



AGENDA

CITY COMMISSION OF THE CITY OF WARRENTON
REGULAR MEETING

April 13, 2021– 6:00 P.M.

Warrenton City Commission Chambers – 225 South Main Avenue
Warrenton, OR 97146

Public Meetings will be conducted in the Commission Chambers with a limited seating arrangement. To adhere to social distancing recommendations, meetings will now also be audio and video live streamed. Go to <https://www.ci.warrenton.or.us/administration/page/live-stream-public-meetings> for connection instructions.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **CONSENT CALENDAR**

- A. City Commission Work Session Minutes – 3.23.21
- B. City Commission Meeting Minutes – 3.23.21

Items on the Consent Calendar have previously been discussed and/or are considered routine. Approval of the Consent Calendar requires a motion, a second, and no discussion, unless requested by a member of the City Commission.

4. **COMMISSIONER REPORTS**

5. **PUBLIC COMMENT**

At this time, anyone wishing to address the City Commission concerning items of interest may do so. The person addressing the Commission must complete a Public Comment Card and submit it to the City Recorder prior to the meeting. All remarks will be addressed to the whole City Commission and limited to 3 minutes per person. Public Comments may also be submitted by email to the City Recorder, at cityrecorder@ci.warrenton.or.us, no later than 5:00 p.m. the day of the meeting. The Commission reserves the right to delay any action, if required, until such time as they are fully informed on a matter.

6. **PUBLIC HEARINGS** – None
7. **BUSINESS ITEMS**
 - A. Consideration of Police Association Union Contract
 - B. Consideration of Goods Contract for Purchase of F-150 Police Responder
 - C. Consideration of Raw Waterline Replacement Contract – Murraysmith
 - D. Consideration of Grant Agreement - Warrenton Grade School/Main Avenue Safe Pedestrian Walkway Project
8. **DISCUSSION ITEMS** – None
9. **GOOD OF THE ORDER**
10. **EXECUTIVE SESSION**
11. **ADJOURNMENT**

Warrenton City Hall is accessible to the disabled. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting Dawne Shaw, City Recorder, at 503-861-0823 at least 48 hours in advance of the meeting so appropriate assistance can be provided.

MINUTES
 Warrenton City Commission
 Work Session – March 23, 2021
 5:15 p.m.
 Warrenton City Hall - Commission Chambers
 225 S. Main
 Warrenton, OR 97146

Mayor Balensifer called the work session to order at 5:18 p.m.

City Commissioners Present: Mayor Henry Balensifer, Rick Newton, Gerald Poe, and Tom Dyer

Excused: Commissioner Mark Baldwin

Staff Present: City Manager Linda Engbretson, Public Works Director Collin Stelzig, Community Development Director Scott Hess, Police Chief Mathew Workman, Deputy City Recorder Rebecca Sprengeler, and City Recorder Dawne Shaw

Community Development Director Scott Hess discussed the traffic improvements related to the Chelsea Gardens Rezone. Mr. Hess reviewed the history of the rezone and traffic study and briefly presented staff recommendations as outlined in the agenda packet material. Mr. Hess stated the System Development Charges (SDC's) the city charges for any level of regular development would be applied back city-wide, not specifically focused to this one area. He reviewed the previous staff recommendations, which included an SDC district, an Impact Fee, or a Local Improvement District (LID), be created in this area specifically; where any new intensity of development would pay an additional fee above and beyond an SDC that would then go into a fund that would help bring these improvements live within a certain number of years. He continued to explain how the SDC's could be calculated.

Mayor Balensifer gave his recollection from the goal setting meeting that impact fees were going to replace SDC's. He noted he did not recall a past discussion with staff about LID's or SDC's to pay for the park and trail development. He agreed that it is worthwhile to get cost estimates and put in impact fees for all developments based after that build-out, relative to the size impacts of those developments within that footprint. Mr. Hess noted a good example would be the sidewalk on the 104 Spur side, and the perimeter trail on the east side of the project, further noting that if improvements to the property owners who have frontage of those improvements are only being assessed, they are bearing 100% of the cost of something that is going to impact/improve/benefit the entire area. In the future, with intense development happening, the City may realize that they never got the Master Plan for the master park and then the City must purchase the property to develop the park or may have to restrict someone's development right of the final property in the area because it was reserved for the park - as opposed to collecting money, coming together, having an idea of park location, and compensating the owner. Brief discussion continued.

Mr. Stelzig referenced Ordinance 1233, and specific to Spur 104, it says "All new developments shall contribute to planned parks and trails identified on the concept plans and Parks Master

Plan” noting his recollection of the intent that everyone will pay in towards that. Discussion followed on SDC’s versus Impact Fees. Mayor Balensifer noted some concerns and felt that separating from the SDC’s will also allow for separation from the restrictive OAR’s (Oregon Administrative Rules). City Manager Engbretson said legal counsel has suggested an SDC district in addition to regular SDC’s. Discussion continued. Mayor Balensifer stated he recalls the Commission did suggest in goal setting that they would like to move towards impact fees instead of SDC’s and asked for an update on this. Ms. Engbretson suggested having legal counsel, Spencer Parsons, on the next agenda to present on this.

Commissioner Newton made some comments and asked about traffic flow. Discussion followed. Commissioner Poe commented on potential negative traffic impacts with the new school. There was discussion about having clearer SDC’s. Mayor Balensifer noted the context of this conversation about SDC’s is not to raise revenue, but to fund improvements. Ms. Engbretson clarified that current SDC’s are not being raised, but this discussion is about an additional SDC for this area as part of the rezone and mitigation issues.

Mayor Balensifer noted the traffic impact study is old and might need to be updated to account for the new school. Commissioner Dyer suggested designating a road to the back of the Highlands shopping center parking lot to connect to Dolphin to divert traffic. Mayor Balensifer agreed it would be good to investigate putting a straightway there. Mr. Stelzig noted that this area is made for congestion. The area meets the City’s traffic standards, but the standards are low. Discussion about traffic standards followed.

Mayor Balensifer agreed with Task 1 with the addition of ensuring the school is accounted for, improved estimated traffic trips, and development of an SDC based on the cost of a project divided by the trips generated on site. There was consensus on Task 1 with amendments to include the school and calculations.

There was no action taken by the Commission on Task 2.

On Task 3, Mayor Balensifer noted the importance of creating a separate section for this in the CIP (City Improvement Plan) or master planning it into the CIP. Discussion followed. There was a unanimous consensus from the Commission on the SDC’s to be all encompassing to build out the Master Plan as proposed in the different sections.

There was discussion about what the 104 Master Plan outlines for parks. Mayor Balensifer noted the ordinance on park improvement districts and wants to ensure it is included. Discussion about parks continued. Mayor Balensifer noted his concern about whose responsibility it is to build the park and deciding where to build. Mr. Stelzig gave his thoughts on this, noting this is what the SDC’s are for - to purchase a piece of property for a park. Discussion followed about purchasing land, ownership, and responsibility of the park afterwards.

Commissioner Poe asked if utilities and infrastructure improvements are included in the SDC’s. Mr. Hess clarified. Discussion on utilities continued. Mayor Balensifer noted trails are easier to purchase and maintain than parks with equipment. It is important to ensure the parks are built

MINUTES

Warrenton City Commission

Work Session – 3.23.21

Page: 2

and there is a plan for when it is time to build. Mayor Balensifer suggested a potential credit be given to developers that provide land for parks. There was discussion about residential development park requirements in mixed-use areas and master planning.

Mayor Balensifer summarized saying there is a need for an SDC to pay for future improvements. The Master Plan is a shifting target. Must ensure parks, utilities, and the traffic study are paid for. Charges for traffic study need to be accounted for. Developer requirements should account for the additional school traffic. There must be a plan for dealing with the park property question Mayor Balensifer suggested possibly giving an SDC credit to incentivize developers, having the whole master planned area pay into the park improvement district, or offering large developers an exemption from park requirement and a credit or cash, in some cases, if they are willing to provide land for the park. Once this is done early in the development process, the connectivity can start to be talked about. Commissioner Newton made some comments about ODOT (Oregon Department of Transportation). There was consensus on the SDC credit as incentive for the park and identification of the costs related to that. There was brief discussion about greenspace.

Mr. Stelzig asked if the Commission would like to expand the system development district to both sides of the Highway 104. Discussion followed about whether the other side would benefit from the improvements made to the Spur 104 and Chelsea Gardens area. There was consensus on including the opposite side of Spur 104 into the district.

Mr. Hess asked for clarification on the direction from the Commission for Task 1: an updated traffic study. Mayor Balensifer said amend the existing and add the school and calculations, including 30-year plan. There was brief discussion about pending land-use applications for this area.

There being no further business, Mayor Balensifer adjourned the work session at 6:02 p.m.

Respectfully prepared and submitted by Rebecca Sprengeler, Deputy City Recorder.

ATTEST:

Dawne Shaw, CMC, City Recorder

APPROVED:

Henry A. Balensifer III, Mayor

MINUTES
 Warrenton City Commission
 March 23, 2021
 6:00 p.m.
 Warrenton City Hall - Commission Chambers
 225 S. Main
 Warrenton, OR 97146

Mayor Balensifer called the meeting to order at 6:04 p.m. and led the public in the Pledge of Allegiance.

Commissioners Present: Mayor Balensifer, Tom Dyer, Gerald Poe, and Rick Newton

Excused: Commissioner Mark Baldwin

Staff Present: City Manager Linda Engbretson, City Recorder Dawne Shaw, Deputy City Recorder Rebecca Sprengeler, Police Chief Mathew Workman, and Public Works Director Collin Stelzig

Mayor Balensifer requested to add item 8-B to the agenda: Letter to the Board of Forestry. There were no objections.

CONSENT CALENDAR

- A. City Commission Meeting Minutes – 3.09.21
- B. Monthly Finance Report – February 2021
- C. Library Board Meeting Minutes – 12.11.20
- D. Library Director’s Quarterly Report – March 2021
- E. Police Department Monthly Statistics – February 2021

Chief Workman noted an amendment to the Warrenton Police Department (WPD) statistics report: traffic stops were 107. He explained changes in calculations. Discussion followed on what the Commission would like to see reported. Chief Workman agreed an annual comparison of WPD stats and total call volume in the City would be do-able. Mayor Balensifer asked about elk calls. Chief Workman noted he would have to go back and review. Discussion continued. Mayor Balensifer would like to see more efforts to track elk events.

Commissioner Newton gave a report on the Monthly Finance Report figures, noting he spoke with Finance Director April Clark and reviewed several areas of the budget. He commended Kelsey Balensifer for pursuing education as the Library Board chair. He spoke briefly about approval for the plant at the airport.

Commissioner Dyer made the motion to approve the consent calendar as amended. Motion was seconded and passed unanimously.

Newton – aye; Balensifer – aye; Dyer – aye; Poe – aye

COMMISSIONER REPORTS

After reading a Proclamation, Mayor Balensifer declared the month of April 2021 as Child Abuse Prevention Month. Nakesha Womble from Clatsop CASA Program thanked the City for the proclamation and made brief comments. Commissioner Newton commented on the effects of child abuse.

Mayor Balensifer made comments on the benefits of the Library and noted an additional Proclamation for the week of April 4 – 10, 2021 as National Library Week. Commissioner Poe shared a story of the old Hammond Library.

Mayor Balensifer noted a complaint involving the North Coast Crisis Respite Center (NCCRC). He introduced Amy Baker (on Zoom). Ms. Baker gave information on the NCCRC and explained the situation. Chief Workman noted the statistics on the calls regarding the NCCRC.

Mayor Balensifer asked Commissioner Poe if he would like to attend the Lower Columbia Tourism Committee (LCTC) meetings as the City Representative. Commissioner Poe agreed.

Commissioner Dyer gave kudos to Warrenton Police Department regarding the recent car accident his daughter was in. They did a wonderful job.

Commissioner Newton noted the sign across the street at the Heritage Museum and gave a brief update. He noted an upcoming grant-writing class.

PUBLIC COMMENT – None

PUBLIC HEARING – None

BUSINESS ITEMS

City Manager Linda Engbretson discussed the Fort Stevens Military Cemetery Road Deed. The Army and General Services Administration is surplus a portion of the Fort Stevens Military Cemetery Road. Mayor Balensifer voiced concerns about accepting the gravel road and possibly having to pave it. Brief discussion followed. Ms. Engbretson noted it currently falls under the City's gravel road policy. There were no objections provided it does not have to be paved.

Commissioner Newton made the motion to authorize the Mayor's signature on the Quitclaim Deed for the Cemetery Road. Motion was seconded and passed unanimously.

Newton – aye; Balensifer – aye; Dyer – aye; Poe – aye

Mayor Balensifer explained the letter to the Board of Forestry regarding the Habitat Conservation Plan and noted his concerns. Discussion followed.

MINUTES

Warrenton City Commission

Regular Meeting – 3.23.21

Page: 2

Commissioner Newton made the motion to authorize the Mayor's signature on the letter to the Board of Forestry. Motion was seconded and passed unanimously.

Newton – aye; Balensifer – aye; Dyer – aye; Poe – aye

DISCUSSION ITEMS – None

GOOD OF THE ORDER

Commissioner Newton discussed the volunteer firefighter roster, vaccine sign-up, the Friends of the Warrenton Community Library board bylaws, and gave a reminder of upcoming community events.

Commissioner Dyer met a couple of Pacific Coast Seafoods workers, who commented on how welcoming Warrentonians are. He noted they were very pleasant and respectable individuals.

Ms. Engbretson gave a quick update on water and utility shutoffs. There were 28 shutoffs. Staff worked very hard on this. As of today, all but 10 were back on. Things went smoothly. Commissioner Dyer noted he received a water leak notice and complimented the City on their quick notification of the leak.

Commissioner Newton commented on SB330 regarding rent moratoriums. There was brief discussion.

Mayor Balensifer asked what a normal amount of water shutoffs is. Ms. Engbretson said 10-20. Mayor Balensifer noted he heard about positive experiences with staff and credited it to the City Manager's leadership. He said he has noticed an air of gratitude in the city; an uptick of people going out of their way to be grateful. He also gave a report on the Governor's Collaborative for Clatsop Plains related to elk. It is expanding into Eastern Oregon.

There being no further business, Mayor Balensifer adjourned the regular meeting at 6:50 p.m.

Respectfully prepared and submitted by Rebecca Sprengeler, Deputy City Recorder.

APPROVED:

Henry A. Balensifer III, Mayor

ATTEST:

Dawne Shaw, CMC, City Recorder



AGENDA MEMORANDUM

TO: The Warrenton City Commission
FROM: Linda Engbretson, City Manager
DATE: April 13, 2021
SUBJ: Police Association Collective Bargaining Agreement

SUMMARY

The authorized bargaining team has reached tentative agreement on the attached Agreement Between the City of Warrenton and Warrenton Police Employees, "The Association." The financial considerations were previously discussed with the Commission – in summary – we reached a two-year agreement on COLAs – retroactive to July 1, 2020, at 2%, July 1, 2021, 2%, with agreement to reopen Article 6 – compensation in January 2022 to negotiate a potential COLA beginning July 1, 2022. As you are aware, it has been a difficult year to negotiate based on the many unknowns related to the COVID pandemic. Attached is a copy of the agreement showing mark ups and changes to the previous contract. We will have a clean copy available for signing.

RECOMMENDATION/SUGGESTED MOTION

"I move to approve of the Agreement between the City of Warrenton and the Warrenton Public Safety Association and authorize the mayor and city manager to sign the agreement.

ALTERNATIVE

None recommended.

FISCAL IMPACT

Fiscal impact will be included in the 2021 – 2022 proposed budget.

AGREEMENT

BETWEEN

CITY OF WARRENTON, OREGON
AND

WARRENTON PUBLIC SAFETY
ASSOCIATION WARRENTON POLICE
EMPLOYEES LOCAL 2746-1

AFFILIATED WITH COUNCIL
75

AMERICAN FEDERATION OF STATE, COUNTY
&
MUNICIPAL EMPLOYEES
AFL-CIO

July 1, ~~2017-2020~~ through June 30,
2020-2023

TABLE OF CONTENTS

ARTICLE 1- RECOGNITION AND <u>UNION ASSOCIATION</u> SECURITY.....	1
ARTICLE 2 - SETTLEMENT OF DISPUTES.....	2
ARTICLE 3 - DISCIPLINE AND DISCHARGE.....	4
ARTICLE 4 - GENERAL PROVISIONS.....	5
ARTICLE 5-WORK WEEK AND OVERTIME.....	7
ARTICLE 6 - COMPENSATION.....	9
ARTICLE 7- HEALTH AND WELFARE/PENSION.....	12
ARTICLE 8 - LEAVES.....	14
ARTICLE 9 - VACATIONS AND HOLIDAYS.....	16
ARTICLE 10- SENIORITY AND LAYOFF.....	17
ARTICLE 11 12 - SAVINGS.....	19
ARTICLE 12 13 - MANAGEMENT RIGHTS.....	20
ARTICLE 13 14 - DURATION OF AGREEMENT.....	21
ARTICLE 14 15 - SIGNATURE PAGE.....	21

ARTICLE 1- RECOGNITION AND UNION ASSOCIATION SECURITY

1.1 Unit Description. The City recognizes the Union Association as the sole and exclusive bargaining agent for the purpose of establishing salaries, wages, hours and other conditions of employment, as required by State statute, for all regular police department officers and the police clerk. The bargaining unit excludes the police chief, sergeants, polices-police reserves and part-time employees, except for part-time employees who work more than one thousand forty (1040) hours in twelve (12) months shall be included in the unit provided they thereafter average twenty (20) hours or more per week during each three (3) months.

