



Home of the Tualatin River National Wildlife Refuge

CITY COUNCIL MEETING PACKET

FOR

Tuesday, April 16, 2024

**Sherwood City Hall
22560 SW Pine Street
Sherwood, Oregon**

5:45 pm City Council Executive Session

**(ORS 192.660(2)(f), Exempt Public Records &
ORS 192.660(2)(h), Legal Counsel)**

6:15 pm City Council Work Session

7:00 pm City Council Regular Meeting

URA Board of Directors Meeting

(Following the 7:00 pm Regular Council Meeting)

This meeting will be live streamed at
<https://www.youtube.com/user/CityofSherwood>



Home of the Tualatin River National Wildlife Refuge

5:45 PM EXECUTIVE SESSION

1. **ORS 192.660(2)(f), Exempt Public Records
ORS 192.660(2)(h), Legal Counsel**

6:15 PM WORK SESSION

1. 5 Year CIP (Craig Sheldon, City Manager Pro Tem)

7:00 PM REGULAR SESSION

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVAL OF AGENDA

5. CONSENT AGENDA

- A. Approval of April 2, 2024, City Council Meeting Minutes** (Sylvia Murphy, City Recorder)
- B. Resolution 2024-023, Authorizing the City Manager Pro Tem to apply for and sign a Broadband Deployment Program Grant application through the State of Oregon**
(Brad Crawford, IT Director)
- C. Resolution 2024-024 Authorizing the City Manager Pro Tem to Enter into an Agreement with Sherwood School District and Washington County Cooperative Library Services for a Student Data Load Project** (Adrienne Doman Calkins, Library Manager)
- D. Resolution 2024-025 Authorizing the City Manager Pro Tem to Execute a Construction Contract with Lee Contractors, LLC for the Cedar Creek Greenway Feeder Trail Project**
(Jason Waters, City Engineer)

6. CITIZEN COMMENTS

7. PRESENTATIONS

- A. TVF&R Annual State of the District Presentation**
(Cassandra Ulven, Director of Government & Public Affairs)
- B. Washington County Family Justice Center Annual Update** (Judy Willey, Board President)
- C. Proclamation, Proclaiming April 26, 2024 as Arbor Day** (Mayor Rosener)
- D. Proclamation, Proclaiming April as National Volunteer Appreciation Month** (Mayor Rosener)

8. NEW BUSINESS

AGENDA

**SHERWOOD CITY COUNCIL
April 16, 2024**

**5:45 pm City Council Executive Session
(ORS 192.660(2)(f)(h), Exempt Public
Records & Legal Counsel)**

6:15 pm City Council Work Session

7:00 pm City Council Regular Session

**URA Board of Directors Meeting
(Following the 7:00 pm City Council Meeting)**

**Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140**

**This meeting will be live streamed at
<https://www.youtube.com/user/CityofSherwood>**

A. Resolution 2024-026, Adopting a Supplemental Budget for fiscal year 2023-24 and making appropriations (David Bodway, Finance Director)

9. CITY MANAGER REPORT

10. COUNCIL ANNOUNCEMENTS

11. ADJOURN to URA Board of Directors Meeting

12. ADJOURN

How to Provide Citizen Comments and Public Hearing Testimony: Citizen comments and public hearing testimony may be provided in person, in writing, or by telephone. Written comments must be submitted at least 24 hours in advance of the scheduled meeting start time by e-mail to Cityrecorder@Sherwoodoregon.gov and must clearly state either (1) that it is intended as a general Citizen Comment for this meeting or (2) if it is intended as testimony for a public hearing, the specific public hearing topic for which it is intended. To provide comment by phone during the live meeting, please e-mail or call the City Recorder at Cityrecorder@Sherwoodoregon.gov or 503-625-4246 at least 24 hours in advance of the meeting start time in order to receive the phone dial-in instructions. Per Council Rules Ch. 2 Section (V)(D)(5), Citizen Comments, "Speakers shall identify themselves by their names and by their city of residence." Anonymous comments will not be accepted into the meeting record.

How to Find out What's on the Council Schedule: City Council meeting materials and agenda are posted to the City web page at www.sherwoodoregon.gov, generally by the Thursday prior to a Council meeting. When possible, Council agendas are also posted at the Sherwood Library/City Hall and the Sherwood Post Office.

To Schedule a Presentation to the Council: If you would like to schedule a presentation to the City Council, please submit your name, phone number, the subject of your presentation and the date you wish to appear to the City Recorder, 503-625-4246 or Cityrecorder@Sherwoodoregon.gov

ADA Accommodations: If you require an ADA accommodation for this public meeting, please contact the City Recorder's Office at (503) 625-4246 or Cityrecorder@Sherwoodoregon.gov at least 48 hours in advance of the scheduled meeting time. Assisted Listening Devices available on site.



SHERWOOD CITY COUNCIL MEETING MINUTES
22560 SW Pine St., Sherwood, Or
April 2, 2024

REGULAR SESSION

1. **CALL TO ORDER:** Mayor Rosener called the meeting to order at 7:01 pm.
2. **COUNCIL PRESENT:** Mayor Tim Rosener, Councilors Keith Mays, Dan Standke, and Renee Brouse. Council President Kim Young attended remotely. Councilors Taylor Giles and Doug Scott were absent.
3. **STAFF PRESENT:** City Manager Pro Tem Craig Sheldon, City Attorney Ryan Adams, Police Chief Ty Hanlon, IT Director Brad Crawford, and City Recorder Sylvia Murphy.

4. **APPROVAL OF AGENDA:**

MOTION: FROM COUNCILOR BROUSE TO APPROVE THE AGENDA. SECONDED BY COUNCILOR MAYS. MOTION PASSED 5:0; ALL PRESENT MEMBERS VOTED IN FAVOR (COUNCILOR SCOTT AND COUNCILOR GILES WERE ABSENT).

Mayor Rosener addressed the next agenda item.

5. **CONSENT AGENDA:**

- A. Approval of March 19, 2024, City Council Meeting Minutes
- B. Resolution 2024-020, Appointment of City Council Liaison Assignments
- C. Resolution 2024-021, Approving Sherwood Police Department Policy Updates - April 2024
- D. Resolution 2024-022, Authorizing the City Manager to Enter into an Intergovernmental Agreement with Washington County and the cities of Tigard and Tualatin relating to funding for a Homeless Services System City Liaison and Homeless Services Capital Projects

MOTION: FROM COUNCILOR BROUSE TO APPROVE THE CONSENT AGENDA. SECONDED BY COUNCIL PRESIDENT YOUNG. MOTION PASSED 5:0; ALL PRESENT MEMBERS VOTED IN FAVOR (COUNCILOR SCOTT AND COUNCILOR GILES WERE ABSENT).

Mayor Rosener addressed the next agenda item.

6. **CITIZEN COMMENT:**

There were no citizen comments and Mayor Rosener addressed the next agenda item.

7. **PRESENTATIONS:**

A. Proclamation, Proclaiming the month of April as Child Abuse Prevention Month, Sexual Assault Prevention Month and April 22-26, 2024, as Crime Victims' Rights Week

Mayor Rosener read the proclamation aloud which stated that Oregon had higher rates of domestic violence, sexual assault, and childhood trauma than the national average. He stated that child abuse and sexual violence were some of the most serious public health issues, with numerous studies documenting the link between trauma and a wide range of medical, emotional and psychological, and behavioral experiences with both short- and long-term effects. Mayor Rosener stated that children who experienced abuse were uniquely affected because they were still developing and therefore suffered lifelong effects to their physical and emotional health and that sexual violence resulted in people navigating long-term mental and physical health impacts. He stated that sexual violence, childhood abuse, and interpersonal crime effected people of all ages, races, and orientations, but disproportionately affected children and adults with vulnerabilities, communities of color, and those impacted by systemic inequities. He stated that the impacts of violence and abuse of individuals were expensive to our whole community and the prevention of these traumas was the best and most cost-effective method of ensuring a healthy and equitable community for all. Mayor Rosener stated that when harm did occur, "we are determined to respond by helping survivors find not only safety, healing and justice, but also equitable access to services, a sense of hope for their future, and the tools to rebuild their lives." He proclaimed April 2024 as Child Abuse Prevention Month, Sexual Assault Awareness Month and the week of April 22-26, 2024 to be Crime Victims' Rights Week; reaffirming the city's commitment to supporting a coordinated and collaborative community of providers that delivered intervention and prevention services of violence and abuse all year long.

Mayor Rosener addressed the next agenda item.

B. Proclamation, Proclaiming April 7-13, 2024, as National Library Week

Mayor Rosener read the proclamation aloud which stated that libraries provided the opportunity for everyone to pursue their passions no matter where they were on life's journey. He stated that libraries had long served as trusted institutions that strove to ensure equitable access to information and services for all members of the community regardless of race, ethnicity, creed, ability, sexual orientation, gender identity, or socio-economic status. He stated that libraries adapted to the ever-changing needs of their communities, developing and expanding collections, programs, and services that were as diverse as the populations they served; and libraries were accessible and inclusive places that promoted a sense of local connection, advancing understanding, civic engagement, and shared community goals. He stated that libraries played a pivotal role in the economic vitality of communities by providing internet and technology access, literacy skills, and support for job seekers, small businesses, and entrepreneurs; and libraries were treasured institutions that preserved our collective heritage and knowledge, safeguarding resources for present and future generations. He stated that libraries were an essential public good and fundamental institution in democratic societies that worked to protect the right to education and literacy and promoted the free exchange of information and ideas for all. Mayor Rosener proclaimed April 7-13, 2024 as National Library Week and encouraged Sherwood residents to explore the Sherwood library and engage with their librarian.

Mayor Rosener addressed the next agenda item.

8. CITY MANAGER REPORT:

City Manager Pro Tem Sheldon reported that the joint City Council meeting with the Sherwood School District would be held on April 10th. He reported that the State of the City event would be held on April 17th at the Arts Center.

Mayor Rosener addressed the next agenda item.

9. COUNCIL ANNOUNCEMENTS:

Councilor Standke reported on the most recent Planning Commission meeting where they discussed and approved LU 2023-017. He reported that Trashpalooza would be held on April 20th and encouraged residents to attend the event.

