin house.
- Conducted regular seasonal landscape maintenance.

### **Roads & Storm**

- Cleaned and cleared the ramps to the beach & Tolovana ADA ramp.
- Prepped Ross Lane and View Point Terrace for paving.
  - Widened and realigned the road.
  - Installed five new catch basins.
- Prepped Larch Street for overlay (between 1<sup>st</sup> and 2<sup>nd</sup>).
- Built five stainless steel antenna mounts for Emergency Management antennas on City Hall.
- Cleaned up downed trees (storm damage) on Elk Creek Road.
- Rocked trail to beach on Coos Street.
- Updated street signage at new four-way stop at Hemlock & Warren Way.
  - Added “no parking” signs.
  - Rocked and graded loading zone for Fresh Foods.

### **Wastewater**

- Worked on the FY 22-23 budget.
- Finished the Ash Street sewer service repair.
- Several operators: attended online continuing education classes.
- One operator: Tested and passed his first wastewater treatment certification exam.
- Conducted video inspections in several areas of town where no prior inspection data exists.
- Identified a few root intrusions in laterals, then used root cutter to remove them.
- Completed lateral line cleaning in the downtown and mid-town area.
  - Removed grease and solids that settled in sagging areas of pipes.
- Cleaned wet wells.
  - Removed floating grease from the surface & settled grit from the floor of the pump station wet wells.
- Prepped for Matanuska cover project.
  - Changed location of water meter for new building.
  - Added air vent ducting to wet well that will be covered by building.
  - Added conduit for odor reducing chemical additives to be administered into the wet well.
  - Attended project meetings.

## **Emergency Management – April**

- Assisted with Community Bulletin deployment – Improved results and feedback driving progress
- Sent out important message on city web site and social media -FB
- Wayfinding Wednesday –April 6th
- CBEMT – Emergency Volunteer meeting
- North Tank Radio shelter building progress
  - Back up Battery – Generator progress
- Open city safety cache sites April 16<sup>th</sup> for citizen barrel service
- Move forward with improving the Tsunami Evacuation maps – New training in March
- DOGAMI “Beat the Wave” signs -Spring 2022-
  - Scheduled for May 19<sup>th</sup> – Coaster Theater
- Communications and Coordination with Clatsop Plan (Clatsop County) - Cascadia Raising 2022
- Ongoing updates when significant issues arise to Staff, Council, Community (Weather, Outbreaks, State Mandates)
- Awarded a large grant from the State/Fed for Cache Site development- Planning development for grant
  - Contract progress for Grant -completed
- Grant contract walkthrough with contractors Excavation / Electrical
- Background research and future development of Tsunami -Costal Sirens
  - Working directly with fire district to reframe challenges
  - Completed inspection of system
- Safety group meeting for city employees
  - Work party completed on April 11<sup>th</sup> (Recycle Center)
  - Actionable items moved foreword
- PIO- emergency messaging training for city staff, Police, Fire members
  - Updated on NIXLE platform completed and signed new agreement
- Meeting with VERIZON reps for improved cellular and emergency options
  - New equipment to be delivered to City Hall to improve cellular service bubble
- Met with Seaside Emergency Preparation coordinator and Seaside Emergency Communication Manager
  - Tillamook Head site and Seaside new EOC for linking EOC’s and improving coordination
- Met with Manzanita Emergency Manager and Tillamook County Emergency Manager to improve South area coordination
  - Coordinated radio connection with EOC’s as possible future venture
- Started grant process for a SPIRE grant
  - Emergency Communications
  - Water trailer
  - Fuel trailer
- CERT- Tabletop cache site opening training
- CERT -First day introduction and kick off for new class
- EM budget back up completed for FY 22/23

## **Haystack Rock Awareness Program (HRAP) – April**

- Tufted Puffins were first spotted at Haystack Rock on the morning of April 1st.
- Increasing numbers of common murrelets, cormorants, pigeon guillemots, and black oystercatchers. Black Oystercatchers have been mating.
- Regular sightings of two golden eagles, one adult and one juvenile, hunting at Haystack Rock.



- Hosted one virtual field trip and three in person field trips for a total of 105 students.
- April 17th annual Nudibranch Safari was hosted, 32 people attended in person and over 1,100 viewed on Facebook Live.
- Welcome the Puffins event is currently in planning and set to happen April 30th and May 1st

**Public Safety Report – March 2022****Staffing:**

	Authorized	Assigned
Sworn	8	8
Code Enforcement	1	0
Admin/Support	2	2
Parking/Information	6	0
Lifeguards	10	0

**Station Activity:**

	March 2022	March 2021
CBPD Walk-in	136	149
CBPD Incoming Phone	232	305
SPD Dispatched Calls	101	42
Overnight Camping Warnings	14	49
Local Security Checks	2790	3485
Parking Citations	24	N/A
Traffic Warnings	233	111
Traffic Citations	55	25
DUI Arrests	1	2
Alarm Responses	9	9
AOA, Including FD	35	43
Citizen Assists	7	18
Transient Contacts	6	7
<b>Total Case File Reports</b>	<b>199</b>	<b>214</b>

**Cases of Significance:**

Trespass:	1 Case	Forgery II:	1 Case
Criminal Mischief II:	7 Cases	Harassment:	1 Case
DUI: 0.7%	1 Case	Theft I:	1 Case
Suspicious Circumstance	5 Cases	Hit & Run:	6 Cases
Warrant/Fugitive Arrest:	1 Case	Missing Person:	1 Case
Theft III:	3 Cases		

**Traffic Citations:**

Driving with Suspended License:	5 Citations	Careless Driving:	1 Citation
Oper. Veh. Using Mobile Device:	21 Citations	Expired Registration:	2 Citation
Closely:	1 Citation	Failure to Obey TCD:	1 Citation
No Ops:	3 Citations	No Proof of Insurance:	1 Citation
Passing No Passing Zone:	1 Citation	DUI:	1 Citation
Violation of Basic Rule/Speeding:	16 Citations		
(78/55, 76/55, 78/55, 75/55, 44/30, 43/20, 76/55, 71/55, 35/25, 69/55, 35/25, 69/55, 79/55, 79/55, 75/55, 39/25)			

**Code Enforcement Activities:** During this period, **4** municipal code violations were addressed and resolved or pending resolution.