1.2 Check Off. The City agrees to deduct the Union Association membership dues once each month from the pay of those employees who individually request, in writing, that such deductions be made. The amounts to be deducted shall be certified to the City by the treasurer of the Union Association and shall be remitted, together with an itemized statement, to the treasurer of the Union Association, by the 10th of the succeeding month, after such deductions are made. The Union Association agrees to indemnify, defend and hold harmless the City against any claims made and against any suit instituted against the City as a result of any action taken pursuant to the provisions in this Article.

1.3 Union Association Visits. The City agrees that accredited representatives of the District Council or International Union Association shall have reasonable access to the premises of the City to conduct Union Association business. Upon arrival representatives must check in with the Chief or designee. Such visits shall not interfere with the normal operations of the department. Union business shall be conducted on the employees' own time. During working hours, Union members shall not engage in solicitation for membership in the Union, hold meetings, or carry on other business activities of the Union that distracts from the normal operations or procedures of the police department. The President/Shop Steward may investigate grievances in alleging violation(s) of this Agreement on duty time with the Police Chiefs' approval.

3. Association Activity. Employees' work performance shall not be interfered with due to Association business or Association activity. However, the City will allow one designated Association representative reasonable time to engage in the following Association activities during work hours without loss of compensation or benefits:

- a. Investigate and process grievances and other work-place-related complaints.
- b. Attend investigatory meetings, hearing, and other due process proceedings involving Union employees.
- c. Participate in or prepare for proceedings under PECBA that arise from a dispute involving a collective bargaining agreement, including arbitration proceedings, administrative Hearings, and other proceedings before the Employment Relations Board.
- d. Act as a representative of the exclusive representative for employees within the bargaining unit for purposes of collective bargaining;
- e. Attend labor -management meetings held by a committee composed of employers, employees, and representatives of the labor organization to discuss employment relations matters.

- f. Provide information regarding a collective bargaining agreement to newly hired employees at employee orientations or at any other meetings for new employees.
 - g. Testify in a legal proceeding in which the public employee has been subpoenaed as a witness.
 - h. Perform any other duties agreed upon by a public employer and an exclusive representative in a collective bargaining agreement or any other agreement.
4. The Association shall be allowed to hold business meetings and conduct business on City premises provided that said meetings are before or after the employees' regular work hours, during meal periods and during any other break periods and are 1) not disruptive to the duties of the employees 2) does not interfere with the efficient operation of the fire police department 3) do not conflict with organized City meetings scheduled for the premise.

ARTICLE 2 - SETTLEMENT OF DISPUTES

2.1 Grievance and Arbitration Procedures. Nothing in this article precludes the resolutions of differences on an informal basis. Any grievance or dispute which may arise between the parties involving the application, meaning or interpretation of this Agreement, shall be settled in the following manner:

Step 1. The employees or Association shall discuss the grievance on an informal basis with the Chief of Police within ten (10) working days from the date the employee knows or should have known of the alleged violation. If the grievance is not resolved within the ten (10) working days by decision with the Chief of Police, then the employees may submit the grievance in writing to the Chief of Police within ten (10) working days from the date the employee or Association knew or should have known of the alleged violation, whichever came first. The written grievance shall contain the following information:

- A. A statement of the grievance and the relevant facts to support it.
- B. The article and section of the Agreement which has been reached breached.
- C. A description as to exactly how this Agreement was breached.
- D. A statement of the remedy or resolution being sought by the employee or Association.

Within ten (10) working days, the Chief of Police shall call a meeting with the employee and/or the Union Association representative to discuss and clarify the grievance, and attempt to resolve said grievance before responding in writing. The Chief of Police shall respond to the employee, giving the decision in writing within ten (10) working days of receiving the grievance or the meeting with the employee, whichever comes later. .

Step 2. If the grievance remains unresolved after Step 1, the employee shall, within ten (10) working days of receipt of the written response of Step 1, submit a grievance in writing to the City Manager.

Within ten (10) working days, the City Manager shall call a meeting with the employee and the Union Association representative to discuss the grievance, and attempt to solve said grievance before

responding in writing. The City Manager shall respond to the employee, giving the decision in writing within ten (10) working days of receiving the grievance, or the meeting with the employee, whichever comes later.

Step 3: Mediation. If the grievance is still unsettled, the moving party will file for mediation, within ten (10) working days after the reply of the City Administrator or designee(s) is due, by written notice to the other to request mediation. The parties shall mutually agree to a mediator or use the ERB. The moving party will contact the ERB and request a mediator within 30 days of the City Administrator's response. Mediation will be scheduled with the mediator and must initiate within 60 days of the initial notice/request to the ERB, unless otherwise agreed. The parties will engage in at least two mediation sessions. This mediation step does not apply to employment termination cases, unless mutually agreed.

Step 4. If the grievance is still unsettled, either party may, within ten (10) working days after the second mediation session, response from the City Manager is due, by written notice to the other party, request arbitration. Only grievances over the application, meaning, or interpretation of a specific provision of this Agreement may be submitted to arbitration. The arbitration shall be limited to the issues raised in the written grievance filed by the employee or Union Association. The arbitrator's decision shall be made in writing and shall be issued to the parties as soon as practical after the case is submitted to the arbitrator.

2.2 Selection of Arbitrator. The parties shall attempt to select an arbitrator who is mutually acceptable. If within ten (10) working days from the request for arbitration, the parties are unable to agree upon an arbitrator, the State Mediation and Conciliation Service shall be requested to submit a list of seven (7) arbitrators with offices in Oregon or Washington. The party to strike the first arbitrator shall be determined by lot coin flip. This process shall be repeated, and the remaining person shall be the arbitrator. ~~The parties agree to set an arbitration date within 20 days of selecting an arbiter. If the moving party fails to participate in setting an arbitration date within such time, the matter is dismissed. The designated arbitrator shall arrange a time and place which is agreeable to both parties for a hearing.~~

2.3 Sharing of Expenses. Expenses for the arbitration shall be borne by the losing party, upon the party or parties as determined by the arbiter. Each party, however, shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim recording of the proceedings, it may cause such a record to be made, provided it pays for the record and makes a copy available, without charge, to the arbitrator. If the other party desires a copy, both parties shall jointly share the cost of the transcript and all copies.

2.4 Authority of Arbitrator. The arbitrator shall have the authority to consider only a claim based upon a specific provision of this Agreement and shall have no authority to add to, modify or detract from this Agreement. The decision of the arbitrator shall be final and binding upon the parties.

Time limits may be extended by written mutual agreement including by email or text. In the event the parties dispute timeline issues for matters submitted to arbitration, the arbiter will be limited to hear the timeliness arguments first, including any closing summation by the parties. The arbiter will then rule from the bench on the timeliness issue.

ARTICLE 3 - DISCIPLINE AND DISCHARGE

3.1 Discipline and Discharge. No employee shall be disciplined or discharged except for just cause. Counseling, including oral warnings or similar, even if reduced to writing are not considered to be discipline and may not be protested through the grievance procedure. Counseling can be maintained in the supervisory file and referenced for the purposes of yearly evaluations or progressive discipline, and are not placed in the personnel file. Employees will be notified if counseling is placed in their supervisory file.

3.2 Probationary Employee. The provisions of this article shall not apply to employees who have not completed the probationary period of employment. ~~This article shall not apply to any employee on probation as provided by this agreement.~~

3.3 Progressive Discipline. The principles of progressive discipline will generally be followed based on the totality of circumstances. Progressive discipline or corrective actions normally include the following steps: Oral warning reduced to writing (considered a counseling); written reprimand; brief suspension without pay; ~~lengthy suspension without pay~~; demotion; and dismissal. (Note also, Article 12, Bill of Rights)

3.4 Imposition. If a supervisor has reason to discipline an employee, the supervisor shall make reasonable efforts to impose such discipline in a manner that will not unduly embarrass the employee before other employees or the public.

3.5 Due Process. In the event the City believes an employee may be subject to discipline greater than a written reprimand, the following procedural due process shall be followed:

- A. The employee and Union Association Representative shall be notified, in writing, of the charges or allegations that may subject them to discipline.
- B. The employee and Union Association Representative shall be notified, in writing, of the disciplinary sanctions being considered.
- C. The employee will be given an opportunity to refute the charges or allegations either in writing or orally in an informal hearing.
- D. The employee shall be notified, in writing, that the employee will be entitled to Union Association representation at the informal hearing.

3.6 Employee Bill of Rights.

All employees in the bargaining unit shall be entitled to protection of what shall hereafter be called the Employees' Bill of Rights.

The wide-ranging powers and duties given this department and its members involve them in all manners of contacts and relationships with the public and other City employees. These contacts result in many questions concerning the actions of members of the department.

These questions often require immediate investigation by the employee's supervisor or his appointed internal affairs investigator. In an effort to ensure that these investigations are conducted in a manner that is conducive to good order and discipline, the following guidelines are promulgated:

- A. The employees covered by this Agreement do not waive any of their constitutional or civil rights guaranteed by the federal and state constitutions and laws afforded any citizen of the United States.
- B. Prior to any investigation interview that could result in suspension or dismissal the employee shall be notified at least twenty-hour (24) hours in advance ~~or at such time as written reports are required~~, except when in the reasonable opinion of the City a delay will jeopardize the ~~success of the investigation~~ or when criminal conduct is at issue. The employee shall be informed by the Chief of Police of the general nature of the investigation and whether the employee is a witness or suspect before any interview commences.
- C. Any interview shall take place in the employer police office except when impractical. The interview shall be at a reasonable time for the employee, preferably during the employee's duty time, unless the exigencies of the investigation dictate otherwise.
- D. The employee shall be afforded the right to counsel and/or union Association representative prior to and during the interview. After the interviewer has completed questioning of the employee, the representative may ask clarification questions to clarify previous answers or to elicit further information, may suggest additional witnesses to be interviewed, and may present additional information that may be relevant.
- E. The employee shall be entitled to reasonable rest periods.
- F. Interviews shall be done under circumstances devoid of intimidation or coercion and shall not otherwise violate the employee's constitutional rights. The employee shall not be subject to any abusive language.
- G. The employee shall not be required to take or be subjected to any lie detector device as a condition of continued employment.
- H. No demotion or dismissal will take place without due process.

ARTICLE 4 - GENERAL PROVISIONS

4.1 Uniforms and Protective Clothing. If an employee is required to wear a uniform, protective clothing or any type of protective device as a condition of employment, such uniform, protective clothing or protective device shall be furnished to the employees by the City. The City will provide, at a minimum, the following list of uniforms and general equipment for each full-time regular officer. The police department may provide additional equipment for an individual officer based upon his specialty assignment needs.

Uniforms

Three short sleeve uniform shirts	One department handgun
Three long sleeve uniform shirts	One deputy duty belt equipped with necessary police equipment
Three pairs of uniform pants	One bullet proof vest
One pair of uniform boots or shoes*	Insignia and badges for Uniforms
One uniform rain coat	One flat badge as provided
One pair of rain pants	
One uniform hat	

*Reimbursement for boots will be a maximum of **two hundred fifty dollars (\$250.00)**. Boots or shoes will be of good quality. Boots or shoes may be re-soled at least once before replacement.

The City will provide for cleaning and maintenance of uniforms supplied. Each officer will be required to maintain said uniforms and equipment in reasonable condition based upon their use and age.

Detective Assignment Clothing Repair/Replacement: Other than usual customary wear, the City will clean or replace clothing damaged or soiled in the line of duty, not to exceed **two hundred dollars (\$200)** per fiscal year on a reimbursement basis subject to applicable withholding.

To the extent practicable, replacement equipment shall be generally equivalent to the standard of the equipment used as of the execution of this Agreement.

4.2 Personnel Files. Employees may review their personnel file at reasonable times during business hours and may receive a copy of the employee's personnel file at no cost to the employee.

Employees shall be required to read and sign any adverse material placed in their personnel file. Signing of such material does not necessarily indicate the employee's agreement.

Employees may provide a written response to evaluations, warnings and reprimands within ten (10) working days of signing any adverse material. All disciplinary items in an employee's personnel file shall be removed after twenty-four (24) months. However, if an employee is disciplined on a matter related to any material in the file, the original discipline shall be refreshed for the ensuing twenty-four (24) month period.

Items removed as per the preceding paragraph shall be retained by the City in a sealed historical file separate from the personnel file to be kept by the City Manager or his/her designee. This file shall be released only in the case of legal or liability reasons. Once items are removed they will not be relied upon by the city to build further disciplinary actions against the employee, unless used for impeachment or notice of rule.

4.3 Leave Request. All leave requests shall be approved or denied within seven (7) working days from the date the employee submits the request.

4.4 Ammunition. All officers shall receive one hundred fifty (150) rounds of ammunition at no cost to the employee, per quarter, to maintain qualification. This provision has no value upon separation of employment.

ARTICLE 5-WORK WEEK AND OVERTIME

5.1 Hours of Work. The regular hours of work shall consist of one of the following. The City shall give employees at least thirty (30) days' notice if it wants to change regular working time per A or B below:

- A. Five day, eight-hour shift. The regular working time shall be five (5) consecutive work days of eight (8)-hour shifts with two (2) consecutive days off including a half-hour lunch and two fifteen (15)-minute rest breaks per day. If an officer must work beyond eight (8) hours per day or forty (40) hours per week, the employee will be paid at the rate of time and one-half.
- B. Four day, ten-hour shift. The regular working time shall be four (4) consecutive work days of ten (10) hour shifts with three (3) consecutive days off (unless on shift rotation) including a half-hour lunch and two fifteen (15)-minute rest breaks per day. If an officer must work beyond ten (10) hours per day or forty (40) hours per week, the employee will be paid at the rate of time and one-half (1½). For the purposes of shift rotations, an employee schedule may be adjusted to reflect a forty (40)-hour work week with three (3) days off which may not be consecutive.

5.2 Work Week. The work week is between 12:01 AM Monday to 12:00 Midnight the following Sunday.

5.3 Selection of Shifts. Subject to staffing and qualification needs as determined by the Chief, seniority shall be a preferred factor in the selection of shifts and days off, provided the officer is otherwise qualified. Shifts are determined by the following two (2) options at the discretion of the Chief. The Ddepartment will post the yearly schedule by November 15th either for 1) a yearly shift bid or for 2) bidding days off while on rotations.

- I. Yearly Shift Bid. Shifts shall be "re-bid" prior to January 1 of each year. All available shifts, as determined by the Chief or his/her designee, shall be posted and officers shall select their shift based on seniority- (ie: graveyards for the whole of the year).
- 2. Rotations within the year. In the event the City elects to rotate shifts, preference shall be given on the basis of seniority for days off as available on each rotation for days off (see Article 10.4). (ie: employees rotate shifts 3-4 times year (days to swing to grave...) and bid days off). A bid for days off while on a rotation schedule may also occur as a result of a vacancy.

5.4 Schedule changes to individual schedules: Due to the small size of this Ddepartment, schedule changes may be necessary to cover unexpected leaves or events. The Ddepartment will make best efforts to provide more than five (5) days' notice of individual shift changes. The five (5)-day period is one hundred twenty (120) hours.

In the event more than five (5) days' notice is not provided, excluding emergency circumstances involving unforeseen events, the officer will receive overtime for the adjusted hours different from the original scheduled shift. (For example: If the employee's shift is adjusted by two (2) hours, the employee receives two (2) hours of overtime and eight (8) hours straight time for the regularly scheduled ten (10)-hour shift.)

"Notice": Where notice is less than five (5) days, the Department will contact individuals by phone (text/voicemail) or personal contact.

Where notice is greater than five (5) days, email may be used.

The contact, if off hours, will not be considered compensable time if de minimis.

MutuallyMutually, employees will make best efforts to provide advance notice of requests for time off.

5.5 Overtime. Overtime shall be paid at the rate of time and one-half (1.5) of the officer's applicable rate for hours exceeding eight (8) per-day or forty (40) per-week for a 5/8 shift or ten (10) per-day for a 4/10 shift.

All overtime must be approved by the Chief of Police and/or the City Manager on forms separate from the monthly time sheet. Hours of work, for the purposes of computing the threshold of reaching forty (40) hours worked include all paid leave such as vacation leave, sick leave, holidays, etc. Overtime will only be paid for hours worked and there will be no pyramiding of overtime.

5.6 On Call Time. No employee shall be placed on call more than four (4) hours in any one (1) work week, unless a bona fide emergency exists. Any scheduled on-call time beyond four (4) hours weekly will be paid at half-time pay with the officer being readily available to respond to calls for duty. All employees required to be on call shall be provided with a cell phone at City expense. Employees will not be subject to on-call on their days off.

5.7 Minimum Call-Out OR Off duty Court Appearance Pay. Any employee called back to work for a particular and individual work event on the employee's scheduled off duty time shall receive a minimum call out pay of three (3) hours at the rate of time and one-half the employee's regular hourly rate. A second call out or court appearance for a different problem within the original three (3) hours will not be considered an additional call out. This section does not apply to a shift changes provided by 5.4 above.