Councilor Mays stated he attended the first Charter Review Committee meeting and recapped the meeting. He stated the next Charter Review Committee meeting would be held in three weeks and reported that the Committee would review the charter recommendations from the LOC. He commented that he was pleased to see the Robin Hood Plaza shade canopies put up.

Councilor Brouse reported she attended the most recent Senior Advisory Board meeting where they continued their work making Sherwood an age-friendly city. She attended the Housing Advisory Committee and asked if any city staff would be assigned to work on the Homeless Services System City taskforce. Mr. Sheldon replied that the City of Tigard was responsible for hiring the person for that role and the City of Sherwood would provide a workspace for them to utilize when working in Sherwood. He noted that the City of Sherwood would be involved in the onboarding process. Councilor Brouse reported that Cruisin' Sherwood would be held on June 15th.

Council President Young reported she attended the most recent Region 1 Area Commission on Transportation meeting where they discussed transportation funding, gas taxes, and transportation maintenance needs. She referred to the Homeless Services System City program and explained that she had asked for clarification on the available tools to ensure that the City of Sherwood was receiving its 25% usage of the taskforce. She reported that the Police Foundation's Boots & Bling Gala would be held April 26th.

Mayor Rosener reported on his recent trip to Washington D.C. with City Manager Pro Tem Sheldon to lobby on behalf of Sherwood. He reported that the city had received \$1 million to use to expand Sherwood Broadband. He reported on his attendance at the Congressional City Conference with the National League of Cities. He reported that the WCCC had recommended approval of the full MSTIP package by the Board of County Commissioners. He reported that several Metro Councilors would receive a tour of Sherwood West on April 4th.

10. ADJOURN:

Mayor Rosener adjourned the regular session at 7:22 pm.

Attest:

Sylvia Murphy, MMC, City Recorder

Tim Rosener, Mayor

Agenda Item: Consent Agenda

TO: Sherwood City Council

FROM: Brad Crawford, IT Director
Through: Craig Sheldon, City Manager Pro Tem
Ryan Adams, City Attorney

SUBJECT: Resolution 2024-023, Authorizing the City Manager Pro Tem to apply for and sign a Broadband Deployment Program Grant application through the State of Oregon

Issue:

Shall the City Council authorize the City Manager Pro Tem to sign a grant application to fund bringing broadband services to unserved and underserved residents near the City of Sherwood?

Background:

That State of Oregon has received significant funds from the Federal Government to address the broadband deficiencies across the country. The State of Oregon has received \$156 million dollars through the Coronavirus Capital Projects Fund to address the gaps in broadband access in Oregon. These funds have been allocated to a grant program called the Broadband Deployment Program which was announced and opened on March 25, 2024. This grant program requires that the person signing the application is authorized by resolution to sign on behalf of the applicant.

Staff have reviewed the grant program and have located a few areas near Sherwood that would qualify for funding under this program. These areas adjoin other areas that Sherwood Broadband currently serves and therefore would make a natural extension of our broadband services. Additionally, with these areas being in close proximity to the city it will ease supporting those customers as they will be located in our service territory.

As Council may know the city has received funding/grants for other broadband projects and has had success completing those grants on-time and within budget. With the pre-engineering that has been done in this grant area and construction work done in the adjoining areas staff feel confident they could manage and complete this project under the grant terms. Furthermore, if awarded this grant staff will coordinate resources so that this project has minimal effect on the city's fiber to the home project.

Financial Impacts:

Due to the short timeline of the grant program the exact amount of requested funds is unknown nor the amount of matching funds or in-kind contributions. Staff can report back to Council at a later date on the actual funds requested.

Recommendation:

Staff respectfully recommends City Council approval of Resolution 2024-023, authorizing the City Manager Pro Tem to apply and sign a Broadband Deployment Program Grant application through the State of Oregon.



RESOLUTION 2024-023

AUTHORIZING THE CITY MANAGER PRO TEM TO APPLY FOR AND SIGN A BROADBAND DEPLOYMENT PROGRAM GRANT APPLICATION THROUGH THE STATE OF OREGON

WHEREAS, the State of Oregon has opened a grant program to bring broadband services to un and underserved Oregon residents; and

WHEREAS, Sherwood Broadband staff have reviewed the grant program handbook attached as Exhibit A and have located a few areas near Sherwood that qualify for this grant; and

WHEREAS, the grant conditions require that the City Manager Pro Tem be authorized by Resolution to sign on behalf of the applicant.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The City Manager Pro Tem is hereby authorized to sign the City of Sherwood/Sherwood Broadbands grant application for the State of Oregon’s Broadband Deployment Program.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 16th of April 2024.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder



American Rescue Plan Act - Capital Projects Fund: Broadband Deployment Program (“BDP”)

**Applicant’s Handbook & Program Guidelines (“BDP
Handbook”)**

March 2024

Introduction

The Oregon Business Development Department (“Business Oregon” or “Department”) and the Oregon Broadband Office¹ are pleased to provide the American Rescue Plan Act - Capital Projects Fund: Broadband Deployment Program Applicant’s Handbook and Program Guidelines (“BDP Handbook”). The Broadband Deployment Program (“BDP”) is supported by Coronavirus Capital Projects Fund moneys appropriated to the State of Oregon from the U.S. Treasury (“Treasury”) and is planned to run from 2024-2026. Before applying for BDP, parties should review and study the American Rescue Plan Act- Capital Project Fund (federal program) program’s [website](#)² to understand the federal rules, standards and obligations. The State of Oregon is eligible to receive an allocation from the U.S. Treasury of \$156,795,418 from the Coronavirus Capital Projects Fund established by Section 604 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021 (“ARPA CPF”). All Capital Project Fund moneys are subject to the federal Guidance published by the U.S. Treasury in September 2021³ (“Treasury Guidance”) as it may be updated from time to time.

States must select among the eligible uses outlined in the U.S. Treasury Guidance and create a Grant Plan for submission and approval by the U.S. Treasury. Oregon has elected to utilize its entire allocation to fund broadband infrastructure projects.

In 2022, the Oregon Broadband Office convened a Technical Working Group to gather input from industry experts, community leaders, and city/county associations⁴. Additionally, the Broadband Office held several Community Listening Sessions to gather input from residents, community leaders, and selected stakeholder groups⁵. This resulting Broadband Deployment Program (“BDP”) is an effort by the Oregon Broadband Office to respond meaningfully to public input and needs while adhering to Treasury Guidance for the ARPA CPF moneys.

The purpose of this BDP Handbook is to provide applicants and staff with a concise, easy

¹ ORS 285A.166 (statute establishing the Broadband Office within the Department).

² U.S. TREASURY | CAPITAL PROJECTS FUND <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>

³ GUIDANCE FOR THE CORONAVIRUS CAPITAL PROJECTS FUND FOR STATES, TERRITORIES & FREELY ASSOCIATED STATES, U.S. Department of the Treasury, September 2021, available at <https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf>.

⁴ Broadband Programs Technical Working Group: https://www.oregon.gov/biz/programs/Oregon_Broadband_Office/Pages/Technical_Working_Group_Meeting_Schedule.aspx.

⁵ Broadband Community Listening Sessions: https://www.oregon.gov/biz/programs/Oregon_Broadband_Office/Pages/Oregon_Broadband_Community_Listening_Sessions.aspx.

to use reference for BDP information pertaining to project development, eligibility, the application process, and conditions for an award. The content is organized into two sections, Program Information and Process. The information included is as specific as possible, however it is difficult to foresee and address the variety of project circumstances that exist in communities. The Project Coordinators at the Oregon Broadband Office will also serve as a resource for specific questions about application development. Contact information is available on the Oregon Broadband Office webpage,⁶

This BDP Handbook is based on current legislative statutes, administrative rules, U.S. Treasury Guidance and federal requirements located on the program webpage⁷, and Business Oregon department policy. This BDP Handbook is adopted as an Oregon Administrative Rule and any future revisions will be adopted as an Administrative Rule amendment or rule replacement by the Oregon Business Development Department. The BDP Handbook will be posted on the Oregon Broadband Office webpage.

Suggestions and comments regarding the American Rescue Plan Act - Capital Projects Fund:

Broadband Deployment Program and this BDP Handbook are always welcome. Please direct suggestions to:

Subject: Broadband Deployment Program Suggestion/Comment
To: Broadband.Oregon@biz.Oregon.gov

⁶ Oregon Broadband Office Webpage:

https://www.oregon.gov/biz/programs/Oregon_Broadband_Office/Pages/default.aspx.

⁷ U.S. TREASURY | CAPITAL PROJECTS FUND [https://home.treasury.gov/policy-](https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund)

[issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund](https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund)

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Program Information

Purpose

Business Oregon and the Oregon Broadband Office created the Broadband Deployment Program (“BDP” or “Program”) as the state’s sole program that will be funded by the American Rescue Plan Act, Coronavirus Capital Projects Fund (“ARPA CPF”). The Program will utilize funds paid by the U.S. Treasury to the State of Oregon to fund grant awards for the development of broadband infrastructure.

Governing Rules and Statutes

The BDP Handbook is published to give applicants guidance on eligible activities, application development, how to apply for funds, and how to administer projects financed by the Program. The Definitions contained in this Handbook apply only to this federally funded Broadband Deployment Program. In addition to this BDP Handbook and the federal requirements, applicants are directed to applicable state broadband statutes (ORS 285A.154-285A.181) and the corresponding broadband program rules found in OAR Chapter 123, Division 47. ORS 285A.181(1) specifically applies to loans or grants using moneys from the federal Coronavirus Capital Projects Fund.

“Underserved location” has the meaning provided in HB 3201 (2023), section 1a.(1)(a). That is, “underserved location” means, based on broadband mapping data published by the Federal Communications Commission or the State of Oregon, a location at which there is no service provider offering reliable wireline broadband service at a speed of at least 100 megabits per second for downloads and 20 megabits per second for uploads.

“Unserved location” means, based on broadband mapping data published by the Federal Communications Commission or the State of Oregon, a location at which there is no service provider offering reliable wireline broadband service at a speed of at least 25 megabits per second for downloads and three megabits per second for uploads.

“Served location” means a street address location where a household or business is currently served by a wired connection that reliably delivers at least 100 megabits per second (Mbps) of download speed and 20 Mbps of upload speed. (≥ 100 Mbps download AND ≥ 20 Mbps upload).