5.8 Alternate Work Schedules for Officers. With the approval of the Chief or designee, an employee may flex his/her work schedule within the work week to avoid or minimize overtime.

5.9 Shift Trading. Subject to the approval of the Chief or designee, officers may agree to trade shifts and days off. The City is not responsible for repayment of shifts nor any overtime as a result of the trade. In the case of rotating shifts, any trade of a shift shall have no effect on the officer's subsequent rotations. Following a trade, each officer shall rotate to the shift they would have if the trade had not taken place.

5.10 Scheduled Overtime. Scheduled overtime shall be offered by seniority. If an officer takes or refuses the overtime; he/she shall rotate to the bottom of the list. New hires are placed at the bottom of the list when initially qualified. Officers may remove their name from the list for any period of time. When returning after a hiatus, he/she shall be placed on the bottom of the list.

The Sergeant may work the overtime after the exhaustion of the callback list, if no employee is available, or if he/she elects not to mandate overtime. If the overtime situation requires the presence of a supervisor the provisions of this article shall be waived.

5.11 Unscheduled Overtime. The chief or designee shall schedule according to operational needs.

It is understood that the ~~D~~department may mandate overtime when circumstances warrant.

5.12 Compensatory Time. Upon request of the employee, compensatory time at the rate of time and one-half shall be designated in lieu of pay for overtime. Compensatory time shall not accrue in excess of forty (40) hours. The employee may carry over into the next fiscal year up to twenty (20) hours, with any remainder paid in the last pay period of the ending fiscal year. Compensatory time off will be administered in accordance with the Fair Labor Standards Act.

ARTICLE 6 - COMPENSATION

6.1 Wages. Employees shall be compensated in accordance with Appendix A, which are made a part of this Agreement by this reference. The salary scale will reflect steps with a differentiation of ~~five percent (5%)~~ between steps up to ~~S~~step 6.

Effective and retroactive to July 1, 2017, ~~2020~~, the later, the City will increase Step A for each classification by ~~two percent (2%)~~ 2%. Steps are 5% apart. (~~B~~bargaining note: This is the only retroactive provision of the CBA.)

Effective July 1, 2018 ~~2021~~, the later, the City will increase Step A for each classification by ~~two percent (2%)~~ 2.5%. Steps are ~~five percent (5%)~~ apart.

The parties agree to reopen this ~~A~~article in January 2022 to negotiate a potential ~~COLA wage~~ increase for July 2022.

Effective July 1, 2019, the later, the City will increase Step A for each classification by 2.5%. Steps are 5% apart.

Effective since July 1, 2015, the salary scale includes a ~~s~~Step 7 that is ~~2.5%~~ (two and one-half percent) ~~(2.5%)~~ above step 6 applicable for officers with at least ~~eight (8)~~ years (~~ninety-six (96)~~ months) of continuous service as a sworn officer as eligible under this ~~A~~article.

Salary steps are based on yearly satisfactory performance evaluations. Denial of a step increase is grievable, however, by mutual agreement of the parties on a case by case ~~by-case~~ basis, the City will allow a ~~ninety (90)~~-day period for reevaluation. If the employee successfully meets expectations in the second review, the employee will be eligible for the increase for the next ~~nine (9)~~ months, in efforts to maintain yearly steps.

6.2 Starting Salary. New employees will be hired at Step 1 or Step ~~H~~2, at the discretion of the City. For purposes of recruitment of lateral hires, the City may hire a lateral officer at a higher step on the wage scale based on the years of service as a certified police officer. For example, an officer with four ~~(4)~~ years of service as a certified officer may not be hired at more than ~~s~~Step 5.

6.3 Probationary Period and Steps. New employees will serve an ~~eighteen (18)~~-month probationary period and are not eligible for step increase until satisfactory completing the probationary period.

Upon successful completion of the eighteen (18)-month probationary period, employees will receive the next step on the wage scale. Employees are eligible for additional steps upon their anniversary date from date of hire upon satisfactory evaluation. *(Note: An employee who successfully completes probation is eligible for an additional step at twenty-four (24) months of hire.)* Employees may receive yearly evaluations regardless of step status

Employees on probation serve at the discretion of the City and may be terminated without recourse to the grievance process.

6.4 Probationary Period for Lateral Hires and Non-Sworn Employees. Lateral hires and non-sworn employees shall serve a twelve (12)-month probation. A lateral hire must be Oregon DPSST certified or eligible for certification. In the event the employee is not DPSST certified, the employee must be certified within one hundred eighty (180) days and probation starts after certification. The City retains discretion upon hiring for all qualifications and years of experience for the position.

At the Chief of Police's sole discretion, the City may grant a lateral hire a step increase after twelve (12)-months of employment with the City regardless of whether the lateral hire has obtained an Oregon DPSST certificate if the delay in achieving the certificate is—in the Chief's sole opinion—out of the lateral hire's control.

Employees on probation serve at the discretion of the City and may be terminated without recourse to the grievance process.

6.5 Senior Officer Pay. Employees who have completed seven (7) years' service and who hold an advanced certificate shall receive the designation of Senior Patrol Officer (SPO) and will also have five percent (5%) added to the Officer's base rate per month. Senior-Officer/SPO pay does not impose any change in rank or classification from police officer.

6.6 Pay Date. The City may change the pay date with notice to the Union Association. The parties shall negotiate the impact of the change.

6.7 Certification Pay.

- A. All employees who possess a DPSST intermediate certificate shall receive one hundred ~~twenty-five~~ seventy-five dollars (\$175) (\$125) monthly. Certification pay shall be added to the monthly salary. ~~Effective July 1, 2018, the intermediate pay will be \$150 monthly.~~
- B. All employees who possess a DPSST advance certificate shall receive ~~\$200~~ (two hundred dollars) (\$200) monthly, non-accumulative to intermediate certificate pay. Certification pay shall be added to the monthly salary. *(Note: see also Article 6.5.)*

6.8 FTO Premium. Officers assigned as Field Training Officer (FTO) shall receive a five percent (5%) differential in pay upon his/her base wage for each shift serving as FTO. The officer shall be paid for a full shift for any assignment of more than four (4) hours. The officer must complete the FTEP class to be qualified as a FTO.

6.9 Canine Officers. The City, at the discretion of the Chief and City Manager, may utilize a police canine. The assignment of canine patrol is an assignment that may be transferred or stopped at the

discretion of the Chief. An officer assigned to the canine program is responsible for the routine care of their animal. The parties agree that at the discretion of the agency, the employee may be relieved from duty for the equivalent of four (4)-0 hours per work week or be assigned a full shift and receive compensation for those four (4)-0 hours beyond their regularly scheduled shift as adequate time for weekly care, prorated daily with shift schedules. When compensation is received, the employee may elect compensatory time off or payment.

Canine patrol duties require specialized training and experience. Officers assigned to canine patrol will receive an additional incentive of five percent (5%) base pay per pay period during the period of the assignment.

6.10 Travel, Mileage and Meals.

- A. Travel requests, for any purpose, must be approved by the employee's supervisor and the City Manager in advance of the travel. Travel shall be by the least expensive mode as feasible.
- B. Vehicle travel should be as follows:
 - 1. If a City car is available, it should be used. A gas credit card is available from the cashier.
 - 2. If a City car is not available, the employee may use his or her own car. Reimbursement will be equal to the Internal Revenue Service allowance for mileage.
 - 3. Reimbursements for lodging and subsistence meals shall be paid only if the amounts are not included in the conference or meeting package, however breakfast per diem will be provided to employees on travel status.
 - 4. Meals will be by IRS GSA per diem. Breakfast per diem will be provided in cases of employees on travel status.
 - 5. Meals provided by the attended function are not reimbursed. Motel/Hotel reimbursements shall be the actual value of the accommodation and shall not exceed the conference rate. If conference rates are not available, advance approval is required from the City Manager.

The employee may request an advance to pay for lodging expenses. Upon return, the employee will turn in receipts for accommodations.

6.11 Detective Assignment: The Chief retains the discretion to assign work duties including focused work on investigations in a Detective capacity. A police officer assigned in writing to the assignment of Detective will receive the additional premium of five percent (5%) of base pay for each month of the assignment, or as prorated. This assignment does not create a new classification and the term of the assignment or removal from the assignment is at the sole discretion of the Chief of Police.

6.12 Longevity Pay. Employees' longevity pay shall be based on a percentage of the per pay- period base wage of the employee as follows:

1% after 15 years of continuous service (180 months)
2% after 20 years of continuous service (240 months)
3% after 25 years of continuous service (300 months)
Longevity steps are not cumulative.

ARTICLE 7- HEALTH AND WELFARE/PENSION

7.1 Insurance. The City will provide full-time employees and their dependents CIS plan HDHP-1, including Rx, herein referred to as "HDHP-1 plan, Dental-ODS Plan II, Ortho, Alternative Care Rider, and Vision VSP-24/24/24. The premium cost share will be that the City contributes ninety percent (90%) and the employees contribute ten percent (10%) of the aggregate premium through payroll deduction.

Orthodontia coverage is part of the current dental plan and included with the total premium.

For the period through December 31, 2021, the City will provide full-time employees and their dependents CIS plan HDHP-1, including RX, Dental-ODS Plan II, Ortho, Alternative Care Rider, and Vision VSP-3.

For the period beginning January 1, 2022, the City will provide full-time employees and their dependents CIS plan HDHP-4, including RX, Dental-ODS Plan II, Ortho, Alternative Care Rider, and Vision VSP A.

The City will establish a Health Savings Account (HSA) for each **eligible** employee and contribute in the following manner:

1. In the first pay period of the 2021 calendar year, the City will pay a lump sum of **seven hundred fifty dollars (\$750)** for employee only coverage or **one thousand five hundred dollars (\$1,500)** for employee plus one or more dependents elected to the employee's HSA account.
2. In the first pay period of July 2021, the City will pay a lump sum of **seven hundred fifty dollars (\$750)** for employee only coverage or **one thousand five hundred dollars (\$1,500)** for employee plus one or more dependents elected to the employee's HSA account.
3. Beginning on January 1, 2022: in the first pay period of the calendar year for 2022 and 2023, the City will pay a lump sum contribution to the employee's HSA account in the amount of **eight hundred fifty dollars (\$850)** for employee only or **one thousand seven hundred dollars (\$1,700)** for employee with one dependent or more elected.
4. In the first pay period of July 2022 and 2023, the City will pay a lump sum contribution to the employee's HSA account in the amount of **eight hundred fifty dollars (\$850)** for employee only or **one thousand seven hundred dollars (\$1,700)** for employee with one dependent or more elected.
5. The maximum employer contribution per year is either **one thousand seven hundred dollars (\$1,700)** for employee only or **three thousand four hundred dollars (\$3,400)** for employee with one dependent or more elected.

1. Effective January 1, 2018, the City will pay a lump sum of \$750 for employee only coverage or \$1,500 for employee plus one or more dependents elected to the employee's HSA account.
2. Effective July 1, 2018, the City will pay a lump sum of \$750 for employee only coverage or \$1,500 for employee plus one or more dependents elected to the employee's HSA account.
3. Effective January 1, 2019, the City will pay a lump sum of \$750 for employee only coverage or \$1,500 for employee plus one or more dependents elected to the employee's HSA account.
4. Effective July 1, 2019, the City will pay a lump sum of \$750 for employee only coverage or \$1,500 for employee plus one or more dependents elected to the employee's HSA account.
5. Effective January 1, 2020, The City will pay a lump sum of \$750 for employee only coverage or \$1,500 for employee plus one or more dependents elected to the employee's HSA account.
6. Effective July 1, 2020, the City will pay a lump sum of \$750 for employee only coverage or \$1,500 for employee plus one or more dependents elected to the employee's HSA account. The parties agree that this specific the HSA payment on July 1, 2023, exceeds the term of this CBA and is the only enforceable term beyond the term of this CBA ending on June 20, 2023 excluding any statutory status quo obligations.
7. For employees hired after January 1, 2018, and during the calendar year, the City will pay the next chronological monthly lump sum payment after hire as indicated above. Employees not covered by insurance for the entire year will have HAS contributions pro-rated based on the number of months covered. New employees will receive a pro-rated contribution on their first day of coverage.
8. Part-time employees. Part-time employees will receive prorated payments based on budgeted FTE hours worked except employees budgeted for seventy-five percent (.75%) FTE or greater will be treated with same cost share as full-time employees.
9. For employees who do not have a choice to participate in an HSA account because of coverage under Medicare, Tricare/VA, or Indian Health Services, the City will make available a comparable benefit, subject to IRS and plan regulations.
10. Employees may apply vacation cash outs to their independent HSA accounts, up to eighty (80) hours maximum per fiscal year, as permitted under the limitations of Article 9.3, or apply remaining comp time balances over the twenty (20)-hour carry over per year under Article 5.4012.

Commented [YH1]: I hope I made this change correctly.

7.2 Life and Accidental Death and Dismemberment. The City will provide each employee with a fifty thousand dollar (\$50,000) term life insurance policy with double indemnity at no cost to the employee.

7.3 Long Term Disability. The City will make available and pay for a long-term disability insurance plan.

7.4 Retirement/PERS.

- A. Tier I/III. The City shall provide eligible employees with retirement coverage through the Public Employees Retirement System (PERS). Since July 1, 1998, the employer will pay the employee's portion of PERS.

The City shall report unused sick leave to PERS upon retirement for the purpose of **computing** **the** retiree's benefit consistent with PERS rules.

- B. OPSRP. The city shall provide eligible employees with retirement coverage through the Oregon Public Service Retirement Plan (OPSRP). The City will pay the employee's contribution to OPSRP.

7.5 Insurance Committee. The parties recognize the value to monitor and evaluate health care insurance coverage and trends as a result of the many changes to insurance benefits occurring in the current conditions. **At the Association's request,** the parties agree to meet as a voluntary insurance committee quarterly to discuss insurance trends, plans, and options. The meetings can be attended by **Union Association** representatives and employees, City management and executive representatives, and non-represented employees, with one of each group serving together to direct the meetings. The meetings are non-binding and informal intended to serve as informational and as an evaluation of the conditions. The meetings should be posted **thirty (30)** days in advance or as otherwise necessary. In the event the City or **Union Association** seek to adjust insurance benefits or plans as a result of these meetings, the parties will give respective notice, as under PECBA, for further inquiry for additional discussions with the **Union Association** or City or provide a request to bargain. Participation in the committee does not waive any rights under PECBA.

ARTICLE 8 - LEAVES

8.1 Sick Leave. All regular, full-time employees shall be entitled to eight (8) hours of sick leave with pay for each calendar month served, or fraction thereof. Part-time employees earned sick leave prorated on budgeted FTE with a minimum of **one (1)** hour earned for every **thirty (30)** hours not to exceed the prorated accrual. Accumulation of sick leave shall be capped at one thousand two hundred sixty **hours (1,260) hours.** All current employees hired prior to January 15, 2014, will be grandfathered at the previous **one thousand nine hundred twenty (1,920)**-hour cap. Sick leave with pay is intended to cover illness or injury of the employee or illness in his or her immediate family. Sick leave will be used for any qualifying event which triggers family medical leave as described in federal or state laws in accordance with City policy.

The City may require medical certification for use of leave as allowed by applicable law or after **three (3)** consecutive days. A doctor's certificate verifying that the employee is able to resume his or her normal work duties may be required upon a return to work from medical leave

Any employee abusing any provision of this Article may be subject to the provision of Article 3 - Discipline and Discharge.

With the approval of the City Manager, employees may donate vacation leave in excess of eighty hours (80) hours to other employees on an individual need basis only for the most serious of extended illness or injuries, or may donate leave as provided by City policy, subject to IRS regulations. Donated leave is only provided as needed.

8.2 Jury Duty. When an employee is acting in his/her official capacity is subpoenaed as a witness on a case involving the City, the employee shall receive regular pay. Employees called to jury duty shall receive regular pay. No overtime will be earned on jury duty. If the employee is released for the day prior to noon, the employee will return to work. The employee shall be required to transfer to the City any salary, less personal expenses, received for such duty. See Section 5.73 for Off Duty provisions.

8.3 Funeral Leave. In the event of a death in an employee's immediate family, including spouse, children, a relative living in the employee's household, parents, grandparents, sister, brother, grandchildren and in-laws, the employee shall be granted, with the approval of the City Manager, leave of absence with pay not to exceed five (5) working days. If additional time is requested, the City is willing to review the circumstances for the approval of additional time. This provision is concurrent with any benefits provided by OFLA.

8.4 Leave Without Pay. Leave without pay may be granted to any regular employee by the City Manager for any period of time up to three (3) months for personal, professional or family reasons, or for time beyond the medically certified period of temporary disability following childbirth.

All leave without pay must be requested by the employee in writing as soon as the need for such a leave is known. All written requests shall state the reason for the leave and the amount of leave time needed. Written request shall be submitted to the employee's supervisor, and referred to the City Manager with the supervisor's recommendation. All leave without pay shall be approved in writing by the City Manager setting out the terms, conditions and length of said leave. The City Manager has the discretion to reduce or deny the leave without pay request when the reduction or denial is in the best business interest of the City.

Failure to return from any leave without pay on or after the designated date, unless approval is given by the City Manager, may, subject to due diligence to contact the employee, be considered a voluntary resignation, and may be cause for denying reemployment with the City. Employees on leave without pay may return to work early, provided notice is given to their supervisor at least five (5) regular City work days in advance.

Holiday pay, sick leave and vacation benefits are not earned while an employee is on leave without pay. The City will not pay any portion of the employee's group medical and life insurance premiums while the employee is on leave without pay, unless otherwise required by applicable law or under a worker's compensation claim as provided by the CBA. The employee may elect to personally continue such coverage as provided permissible by COBRA and carrier rules.

Employees are required to use any earned but unused sick, if applicable, vacation and holiday benefits before a leave without pay is granted.

8.5 Use of Sick Leave.

Employees who are granted leave without pay for medical or disability reasons must exhaust all accrued leaves prior to commencing leave without pay. The City will make efforts to provide for reasonable accommodations that do not create an undue burden on the employer as applicable by law.

ARTICLE 9 - VACATIONS AND HOLIDAYS

9.1 Accrual. All regular, full-time employees shall accrue vacation time as listed for the following periods of continuous service. Maximum accumulation of vacation will be four hundred eighty (480) hours.

<u>CONTINUOUS SERVICE</u>	<u>MONTHLY ACCRUAL</u>
0 through the 35 th month	6.67 hours
36 th month through the 71 st month	8 hours
72 nd month through the 119 th month	10 hours
120 th month through the 179 th month	12 hours
180 th month through the 203 rd month	13.34 hours
204 th month through the 239 th month	14.66 hours
240+ months	16.66 hours

Vacations shall be requested by the employee and approved by the Chief of Police. For vacation and training requests submitted at least thirty (30) calendar days in advance, the city will respond in ten (10) working days. If no response is given to the request for vacation leave, the requested leave shall be deemed to have been granted as the employee requested. If no response is given to the request for training, the request shall be deemed to have been denied.

9.2 Vacation Scheduling. So long as all shifts are covered, the department shall allow two (2) employees off on vacation at one (1) time subject to approval by the Chief of Police.

Employees shall be allowed to select two (2) vacation periods on the basis of seniority. Each vacation period must be of a minimum duration of one (1) day. Vacation time shall be scheduled with due consideration being given to requests from officers which shall be determined among officers of equal rank by seniority; provided, however, that each officer shall be permitted to exercise the right of seniority only once each year. The sign-up deadline for the exercise of seniority in the selection of vacations shall be March 15 for the calendar year running from April 15 through April 14 of the following year.

New employees shall not be eligible for vacation leave during their first year of employment, although vacation time shall be accrued from the beginning of employment. If, for any reason prior to the completion of one (1) year of continuous service with the City, such employee is terminated, the employee shall receive no credit for vacation time.

9.3 Vacation Leave Cash Out. Employees may cash out up to forty hours (40) hours of vacation leave per fiscal year. To be eligible, the employee must have forty (40) hours scheduled for vacation leave and have a balance of eighty (80) hours vacation leave.

9.4 In-Lieu-Of Pay for Officers. Police officers shall be entitled to an equivalent amount of fourteen (14) days of holiday leave per fiscal year in lieu of the designated calendar holidays. A "day" shall be defined as the number of hours in the employee's regularly assigned shift. This time shall be credited to the officer July 1. If the regularly assigned shift is changed during the year, the annual conversion amount

shall be adjusted on a pro rata basis. Officers hired during the fiscal year shall have the number of hours prorated based on the first full month of employment. The holiday time taken off shall be set at the discretion of the Chief of Police. Holiday time is to be used within the fiscal year earned unless work requirements prevent the employee from taking the time off. Holiday time not used within the fiscal year may be paid off in June at the city's option. If the officer is unable to use the holiday hours prior to the end of the fiscal year, he/she shall notify the Chief prior to June 1. If the Chief and the officer are unable to schedule time off prior to the end of the fiscal year, the Chief shall notify the City Manager. The officer and the City Manager shall mutually agree whether the unused holiday hours shall either be paid or carried over into the next fiscal year or any combination of options.

9.5 Holidays. The following are the regularly paid holidays for employees other than police officers:

New Year's Day	1 st day of January
Martin Luther King Jr's Birthday	3 rd Monday in January
Presidents' Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	4 th of July
Labor Day	1 st Monday in September
Veteran's Day	11 th of November
Thanksgiving Day	4 th Thursday in November
Day After Thanksgiving	Friday after Thanksgiving
Christmas Eve	24 th of December
Christmas Day	25 th of December
1 Personal Holiday*	

*Any holiday falling on a Saturday will be observed the preceding Friday. Any holiday falling on Sunday will be observed the following Monday.

ARTICLE 10- SENIORITY AND LAYOFF

10.1 Seniority. Seniority means the continuous length of service since a regular employee's last date of hire. To the extent required by law governing military leaves and duty connected disability leave shall be included in length of service.

If an officer, who has been promoted to a position not in the [Union Association](#), while in [City](#) service, reverts to a position he/she formerly held, the officer's seniority shall be restored in the classification to which the officer reverts, however time served in non-bargaining unit positions will not be credited to seniority.

10.2 Scheduling. Preference in vacation scheduling shall be contingent upon City's working requirements and by seniority whenever feasible. Final approval of the vacation schedule shall be subject to staffing levels. Vacation requests shall be administered under City policy.

10.3 Lay-off. In the event the City determines a layoff for any reason, officers shall be laid off in the inverse order of their seniority.

Affected employees will be advised of the layoff at least fifteen (15) working days in advance of the effective date.

10.4 Recall. Officers shall be called back from layoff in inverse order of layoff for up to two (2) years from the date of layoff. No new officers shall be hired until all officers on layoff status have had an opportunity to return to work. In order to maintain his/her right to recall, an employee must register in person or by mail with the City Manager or his/her designee upon change of address and telephone number signifying his/her availability for recall. If the employee fails to notify the City and as a result the City is unable to notify an employee of a vacancy for recall, the employee shall be taken of the layoff list and shall be considered a voluntary resignation.

10.5 Return to Service. The employee shall notify the City of his/her availability to return to service upon receipt of a recall notice within five (5) working days. The employee must be able to return to service within fifteen (15) working days of the receipt of the recall notice. In the event a police department employee leaves the service of the City due to a layoff and within the next one (1) year period the City rehires said former employee in the same classification to which he/she was assigned at the time of reduction, such employee shall be placed at the step in the salary range which he or she occupied at the time of the original reduction, without a loss of seniority and his/her unused sick leave balance as of the time of layoff shall be restored.

ARTICLE 11- WORKERS' COMPENSATION

11.1 Compensation Option. Employees receiving workers' compensation benefits have the option of the City taking from their accrued sick leave, vacation, holiday and compensatory time (in such order), payments in the amount of time that when added to the compensation benefits would approximate their regular salary. Employees electing to use us accrued leaves keep their worker's' compensation payments, and the City will make payments using accrued leaves subject to applicable withholdings and subject to applicable rule or law. The intent of this section is that an employee may use his/her sick leave, vacation and compensatory time benefits on a pro-rated basis so that the combination of workers' compensation benefits and City benefits pays up to the employee's regular net pay inclusive of DPSST and Longevity pay. The first three (3) days of any on-the-job illness or injury shall be charged against sick leave benefits if not paid by the workers' compensation insurance carrier under its rules for coverage. Overpayment by the City may be later deducted through payroll deduction of accrued leave banks or employee may reimburse the City directly within ninety (90) days.

11.2 City Contribution for Insurance. During the period of temporary disability, the City will continue to contribute toward the cost of health and welfare insurance, including accrual of seniority, vacation/sick leave as if the employee were working, for a period of one (1) year. If the employee elects COBRA coverage, the City agrees to pay their portion of the premium and pay the COBRA administrative fee during the period set forth in this section. Employees are responsible for any premium cost shares as provided in this aAgreement.

11.3 Hearing Release Time. Employees scheduled for a Wworkers' Ccompensation hearing and who are in paid status shall suffer no loss of compensation.

ARTICLE 12 – EMPLOYEE BILL OF RIGHTS

All employees in the bargaining unit shall be entitled to protection of what shall hereafter be called the Employees' Bill of Rights.

The wide-ranging powers and duties given this department and its members involve them in all manners of contacts and relationships with the public and other City employees. These contacts result in many questions concerning the actions of members of the department. These questions often require immediate investigation by the employee's supervisor or his appointed internal affairs investigator. In an effort to ensure that these investigations are conducted in a manner that is conducive to good order and discipline, the following guidelines are promulgated:

- A. The employees covered by this Agreement do not waive any of their constitutional or civil rights guaranteed by the federal and state constitutions and laws afforded any citizen of the United States.
- B. Prior to any investigation interview that could result in suspension or dismissal the employee shall be notified twenty-four (24) hours in advance or at such time as written reports are required, except when in the opinion of the City a delay will jeopardize the success of the investigation or when criminal conduct is at issue. The employee shall be informed by the Chief of Police of the general nature of the investigation and whether the employee is a witness or suspect before any interview commences.
- C. Any interview shall take place in the employer police office except when impractical. The interview shall be at a reasonable time for the employee, preferably during the employee's duty time, unless the exigencies of the investigation dictate otherwise.
- D. The employee shall be afforded the right to counsel and/or union/Association representative prior to and during the interview. After the interviewer has completed questioning of the employee, the representative may ask clarification questions to clarify previous answers or to elicit further information, may suggest additional witnesses to be interviewed, and may present additional information that may be relevant.
- E. The employee shall be entitled to reasonable rest periods.
- F. Interviews shall be done under circumstances devoid of intimidation or coercion and shall not otherwise violate the employee's constitutional rights. The employee shall not be subject to any abusive language.
- G. The employee shall not be required to take or be subjected to any lie detector device as a condition of continued employment.
- H. No demotion or dismissal will take place without due process.

ARTICLE 43 12 - SAVINGS

Should any Article, section or portion thereof in this Agreement be unlawful or held unlawful, invalid or unenforceable by any court of competent jurisdiction, by ruling of the Employment Relations Board/ERB,

by statute or constitutional amendment or by the inability of the employer ~~of the employees~~ to perform to the terms of the Agreement, such decision of said court shall apply only to the specific ~~A~~article, ~~S~~section or portion thereof, directly specified in said decision. Upon such declaration, the parties agree to negotiate immediately a substitute, if possible, for the invalidated ~~A~~article, ~~S~~section or portion thereof under the provisions of ORS 243.702.

~~In the event the City's risk management insurance carrier advises, in writing, that a section or portion of this Agreement is invalid by operation of law or regulation, the City will provide notice to the Union Association. The City may be obligated by operation of law or regulation to cease the conduct and agrees to bargain the impact of such decision as provided for by obligations consistent with ORS 243.702.~~

Formatted: Strikethrough

ARTICLE 14 ~~13~~ - MANAGEMENT RIGHTS

The ~~Union Association~~ recognizes and agrees that responsibility for management of the City and direction of its workforce is vested solely in the City and responsible department heads. The ~~Union Association~~ recognizes and agrees that in order to fulfill this responsibility, the City shall retain the exclusive right to exercise the regular and customary functions of management. Unless otherwise expressly restricted by a specific provision of this Agreement the City shall have the sole and exclusive right, at its own discretion, to exercise the regular and customary functions of management, including, but not limited to:

- Directing the activities of the ~~D~~departments and employees covered by the Agreement;
- Determining standards, levels of service and methods of operations, including subcontracting;
- Introducing, discontinuing and modifying methods of operation, processes, equipment, etc.;
- Hiring, promoting, laying off and transferring employees;
- Disciplining and discharging employees;
- Determining work schedules and assigning work;
- Promulgating and implementing policies and procedures;
- Enforcing, revising and modifying rules related to employee conduct, performance, attendance and safety. However, prior to implementing such new or revised rules the City shall send a copy of the new or revised rules to the ~~Union Association~~; and
- Exercise any other right not specifically abridged by this Agreement.

If the City does not exercise one or more of its management's rights, such conduct shall not be deemed a waiver or abandonment of any such right(s). If the city exercises any of its reserved management right(s) in a particular manner, such conduct shall not preclude its exercise of such right(s) differently or in any other way not in conflict with a specific provision of this Agreement.

ARTICLE 14 - DURATION OF AGREEMENT

This Agreement shall be effective upon execution and shall remain in full force and effect until the 30th day of June 2020 2023.

This parties will initiate bargaining a successor agreement no later than March 1, 2020 2023.

ARTICLE 15 - SIGNATURE PAGE

This agreement is signed on this ____ day of _____, 2021 by AFSCME council 75, AFSCME local 2746-1, and the City of Warrenton.

For the City

For the Union Association

Henry Balensifer III, Mayor

~~Robert WirtNAME,~~
~~Warrenton Public Safety Association AFSCME Local~~
~~UnionAssociation-2746-1~~

Formatted: Indent: Left: 3", First line: 0.5"

Date: _____

Date: _____

Linda Engbretson, City Manager

~~Emily Wiant, AFCME Representative~~

Commented [AB2]: Jaime, not sure what you want here

Date: _____

Date: _____



AGENDA MEMORANDUM

TO: The Warrenton City Commission

FROM: Mathew J. Workman, Chief of Police

DATE: April 13, 2021

SUBJ: Goods Contract for Purchase of F-150 Police Responder

SUMMARY

The Warrenton Police Department budgeted for one 2021 F-150 Police Responder 4x4 vehicle to replace a 2014 Dodge Charger patrol vehicle. Landmark Ford Lincoln has the State Contract (#5555) to sell Ford Police vehicles but has no vehicles in stock so we need to order from the factory. The current contract price is \$35,816 plus the Oregon Corporate Activity tax of \$132.52, the Oregon Privelege tax of \$179.08, and DMV registration of \$152.50 for a total of **\$36,280.10**.

RECOMMENDATION/SUGGESTED MOTION

Approve the Goods and Services contract between Landmark Ford Lincoln and the City to purchase a 2021 F-150 Police Responder 4x4 and to have the Mayor sign the contract.

"I move to approve the Goods and Services contract between Landmark Ford Lincoln and the City of Warrenton to purchase one 2021 F-150 Police Responder 4x4 and to have the Mayor sign the contract."

ALTERNATIVE

Do not approve the contract and do not replace the 2014 Dodge Charger.

FISCAL IMPACT

The purchase of the vehicle was budgeted in the FY 2020-2021 Budget for \$57,000 with the remainder of the funds to purchase and install equipment on the vehicle.

ATTACHMENTS:

- City of Warrenton Contract for Goods and Services to be signed by the Mayor with Exhibit A, the quote document from Landmark Ford Lincoln.

Approved by City Manager: _____

Jinder Engelman

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

**CITY OF WARRENTON
CONTRACT FOR GOODS AND
SERVICES**

CONTRACT:

This Contract, made and entered into this ____ day of _____, 2021, by and between the City of Warrenton, a municipal corporation of the State of Oregon, hereinafter called "CITY", and Landmark Ford Lincoln, hereinafter called "CONTRACTOR", duly authorized to do business in Oregon.

WITNESSETH

WHEREAS, the CITY requires goods and services which CONTRACTOR is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, CONTRACTOR is able and prepared to provide such goods and services as CITY does hereinafter require, under those terms and conditions set forth; now, therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. CONTRACTOR SERVICES: (Title: Landmark Ford Lincoln)

- A. CONTRACTOR shall provide goods and services for the CITY, as outlined in its attached Client Proposal quote, dated March 30, 2021, and is attached hereto as Exhibit A.
- B. CONTRACTOR'S obligations are defined solely by this Contract, the RFP, or solicitation document, (if any) and its attachment and not by any other contract or agreement that may be associated with this project.

2. COMPENSATION

- A. The CITY agrees to pay CONTRACTOR a total not-to-exceed price of \$36,280.10 for providing goods and performance of those services provided herein;
- B. The CONTRACTOR will submit a final invoice referencing 2021 F-150 Police Responder 4x4 for all goods provided or services rendered to: City of Warrenton, Attention: Accounts Payable, PO Box 250, Warrenton, Oregon 97146, **OR**, CONTRACTOR may submit invoice via email to ap@ci.warrenton.or.us. CITY pays net 21 upon receipt of invoice.
- C. CITY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract.

3. CONTRACTOR IDENTIFICATION

CONTRACTOR shall furnish to the CITY the CONTRACTOR'S employer identification number, as designated by the Internal Revenue Service, or CONTRACTOR'S Social Security number, as CITY deems applicable.

4. CITY'S REPRESENTATIVE

For purposes hereof, the CITY'S authorized representative will be Mathew Workman, Chief of Police.

5. CONTRACTOR'S REPRESENTATIVE

For purposes hereof, the CONTRACTOR'S authorized representative will be Landmark Ford.