Identification of the type of location (as one of the 3 defined terms above) is key to grant use eligibility determinations and scoring. ARPA CPF grant funds may be used for costs associated with serving both underserved and unserved locations (“eligible locations”), but OBDD will prioritize applications that serve unserved locations by providing extra points for each unserved location.

Eligible Applicants

The following entities are eligible to apply for funding through this Program:

- Municipalities (as defined in ORS 285B.410(9)).⁸
- Private and for-profit entities
- Electric utilities
- Co-operatives
- Municipal affiliates (economic development corporations, regional planning and development councils, and councils of government)
- Nonprofit organizations

Note: All applicants for Program funding must have authority for their proposed Project. For example, while ports are generally eligible applicants as they are included within the definition of municipality, ORS 777.271 limits the authority of rural ports to acquire certain telecommunications infrastructure or facilities and to provide certain telecommunications services.

Partnership Applications

Eligible applicants may apply alone, as part of a regional partnership, as part of a public-private partnership, or as part of an existing formal or informal partnership. Applications that include multiple collaborating entities must designate a single eligible organization or entity as the lead and fiscal sponsor for the application.

Affordable Connectivity Program

To be eligible, all wired and wireless providers, whether applying directly or in partnership, **must** participate in the Federal Communications Commission's Affordable Connectivity Program (ACP), and also must include the Project area in the ACP. Applicants should, in their application, document any planned or current consumer outreach to raise awareness and encourage enrollment in the ACP program. For wired providers new to the ACP program, the FCC has published a Consumer Outreach Toolkit and may provide consumer experts to explain the ACP at events.

Federal Communications Commission – Broadband Serviceable Location Fabric

The Department will utilize the FCC's Broadband Serviceable Location Fabric ("Fabric") to advertise eligible locations, publicly display applicants' proposed service locations, monitor Project completion, and submit reports to the U.S. Treasury.

⁸ ORS 285B.410(9) provides: "Municipality" means an Oregon city or county, the Port of Portland created by ORS 778.010, a county service district organized under ORS chapter 451, a district as defined in ORS 198.010, a drainage district organized under ORS chapter 547, a tribal council of a federally recognized Indian tribe in this state, or an airport district organized under ORS chapter 838.

Awardees will be required to submit reports to the Department using Fabric ID numbers and street addresses. For more detailed information on the FCC's Fabric, including instructions for downloading and using the data, please visit the FCC's Broadband Data Collection ("BDC") Help Center online⁹.

Compliance with Existing Laws

Awardees shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to the Program or the Grant Agreement required for the Program award, except to the extent an order of a governmental authority is contested in good faith and by proper proceedings. In particular, but without limitation, Awardees shall comply with the following:

- (1) Federal American Rescue Plan Act and Coronavirus State Fiscal Recovery Fund requirements (codified as 42 U.S.C. 802), including all implementing regulations (31 CFR 35.1 et seq.) and other guidance promulgated by the U.S. Department of the Treasury
- (2) State broadband statutes (ORS 285A.154-285A.181)
- (3) Applicable broadband program rules found in OAR Chapter 123, Division 47
- (4) Applicable existing laws governing high speed internet service including but not limited to rules issued by the Oregon Public Utility Commission. For example, Oregon Administrative Rules (OAR) Chapter 860, Division 250 covers requirements for businesses providing internet service to a state, local, or special government body, including net neutrality requirements. OAR Chapter 860, Division 28 provides rules related to pole attachments, and the location and colocation of telecommunications facilities. OARs can be found on the Oregon Secretary of State [website](#).¹⁰
- (5) Oregon Tax Laws, including but not limited to a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and local taxes administered by the Department of Revenue under ORS 305.620.
- (6) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.
- (7) Applicable Prevailing Wage Laws.
 - A. **Federal requirements:** The Davis-Bacon Act (40 U.S.C. 3141 et seq.) provision requirements do not apply to Oregon Projects funded solely with award funds from the ARPA Capital Projects Fund. However, Awardees may be subject to the Davis-Bacon Act when ARPA Capital Project Fund grant funds

⁹ BDC Help Center: <https://help.bdc.fcc.gov/hc/en-us>

¹⁰ OR Secretary of State OAR Search: <https://secure.sos.state.or.us/oard/ruleSearch.action>

are used on a broadband construction project in conjunction with funds from another federal program that requires enforcement of the Davis-Bacon Act. See [GUIDANCE FOR THE CORONAVIRUS CAPITAL PROJECTS FUND FOR STATES, TERRITORIES & FREELY ASSOCIATED STATES](#), U.S. Department of the Treasury, September 2021 at page 12.

- B. State Requirements:** Corollary state prevailing-wage-in construction laws (commonly known as “baby Davis-Bacon Acts”) may apply to broadband projects funded from the ARPA Capital Projects Fund. See [GUIDANCE FOR THE CORONAVIRUS CAPITAL PROJECTS FUND FOR STATES, TERRITORIES & FREELY ASSOCIATED STATES](#), U.S. Department of the Treasury, September 2021 at page 12. State of Oregon prevailing wage rate requirements that may apply to a Project are set forth in ORS 279C.800 through 279C.870, the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) and [Oregon Laws 2021, chapter 678](#), section 17 (known also as HB 3011) (collectively, state “PWR”).
- i. **Public entity recipients.** For a “**public agency**” (defined as “the State of Oregon or a political subdivision of the State of Oregon, or a county, city, district, authority, public corporation or public entity organized and existing under law or charter or an instrumentality of the county, city, district, authority, public corporation or public entity”), the threshold for public works projects for which PWR applies is **\$50,000**. See ORS 279C.810(2)(a).
 - ii. **Private entity recipients (nonprofit or for-profit entities).** Public works projects include a private entity’s project and PWR will apply only if the private entity receives **\$750,000** or more of “**funds of a public agency**” “for constructing, reconstructing, painting, demolishing, removing hazardous waste from, or performing a major renovation on, a road, highway, building, structure or improvement of any type” for that project. ORS 279C.800(6)(a)(B). “Funds of a public agency” includes grants provided by a state agency and thus grants provided by Business Oregon, a public agency, from the ARPA CPF to a private entity will qualify.

Due to the complexities of PWR and specifically HB 3011 (2021) that only applies to American Rescue Plan Act moneys, applicants/awardees are encouraged to review the PWR requirements carefully, consult with their own counsel, and contact BOLI with PWR questions.

Eligible Projects, Locations, and Activities

Eligible Projects

(1) The sole eligible activity for this Program's funds is the construction and deployment of Broadband Infrastructure Projects ("Projects") that offer reliable minimum 100/100 Mbps broadband service to locations lacking at least 100/20 Mbps reliable service.

(2) While Treasury Guidance is focused on providing wired service at the requisite speeds, pursuant to ORS 285A.166(2)(e), the Department promotes technology and provider neutrality by focusing on desired outcomes rather than specific technological solutions. Therefore, Projects that utilize wired or wireless solutions are both eligible so long as their deployed service meets or exceeds the standards set forth in the End User Speed Requirements and Service Quality Requirements sections below.

(3) Eligible Projects are those that will primarily construct and deploy broadband infrastructure. "Broadband Infrastructure" means physical real or personal property used for the transmission of data that provides broadband services to locations in Oregon. Infrastructure includes but is not limited to facilities, cables, fiber optics, wiring, or other permanent (integral to the structure) infrastructure. For example, Projects that solely fund customer premise equipment, such as satellite receivers, and do not represent any permanent investment in the State's connectivity are not eligible Projects under the BDP.

(4) Per U.S. Treasury requirements, all **ARPA CPF moneys must be expended by December 31, 2026**. However, the Department requires that **Projects must be completed by September 30, 2026**, to ensure the Department can meet its federal requirements. To ensure compliance, Awardees must **submit final disbursement requests to the Department by December 1, 2026**.

Overbuild Eligibility Restrictions

Projects that traverse locations served by 100/20 Mbps wired service are eligible for Program grants if the number of served locations passed by the Project's service route is less than or equal to 20% of the Project's total proposed eligible locations. Projects that traverse locations served by 100/20 Mbps service and the number of served location passed by the Project's service route is greater than 20% of the Project's total proposed eligible locations will be considered an ineligible overbuild Project. Grant funds may not be used for service drops, end user connections, and other costs related to served locations, i.e. locations with existing wired 100/20 Mbps service, as such costs are ineligible overbuild costs.

Line Extension Eligibility Requirements

Grant funds may be used to cover costs to extend last mile service to hard-to-reach locations. Awardees may use Program funds to pay for all such costs or pay a portion of such costs customarily paid for by customers in hard-to-reach locations, including but

not limited to costs for trenching, conduit, splicing, Network Interface Devices, installation, and turn-up.

Middle Mile Eligibility Requirements

Grant funds may be used to cover middle mile infrastructure costs only if necessary for the deployment of eligible last mile locations. Applications that include middle mile work will be scored based on the eligible locations that will be served by the Project.

End User Speed Requirements

Projects are eligible for grant funding only if the Project's infrastructure is designed to deliver, upon completion, **service that reliably meets or exceeds download and upload speeds of 100 Mbps ("100/100 Mbps") for customers at all proposed service locations.** Upon completion, the Department may request documentation to demonstrate Project locations are served by such minimum speeds.

Service Quality Requirements

Proposed Projects must be designed and built to provide end users at all proposed locations with the following:

- (1) Minimum Speed: 100/100 Mbps
- (2) Network Capacity: Service must remain available at or near minimum speeds to all proposed locations, regardless of peak network load times.
- (3) Latency: End users must be able to access health, education, and remote work resources with a measured latency less than 100ms.
- (4) Data Caps, Throttling: Projects must provide service with un-throttled, full-speed data usage allowances of at least 1 terabyte per month for all subscription plans offered to end users at Project locations.

Allowable Costs/ Grant Disbursement Requirements

The Department will primarily award grant funds for the design, engineering, permitting, purchase, installation, and construction of broadband infrastructure necessary to complete a Project. All such Project costs are eligible for grant reimbursement. Grant funds may also be awarded for the purchase and installation of customer premise equipment and the installation of conduit or other costs associated with customer drops. All grant funds will be disbursed to Awardees on a reimbursement basis, requiring grant Awardees to submit a cost invoice for the Department's review and approval before disbursement. The Department will make final determinations on cost eligibility at its sole discretion. All disbursements will also be subject to the Project Timeline and the not-

to-exceed grant award amount. Awardees shall complete the Project and use its own fiscal resources or money from other sources to pay for any costs of the Project in excess of the total grant amount.