6. CONTRACTOR IS INDEPENDENT CONTRACTOR

- A. CONTRACTOR'S services shall be provided under the general supervision of City's project director or his designee, but CONTRACTOR shall be an independent CONTRACTOR for all purposes and shall be entitled to no compensation other than the compensation provided for under Section 2 of this Contract,
- B. CONTRACTOR acknowledges that for all purposes related to this contract, CONTRACTOR is and shall be deemed to be an independent CONTRACTOR and not an employee of the CITY, shall not be entitled to benefits of any kind to which an employee of the CITY is entitled and shall be solely responsible for all payments and taxes required by law; and furthermore in the event that CONTRACTOR is found by a court of law or an administrative agency to be an employee of the CITY for any purpose, CITY shall be entitled to offset compensation due, or, to demand repayment of any amounts paid to CONTRACTOR under the terms of the contract, to the full extent of any benefits or other remuneration CONTRACTOR receives (from CITY or third party) as result of said finding and to the full extent of any payments that CITY is required to make (to CONTRACTOR or a third party) as a result of said finding.
- C. The undersigned CONTRACTOR hereby represents that no employee of the City of Warrenton, or any partnership or corporation in which a City of Warrenton employee has an interest, has or will receive any remuneration of any description from the CONTRACTOR, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.

7. CANCELLATION FOR CAUSE

CITY may cancel all or any part of this Contract if CONTRACTOR breaches any of the terms herein or in the event of any of the following: Insolvency of CONTRACTOR; voluntary or involuntary petition in bankruptcy by or against CONTRACTOR; appointment of a receiver or trustee for CONTRACTOR, or any assignment for benefit of creditors of CONTRACTOR. Damages for breach shall be those allowed by Oregon law, reasonable and necessary attorney's fees, and other costs of litigation at trial and upon appeal. CONTRACTOR may likewise cancel all or any part of this contract if CITY breaches any of the terms herein and be therefore entitled to equivalent damages as expressed above for CITY.

8. ACCESS TO RECORDS

CITY shall have access to such books, documents, papers and records of contract as are directly pertinent to this contract for the purposes of making audit, examination, excerpts and transcripts.

9. FORCE MAJEURE

Neither CITY nor CONTRACTOR shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disabled provided the party so disabled shall within ten (10) days from the beginning

such delay notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation.

10. NONWAIVER

The failure of the CITY to insist upon or enforce strict performance by CONTRACTOR of any of the terms of this Contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

11. ATTORNEY'S FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

12. APPLICABLE LAW

The law of the State of Oregon shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.

13. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the proposal of the CONTRACTOR, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

14. INDEMNIFICATION

CONTRACTOR agrees to indemnify and hold harmless the CITY, its Officers, and Employees against and from any and all loss, claims, actions, suits, reasonable defense costs, attorney fees and expenses for or on account of injury, bodily or otherwise to, or death of persons, damage to or destruction of property belonging to CITY, contractor, or others resulting from or arising out of CONTRACTOR'S negligent acts, errors or omissions in the supply of goods or performance of services pursuant to this Agreement. This agreement to indemnify applies whether such claims are meritorious or not; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONTRACTOR and The CITY this indemnification and agreement to assume defense costs applies only to the extent of the negligence or alleged negligence of the CONTRACTOR.

15. INSURANCE

Prior to starting work hereunder, CONTRACTOR, at CONTRACTOR'S cost, shall secure and continue to carry during the term of this contract, with an insurance company acceptable to CITY, the following insurance:

- A. **Commercial General Liability.** 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 with limits of not less than \$1,000,000 per occurrence and the annual aggregate of not less than \$2,000,000. Coverage shall include contractors, subcontractors and anyone directly or indirectly employed by either. This insurance will include personal and Advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage will be written on an occurrence basis. If written in conjunction with Automobile Liability the combined

single limit per occurrence will not be less than \$1,000,000 for each job site or location. Each annual aggregate limit will not be less than \$2,000,000.

- B. **Automobile Liability.** Contract shall obtain, at Contractor's expense and keep in effect during the term of the resulting Contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence will not be less than \$1,000,000, and annual aggregate not less than \$2,000,000.
- C. **Additional Insured.** The liability insurance coverage shall include City and its officers and employees as Additional Insured but only with respect to Contractor's activities to be performed under this Contract. Coverage will be primary and non-contributory with any other insurance and self-insurance. Prior to starting work under this Contract, Contractor shall furnish a certificate to City from each insurance company providing insurance showing that the City is an additional insured, the required coverage is in force, stating policy numbers, dates of expiration and limits of liability, and further stating that such coverage is primary and not contributory.
- D. **Notice of Cancellation or Change.** There will be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from Contractor or its insurer(s) to City. Any failure to comply with the reporting provisions of this clause will constitute a material breach of this Contract and will be grounds for immediate termination of this Agreement.

16. WORKMEN'S COMPENSATION

The CONTRACTOR, its subcontractors, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers, or are employers that are exempt under ORS 656.126.

17. LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES

Contractor shall make payment promptly, as due, to all persons supplying CONTRACTOR labor or material for the prosecution of the work provided for this contract.

Contractor shall pay all contributions or amounts due the Industrial Accident Fund from CONTRACTOR or any subcontractor incurred in the performance of the contract.

Contractor shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.

Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

18. PAYMENT OF MEDICAL CARE

Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury to the employees of such CONTRACTOR, of all sums which the CONTRACTOR agrees to pay for such services and all moneys and sums which the CONTRACTOR collected or

EXHIBIT A



Prepared for:

Price Agreement 5550, Government Pricing

Prepared by: Diane Pohl

03/30/2021

Landmark Ford Lincoln | 12000 S W 66th Ave Tigard Oregon | 972238599

2021 F-150 Police Responder 4x4 5.5' box 145" WB XL (W1P)

Price Level: 135

Pricing Summary - Single Vehicle

MSRP

Vehicle Pricing

Base Vehicle Price	\$44,430.00
Options	\$2,955.00
Colors	\$0.00
Upfitting	\$0.00
Fleet Discount	\$0.00
Destination Charge	\$1,695.00
Subtotal	\$49,080.00

Pre-Tax Adjustments

Code	Description	MSRP
5550	State Contract 5550 Discount	-\$13,264.00
Subtotal		\$35,816.00

Sales Taxes

Code	Description	MSRP
CAT Tax	Oregon Corp Activity Tax	\$132.52

This is a new tax imposed as of January 1st 2020.

PT	Oregon Privilege Tax	\$179.08
Subtotal		\$36,127.60

Post-Tax Adjustments

Code	Description	MSRP
E-Plates 2	E-Plates MPG 0-19	\$152.50

We are a licensing dealer. If you would like Oregon Exempt License Plates at the time of delivery add \$147.50 After January 1st part of this number is based off MPG and this number could change.

Subtotal	\$36,280.10
Total	\$36,280.10

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.



AGENDA MEMORANDUM

TO: The Warrenton City Commission
 FROM: Collin Stelzig, P.E., Public Works Director
 DATE: April 13th, 2021
 SUBJ: Raw Waterline Replacement – Murraysmith

SUMMARY

In 2020, The City contracted with Murraysmith to prepare the Raw Water Facilities Evaluation Technical Memorandum, which analyzed the existing raw waterline performance and assessed improvement options, including pipe size, pipe material, and construction methods. The final technical memorandum, issued in February 2021, included the following recommendations regarding the raw water conveyance:

- 24-inc diameter should be maintained with future raw water pipeline replacement.
- Waterline replacements proceed with open-trench installation, except for critical/sensitive locations that warrant trenchless methods.
- HPDE DR26 is preferred pipe material based the long open trench type construction proposed and a capital outlay perspective.

Public Works requested that Murraysmith prepare a Scope of Work for Design and Bid Phase Services to replace the existing raw waterline between Lewis & Clark Highway and the raw water reservoir. Scope of services in this request includes project management, data collection and review, permitting support, preliminary design, final design, and bid phase services.

Public Works recommends Murraysmith to complete this work as detailed in their scope of work for the Raw Waterline Replacement design project. Their proposal totaling a not to exceed price of \$87,594.00 and a City contract are attached.

RECOMMENDATION/SUGGESTED MOTION

I move to award the contract to Murraysmith for the Raw Waterline Replacement, with a not-to-exceed price of \$87,594.00.

ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission

2) None recommended

FISCAL IMPACT

This project has been approved by the City Commission and is included in the City of Warrenton 2020-2021 Adopted Budget.

Approved by City Manager: Linda Egghetson

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

**CITY OF WARRENTON
CONTRACT FOR PROFESSIONAL CONSULTING SERVICES**

CONTRACT:

This Contract, made and entered into this ____ day of April 2021, by and between the City of Warrenton, a municipal corporation of the State of Oregon, hereinafter called "CITY", and Murraysmith, 400 E. Mill Plain Blvd, Suite 400, Vancouver, WA 98660 hereinafter called "CONSULTANT", duly authorized to do business in Oregon.

W I T N E S S E T H

WHEREAS, the CITY requires services which CONSULTANT is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, CONSULTANT is able and prepared to provide such services as CITY does hereinafter require, under those terms and conditions set forth; now, therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. CONSULTANT SERVICES:

A. CONSULTANT shall provide raw waterline replacement design services for the City of Warrenton, as outlined in the attached Scope of Work (attachment A).

B. CONSULTANT's obligations are defined solely by this contract and its attachment and not by any other contract or agreement that may be associated with this project.

2. COMPENSATION

A. The CITY agrees to pay CONSULTANT a total not-to-exceed price of \$87,594.00 for performance of engineering services;

B. The CONSULTANT will submit a final invoice referencing 029-430-620049 for all services rendered to: City of Warrenton, Attention: Accounts Payable, PO Box 250, Warrenton, Oregon 97146, **OR**, CONSULTANT may submit invoice via email to ap@ci.warrenton.or.us. City pays net 21 upon receipt of invoice.

C. CITY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract.

3. CONSULTANT IDENTIFICATION

CONSULTANT shall furnish to the CITY the CONSULTANT's employer identification number, as designated by the Internal Revenue Service, or CONSULTANT's Social Security number, as CITY deems applicable.

4. CITY'S REPRESENTATIVE

For purposes hereof, the CITY'S authorized representative will be Linda Engbretson, City Manager, City of Warrenton, PO Box 250, Warrenton, Oregon, 97146.

5. CONSULTANT'S REPRESENTATIVE

For purposes hereof, the CONSULTANT's authorized representative will be _____.

6. CONSULTANT IS INDEPENDENT CONSULTANT

A. CONSULTANT shall be an independent CONSULTANT for all purposes and shall be entitled to no compensation other than the compensation provided for under Section 2 of this Contract,

B. CONSULTANT acknowledges that for all purposes related to this contract, CONSULTANT is and shall be deemed to be an independent CONSULTANT and not an employee of the CITY, shall not be entitled to benefits of any kind to which an employee of the CITY is entitled and shall be solely responsible for all payments and taxes required by law; and furthermore in the event that CONSULTANT is found by a court of law or an administrative agency to be an employee of the CITY for any purpose, CITY shall be entitled to offset compensation due, or, to demand repayment of any amounts paid to CONSULTANT under the terms of the contract, to the full extent of any benefits or other remuneration CONSULTANT receives (from CITY or third party) as result of said finding and to the full extent of any payments that CITY is required to make (to CONSULTANT or a third party) as a result of said finding.

C. The undersigned CONSULTANT hereby represents that no employee of the City of Warrenton, or any partnership or corporation in which a City of Warrenton employee has an interest, has or will receive any remuneration of any description from the CONSULTANT, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.

7. CANCELLATION FOR CAUSE

CITY may cancel all or any part of this Contract if CONSULTANT breaches any of the terms herein or in the event of any of the following: Insolvency of CONSULTANT; voluntary or involuntary petition in bankruptcy by or against CONSULTANT; appointment of a receiver or trustee for CONSULTANT, or any assignment for benefit of creditors of CONSULTANT. Damages for breach shall be those allowed by Oregon law, reasonable and necessary attorney's fees, and other costs of litigation at trial and upon appeal. CONSULTANT may likewise cancel all or any part of this contract if CITY breaches any of the terms herein and be therefore entitled to equivalent damages as expressed above for CITY.

8. ACCESS TO RECORDS

CITY shall have access to such books, documents, papers and records of CONSULTANT as are directly pertinent to this contract for the purposes of making audit, examination, excerpts and transcripts.

9. FORCE MAJEURE

Neither CITY nor CONSULTANT shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disabled provided the party so disabled shall within ten (10) days from the beginning such delay notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation.

10. NONWAIVER

The failure of the CITY to insist upon or enforce strict performance by CONSULTANT of any of the terms of this Contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

11. ATTORNEY'S FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

12. APPLICABLE LAW

The law of the State of Oregon shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.

13. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the proposal of the CONSULTANT, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

14. INDEMNIFICATION

CONSULTANT agrees to indemnify and hold harmless the City of Warrenton, its Officers, and Employees against and from any and all loss, claims, actions, suits, reasonable defense costs, attorney fees and expenses for or on account of injury, bodily or otherwise to, or death of persons, damage to or destruction of property belonging to city, CONSULTANT, or others resulting from or arising out of CONSULTANT's negligent acts, errors or omissions in the supply of goods or performance of services pursuant to this Agreement. This agreement to indemnify applies whether such claims are meritorious or not; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONSULTANT and The City of Warrenton this indemnification and agreement to assume defense costs applies only to the extent of the negligence or alleged negligence of the CONSULTANT.

With regard to Professional Liability CONSULTANT agrees to indemnify and hold harmless CITY, its officers and employees from any and all liability, settlements, loss, reasonable defense costs, attorney's fees and expenses arising out of CONSULTANT's negligent acts, errors, or omissions in service provided pursuant to this Agreement; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONSULTANT and the City, this indemnification and agreement to assume defense costs applies only to the extent of negligence of CONSULTANT.

With respect to Professional Liability, CONSULTANT reserves the right to approve the choice of counsel.

15. INSURANCE

Prior to starting work hereunder, CONSULTANT, at CONSULTANT's cost, shall secure and continue to carry during the term of this contract, with an insurance company acceptable to CITY, the following insurance:

A. Commercial General Liability. CONSULTANT shall obtain, at CONSULTANT's expense and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage with limits of not less than \$1,000,000 per occurrence and the annual aggregate of not less than \$2,000,000. Coverage shall include CONSULTANTS, sub consultants and anyone directly or indirectly employed by either. This insurance will include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage will be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence will not be less than \$1,000,000 for each job site or location. Each annual aggregate limit will not be less than \$2,000,000.

B. Professional Liability Insurance. The CONSULTANT shall have in force a policy of Professional Liability Insurance in an amount not less than \$1,000,000 per claim and \$2,000,000 aggregate. The CONSULTANT shall keep such policy in force and current during the term of this Agreement.

C. Automobile Liability. CONSULTANT shall obtain, at CONSULTANT's expense and keep in effect during the term of the resulting Contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence will not be less than \$1,000,000, and annual aggregate not less than \$2,000,000.

D. Additional Insured. The liability insurance coverage shall include City and its officers and employees as Additional Insured but only with respect to CONSULTANT's activities to be performed under this Contract. Coverage will be primary and non-contributory with any other insurance and self-insurance. Prior to starting work under this Contract, CONSULTANT shall furnish a certificate to City from each insurance company providing insurance showing that the City is an additional insured, the required coverage is in force, stating policy numbers, dates of expiration and limits of liability, and further stating that such coverage is primary

and not contributory.

E. Notice of Cancellation or Change. There will be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from CONSULTANT or its insurer(s) to City. Any failure to comply with the reporting provisions of this clause will constitute a material breach of this Contract and will be grounds for immediate termination of this Agreement.

16. LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES ORS 279B.220

CONSULTANT shall make payment promptly, as due, to all persons supplying CONSULTANT labor or material for the prosecution of the work provided for this contract.

CONSULTANT shall pay all contributions or amounts due the Industrial Accident Fund from CONSULTANT or any sub consultant incurred in the performance of the contract.

CONSULTANT shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.

CONSULTANT shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

17. WORKERS COMPENSATION INSURANCE

CONSULTANT, its sub-CONSULTANTS, if any, and all employees working under this agreement are either subject to employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers, or are employers that are exempt under ORS 656.126.

18. PAYMENT OF MEDICAL CARE ORS 279B.230

CONSULTANT shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury to the employees of such CONSULTANT, of all sums which the CONSULTANT agrees to pay for such services and all moneys and sums which the CONSULTANT collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

19. OVERTIME ORS 279B.235.

Employees shall be paid for overtime work performed under this contract in accordance with ORS 279B.235(3) unless excluded under ORS 653.010 to 653.261 (29 U.S.C. sections 201 to 209).

20. BUSINESS LICENSE

Prior to commencing work in the City of Warrenton, CONSULTANT shall obtain a city business license.

21. STANDARD OF CARE

The standard of care applicable to CONSULTANT's services will be the degree of skill and diligence normally employed by CONSULTANTS performing the same or similar services at the time CONSULTANT's services are performed. CONSULTANT will re-perform any services not meeting this standard without additional compensation.

22. NO THIRD PARTY BENEFICIARIES

This contract gives no rights or benefits to anyone other than the CITY and CONSULTANT and has no third party beneficiaries.

23. SEVERABILITY AND SURVIVAL

If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of

the remaining provisions shall not be impaired thereby. Limitations of liability shall survive termination of this Agreement for any cause.

24. COMPLETE CONTRACT

This Contract and its referenced attachments constitute the complete contract between CITY and CONSULTANT and supersedes all prior written or oral discussions or agreements. CONSULTANT services are defined solely by this Contract and its attachments and not by any other contract or agreement that may be associated with this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written above.

City of Warrenton, a Municipal Corporation

CONSULTANT:

BY: _____
Henry Balensifer, Mayor Date

By: _____
Printed Name: _____ Date
Title: _____

EXHIBIT A

SCOPE OF WORK RAW WATERLINE REPLACEMENT CITY OF WARRENTON

Project Overview and Understanding

The City of Warrenton (City) owns and operates a public drinking water system that serves a population of about 9,000 people. The City's water supply comes from the Lewis and Clark River and its tributaries located in the Youngs Bay watershed. The City has 27 cubic feet per second (cfs) of water certificates and permits from the Lewis and Clark River and Camp C Creek. Four surface water intakes are located on the drainage and range in elevation from 340 feet to 375 feet. A 17 million gallon (MG) raw water impoundment with an overflow of 347 feet exists along the raw water pipeline. Raw water is delivered to the Water Treatment Plant (WTP) through 18- to 24-inch gravity pipelines. The WTP has an existing capacity of 6 million gallons per day (mgd) through nine continuous microfiltration units.

In 2017, the City requested Murraysmith, Inc. (Consultant) prepare the City's Water Master Plan (WMP), which documents key water system information and provides analysis and recommendations that inform infrastructure development and operational decisions by City staff. The final WMP, issued in July 2018, outlined a series of recommendations with regards to the Water Supply. One of those items was the following:

- *The City should focus on the rehabilitation or replacement of the aging raw water piping and conduct an initial study to determine construction methods and priorities.*

In 2020, the City contracted with the Consultant to prepared the Raw Water Facilities Evaluation Technical Memorandum (TM), which analyzed the existing raw waterline performance and assessed improvements options, including pipe size, pipe material, and construction methods. The Final TM, issued in February 2021, included the following recommendations regarding the raw water conveyance:

- *24-inch diameter should be maintained with future raw water pipeline replacement*
- *Waterline replacements proceed with open-trench installation, except for critical/sensitive locations that warrant trenchless methods*
- *HPDE DR26 is preferred pipe material based the long open trench type construction proposed and on a capital outlay perspective*

The City has requested the Consultant prepare a Scope of Work for Design and Bid Phase Services to replace the existing raw waterline between Lewis & Clark Highway and the raw water reservoir.

This section of waterline, measuring approximately 2500 linear feet in length, is shown in **Figure 1** for reference.

Scope of Services

Consultant will perform the following services.

- Task 1 – Project Management
- Task 2 – Data Collection and Review
- Task 3 – Permitting Support
- Task 4 – Preliminary Design
- Task 5 – Final Design
- Task 6 – Bid Phase Services

Task 1 - Project Management

Objective:

Provide and perform project administration, management activities, and ongoing coordination for the project. This task includes technical and financial management, and liaison with City staff including the following:

Subtask 1.1 Project Management and Coordination

Provide comprehensive project management to include the following:

- Manage the project scope, schedule and budget.
- Coordinate with City staff during the project.
- Prepare monthly progress reports to be submitted with invoices. Monthly progress reports will include task level budget status. Billings will include labor classification, hourly rate, and hours charged to the project.

Subtask 1.2 Project Meetings

Schedule and attend project meetings as follows:

- Monthly 'check-in' meetings.
- Preliminary and Final Design deliverables review meetings.

For each meeting prepare agenda and summary notes.

Subtask 1.3 Quality Assurance and Quality Control

All project deliverables will be reviewed for Quality Assurance and Quality Control (QA/QC) by the Consultant's QA/QC review team. In addition, the Consultant's QA/QC review team will provide technical assistance throughout the project design.

Assumptions:

- Meetings will be held via phone or online platform (i.e., Microsoft Teams).
- Project duration approximately 6 months.
- Schedule and attend 6 monthly check-in meetings. Each meeting is assumed to be one hour in length and attended by the Project Manager.
- Schedule and attend Preliminary (50%) and Final (90% and 100%) Design deliverables review meetings. Each meeting is assumed to be two hours in length and attended by the Project Manager.

Deliverables:

- Monthly invoice and status report.
- Meeting agendas and minutes for all meetings attended under this task.

Task 2 – Data Collection and Review

Objective:

Identify, gather and review information necessary to complete the Design, including the following:

Subtask 2.1 Review Client-Provided Documents

This subtask includes reviewing the data and documents relating to the existing raw waterline previously provided by the City as part of the TM preparation. Those documents include:

Year	Publisher	Document Content
1970	Carl E. Green & Associates	Raw waterline location and water supply elevations
1973	Carl E. Green & Associates	Raw waterline location and water supply elevations
1981	Clatsop County Clerk (Book 86, Pages 491-492; Book 570, Pages 368-371)	Deed descriptions of water facilities

1985	Westech Engineering Inc.	Raw water reservoir and piping improvements
2001	Clatsop County Clerk (Recording Instrument # 200103368)	Raw waterline easement
2010	HLB Otak Inc.	Raw waterline alignment and appurtenance locations
2012	HBH Consulting Engineers	Raw waterline alignment, profile, appurtenance locations and details

The review will focus on the raw waterline alignment, elevations, appurtenance locations and other pertinent information necessary for conducting the site visit and field review with City personnel (see **Subtask 2.2**).

The base mapping for existing conditions shall be taken from the following sources:

- Clatsop County GIS – aerial photography, dated 2018
- Oregon Department Forestry – Digital Elevation Model (DEM) LiDAR for Northwest OR, dated 2015

Supplemental surveying and mapping will be incorporated to the base mapping as required (see **Subtask 2.3**).

Subtask 2.2 Site Visit / Field Review

This subtask includes visiting the project site and reviewing the existing raw waterline alignment and field conditions. Consultant personnel shall be guided by City personnel and provided authorized access necessary for completion of task activities. In addition to verifying the existing conditions, Consultant and City personnel will delineate preliminary alignment of the raw waterline and potential locations of water system appurtenances such as gate valves and blow-off valves. The preliminary alignment and appurtenance locations shall be used to develop the Design documents. Consultant will also identify areas that require supplemental surveying and mapping to provide topographical detail necessary for preparing the Design documents.

Subtask 2.3 Supplemental Survey

This subtask includes performing land surveying and mapping of the areas identified by the Consultant in **Subtask 2.2**. Surveying and mapping services will be performed by S&F Land Services.

Assumptions:

- City will provide Consultant authorized access to raw water facilities. City personnel shall guide and accompany Consultant during site visit/field review.
- Base mapping shall be taken from data sources identified in **Subtasks 2.1 and 2.3.**

Deliverables:

- Base mapping will be prepared in AutoCAD® 2019 drawing format and provided to the City as electronic Portable Document Format (PDF) file.

Task 3– Permitting Support

Objective:

Provide city support for required project permitting, including the following:

Subtask 3.1 No Effect Memorandum

Using the Clatsop County GIS environmental layer data for guidance, a site visit will be conducted to observe existing site conditions.

This subtask includes preparing a No Effect Memorandum of the waterline construction impact area. This Memo will include the following sections:

- Project overview (from existing materials)
- Potential threatened or endangered species present
- Potential effect pathways (e.g., noise, vegetation removal, erosion)
- Mitigating actions to avoid or minimize the effects (e.g., actions to be included as construction specifications)
- Findings of effect

The Design documents will be prepared to support a finding of no effect.

Subtask 3.2 Clatsop County Land Use Permit

Based on the Clatsop County GIS, the waterline alignment is located within the Forest-80 (F-80) land use zone. The *Clatsop County Land and Water Development and Use Ordinance* (Ordinance) allows for the “maintenance or in-kind replacement of water intake facilities, related treatment facilities, pumping stations, and distribution lines in existing utility rights-of-ways” subject to a Type I review and permit.

This subtask includes preparing supporting documents and completing application for the Land Use Permit subject to a Type I review.

Subtask 3.3 Clatsop County Geologic Hazard Permit

Based on the Clatsop County GIS, the waterline alignment is located within the Landslide Susceptibility (DOGAMI) zone, Moderate area. The Ordinance outlines that any activity requiring a development permit within these zones must obtain a Geologic Hazard Permit.

This subtask includes preparing a geotechnical report in accordance with *Ordinance Section 4.044 Geotechnical Report Requirements* and completing application for a geologic hazard permit. Geotechnical engineering services will be performed by Cornforth Consultants Inc. Report recommendations shall be incorporated to the Design documents.

Subtask 3.4 Clatsop County Grading, Drainage & Erosion Control Permit

Based on the anticipated land disturbance for the project (>3000 square feet), Clatsop County requires a Grading, Drainage and Erosion Control Plan review and permit. The Design documents will include erosion and sediment control plans which will be utilized as the supporting documents for the County permit application.

This subtask includes completing the application for the Grading, Drainage and Erosion Control Permit.

Subtask 3.5 Clatsop County Road Permit

Given the waterline alignment connects to an existing pipe crossing under Lewis and Clark Highway, Clatsop County requires a permit to occupy or perform operations upon the County road. The Design documents will include construction plans, details and specifications which will be utilized as the supporting documents for the County permit application.

This subtask includes completing the application for the Permit to Occupy or Perform Operations Upon a County or Public Road.

Subtask 3.6 Oregon DEQ Construction Stormwater General Permit

Based on the anticipated land disturbance for the project (> 1 acre), the Oregon Department of Environmental Quality (DEQ) requires a Construction Stormwater General Permit (1200-C). The Design documents will include erosion and sediment control plans which will be utilized as the supporting documents for the County permit application.

This subtask includes preparing a Storm Water Pollution Prevention Plan (SWPPP) and Dewatering Plan and completing the application for the Construction Stormwater General Permit.

Assumptions:

- The Design documents will be prepared to support a finding of No Effect.

Deliverables:

- Electronic PDF copies of the following documents:
 - No Effect Memorandum
 - Completed application for County Land Use Permit
 - Completed application for Geologic Hazard Permit including Geotechnical Report
 - Completed application for County Grading, Drainage and Erosion Control Permit
 - Completed application for the Permit to Occupy or Perform Operations Upon a County or Public Road
 - Completed application for the Construction Stormwater General Permit (1200-C) including SWPPP

Task 4 – Preliminary Design

Objective:

Prepare Preliminary Design documents based on preliminary alignment routing developed in Subtask 2.2.

Subtask 4.1 Preliminary (50%) Design Documents

This subtask includes preparing Preliminary (50%) Design documents, including the following:

- **Construction Drawings** – cover sheet with anticipated sheet list, plans/profiles of proposed raw waterline and appurtenances. Plan and profile drawings will be prepared on 22"x34" sheets, with 1"=20' horizontal and 1"=5' vertical scale. Plans will show the horizontal alignment and profile of the raw waterline, existing ground grades, and other key features in addition to locations of tees, bends, gate valves, blow-off valves, air release/vacuum valves and other incidental appurtenances. The anticipated sheet list includes:

Sheet Name	No. Sheets
Cover	1
General Notes & Legend	2
Key Map and Project Overview	1
Waterline Plan and Profile	6
Erosion Control Plan and Details	3
Standard and Miscellaneous Details	2
Total Sheet Count	15

- **Construction Specifications** – detailed table of contents.
- **Contract (Front-End) Documents** – detailed table of contents.
- **Engineer’s Opinion of Probable Cost (OPC)** – summary of construction item quantities based on the Preliminary Design and estimated unit prices for developing an OPC commensurate with 50% Design level.

This subtask also includes a Preliminary (50%) Design review meeting with the City and Consultant to discuss comments and field questions from the 50% Design submittal.

Assumptions:

- City will provide their standard/required Construction Specifications and Front-End Documents in Microsoft Word format.
- City will provide written review comments.
- City review time is two (2) weeks from document submittal.
- City will attend and participate in Preliminary (50%) Design review meeting.

Deliverables:

- Electronic PDF copies of the Preliminary Design documents.

Task 5 – Final Design

Objective:

Prepare Final Design documents based on Preliminary Design documents, including Construction Drawings, Construction Specifications, and Front-End documents for soliciting bids and constructing the project.

Subtask 5.1 Develop 90% Design Documents

This subtask includes preparing 90% Design documents, including the following:

- **Construction Drawings** – all completed sheets from the 50% Design sheet list (**Subtask 4.1**).
- **Construction Specifications** – specifications covering the materials and constructions included in the Construction Drawings.
- **Contract (Front-End) Documents** – front-end documents necessary for bidding by the City, including Bid Schedule.
- **Engineer’s Opinion of Probable Cost (OPC)** – summary of construction item quantities based on the 90% Design and estimated unit prices for developing an OPC commensurate with 90% Design level.

This subtask also includes a 90% Design review meeting with the City and Consultant to discuss comments and field questions from the 90% Design submittal.

Subtask 5.2 Develop 100% Design Documents

This subtask includes preparing 100% Design documents, including the following:

- **Construction Drawings** – 90% Design sheets incorporating received City comments (Subtask 5.1).
- **Construction Specifications** – specifications covering the materials and constructions included in the Construction Drawings and incorporating received City comments.
- **Contract (Front-End) Documents** – front-end documents necessary for bidding by the City, including Bid Schedule, and incorporating received City comments.
- **Engineer's Opinion of Probable Cost (OPC)** – summary of construction item quantities based on the 100% Design and estimated unit prices for developing an OPC commensurate with 100% Design level.

Assumptions:

- City will provide written review comments.
- City review time is two (2) weeks for each document submittal.
- City will attend and participate in Final (90% and 100%) Design review meetings.

Deliverables:

- Electronic PDF copies of the Final Design Documents.

Task 6 – Bid Phase Services

Objective:

Provide services during the Bid Phase, including the following:

Subtask 6.1 Pre-Bid Conference

This subtask includes attending the Pre-Bid conference and providing written summary of questions and comments from the conference to the City.

Subtask 6.2 Respond to Bidder Inquiries

This subtask includes providing written responses to bidder inquiries (Requests for Information [RFI]) during the bid phase. Subtask also includes assisting the City with preparing contract addenda as needed.

Subtask 6.3 Review Bids and Recommend Award

This subtask includes attending the bid opening, tabulating bids, assisting in review and evaluation of bids and providing recommendation of award.

Task Deliverables

- Pre-Bid Conference Meeting Agenda and Summary
- Response to Bidder RFIs and Addenda as required
- Bid Tabulation
- Recommendation of Award

Assumptions

- City will publish the Advertisement for Bids and pay all costs.
- City will distribute bidding documents, responses to bidder inquires, addenda, and maintain a plan holders list.
- Up to three (3) RFI responses and one (1) addendum is included in the budget.
- Construction phase services will be provided upon City request as an amendment to this contract.

Compensation

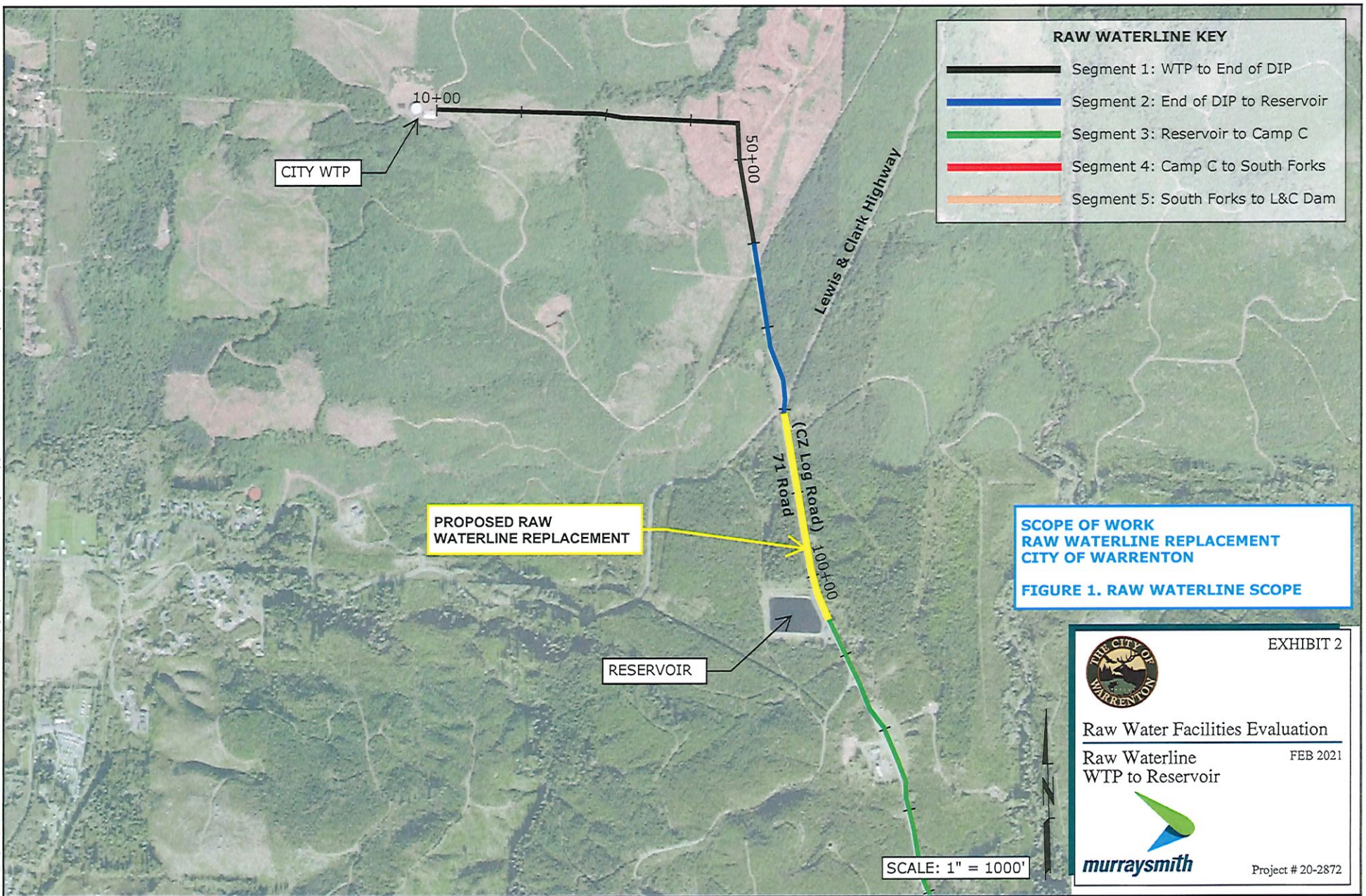
Work will be performed on a time and expense basis with a total not to exceed amount of \$87,594 in accordance with the firm's current standard Schedule of Charges in effect at the time the work is performed.