Recycled Materials

Awardees are encouraged to utilize recycled materials, such as conduit, to the best of their ability.

Ineligible Activities

The following are ineligible activities for Program grants:

- (1) Service drops to locations outside of State boundaries.
- (2) Permitting, planning, or development of communications facilities outside of State boundaries not directly necessary to serve in-State locations listed in an awarded Project.
- (3) Middle mile Projects that:
 - A. Do not connect to a last mile network that will serve eligible locations;
 - B. Only serve commercial or institutional end users; or
 - C. Only have capacity to serve a specific designated end user or lack the capacity to enhance passed communities.

Ineligible Costs

- (1) Awardees may not buy materials and resell them to the Project (as a component of the Awardee's capital contribution to the Project, or as an expenditure paid for with grant funds) at a profit.
- (2) Awardees may not request reimbursement for costs incurred prior to the award date.
 - A. The Department will, at applicant's request, reimburse eligible costs incurred after award but prior to grant agreement execution. Reimbursements are subject to agreement execution and payment will occur only after full grant agreement execution.
 - B. Awardees may not request reimbursement for surplus materials not used in the Project. If Awardee purchases in bulk for a better price, the reimbursable amount of material used should be limited to the actual amount used in the Project.
- (3) Other ineligible costs (as determined by the Department) include:
 - A. Personal expenses not directly related to the Project's construction (example: food and beverage, equipment maintenance).
 - B. Operational costs.
 - C. Expenses related to the provision of over-the-top services such as telephone

or video services which are not necessary for the delivery of broadband service. Battery backup devices that support broadband during power outages are an allowed expense.

- D. Fundraising activities.
- E. Political endorsements, donations, or advertisements.
- F. Computers or office equipment.
- G. Vehicles as defined in ORS 801.590.
- H. Retiring debt.

- (4) Any requests for grant reimbursements after the grant agreement's closeout deadline are ineligible.
- (5) The eligibility of costs is further subject to federal requirements and restrictions as they may be provided over time.

Project Priorities

The following priorities will be implemented through the Department's Application Scoring process. Further details will be given in the Application Scoring section of a specific funding announcement.

Key Priorities

- (1) Extra points will be given to applicants who will **serve unserved locations** (lacking service that reliably meets or exceeds 25 Mbps download and 3 Mbps upload). Applicants will receive 10 points per location for each unserved location they propose to serve and 5 points per location for each eligible underserved location they propose to serve.
- (2) Extra points will be given to Projects that **address affordability** as a barrier to full use of the internet. Applicants whose 100/100 Mbps service package costs consumers \$50 or less will receive an additional 2 points per proposed location in the scoring process. Applicants whose 100/100 Mbps service package costs consumers \$30 or less will receive an additional 5 points per proposed location in the scoring process. Applicants must covenant that these prices will remain in effect for 5 years after the Project closeout date.

Additional Priorities (see scoring details in Application Review Criteria and Scoring Section)

- (1) A bonus score percentage will be given to applications seeking to **close the Digital Divide at a regional scale**, through unincorporated areas, and across city and/or county boundary lines. In circumstances where the Department receives applications that are nearby but leave unserved space between, the Department may request proposal amendments that address the unconnected space between the proposed Projects.

- (2) A bonus score percentage will be given to applications that involve **broadband networks owned, operated by, affiliated with, or in otherwise formal partnerships with local governments, non-profits, and co-operatives**. A letter of support does not constitute an affiliation or formal partnership.
- (3) A bonus score percentage will be given to applications that have a Project that is **planned, permitted, and ready to proceed** (satisfaction of this priority shall be determined by Department after reviewing applicant’s documentation). Such Projects should be planned, pre-engineered, have secured necessary easements and permits, have standing agreements or MOUs, have a detailed construction schedule, and the applicant should demonstrate prior experience completing projects of similar scale in a timely manner.
- (4) A bonus score percentage will be given to applications with **Projects in areas or census blocks where there is a high level of social vulnerability**¹¹. The Oregon Broadband Office has included a Social Vulnerability Index layer on its State Broadband Map¹².

Type of Financial Assistance Available

Awards made through the ARPA CPF-funded Broadband Deployment Program will be made as grants for reimbursement of eligible costs unless otherwise allowed by the Department and provided in the grant agreement.

Grant Amount Information

The maximum grant award amount is \$20,000,000 per applicant. The Department will determine the award amount and may offer an award amount lower from that which was requested in an application.

Process

Application Process Overview

- (1) Application Submission (30-day window)
 - A. Applicants shall submit geographic data describing their Project.
 - B. Applicants shall submit a full application packet containing all the required elements described in the “Application Contents” Section below.
- (2) Curing Period (14-day window)
 - A. Department Staff will publicly post application packets and geographic data

¹¹ Oregon State University’s Social Vulnerability Index Technical Documentation:

https://oe.oregonexplorer.info/externalcontent/wildfire/metadata/Technical_Information_SVI_SB762.pdf

¹² Oregon Broadband Mapping Tool:

https://tools.oregonexplorer.info/geo_agol_viewer/index.html?viewer=broadband#

associated with proposed Projects on the Broadband Office website and the Oregon Broadband Map once each packet is reviewed and confirmed by the Department as credible and meeting minimum requirements.

- B. For 14 days after posting applications publicly, applicants will have the opportunity to communicate directly with one another.
- C. Applicants may revise and resubmit their application packets and proposed service locations during this window. This process is designed to allow applicants to resolve potential conflicts before either competing over the same locations or submitting a formal challenge.

(3) Challenge Period (30-day window)

- A. After the Curing Period, the Department will review resubmitted and revised applications to confirm they are credible and meet minimum requirements. Once confirmed, the Department will publicly post updated application packets and geographic data associated with proposed Projects on the Broadband Office website and the Oregon Broadband Map.
- B. Once all confirmed application packets are publicly posted, the Department will accept challenges for 30 days. Full details on the Challenge Process can be found in the section titled “Public Comments and Challenges.”

(4) Department Evaluation and Application Review

- A. After the Challenge Period, the Department will evaluate applications for completion based on the “Application Contents,” “Application Review Criteria and Scoring,” and “Project Priorities” sections of this Handbook, as well as the funding notice.
- B. The Department may utilize a qualified third party to assist in application review.
- C. The Department will score each application as provided in the Application Review Criteria and Scoring section of this Handbook.
- D. The Department will forward the Challenges and Public Comments along with the applications and scores to the Oregon Broadband Advisory Council’s (OBAC) Grant Application Review Committee or other statutorily directed reviewing body.
- E. The reviewing committee or body will review the Department’s recommendations, applications, scores, challenges, and comments and provide recommendations back to the Department.

(5) Award Announcement: The Department will review the recommendations and make final award determinations, announcing Awardees and providing a letter of intent to award to each Awardee. The grant awards may be in an amount less than that requested in the application.

(6) Grant Agreement Negotiation: Most provisions of the grant agreements will be non-

negotiable, and the Department will be utilizing a grant agreement template. The terms of the Project may be negotiable if the award is significantly less than requested.

- (7) Performance: Unless otherwise stated, Awardees will have until September 30, 2026, to complete the Project.
- (8) Close-out: Awardees will have 90 days from completion to close out the Project by completing final reporting requirements. Final disbursement requests must be submitted to the Department by December 1, 2026.

Application Information

Application windows will be defined with specificity in separate funding notices, including Requests for Grant Applications (RFGAs). Applications meeting Program requirements will be posted publicly on the Oregon Broadband Office webpage.

Application Contents

Applications shall contain all the following information (and additional information required by notice of funding, etc.):

Applicant Information:

- A. Applicant Name
- B. Applicant Organization Chart
 - Corporate structure
 - Staff and management structure responsible for Project execution
- C. Denote any partnerships or co-applicant relationships (details to be provided in Project Readiness Section)
- D. Demonstration of experience managing projects of this type and scale
- E. Provide the last three years of applicant's audited or reviewed financial income statements, balance sheet and cash flow statements
- F. History of relationship with involved municipalities and providers
- G. Project Name

Project Contacts:

- H. Name, Position, Email address, phone number
- I. Additional contacts and contact details
- J. Authorized executive or elected official of the Project application

Project Description:

- K. Project locations: Number of locations that will receive service from the Project and upload file with Fabric Identification Number and latitude/longitude for each proposed location to be served.

- L. Description of technology to be deployed (both throughout network and to all customers). If wireless technology will be used, indicate where, why, how many locations, and how it will achieve qualifying speeds set forth in the “Service Quality Requirements” section of this Handbook.
- M. Number of fiber miles to be deployed (if applicable)
- N. Method of infrastructure deployment (aerial, buried, mixed)
- O. Network Design & Capacity (middle mile and last mile): A brief description of the system design that will deliver service from the network’s primary point(s) of presence to end users, including network components that already exist and ones that would be added by the proposed Project. Provide an explanation of whether the existing middle mile capacity will support the proposed buildout Project and whether the proposed Project includes additional middle mile capacity.
- P. Network ownership and operation model: Provide explanation of who will own the built infrastructure and who will serve as the Internet Service Provider for the Project. Note whether the provider has or will have a local office capable of responding to service calls, new service requests, and network outages in a timely manner.
- Q. Type of Customer Premise Equipment (CPE) needed for new customer enrollment.
- R. Project Management Plan and estimated timeline for completion of the Project’s key components.

Project Readiness:

- S. Describe current state of Project development (planning, engineering, permitting, existing agreements/relationships, network design, etc.).
- T. Provide a detailed Project Timeline and construction schedule. Identify specific tasks, staff, contractors, data collection, and estimated start/completion dates. Provide narrative about any anticipated barriers to timely completion of the Project (permitting on federal lands, railroad crossings, etc.).
- U. Describe plans to promote customer take rates, including marketing activities, outreach plan, and other actions planned to reach identified serviceable locations. Provide an estimated take-rate and the basis for the estimate.
- V. Describe history of managing similar projects and grants.
- W. Affiliates & Partnerships: Please provide a narrative describing any affiliates or partners associated with the Projects’ planning, promotion, adoption, or use. Describe each party’s commitment and role in the Project. Include any community anchor institutions (CAI) such as municipalities, chambers of

commerce, economic development organizations, educational institutions, healthcare organizations, libraries, public safety or other CAIs along with business, non-profits and other community stakeholders.

- X. **Affiliates & Partnerships Letters of Commitment:** provide letters of commitment outlining the explicit commitment and role of committed partners/affiliates. For multiple partners/affiliates, please consolidate into a single PDF or ZIP file. Each letter should include the following as applicable:
- Dated letter with official organization's logo at top of letterhead
 - Identification and explanation of the partner relationship and the role of the organization in the Project
 - Approving person's signature authorizing the partnership commitment
 - Planning, Engineering, and/or Construction partners: description of service/ role with their validated estimated costs in proposed Project Budget
 - Confirmation of partner's/affiliate's ability to complete their specific service / role in the Project within the performance period
 - Co-Investment partners: description of co-investment funding source and the amount of co-investment
 - Financial partners: description of role and amount for the Project

Amount of Grant Funds Requested & Budget Information:

- Y. If requesting funds to serve multiple distinct areas that are part of a single grant application, provide a delineated budget for each sub-project.
- Z. Budgeted expenses should be substantiated by clear cost estimates. Include copies of vendor quotes or documented cost estimates supporting the proposed Project Budget as attachments. Project Budgets must reflect only allowable costs consistent with proposed Project scope.
- AA. Provide a Project Budget (spreadsheet) that outlines how requested grant funds will be used, including an itemization of equipment, construction costs, and a justification of proposed expenses. In addition, the application shall include the following budgetary materials:
- Budget Narrative
 - Explanation of costs that correspond with the information included in the Project Budget spreadsheet, including an explanation of the necessity and basis for costs
 - Bill of Materials
 - Infrastructure Spreadsheet (more detailed than Project Budget)

When submitting the above Project budgetary materials, applicants must

use the appropriate detailed Infrastructure Spreadsheet Template (Fiber, Wireless, Hybrid Fiber – Wireless and Mobile Wireless). All applicants must complete and submit a Project Budget using the provided Budget Template, which includes the associated Bill of Materials.

- BB. Applicants must include the applicant’s match and any co-investment details (revenue sources) in their Project Budget. The amount of revenue sources (excluding the BDP grant) provided should include both a total amount and detailed accounting to support the claim. These can be confirmed commitments, pending commitments, or planned revenue sources. Note that the Department will require verification of funds sufficient to complete the Project before disbursing grant funds to any Awardee and the Grant Agreement will contain provisions to that effect.

Community Support & Letters of Support (optional but used in scoring):

- CC. Provide a narrative describing any community support associated with the Projects’ planning, promotion, adoption, or use. Describe each organization’s support or commitment and their role in the Project. Include any community anchor institutions (CAI) such as municipalities, chambers of commerce, economic development organizations, educational institutions, healthcare organizations, libraries, public safety or other CAIs along with business, non-profits and other community stakeholders.
- DD. Letters of Support: provide letters of support of the Project application, outlining the role of supporting organizations and any explicit commitments. For multiple letters, please consolidate into a single PDF or ZIP file.

Confidentiality

- (1) Applications will be posted to the Department website and will also be a public record that is subject to disclosure under Oregon Public Records Law except for material that qualifies under a public records exemption. The Department will redact from disclosure only material exempt from the Oregon Public Records Law.
- (2) Applicants are responsible for requesting that certain elements of their application remain confidential, such as specific financial information, network design elements that may pose a cybersecurity risk, or proprietary network design information. The Department will follow Oregon Public Records Laws in making disclosure decisions.
- (3) When submitting materials to the Department, it is the applicant’s responsibility to only mark material that they believe reasonably qualifies under an exemption from disclosure. To designate a portion of an application as exempt from disclosure under the Oregon Public Records Law, the applicant shall: (a) Clearly identify in the body of the application only the limited material believed to qualify as a trade secret or

qualifies under another exemption under public records law; (b) Identify the public records law exemption the applicant believes applies; and (c) Provide a justification for how each portion designated as exempt meets the criteria under the public records law.

- (4) Applicants are advised to consult with legal counsel regarding disclosure issues. Applicants may wish to limit the amount of confidential information submitted, providing only what is necessary to submit a complete and competitive application.

Evidence of Federal SAM Enrollment

All applicants must register in the Federal System for Award Management (SAM) at <https://www.sam.gov> and provide a Unique Entity ID number with their submitted application. SAM registration must be active with current data at all times, from the application review throughout the active award period. To maintain an active SAM registration, the applicant must review and update the information in the SAM database annually from the date of initial registration or from the date of the last update. Applicants must ensure that the information in the database is current, accurate, and complete.

Authorization to Apply

Applications from municipal entities or affiliates must be signed by the applicant's highest elected official or a properly authorized official. Documentation that verifies the official's authorization to sign on behalf of the applicant such as a resolution, ordinance, order, governing body meeting minutes, or charter must be submitted with the application.

Eligibility and Application Mapping

Prior to opening the application window, the Department will publish a list of all eligible locations in the State "Eligibility Map". Eligible locations shall be any location lacking service that reliably meets or exceeds speeds of 100/20 Mbps, i.e. underserved location or unserved locations.

The Eligibility Map published by the Department will contain street-address level data on service availability. Applicants are expected to carefully submit applications that reflect each individual location they propose to serve. Potential challengers will also be expected to place challenges at the same level of detail.

Proposing to Serve Ineligible Locations

If an applicant has data demonstrating the Eligibility Map is incorrect, the applicant may include otherwise ineligible location(s) in the proposed Project so long as the applicant provides data capable of adequately demonstrating that the location(s) in question have service levels beneath the eligibility threshold. Such data may be in the form of speed

tests, resident testimonials, or - if the applicant is the provider for the locations in question - network design information.

The Department may request additional information from applicants whose proposed Project contains locations listed as ineligible according to the Eligibility Map.

Public Comments and Challenges

Public Comments

All received applications, after confirmed by the Department as credible and meeting minimum requirements, will have their proposed Project publicly displayed on the Oregon Broadband Map. Any member of the public may submit comments in response to a posted application.

Challenging an Application

For a 30-day period, grant applications requesting funds from the Program will be open to formal challenges. Prospective challengers are strongly encouraged to contact applicants directly and discuss the contested Project locations or components before submitting a formal challenge, i.e. during the Curing Period.

Formal challenge submissions are reserved for broadband service providers that would be directly impacted by the Project described in an application for the development of broadband service infrastructure.

The Department will only consider challenges that effectively demonstrate that the proposed Project will result in an ineligible overbuild, e.g. because the challenger currently provides broadband service to a portion of the applicant's proposed locations at speeds equal to or greater than 100/20 Mbps, or has an enforceable commitment to provide broadband service at speeds equal to or greater than 100/20 Mbps to a portion of the applicant's proposed locations by a date that is earlier than the challenged application would do so.

For challenges claiming an applicant's proposed service locations are currently served by 100/20 Mbps wired service and therefore ineligible for this program, the Department will require the challenger to challenge those same locations on the FCC National Broadband Map.

The burden for proving claims made within submitted challenges will fall on the challenging entity, whose responsibility it will be to provide enough evidence to fully support their claims. Incumbent providers submitting a challenge on the basis of their own existing service availability must provide for the Department's inspection specific geographic and speed test information that fully supports their claim (See Appendix C – Speed Test Requirements).

The Department will provide a Challenge Intake Form alongside funding notices. Challengers shall utilize such a form and it shall serve as an affidavit to the facts of a challenge.

Challenge Outcomes

If a challenge effectively demonstrates service availability at an applicant's proposed locations, the Department will uphold the challenge and reject or request modifications for the relevant application and its associated Project. The following procedures apply:

- The applicant's proposed locations for which a challenger has demonstrated the existence or construction of 100/20 Mbps service will no longer contribute to an application's score.
- If a challenged applicant receives an award, expenses incurred in serving end users at the successfully challenged locations will be ineligible for grant reimbursement if overbuilt. The Department may reduce the award on a pro-rated basis.
- See "Overbuilding Eligibility Restrictions" section for more information.

Persistence or Dismissal of Challenges

Unless dismissed, challenges submitted in response to an application will remain attached to and be considered alongside an application for as long as the challenged application remains in consideration for grant funding.

The Department may reject or otherwise dismiss a challenge, and its decision will be final. The Department will notify a challenger in the event their submission is rejected or otherwise dismissed. Rejected or dismissed challenges will not be considered alongside applications.

Abuse and Disqualification

The Department may dismiss a challenge if the Department determines, in its sole discretion, that the entity's challenge is an abuse of the challenge process. Reasons for such a determination may include, but are not limited to, the following:

- Serial submission of meritless challenges;
- Intentional repeated challenges of a single project;
- Multiple challenges containing no supporting information; or
- Harassment of Department staff, applicants, or subject community members.

For entities found to have abused the challenge process, the Department may deny their eligibility to participate in, apply for, challenge, or appeal any current or future Broadband Programs. Dismissed challenges will not be considered alongside applications.

Application Review Criteria and Scoring

The Department will evaluate applications requesting grant funds through the Program for each round of funding. The Department review will be conducted as provided by OAR Chapter 123, Division 47. Additionally, the Department may use a third-party telecommunications specialist and engineer to review proposals.

The Department will (1) apply a points system to the Proposed Infrastructure Project (See Appendix C for sample Score Sheet) and (2) apply a percentage score to the Application Contents. The Total Project Score will be multiplied by the Application Contents percentage score for an Overall Score. A Score per Location will be calculated to help compare small and large projects.

Application Contents Scoring (Total Maximum Score of 100%):

In general, the Department will be evaluating whether the required Application materials are provided (detailed above in “Application Contents” section) for each of the following five areas. Quality and content of the response will be considered in arriving at a score for each area.