Schedule

The anticipated project schedule is as follows:

Task	Anticipated Completion
Consultant Notice to Proceed	April 1, 2021
Data Collection and Review	May 28, 2021
Permitting Support	August 31, 2021
Preliminary Design	July 30, 2021
Final Design	October 15, 2021
Bid Advertisement	TBD
Bid Opening	TBD

G:\PDX_Projects\20\2872 - Warrenton - RAW Water Facilities Eval\CAD\Figures\20-2872-OR-FIG 11x17.dwg Ex2 11/4/2020 8:25 AM ANDY.HILLES 23.0s (LMS Tech)



RAW WATERLINE KEY	
	Segment 1: WTP to End of DIP
	Segment 2: End of DIP to Reservoir
	Segment 3: Reservoir to Camp C
	Segment 4: Camp C to South Forks
	Segment 5: South Forks to L&C Dam

SCOPE OF WORK
RAW WATERLINE REPLACEMENT
CITY OF WARRENTON
FIGURE 1. RAW WATERLINE SCOPE



EXHIBIT 2

Raw Water Facilities Evaluation
 Raw Waterline WTP to Reservoir
 FEB 2021

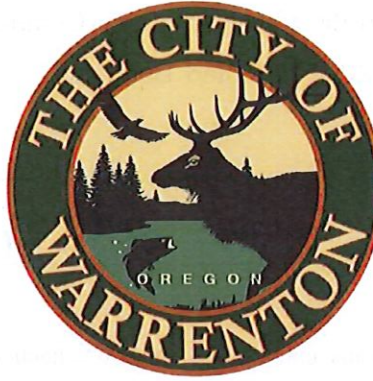


Project # 20-2872

SCALE: 1" = 1000'

**EXHIBIT B - PROPOSED FEE ESTIMATE
RAW WATERLINE REPLACEMENT PROJECT
CITY OF WARRENTON**

Staff Name	LABOR CLASSIFICATION (HOURS)							Hours	Labor	Subconsultants				Multiplier % Markup	Subconsultant Total with Markup	Expenses	CADD Units \$/hr	Total
	Principal Engineer VI	Environmental Permitting Specialist	Principal Engineer V	Professional Engineer VII	Engineering Designer II	Technician III	Administrative II			S&F Land Services	Comforth Consultants							
	Stangel	Toledo	Hickey	Miles	Kuhn	McFaddin	Steinberg											
Task 1 - Project Management								0	\$ -									
Task 1.1 - Project Management and Coordination				24			6	30	\$ 5,190				1.1	\$ -	\$ -	\$ -	\$ 5,190	
Task 1.2 - Project Meetings				12				12	\$ 2,292				1.1	\$ -	\$ -	\$ -	\$ 2,292	
Task 1.3 - Quality Assurance and Quality Control	4		8					12	\$ 3,160				1.1	\$ -	\$ -	\$ -	\$ 3,160	
Task 1 Subtotal	4	0	8	36	0	0	6	54	\$ 10,642	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,642	
Task 2 - Data Collection and Review																		
Task 2.1 - Review Client-Provided Documents				4	4	8		16	\$ 2,448				1.1	\$ -	\$ -	\$ -	\$ 2,448	
Task 2.2 - Site Visit/ Field Review		17		8	8			33	\$ 5,912				1.1	\$ 224	\$ -	\$ -	\$ 6,136	
Task 2.3 - Supplemental Survey						8		8	\$ 1,112	\$ 5,450			1.1	\$ 5,995	\$ -	\$ 144	\$ 7,251	
Task 2 Subtotal	0	17	0	12	12	16	0	52	\$ 9,472	\$ 5,450	\$ -	\$ -	\$ -	\$ 5,995	\$ 224	\$ 144	\$ 15,835	
Task 3 - Permitting Support																		
Task 3.1 - No Effect Memorandum		16		1	8			25	\$ 5,655				1.1	\$ -	\$ -	\$ -	\$ 5,655	
Task 3.2 - Clatsop County Land Use Permit				1	8			9	\$ 1,385				1.1	\$ -	\$ -	\$ -	\$ 1,385	
Task 3.3 - Clatsop County Geologic Hazard Permit				1	4			5	\$ 763	\$ 7,350			1.1	\$ 8,085	\$ -	\$ -	\$ 8,848	
Task 3.4 - Clatsop County Grading, Drainage and Erosion Control Permit				1	4			5	\$ 763				1.1	\$ -	\$ -	\$ -	\$ 763	
Task 3.5 - Clatsop County Road Permit				1	4			5	\$ 763				1.1	\$ -	\$ -	\$ -	\$ 763	
Task 3.6 - Oregon Department of Environmental Quality (DEQ) Stormwater Permit				1	12			13	\$ 1,907				1.1	\$ -	\$ -	\$ -	\$ 1,907	
Task 3 Subtotal	0	16	0	6	40	0	0	62	\$ 11,186	\$ 7,350	\$ -	\$ -	\$ -	\$ 8,085	\$ -	\$ -	\$ 19,271	
Task 4 - Preliminary Design																		
Task 4.1 - Preliminary (50%) Design Documents		8		24	40	8	2	82	\$ 13,778				1.1	\$ -	\$ -	\$ 144	\$ 13,922	
Task 4 Subtotal	0	8	0	24	40	8	2	82	\$ 13,778	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 144	\$ 13,922	
Task 5 - Final Design																		
Task 5.1 - Develop 10% Design Documents		2		16	60	4	4	86	\$ 13,136				1.1	\$ -	\$ -	\$ 72	\$ 13,208	
Task 5.2 - Develop 100% Design Documents		2		16	36	4	4	62	\$ 9,704				1.1	\$ -	\$ -	\$ 72	\$ 9,776	
Task 5 Subtotal	0	4	0	32	96	8	8	148	\$ 22,840	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 144	\$ 22,984	
Task 6 - Bid Phase Services																		
Task 6.1 - Pre-Bid Conference				4				4	\$ 764				1.1	\$ -	\$ -	\$ -	\$ 764	
Task 6.2 - Respond to Bidder Inquiries				4	8			12	\$ 1,908				1.1	\$ -	\$ -	\$ -	\$ 1,908	
Task 6.3 - Review Bids and Recommend Award	2			2	8		2	14	\$ 2,268				1.1	\$ -	\$ -	\$ -	\$ 2,268	
Task 6 Subtotal	2	0	0	10	16	0	2	30	\$ 4,940	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,940	
TOTAL - ALL TASKS	6	40	8	120	204	16	18	478	\$ 72,858	\$ 5,450	\$ 7,350	\$ -	\$ -	\$ -	\$ 14,085	\$ 224	\$ 432	\$ 87,594



AGENDA MEMORANDUM

TO: The Warrenton City Commission
FROM: Collin Stelzig, Public Works Director
DATE: For the Meeting of April 13th, 2021
SUBJ: Grant Agreement – Warrenton Grade School/Main Ave Safe
Pedestrian Walkway Project

SUMMARY:

Attached is a grant agreement between the City and the Oregon Department of Transportation's Safe Routes to School Program (SRTS) for the Warrenton Grade School-Main Avenue Safe Pedestrian Walkway project. Within the agreement is the project description (key milestones, schedule, budget), recipient requirements, sub agreement insurance requirements, and documentation provided prior to execution of the agreement.

RECOMMENDATION/SUGGESTED MOTION

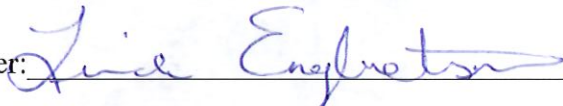
"I move to approve the Mayors signature for the grant agreement between the City and Oregon Department of Transportation's SRTS Program for the Warrenton Grade School-Main Avenue safe pedestrian walkway project."

ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

FISCAL IMPACT

This project and grant has been discussed with City Commission and will be included in the City of Warrenton 2021-2022 Adopted Budget.

Approved by City Manager:  _____

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

GRANT AGREEMENT
OREGON DEPARTMENT OF TRANSPORTATION
SAFE ROUTES TO SCHOOL PROGRAM (SRTS)

Project Name: Warrenton Grade School - Main Avenue Safe Pedestrian Walkway

This Grant Agreement (“Agreement”) is made and entered into by and between the **State of Oregon**, acting by and through its Department of Transportation (“ODOT”), and City of Warrenton, acting by and through its Governing Body, (“Recipient”), both referred to individually or collectively as “Party” or “Parties.”

1. **Effective Date.** This Agreement shall become effective on the date this Agreement is fully executed and approved as required by applicable law (the “Effective Date”). The availability of Grant Funds (as defined in Section 3) shall end five (5) years after the Effective Date (the “Availability Termination Date”).
2. **Agreement Documents.** This Agreement consists of this document and the following documents:
 - a. Exhibit A: **Project Description, Key Milestones, Schedule and Budget**
 - b. Exhibit B: **Recipient Requirements**
 - c. Exhibit C: **Subagreement Insurance Requirements**
 - d. Exhibit D: **Documentation provided by Recipient prior to execution of the Agreement (i.e. application, Part 1 of the Project Prospectus)**

Exhibits A, B and C are attached to this Agreement. Exhibit D is incorporated by reference. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C; Exhibit D.

3. **Project Cost; Grant Funds.** The total estimated Project cost is \$500,000. In accordance with the terms and conditions of this Agreement, ODOT shall provide Recipient grant funds in a total amount not to exceed \$400,000 (the “Grant Funds”). In addition to the Grant Funds, and upon Recipients written request, ODOT shall provide Recipient \$100,000 in funds available to Recipient under ORS 366.514 (“Bike/Ped Funds”) for the portion of the Project on or along the state highway system. Recipient will be responsible for all Project costs not covered by the Grant Funds and Bike/Ped Funds.
4. **Project.**
 - a. **Use of Grant Funds.** The Grant Funds shall be used solely for the Project described in Exhibit A (the “Project”) and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless ODOT approves such changes by amendment pursuant to Section 4(c).

ODOT/Recipient

Agreement No. 34471

b. Eligible Costs. Recipient may seek reimbursement for its actual costs to develop the Project, consistent with the terms of this Agreement (“Eligible Costs”).

i. Eligible Costs are actual costs of Recipient to the extent those costs are:

- A.** reasonable, necessary and directly used for the Project;
- B.** permitted by generally accepted accounting principles established by the Governmental Accounting Standards Board, as reasonably interpreted by the State, to be capitalized to an asset that is part of the Project; and
- C.** eligible or permitted uses of the Grant Funds under the Oregon Constitution, the statutes and laws of the state of Oregon, and this Agreement.

ii. Eligible Costs do NOT include:

- A.** operating and working capital or operating expenditures charged to the Project by Recipient;
- B.** loans or grants to be made to third parties;
- C.** any expenditures incurred before the Effective Date or after the Availability Termination Date; or
- D.** costs associated with the Project that substantially deviate from Exhibit A, Project Description, unless such changes are approved by ODOT by amendment of this Agreement;

c. Project Change Procedures.

- i.** If Recipient anticipates a change in scope, Key Milestone Dates, or Availability Termination Date, Recipient shall submit a written request to SRTSProgramMailbox@odot.state.or.us. The request for change must be submitted before the change occurs.
- ii.** Recipient shall not proceed with any changes to scope, Key Milestone Dates, or Availability Termination Date before the execution of an amendment to this Agreement executed in response to ODOT’s approval of a Recipient’s request for change. A request for change may be rejected at the sole discretion of ODOT.

5. Reimbursement Process and Reporting.

- a.** ODOT shall reimburse Recipient for 85 percent of Eligible Costs up to the Grant Fund amount provided in **Section 3**. ODOT shall reimburse Eligible Costs within forty-five (45) days of ODOT’s receipt and approval of a request for reimbursement from Recipient. Recipient must pay its contractors, consultants and vendors before submitting a request for reimbursement to ODOT for reimbursement. ODOT will not reimburse more than one request for reimbursement per month.
- b.** Recipient must submit to ODOT its first reimbursement request within two (2) years of the Effective Date.
- c.** Each reimbursement request shall be submitted on ODOT’s Reimbursement request form <https://www.oregon.gov/ODOT/Forms/20DOT/7373558.docx> to the

ODOT/Recipient

Agreement No. 34471

SRTSPProgramMailbox@odot.state.or.us and include the Agreement number, the start and end date of the billing period, and itemize all expenses for which reimbursement is claimed. Upon ODOT's request, Recipient shall provide to ODOT evidence of payment to contractors. Recipient shall also include with each reimbursement request a summary describing the work performed for the period seeking reimbursement and work expected for the next period, if any.

- d. ODOT shall disburse the entirety of the Bike/Ped Funds to Recipient within 45 days of Recipient's written request.
- e. Recipient shall, no later than ninety (90) days after the completion of the Project or Availability Termination Date, whichever occurs earlier, submit a final reimbursement request. Failure to submit the final request for reimbursement within ninety (90) days after could result in nonpayment.
- f. Upon ODOT's receipt of the final reimbursement request, ODOT will conduct a final on-site review of the Project. ODOT will withhold payment of the final reimbursement request until both (i) its SRTS Program Manager, or designee, has completed the final review and accepted the Project as complete and (ii) Recipient and ODOT staff have signed the Recommendation of Acceptance Form (ODOT Form No. 737-3560).
- g. ODOT's obligation to disburse Grant Funds to Recipient is subject to the satisfaction, with respect to each disbursement, of each of the following conditions precedent:
 - i. ODOT has received funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to make the disbursement.
 - ii. Recipient is in compliance with the terms of this Agreement.
 - iii. Recipient's representations and warranties set forth in Section 6 are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
- h. Recovery of Grant Funds.
 - i. Recovery of Misexpended Funds or Nonexpended Funds. Any Grant Funds disbursed to Recipient under this Agreement that are either (i) disbursed but unexpended at the end of the Availability Termination Date ("Unexpended Funds") or (ii) expended in violation of one or more of the provisions of this Agreement ("Misexpended Funds") must be returned to ODOT. Recipient shall return all Unexpended Funds to ODOT no later than fifteen (15) days after the Availability Termination Date. Recipient shall return all Misexpended Funds to ODOT promptly after ODOT's written demand and no later than fifteen (15) days after ODOT's written demand.
 - ii. Recovery of Grant Funds upon Termination. If this Agreement is terminated under any of Sections 9(b)(i), 9(b)(ii), 9(b)(iii) or 9(b)(vi), Recipient shall return to ODOT all Grant Funds disbursed to Recipient within 15 days after ODOT's written demand for the same.
- i. Reporting

ODOT/Recipient

Agreement No. 34471

- i. **Quarterly Reports.** Recipient shall submit quarterly progress reports to ODOT using a format that ODOT provides. Recipient must submit the reports to SRTSProgramMailbox@odot.state.or.us by the first Wednesday of March, June, September, and December.
- ii. **Final Report.** Recipient shall submit a final written report (the "Final Report") to SRTSProgramMailbox@odot.state.or.us that identifies how hazards have been reduced to children walking or bicycling to and from school as a direct result of this Project. Recipient must submit the Final Report within six (6) months after the Project Completion Date. Recipient's obligation to provide the Final Report will survive Agreement expiration.

6. Representations and Warranties of Recipient. Recipient represents and warrants to ODOT as follows:

- a. **Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement.
- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. **No Solicitation.** Recipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
- d. **No Debarment.** Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from any federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify ODOT immediately if it is debarred, suspended or otherwise excluded from any federally assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.
- e. **Compliance with Oregon Taxes, Fees and Assessments.** Recipient is, to the best of the undersigned(s) knowledge, and for the useful life of the Project will remain, current on all applicable state and local taxes, fees and assessments.

7. Records Maintenance and Access; Audit.

- a. **Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Recipient shall ensure that each of its subrecipients and subcontractors complies with these requirements. ODOT, the Secretary of State of the State of Oregon (the "Secretary") and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the Grant Funds, or the Project for the purpose of making audits and examinations. In addition, ODOT, the Secretary and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of ODOT and the Secretary to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.
- b. **Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for a period of six (6) years after final payment. If there are unresolved audit questions at the end of the period described in this section, Recipient shall retain the records until the questions are resolved.
- c. **Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by ODOT under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit ODOT to verify how the Grant Funds were expended.