- Applicant Information & Project Contacts (10%)
- Project Description (30%)
- Project Readiness (30%)
- Amount of Grant Funds Requested & Budget Information (20%)
- Community Support & Letters of Support (10%)

Proposed Infrastructure Project Scoring

Raw Project Score

This scoring will use a matrix (See Appendix C or find an interactive version on the Broadband Office Website) to award points based on the following “**Key Priorities**”:

- (1) Number of Unserved Locations (lacking 25/3 Mbps service) (see details on scoresheet for points per location)
- (2) Total Number of Eligible Locations proposed (between 25/3 Mbps and 100/20 Mbps) (see details on scoresheet for points per location)
- (3) Subscription cost for 100/100 Mbps package (point details on scoresheet)
- (4) Match Amount (points per percentage of match; see details on scoresheet)

$$[(1)+(2)+(3)+(4)] = \text{[Raw Project Score]}$$

Priorities Bonus

Each Project meeting one or more of the following four “**Additional Priorities**” will receive a 5% bonus to the calculated Raw Project Score, for each priority up to a maximum 20% bonus. Refer to “Project Priorities” section for a more detailed explanation

of this evaluation criteria.

- (1) Project closes the Digital Divide at a regional scale
- (2) Project involves broadband networks owned, operated by, affiliated with, or in otherwise formal partnerships with local governments, non-profits, and co-operatives
- (3) Project is planned, permitted, and ready to proceed
- (4) Project located in areas or census blocks where there is a high level of social vulnerability

(See “Project Priorities” section above for further details and note the difference between “Key Priorities” and “Additional Priorities”).

$$5\% * [\text{number of each of above additional priorities met}] = [\text{Priorities Bonus}]$$

Scoring Formulas (putting Application Contents Scoring and Proposed Infrastructure Project Scoring together)

The Department will use the following formulas to score and compare Projects:

$$[\text{Raw Project Score}] * [\text{Priorities Bonus (+5\% for each)}] = [\text{Total Project Score}]$$

$$[\text{Total Project Score}] * [\text{Application Contents \%}] = [\text{Overall Score}]$$

$$[\text{Overall Score}] \div [\text{total \# of proposed locations}] = [\text{Score per Location}]$$

The Department will provide a sample Scoresheet for applicants to fully understand how their proposed Project will be evaluated. See Appendix C – Infrastructure Project Scoring for a sample score sheet. The full Scoresheet will be available online alongside the Handbook.

Rankings

After scoring applications in the manner described above, Department staff will sort Projects according to their score relative to all other applications. Each Project will receive a ranking based on their Overall Score and their Score per Location.

Those rankings will be averaged into a composite ranking. For example, a Project that ranked 4th in Overall Score and 10th in Score per Location would receive a composite ranking of 7 ($[10+4] / 2 = 7$). Projects whose composite rankings are identical will be considered as equals.

Tiebreakers

The Department will generally make awards to the Projects with the highest composite rankings. If a situation arises where two or more equally ranked Projects are under

consideration for an amount of funds that cannot support a full award to the tied applications, the Department may exercise its discretion in selecting the final Awardees.

Reservation of Rights

The Department reserves the right to reject any application or withdraw any intent to award upon finding that to accept the application or make the award may impair the integrity of the solicitation process or that such rejection or withdrawal is in the best interests of the Department.

The Department is not liable for any costs an applicant incurs while preparing or presenting its application or during further evaluation stages.

Notice of Decision

Business Oregon will notify applicants of the decision regarding individual applications, providing the following information:

- Completeness/rejection
- Evaluated Score & Rankings
- Grant Review Committee Date or meeting date of other applicable reviewing entity

Contract Administration (Grant Agreement)

Business Oregon will disburse funds only after entering into a contract with the Awardee (grant agreement). The grant agreement will include, but will not be limited to, provisions regarding the following:

- (1) Project Description. Details of the Project Description are subject to negotiation.
- (2) Conditions precedent requiring documentation that all other funds necessary to undertake and complete the Project have been committed and are available.
- (3) Covenant that the Awardee will proceed expeditiously to complete the Project as defined in the Grant Project Description by September 30, 2026.
- (4) Certification that a registered professional engineer or qualified telecommunications specialist will be responsible for any engineering or network design that takes place during the Project.
- (5) Reporting and invoicing requirements. Awardees shall be subject to transparency and both state and federal reporting requirements including, but not limited to, reporting, tracking, and documentation of incurred costs, and providing access to records related to the Project. For a period of up to six (6) years after Project completion, Business Oregon may request that the Awardee, at its own expense, submit additional data related to the Project for reporting purposes.
- (6) Grant disbursement requirements and conditions. Business Oregon will make Grant disbursements under the Award as reimbursements for actual work performed. Awardees must adhere to the Project Description and submit proof of expenses when

seeking reimbursement. The Department will consider but may deny requests for advance payments not to exceed \$20,000.

- (7) Agreement default and remedies terms. Grant agreement will contain provisions for nonperformance and other defaults including failure to meet the submitted work schedule and/or Project Budget.
- (8) Awardee (grant recipient) attestations that will include substantially the following:
- Recipient is in good financial standing with the State of Oregon
 - Recipient is not currently involved in pending litigation in association with previous Oregon-sponsored broadband infrastructure grant projects
 - Recipient is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any federal department or agency
 - Recipient has not, within a three-year period preceding the Agreement execution, been convicted of or had a civil judgment rendered against them for the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; or been in violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property
 - Recipient is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local)
 - Recipient has not within a three-year period preceding the Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.
 - Recipient is participating in subsidy programs to optimize digital inclusivity. (i.e., Lifeline, Affordable Connectivity Program, Emergency Connectivity Fund etc.)
- (9) Requirements to comply with applicable law. In administering contracts, Business Oregon will utilize standards that adhere to the most recently issued guidance from the U.S. Treasury¹³ and the most recent applicable state law.
- The Federal Interest Period for funded Projects substantially completed by December 31, 2026 will last until December 31, 2034. Detailed terms to be included in contracts are explained in the U.S. Treasury's May 17, 2023 "Supplementary Broadband Guidance" document which is available on the U.S. Treasury Capital Projects Fund webpage.

¹³ Capital Projects Fund | U.S. Department of the Treasury - <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>

Other Program Information

Funding decisions will be based on applicable law in place at the time of the award and the applicable solicitation document, including any Addendum. Awardees must be timely in keeping Department staff well informed of the progress of activities and any significant changes to a Project. Amendments to the grant agreement may be required when there are changes to the Project's costs, Project Budget, Project Description, or time frame for completion. Failure to gain prior approval for amendments could result in ineligible expenses, a delay in reimbursement, or a breach of the grant agreement with other appropriate levels of remedy.

Remedies

Broadband Deployment Program funds will be disbursed only after a grant agreement is executed by the applicant and Business Oregon. This contract will detail the terms and conditions under which financial assistance is provided. In the event an applicant fails to comply with these terms and conditions, Business Oregon may pursue any remedies available under the grant agreement, at law or in equity. Such remedies include but are not limited to: termination of Business Oregon's obligation to make the Grant or any further Grant disbursement under the Agreement; repayment of all or a portion of the Grant amount and payment of interest earned on the Grant amount; and making the Awardee ineligible for the receipt of future funds from Business Oregon.

Appendix A – Speed Test Requirements

As outlined in the BDP Handbook, the Department reserves the right to request verified speed tests on all or portions of an Awardee's, Applicant's, or Challenger's pre-existing or grant-funded network. Upon the Department's request, a verified speed test must be conducted between 6pm and 11pm and be distributed throughout the locations in question.

Speed tests can take four forms:

- (1) A reading of the physical line speed provided by the residential gateway, (i.e., DSL modem, cable modem (for HFC), ONT (for FTTH), or fixed wireless subscriber module)
- (2) A reading of the speed test available from within the residential gateway web interface
- (3) A reading of the speed test found on the service provider's web page
- (4) A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using speedtest.net or other Ookla-powered front ends or M-Lab's speed test services

The Awardee/Applicant/Challenger must provide results of speed testing in a CSV file with the following fields:

- Fabric Location ID number
- Address Number
- Street (address number and street in separate columns)
- Test device ID (IMEI, etc.)
- Test location latitude
- Test location longitude
- Test Date
- Test Time
- Upload Speed (Mbps)
- Download Speed (Mbps)
- Latency
- Test height at which compliant speed was recorded (if using pole-mounted equipment to demonstrate speeds at awarded locations)
- CPE used to record compliant speed
- Test Server IP Address

Appendix B – Previously Funded Locations

Applicants must do their due diligence to determine if their proposed Project has been in whole or in part awarded other state or federal broadband funds. These programs include, but are not limited to, Connect America Funds II (CAF II), United States Department of Agriculture (USDA) Reconnect, USDA Community Connect, Alternative Connect America Cost Model (ACAM), and the Rural Digital Opportunity Fund (RDOF).

Federally and state funded locations with existing agreements to build service to, or are currently served with, access to internet at speeds less than 100/20 Mbps are eligible to submit applications through BDP. However, federally or state funded locations with service obligations at or over 100/20 Mbps will not be considered for the Program.

In some cases, recipients of federal or state funds were awarded funding to provide service at less than 100/20 Mbps but provide service over this threshold. In instances where the network infrastructure in the previously funded locations under this scenario has been constructed, an internet service provider must submit a challenge on the basis of actual serviceability in the previously funded locations. In instances where network infrastructure has not been constructed in the previously funded locations, a challenger may provide speed test data from existing service locations to be considered as that provider's capability to provide service over the 100/20 Mbps threshold. Please see Appendix A for additional guidance on the number of speed tests required and acceptable practices for conducting speed tests. In instances where possible, the Department encourages local governments to explore partnerships with internet service providers which received the previous state or federal award to upgrade coverage in these locations. **The Department will allow grant funds to be used only to cover the difference in cost between providing the originally proposed speeds and speeds that meet standards of this Program.**

In the event an applicant has been awarded federal broadband funds, the applicant cannot use those funds as matching funds for this Program. However, applicants are encouraged to leverage any federal award and apply for BDP funding to extend service to locations beyond those that were awarded federal funds or to improve a federally awarded project to standards outlined in this BDP Handbook.

Appendix C – Infrastructure Project Scoring Sample

The Department will share a functional version of this scoresheet along with an announcement of funding availability. This is an example of a project which would build 100/100 Mbps service to 500 locations, 67 of which are unserved; would charge \$50/month for the 100/100 package; would provide a 25% match; meets additional priorities; and was accompanied by an application that scored 100%. Please visit the Program webpage for a downloadable copy of the scorecard.

Project Details			
Deployment Characteristics		# of locations	Points explained
Total number of locations to be served by proposed project	500		Points
Number of Addresses currently lacking 25/3 Mbps service (Unserved)	67	1 location = 10 points	670
Number of Addresses currently between 25/3 Mbps and 100/20 Mbps	433	1 location = 5 points	2165
Points for Deployment			2835
Service Cost			
Monthly cost of 100/100 package (regular, non-introductory price) *,**	\$ 50.00	Price <= \$30?	FALSE
		Price <= \$50?	TRUE
*: Price before ACP benefit is applied. This price must remain in place for five years from project completion.		<=\$30.00/mo = 5 points per location ;	0
**: Must include at least 1 TB data per month at full speeds		\$30.00 - \$50.00/mo = 2 points per location	1000
Points added for End-User Pricing			1000
Match		Percentage Match	
Match Amount	\$ 750,000	25%	
Total Estimated Project Cost (including Match)	\$ 3,000,000		
Points added for Match			1250
Additional Priorities		Status	
Regional Scale Considerations	<input checked="" type="checkbox"/>	TRUE	
Muni/Co-Op/Non-Profit Affiliated	<input type="checkbox"/>	FALSE	
High level of Readiness	<input checked="" type="checkbox"/>	TRUE	
Census Block or Tract with Moderate to High Social Vulnerability	<input checked="" type="checkbox"/>	TRUE	
Priorities Met			3
% Bonus applied			15%
Priority Bonus points added			763
Raw Project Score		5,085	
Total Project Score		5,848	
Application Contents Score		100%	
Overall Score		5,848	
Score Per Location		11.70	

TO: Sherwood City Council

FROM: Adrienne Doman Calkins, Library Manager
Through: Kristen Switzer, Assistant City Manager
Craig Sheldon, City Manager Pro Tem

SUBJECT: Resolution 2024-024, Authorizing the City Manager Pro Tem to Enter into an Agreement with Sherwood School District and Washington County Cooperative Library Services for a Student Data Load Project

Issue:

Should the City Council authorize the City Manager Pro Tem to enter into an agreement with Sherwood School District (SSD) and Washington County Library Services (WCCLS) to partner in a data load project to allow SSD parents/guardians to opt-in to WCCLS library cards for their students?

Background:

WCCLS offers a special library card type called a Youth Access Card, a.k.a. Student Library Card. Since 2019, WCCLS has worked with many member libraries and school districts in Washington County to implement large data loads of student data to automate the creation of youth access library cards for students at entire schools and school districts. To date, Beaverton School District, Tigard-Tualatin School District, and Hillsboro School District have participated in the data loads, with of over 52,000 students getting library cards.

A standardized Memo of Agreement (MOA) from WCCLS outlines the roles and responsibilities between the school district, WCCLS, and the participating member library/city. Sherwood Public Library is a member library of WCCLS and SSD lies within the service area of the library. SDD leadership and Board of Directors support this project.

How data loads work:

- The school district communicates to parents and guardians about the option to participate in the WCCLS library card data load. It is up to the school district to offer opt-in or opt-out participation.
- A data set is created by the school and securely shared with WCCLS, due each October.
- WCCLS prepares the data for import to the Integrated Library System (i.e. software), Polaris, and manages the data load operations.
- Local library staff work at the participating member library to prepare physical cards attached to library card records, prepare additional communications and FAQs, troubleshoot technical details, and deliver cards to schools.
- Students can check out up to five books/audiobooks from any member library of WCCLS and use the e-content.

Financial Impacts:

There are no additional financial impacts as a result of approval of this resolution.

Recommendation:

Staff respectfully recommends City Council approval of Resolution 2024-024, Authorizing the City Manager Pro Tem to sign the Memo of Agreement for a student data load project with SSD and WCCLS.



RESOLUTION 2024-024

Authorizing the City Manager Pro Tem to Enter into an Agreement with Sherwood School District and Washington County Cooperative Library Services for a Student Data Load Project

WHEREAS, a program exists with Washington County Cooperative Library Services (WCCLS) to provide student library cards through a data load project in partnership with local school districts and member libraries in Washington County; and

WHEREAS, Sherwood School District (SSD) staff and Board of Directors support this partnership and will communicate to parents and guardians about the option to opt-in to WCCLS student library cards; and

WHEREAS, staff is now recommending that Council approve this resolution authorizing the City Manager Pro Tem to enter into this agreement; and

WHEREAS, Council has reviewed the standardized agreement from WCCLS attached hereto as Exhibit A and determined that approval is appropriate.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The standardized agreement with WCCLS attached hereto as Exhibit A is hereby approved.

Section 2. The City Manager Pro Tem is hereby authorized and directed to take such steps as are necessary to effectuate final approval and execution of the Memo of Agreement consistent with this resolution and Exhibit A.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 16th of April 2024.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

**MEMORANDUM OF AGREEMENT
BY AND BETWEEN
THE ___ SCHOOL DISTRICT,
THE CITY OF ___ OR ___ COMMUNITY LIBRARY ASSOCIATION,
AND
WASHINGTON COUNTY**

This Memorandum of Agreement (“Agreement”) dated as of ___ and entered into between the ___ School District (“the District”), City of ___ OR ___ Community Library Association (“Partner Library”), and Washington County, acting by and through Washington County Cooperative Library Services (“WCCLS”), (collectively, “the Parties”).

PURPOSE

The purpose of this Agreement is to facilitate the creation, distribution, and renewal of the Youth Access Card, (“Student Card”) a special type of library card for children ages 0-17 who live or attend school in Washington County for use at WCCLS member libraries in person and online at wccls.org. Distribution at the District level is referred to as the WCCLS Student Library Card (“Student Card”) program.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and the terms and conditions hereinafter set forth, the Parties agree as follows:

1. Term. This Agreement shall commence on the date last signed by a party and continue for one calendar year (“Initial Term”). Thereafter, the Agreement shall automatically renew annually for an additional period of one calendar year (each renewal a “Renewal Term”), unless a party gives written notice of non-renewal to all other Parties at least 30 days prior to the end of the Initial Term or a Renewal Term. Each Party’s representative or successor representative identified in section 9 of this Agreement has the authority to consent to the renewal of this Agreement as provided in this section.

2. Responsibilities of WCCLS. WCCLS, by and through its employees and representatives, shall be responsible for the following:

- A. To provide the District with information regarding the Student Cards, including the registration process and use policies for access to WCCLS services through the Student Cards.
- B. To provide students with Student Cards unless that student already has a WCCLS library card.
- C. To securely transmit electronic student data received from the District to a contracted vendor for the purpose of Student Card registration.
- D. To coordinate the secure destruction of student registration information provided to WCCLS by the District in a physical format following data entry into the WCCLS database.

E. To provide access to the digital collections to holders of Student Cards.

3. **Responsibilities of Partner Library**, by and through its employees and representatives, shall be responsible for the following:

- A. To work with WCCLS and its representatives to coordinate communication between WCCLS, other libraries participating in Student Cards, and the District.
- B. To work with WCCLS representatives to create the digital Student Card accounts and distribute the physical Student Cards. To provide Student Cards for students that apply at a District school after the physical Student Cards have been distributed.
- C. To provide access to the physical collections.

4. **Responsibilities of the District**. The District, by and through its employees and representatives, shall be responsible for the following:

- A. To provide WCCLS with the following student information in the format requested by WCCLS in accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA), 88 Stat. 571, 20 USC § 1232g, as amended, for the purpose of creating and distributing Student Cards:
 - i. Student Name (first name, middle name, last name)
 - ii. Student ID number
 - iii. Student grade level
 - iv. Student Date of Birth
 - v. Student mailing address
 - vi. Student home phone number
 - vii. Name of Student's school
- B. To provide any student preference stated for language.
- C. To provide updated, complete, and correctly formatted student information to WCCLS once a year each school year, by an agreed-upon deadline.
- D. To assist with distribution of the Student Cards to students after WCCLS registers the students and after Partner Library create the Student Cards and provide them to the District for distribution.
- E. To communicate with parents/guardians and students the policies, terms of use, and renewal information pertinent to the use of the Student Cards.

5. **Student Card Access and Fees**. The Parties agree and understand that:

- A. Student Cards include access to e-books, e-audiobooks, physical items, and e-resources, and that access is not limited by age group.
- B. Public libraries do not act in loco parentis (in the place of a parent) regarding student access to library resources.
- C. WCCLS and its member libraries select materials according to their own collection development policies.
- D. Lost or damaged items will be assessed at their replacement cost.
- E. When a Student Card holder's fees accrue to \$20.00 or more, the Student Card holder will be blocked from checking out physical items until fees are paid. Online resources

and e-books continue to be available during this block.

6. **Indemnification.** Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 *et seq.*, and the Oregon Constitution, Article XI, Sections 7 and 9, the Parties agree to indemnify and hold one another harmless from any loss, damage, injury, claim, or demand arising from their respective activities in connection with this Agreement. Neither party shall be liable for any loss, damage, injury, claim or demand arising from the acts or omissions of the other party or its agents or employees.

7. **Privacy of Records**

- A. The District will only provide access to student information in compliance with FERPA.
- B. The District will not provide WCCLS with student information regarding those students whose parents or guardians have opted out of the disclosure of student information.
- C. As mentioned in Section 2.C., WCCLS securely transmits electronic student data received from the District to a contracted vendor for the purpose of library card registration. Once library card registrations are created, the name, address, telephone number, and library usage information are protected from disclosure under ORS 192.355(23) and the WCCLS Privacy Statement. WCCLS receives personally identifiable information from the District in the performance of WCCLS services and that data:
 - i. Will not be disclosed by WCCLS to additional third parties without the signed and dated written consent of the student, or if the student is under eighteen (18) years of age, without the signed and dated written consent of the student's parents/guardians or consent of the minor pursuant to individual WCCLS member policy and
 - ii. Will be used by WCCLS only to fulfill WCCLS' responsibilities under this Agreement.
- D. WCCLS and member libraries will not disclose student circulation records to third parties and/or parents/guardians without the consent of the student.

8. **General Provisions**

- A. There are no covenants, promises, agreements, conditions or understandings between the Parties, either oral or written, other than those contained in this Agreement. This Agreement shall take precedence over any attachments or exhibits hereto.
- B. The laws of the State of Oregon shall govern this contract. Any action or suit commenced in connection with this contract shall be in the Circuit Court of Washington County or the Federal District Court for Oregon. All rights and remedies of the Parties shall be cumulative and may be exercised successively or concurrently. Each party to the Agreement agrees to personal jurisdiction of the courts identified in this section.
- C. This Agreement is not intended and shall not be construed to create the relationship of agent, servant, employee, partnership, or joint venture between WCCLS, the District, the Partner Library, and students.