This Section 7 shall survive any expiration or termination of this Agreement.

8. Recipient Subagreements and Procurements

- a. **Subagreements.** Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, "subagreements") for performance of the Project.
 - i. All subagreements must be in writing, executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
 - ii. Recipient shall require all of its contractors performing work under this Agreement to name ODOT as a third-party beneficiary of Recipient's subagreement with the Contractor and to name ODOT as an additional or "dual" obligee on contractors' payment and performance bonds.
 - iii. Recipient shall provide ODOT with a copy of any signed subagreement, as well as any other purchasing or contracting documentation, upon ODOT's request at any time. Recipient must report to ODOT any material breach of a term or condition of a subagreement within ten (10) days of Recipient discovering the breach.

b. Subagreement indemnity; insurance.

- i.** *Recipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless State of Oregon, the Oregon Transportation Commission and its members, the Department of Transportation, their officers, agents and employees from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Recipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that ODOT shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of ODOT, be indemnified by the other party to Recipient's subagreement(s) from and against any and all Claims.*
 - ii.** Any such indemnification shall also provide that neither Recipient's subrecipient(s), contractor(s) nor subcontractor(s), nor any attorney engaged by Recipient's subrecipient(s), contractor(s) nor subcontractor(s) shall defend any claim in the name of ODOT or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's subrecipient is prohibited from defending the State, or that Recipient's subrecipient is not adequately defending the State's interests, or that an important governmental principle is at issue or that it is in the best interests of the State to do so. The State reserves all rights to pursue claims it may have against Recipient's subrecipient if the State of Oregon elects to assume its own defense.
 - iii.** If the Project or Project work is on or along a state highway, Recipient shall require its contractor(s) to meet the minimum insurance requirements provided in Exhibit C. Recipient may specify insurance requirements of its contractor(s) above the minimum insurance requirements specified in Exhibit C. Recipient shall verify its contractor(s) meet the insurance requirements in Exhibit C.
 - iv.** Recipient shall determine insurance requirements, insurance types and amounts, as deemed appropriate based on the risk of the work outlined within the subagreement. Recipient shall specify insurance requirements and require its contractor(s) to meet the insurance requirements. Recipient shall obtain proof of the required insurance coverages, as applicable, from any contractor providing services related to the subagreement.
 - v.** Recipient shall require its contractor(s) to require and verify that all subcontractors carry insurance coverage that the contractor(s) deems appropriate based on the risks of the subcontracted work.
- c. Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code, Oregon Revised Statute (ORS) 279 A, B, and C, and rules, ensuring that:
- i.** All applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement; and

- i. All procurement transactions are conducted in a manner providing full and open competition.
- d. **Self-Performing Work.** Recipient must receive prior approval from ODOT for any selfperforming work.
- e. **Conflicts of Interest.** Recipient's public officials shall comply with Oregon's government ethics laws, ORS 244.010 *et seq.*, as those laws may be subsequently amended.

9. Termination

- a. **Mutual Termination.** This Agreement may be terminated by mutual written consent of the Parties.
- b. **Termination by ODOT.** ODOT may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by ODOT in such written notice, under any of the following circumstances:
 - i. If Recipient fails to perform the Project within the time specified in this Agreement, or any extension of such performance period;
 - ii. If Recipient takes any action pertaining to this Agreement without the approval of ODOT and which under the provisions of this Agreement would have required ODOT's approval;
 - iii. If Recipient fails to perform any of its other obligations under this Agreement, and that failure continues for a period of 10 calendar days after the date ODOT delivers Recipient written notice specifying such failure. ODOT may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action;
 - iv. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement;
 - v. If Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or vi. If the Project would not produce results commensurate with the further expenditure of funds.
- c. **Termination by Either Party.** Either Party may terminate this Grant Agreement upon at least ten (10) days' notice to the other Party and failure of the other Party to cure within the period provided in the notice, if the other Party fails to comply with any of the terms of this Grant Agreement.
- d. **Rights upon Termination; Remedies.** Any termination of this Grant Agreement shall not prejudice any rights or obligations accrued before termination. The remedies set forth in this Grant Agreement are cumulative and are in addition to any other rights or remedies available at law or in equity.

10. GENERAL PROVISIONS

- a. **Contribution.**

- i. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT or Recipient with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
 - ii. With respect to a Third Party Claim for which ODOT is jointly liable with Recipient (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.
 - iii. With respect to a Third Party Claim for which Recipient is jointly liable with ODOT (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
- b. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
 - c. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
 - d. **Duplicate Payment.** Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.

- e. **No Third-Party Beneficiaries.** ODOT and Recipient 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 or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.
- f. **Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email or mailing the same, postage prepaid, to Recipient Contact or ODOT Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section 10(f). Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against ODOT, such facsimile transmission must be confirmed by telephone notice to ODOT Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.
- g. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between ODOT (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon 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. 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.
- h. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Recipient agrees to comply with the requirements of ORS 366.514, Use of Highway Fund for footpaths and bicycle trails.
- i. **Insurance; Workers' Compensation.** All employers, including Recipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- j. **Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of ODOT. Recipient has no right or authority to incur or create any obligation for or

ODOT/Recipient
Agreement No. 34471

legally bind ODOT in any way. ODOT cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an “officer”, “employee”, or “agent” of ODOT, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.

- k. Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- l. Counterparts.** This Agreement may be executed in two or more counterparts, each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- m. Integration and Waiver.** This Agreement, including all Exhibits, constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. Recipient, by the signature below of its authorized representative, acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

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

The Project was approved on December 1, 2020 by the Oregon Transportation Commission.

Signature Page to Follow

Electronic Signatures. The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement, Work Orders, and amendments, submitted or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. State reserves the right at any time to require the submission of the hard copy originals of any documents.

Recipient, by and through its elected officials

By _____
(Legally designated representative)

Name _____
(printed)

Date _____

By _____

Name _____
(printed)

Date _____

**LEGAL REVIEW APPROVAL
(If required in Recipient's process)**

By _____
Recipient's Legal Counsel

Date _____

Recipient Contact:

Collin Stelzig
45 SW 2nd Street, PO Box 250
Warrenton, OR 97146
Phone: 503-861-0912
Email: rstelzig@ci.warrenton.or.us

SRTS Manager:

LeeAnne Ferguson
555 13th Street NE
Salem, OR 97301-4178
Phone: 503-986-5805
Email: Leeanne.fergason@odot.state.or.us

STATE OF OREGON, by and through its
Department of Transportation

By _____
Public Transportation Division Administrator

Name _____
(printed)

Date _____

APPROVAL RECOMMENDED

By _____
SRTS Program Manager

Date _____

By _____
State Traffic-Roadway Engineer

Date _____

By _____
Area Manager

Date _____

**APPROVED AS TO LEGAL SUFFICIENCY
(For funding over \$150,000)**

By Samuel Zeigler via email
Assistant Attorney General

Date 03/19/2021

EXHIBIT A
Project Description, Key Milestones, Schedule and Budget
Agreement No. 34471

Project Name: Warrenton Grade School - Main Avenue Safe Pedestrian Walkway

A. PROJECT DESCRIPTION

Oregon Route 104 (Main Street) from approximately 8th Street to 11th Street.

Recipient shall construct a pedestrian walkway approximately on the west side of Main Avenue/OR 104 to SW 11th Street and fill in gaps on the east side of OR 104 approximately between 8th and 11th Streets.

Recipient acknowledges that such Project improvements funded under this Agreement may trigger other Recipient responsibilities under the Americans with Disabilities Act. Recipient agrees that it is solely responsible for ensuring Americans with Disabilities Act compliance pursuant to Exhibit B, Recipient Requirements, Section 4.

B. PROJECT KEY MILESTONES AND SCHEDULE

The Project has two (2) Key Milestone(s). Key Milestones are used for evaluating performance on the Project as described in the Agreement. Neither Key Milestone 1, Scoping and planning, nor Key Milestone 2, Project completion, can be changed without an amendment to the Agreement.

If Recipient anticipates either that Key Milestone 1 will require material changes or that Key Milestone 2 will be delayed by more than ninety (90) days, Recipient shall submit a Request for Change Order, as described in Section 4(c) of the Agreement, to SRTSPProgramMailbox@odot.state.or.us as soon as Recipient becomes aware of any possible change or delay. Recipient must submit the Request for Change Order before materially changing the project scope (Key Milestone 1) or delaying the Project completion (Key Milestone 2).

Table 1: Key Milestones

Key Milestone	Description	Estimated Due Date
1	Scoping and planning	3/28/2021
2	Project completion (Project must be completed within 5 years of agreement execution.)	9/26/2021

EXHIBIT B

Recipient Requirements

1. Recipient shall comply with all applicable provisions of ORS 279C.800 to 279C.870 pertaining to prevailing wage rates and including, without limitation, that workers on the Project shall be paid not less than rates in accordance with ORS 279C.838 and 279C.840 pertaining to wage rates and ORS 279C.836 pertaining to having a public works bond filed with the Construction Contractors' Board.
2. Recipient shall notify ODOT's Contact in writing when any contact information changes during the Agreement.
3. Recipient shall maintain 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. If the Project or any portion is destroyed, insurance proceeds will be paid to ODOT, unless Recipient has informed ODOT in writing that the insurance proceeds will be used to rebuild the Project.
4. **Americans with Disabilities Act Compliance**
 - a. **State Highway:** For portions of the Project located on or along the State Highway System or a State-owned facility ("state highway"):
 - i. Recipient shall utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Recipient shall follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
 - iii. At Project completion, Recipient shall send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form and to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>
 - iv. Recipient shall promptly notify ODOT of Project completion and allow ODOT to inspect Project sidewalks, curb ramps, and pedestrian-activated signals located on or along a state highway prior to acceptance of Project by Recipient and prior to release of any Recipient contractor.
 - v. Recipient shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs,

ODOT/Recipient
Agreement No. 34471

comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Recipient shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, disability organizations, and ODOT at least 10 days prior to the start of construction.

b. Local Roads: For portions of the Project located on Recipient roads or facilities that are not on or along a state highway:

- i. Recipient shall ensure that the Project, including all sidewalks, curb ramps, and pedestrian-activated signals, is designed, constructed and maintained in compliance with the ADA.
- ii. Recipient may follow its own processes or may use ODOT's processes for design, construction, or alteration of Project sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current Curb Ramp Inspection form, available at:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>;

Additional ODOT resources are available at the above-identified link. ODOT has made its forms, processes, and resources available for Recipient's use and convenience.

- iii. Recipient assumes sole responsibility for ensuring that the Project complies with the ADA, including when Recipient uses ODOT forms and processes. Recipient acknowledges and agrees that ODOT is under no obligation to review or approve Project plans or inspect the completed Project to confirm ADA compliance.
 - iv. Recipient shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs and include accessibility features equal to or better than the features present in the existing pedestrian route. Recipient shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations prior to the start of construction.
- c.** Recipient shall ensure that any portions of the Project under Recipient's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Recipient ensuring that:
- i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Recipient identifying sidewalk, curb ramp, or pedestrian activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Recipient, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the Project in compliance with the ADA requirements that were in effect at the time the Project was constructed or altered,

- iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
- d. Maintenance obligations in this Section 4 shall survive termination of this Agreement.

5. Work Performed within ODOT's Right of Way

- a. Prior to the commencement of work, Recipient shall obtain, or require its contractor to obtain, permission from the appropriate ODOT District Office to work on or along the state highway. This Agreement does not provide permission to work on or along the state highway.
- b. If the Project includes traffic control devices (see ODOT's Traffic Manual, Chapter 5, for a description of traffic control devices) on or along a state highway, Recipient shall, pursuant to Oregon Administrative Rule (OAR) 734-020-0430, obtain the approval of the State Traffic Engineer prior to design or construction of any traffic control device being installed.
- c. Recipient shall enter into a separate traffic signal agreement with ODOT to cover obligations for any traffic signal being installed on a state highway.
- d. Recipient shall ensure that its electrical inspectors possess a current State Certified Traffic Signal Inspector certificate before the inspectors inspect electrical installations on state highways. The ODOT's District Office shall verify compliance with this requirement before construction. The permit fee should also cover the State electrician's supplemental inspection.

6. Maintenance Obligations

Recipient shall, at its own expense, maintain, operate, and provide power as needed upon Project completion at a **minimum** level that is consistent with normal depreciation and/or service demand and throughout the useful life of the Project. ODOT and Recipient agree that the useful life of this Project is defined as 20 years. Maintenance and power responsibilities shall survive any termination or expiration of the Project Agreement.

7. General Standards

The Project shall be completed within industry standards and best practices to ensure that the functionality and serviceability of the Program's investment meets the intent of the application and the Program.

8. Land Use Decisions

- a. Recipient shall obtain all permits, "land use decisions" as that term is defined by ORS 197.015(1) (2020), and any other approvals necessary for Recipient to complete the Project by the Project completion deadline identified in Exhibit A (each a "Land Use Decision" and collectively, "Land Use Decisions").

ODOT/Recipient
Agreement No. 34471

- b. If at any time before the Availability Termination Date identified in Section 1 of this Agreement ODOT concludes, in its sole discretion, that Recipient is unlikely to obtain one or more Land Use Decisions before the Availability Termination Date, ODOT may (i) suspend the further disbursement of Grant Funds upon written notice to Recipient (a “Disbursement Suspension”) and (ii) exercise any of its other rights and remedies under this Agreement, including, without limitation, terminating the Agreement and recovering all Grant Funds previously disbursed to Recipient.
- c. If after a Disbursement Suspension ODOT concludes, in its sole discretion and based upon additional information or events, that Recipient is likely to timely obtain the Land Use Decision or Decisions that triggered the Disbursement Suspension, ODOT will recommence disbursing Grant Funds as otherwise provided in this Agreement.
- d. This Section 7 is in addition to, and not in lieu of, ODOT’s rights and remedies under Section 5.h (“Recovery of Grant Funds”) of this Agreement.

9. Website

Recipient shall provide ODOT a link to any website created about the Project identified in Exhibit A before any costs being considered eligible for reimbursement. Recipient shall notify the ODOT Contact in writing when the link changes during the term of this Grant Agreement.

10. Photographs

Recipient shall provide pre-construction Project photographs within thirty (30) days of the execution of this Agreement. Recipient shall provide Project photographs thirty (30) days after Project is completed.

EXHIBIT C

Subagreement Insurance Requirements

1. GENERAL.

- a. If the Project is on or along a state highway, Recipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to ODOT. Recipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a subagreement when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which the Recipient is a Party.
- b. The insurance specified below is a minimum requirement that the contractor within the subagreement shall meet. Recipient may determine insurance types and amounts in excess to the minimum requirement as deemed appropriate based on the risks of the work outlined within the subagreement.
- c. Recipient shall require the contractor(s) to require that all of its subcontractors carry insurance coverage that the contractor deems appropriate based on the risks of the subcontracted work. Contractor shall obtain proof of the required insurance coverages, as applicable, from any subcontractor providing Services related to the Contract.

2. TYPES AND AMOUNTS.

a. WORKERS COMPENSATION.

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide Workers' Compensation Insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employer's Liability Insurance with limits not less than \$500,000 each accident. **Contractor shall require compliance with these requirements in each of its subcontractor contracts.**

b. COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance shall be issued on an occurrence basis covering bodily injury and property damage and shall include personal and advertising injury liability, products and completed operations, and contractual liability coverage. When work to be performed includes operations or activity within 50 feet of any railroad property, bridge, trestle, track, roadbed, tunnel, underpass or crossing, the Contractor shall provide the Contractual Liability – Railroads CG 24 17 endorsement, or equivalent, on

ODOT/Recipient
Agreement No. 34471

the Commercial General Liability policy. Amounts below are a minimum requirement as determined by ODOT:

Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

c. AUTOMOBILE Liability Insurance: Automobile Liability.

Automobile Liability Insurance covering Contractor's business-related automobile use covering all owned, non-owned, or hired vehicles for bodily injury and property. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Amount below is a minimum requirement as determined by ODOT:

Coverage shall be written with a combined single limit of not less than \$1,000,000.

d. ADDITIONAL INSURED.

The Commercial General Liability Insurance and Automobile Liability Insurance must include the **"State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees"** as an endorsed Additional Insured but only with respect to the contractor's activities to be performed under the Subcontract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations. Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to the Recipient.

e. "TAIL" COVERAGE.

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance or pollution liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of twenty-four (24) months following the later of : (i) the contractor's completion and Recipient's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing twenty-four (24) month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the twenty-four (24) month period described above, then the contractor may request and ODOT may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If ODOT approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

f. NOTICE OF CANCELLATION OR CHANGE.

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

g. CERTIFICATE(S) OF INSURANCE.

Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) **"State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees"** as an endorsed Additional Insured in regards to the Commercial General Liability and Automobile Liability policies and ii) that all liability insurance coverages shall be primary and non-contributory with any other insurance and self-insurance, with exception of Workers' Compensation..

The Recipient shall immediately notify ODOT of any change in insurance coverage.