- D. Each party to this Agreement represents and warrants that (i) it has the full power and authority to enter into this Agreement; and (ii) has taken all action necessary to authorize the execution, delivery, and performance of this Agreement.
- E. No waiver or breach of any term or provision of this Agreement shall be construed to be, nor shall be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing signed by the party waiving the breach.
- F. In the event that any provision of this Agreement shall be held void, voidable, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect in accordance with its terms and disregarding such unenforceable or invalid provision.
- G. This Agreement is not intended to create any rights or interests for any other person or entity other than the Partner Library, the District and WCCLS.
- H. This Agreement may be amended only by written agreement signed by the Parties.

9. **Notices.** All notices required or permitted to be given hereunder shall be in writing and shall be deemed given when (a) delivered in person or (b) two business days after being deposited in the United States mail, postage prepaid, registered or certified mail, addressed to the applicable party as follows:

DISTRICT:

Attn: Name
___ School District
Address
Telephone:

WCCLS:

Attn: Lisa Tattersall, Manager
Washington County Cooperative Library Services
111 NE Lincoln St, MS 58
Hillsboro, OR 97124
Telephone: (503) 846-3222

PARTNER LIBRARY:

Attn: Name
___ City OR ___ Community Library Association
Address
Telephone:

[Signature page follows.]

IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement, or has caused this Agreement to be executed on its behalf by a representative duly authorized as of the date last signed by a party to the Agreement. The Parties, by their signature below, acknowledge having read this Agreement, understand it, and agree to be bound by its terms and conditions.

___ DISTRICT:

By: _____

Title: _____

Date: _____

WASHINGTON COUNTY:

By: _____

Title: _____

Date: _____

___ PARTNER LIBRARY:

By: _____

Title: _____

Date: _____

Approved as to legal sufficiency:

___ Partner Library Attorney's Office

TO: Sherwood City Council

FROM: Jason Waters, P.E., City Engineer
Through: Craig Sheldon, City Manager Pro Tem
Ryan Adams, City Attorney

SUBJECT: Resolution 2024-025, Authorizing the City Manager Pro Tem to Execute a Construction Contract with Lee Contractors LLC for the Cedar Creek Greenway Feeder Trail Project

Issue:

Shall the City Council authorize the City Manager Pro Tem to execute a Construction Contract with Lee Contractors LLC for the Cedar Creek Greenway Feeder Trail Project?

Background:

The purpose of this project is to construct an eight-foot (8') wide ADA accessible shared-use pathway connecting the fourteen-foot (14') wide regional trail recently completed using federal funds to SW Sherwood Blvd. and the Sherwood Senior Center parking lot. The contractor will provide clearing and grubbing, excavation and grading, installation of stormwater drainage systems, pavement installation, and landscaping restoration. Design plans have been presented to the City's Parks & Recreation Advisory Board, most recently in fall 2023 and have been reviewed extensively by City staff.

The City solicited competitive bids from contractors and opened bids on April 4, 2024, to determine the lowest responsive bid. The lowest responsible bidder that submitted the lowest responsive bid was Lee Contractors, LLC. with a bid of \$184,890.00. Two other additional bids were submitted by Benchmark Contracting, Inc. for \$207,448.95 and Brix Paving Northwest, Inc. for \$219,951.00. The engineer's (cost) estimate prepared by the City's design consultant, AKS Engineering & Forestry, was \$199,416.70.

City staff posted the Notice of Intent to Award a construction contract to Lee Contractors, LLC on April 8th, 2024, and the seven (7) day protest period ended on April 15th, 2024. City staff anticipates holding the pre-construction meeting the first full-week of May 2024 (5/6-5/10/2024) and the trail being paved and opened for public use in August 2024, although groundcover and landscaping work will be completed this fall in order to reduce irrigation needs and increase likelihood of complete plant establishment within the initial 2-year maintenance period with no time extensions. Note: bid results, plans, specifications, and other related project information are posted on the City's website: <https://www.sherwoodoregon.gov/engineering/page/invitation-bid-cedar-creek-greenway-feeder-trail>.

City staff will provide construction notices to residents within 500 feet of the project's work limits upon approval of this resolution. The Sherwood Parks & Recreation Board has reviewed and approved the tree removal request associated with this project. Additionally and concurrently with the start of construction, the City Engineer will submit a land-use application to the City's Planning

Department for the use of a public feeder trail on this property prior to the substantial completion and general use of this feeder trail by the public.

Although no environmental impacts are anticipated for this project to wetlands or vegetated corridors, there are significant environmental resources adjacent to this project and a minimal amount of landscaping enhancements or trail signage was programmed into the design of the \$184,890.00 base-bid project and in order to complete the project in the most efficient manner with the most public-benefit, City staff recommends an 18.6% contingency of \$34,469.00 for a contract total amount, plus contingency, equal to \$219,359.00. Note: this is the same total amount, plus 10% contingency, that was assumed in the City's estimate of \$199,416.70 x 1.1 (10%) = \$219,359.00.

Financial Impacts:

Funds for the aforementioned amounts, specifically the not-to-exceed total, including contingency, amount of \$219,358.37, have been accounted for in the City's adopted FY23-24 budget and any portions of those allocated funds not expended in FY23-24 will be properly accounted for and carried over into the pending FY24-25 budget to ensure timely completion and final payment to the contractor.

Recommendation:

Staff respectfully recommends adoption of Resolution 2024-025, authorizing the City Manager Pro Tem to execute a construction Contract with Lee Contractors, LLC. for the Cedar Creek Greenway Feeder Trail project.



RESOLUTION 2024-025

AUTHORIZING THE CITY MANAGER PRO TEM TO EXECUTE A CONSTRUCTION CONTRACT WITH LEE CONTRACTORS, LLC FOR THE CEDAR CREEK GREENWAY FEEDER TRAIL PROJECT

WHEREAS, the City is in need of a local trail connection between SW Sherwood Blvd, the Sherwood Senior Center parking lot, and the new 14' wide regional trail recently constructed with federal funds; and

WHEREAS, the federally funded regional trail project has been completed, the one-year maintenance period has ended, and the project was accepted by ODOT and released to the City in November 2023; and

WHEREAS, the City completed the design for the feeder trail, produced bid documents and solicited contractors using a competitive bidding process per ORS 279C, OAR 137-049; and

WHEREAS, the City opened bids on April 4, 2024 and received three (3) bids; and

WHEREAS, the City reviewed bids and posted the Notice of Intent to Award a construction contract on April 8th and required the seven (7) day protest period ended on April 15, 2024; and

WHEREAS, the City has budgeted for the construction cost of this project within the adopted City Budget for FY23-24 using the same transportation funding sources as matching funds for the federal grant for the 14' wide regional trail; and

WHEREAS, City staff recommends the City Council authorize the execution of a construction Contract with the low-bid Contractor, Lee Contractors, LLC. out of Battle Ground, Washington for the base-bid amount of \$184,890.00; and

WHEREAS, City staff recommends the City Council authorize a construction contingency fund amount of \$34,469.00 (18.6% of the base-bid amount) for Contract Change Orders or other unforeseen work required to complete the project.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The City Manager Pro Tem is hereby authorized to execute a construction Contract with Lee Contractors, LLC. for the base-bid amount of \$184,890.00 with Construction Contingency of \$34,469.00 to complete the Cedar Creek Greenway Feeder Trail Project.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 16th day of April 2024.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

TO: Sherwood City Council

FROM: David Bodway, Finance Director
Through: Craig Sheldon, City Manager Pro Tem
Ryan Adams, City Attorney

SUBJECT: Resolution 2024-026, Transferring budget expenditure appropriations between funds and categories for fiscal year 2023-24

Issue:

Shall the City Council approve the transfer of budget expenditure appropriations as presented for fiscal year 2023-24?

Background:

Pursuant to ORS 294.463, Oregon Municipalities can transfer appropriation between existing categories and funds during the budget year. Our practice over the past years is to perform such transfers generally twice per year, once around mid-fiscal year and then at the end of the fiscal year, if necessary.

In prior years the city had set aside a total of \$50,000 in the General Fund for Public Art. In fiscal year 2023-2024 the city established a new Public Art Fund. Due to the timing and uncertainty of potential projects these funds were kept within the General Fund. As a result, these funds were not expensed by June 30, 2023. Therefore, the city is now moving these set aside funds over to the Public Art Fund.

Financial Impacts:

There is no impact from adoption of this resolution.

Recommendation:

Staff respectfully recommends approval of Resolution 2024-026, transferring budget expenditure appropriations between funds and categories for fiscal year 2023-24.



RESOLUTION 2024-026

TRANSFERRING BUDGET EXPENDITURE APPROPRIATIONS BETWEEN FUNDS AND CATEGORIES FOR FISCAL YEAR 2023-24

WHEREAS, on June 20, 2023, the City of Sherwood budget for fiscal year 2023-24 was adopted and funds were appropriated by City Council; and

WHEREAS, pursuant to ORS 294.463, Oregon Municipalities can transfer appropriations between existing categories or between funds during the budget year; and

WHEREAS, the following unplanned events have occurred during the course of this budget year:

General Fund

Requirements:

- Contingency appropriation is being reduced by (\$50,000).
- Transfer Out appropriation is being increased by \$50,000. These funds consist of money set aside for Public Art in prior fiscal years in the General Fund but due to timing, these funds were not spent and are now being transferred over to the newly created Public Art Fund.

Public Art Fund

Resources:

- Transfers in from the General Fund is being increased by \$50,000.

Requirements:

- Contingency appropriation is being increased by \$50,000.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The additional amount for fiscal year beginning July 1, 2023 shown below is hereby appropriated as follows:

General Fund	
Contingency	\$(50,000)
Transfer Out	<u>50,000</u>
Revised Total Fund Requirements	\$ -

Public Art Fund	
Resources	
Transfer In	<u>\$ 50,000</u>
Revised Total Fund Resources	\$ 50,000
Expenditures	
Contingency	<u>\$ 50,000</u>
Revised Total Fund Requirements	\$ 50,000

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 16th day of April 2024.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder