



Home of the Tualatin River National Wildlife Refuge

CITY COUNCIL MEETING PACKET

FOR

Tuesday, January 21, 2025

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

5:45 pm City Council Work Session

7:00 pm City Council Regular Meeting

**URA Board of Directors
(Following the regular City 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 CITY COUNCIL WORK SESSION

1. **Annual Housing Report**
(Eric Rutledge, Community Development Director)
2. **Washington County Supportive Housing Services Annual Report** (Kristen Switzer, Assistant City Manager)

7:00 PM REGULAR CITY COUNCIL SESSION

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **APPROVAL OF AGENDA**
5. **CONSENT AGENDA**
 - A. **Approval of January 7, 2025, City Council Meeting Minutes** (Sylvia Murphy, City Recorder)
 - B. **Resolution 2025-008, Authorizing the City Manager to Execute a Construction Contract for the Schamburg Drive Street, Storm, and Sanitary Rehabilitation Project** (Rich Sattler, Interim Public Works Director)
 - C. **Resolution 2025-009, Authorizing the City Manager to enter into an Intergovernmental Agreement with Clean Water Services for the Design Phase of the Rock Creek Sanitary Sewer Upgrade Phase B project** (Rich Sattler, Interim Public Works Director)
 - D. **Resolution 2025-010, Authorizing the City Manager to Sign the Broadband Deployment Program Grant Agreement** (Brad Crawford, IT Director)
 - E. **Resolution 2025-012, Appointment of City Council Liaison Assignments**
(Craig Sheldon, City Manager)
6. **CITIZEN COMMENTS**
7. **PRESENTATIONS**
 - A. **Korean Eagles Taekwondo National Touring Team** (Mayor Rosener)
8. **PUBLIC HEARING**
 - A. **Resolution 2025-011, Adopting a Supplemental Budget for fiscal year 2024-25 and making appropriations** (David Bodway, Finance Director)

9. CITY MANAGER REPORT

AGENDA

SHERWOOD CITY COUNCIL January 21, 2025

5:45 pm City Council Work Session

7:00 pm City Council Regular Session

**URA Board of Directors Meeting
(Following the Regular Council Meeting)**

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22560 SW Pine Street
Sherwood, OR 97140**

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10. COUNCIL ANNOUNCEMENTS

11. ADJOURN to URA BOARD OF DIRECTORS MEETING

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
January 7, 2025

EXECUTIVE SESSION

1. **CALL TO ORDER:** The meeting was called the meeting to order at 6:16 pm.
2. **COUNCIL PRESENT:** Mayor Tim Rosener, Council President Kim Young, Councilors Taylor Giles, Keith Mays, Renee Brouse, Dan Standke, and Doug Scott.
3. **STAFF PRESENT:** City Manager Craig Sheldon, Assistant City Manager Kristen Switzer, and Interim City Attorney Sebastian Tapia.

4. **TOPIC:**

A. ORS 192.660(2)(e), Real Property Transactions

5. **ADJOURN**

The executive session was adjourned at 6:30 pm and a URA work session was convened. See URA Board of Directors meeting records.

REGULAR SESSION

1. **CALL TO ORDER:** Mayor Rosener called the meeting to order at 7:00 pm.
2. **COUNCIL PRESENT:** Mayor Tim Rosener, Council President Kim Young, Councilors Taylor Giles, Keith Mays, Renee Brouse, Dan Standke, and Doug Scott.
3. **STAFF PRESENT:** City Manager Craig Sheldon, Assistant City Manager Kristen Switzer, Interim City Attorney Sebastian Tapia, Interim Public Works Director Rich Sattler, IT Director Brad Crawford, Police Chief Ty Hanlon, HR Director Lydia McEvoy, Community Development Director Eric Rutledge, Economic Development Manager Erik Adair, Finance Director David Bodway, and City Recorder Sylvia Murphy.

4. **APPROVAL OF AGENDA:**

MOTION: FROM COUNCIL PRESIDENT YOUNG TO APPROVE THE AGENDA. SECONDED BY COUNCILOR BROUSE. MOTION PASSED 7:0; ALL MEMBERS VOTED IN FAVOR.

Mayor Rosener addressed the next agenda item.

5. NEW BUSINESS:

A. Swearing In of City Council Newly Elected Officials

Municipal Judge Jack Morris administered the Oath of Office to the newly elected Mayor Tim Rosener and City Councilors Kim Young, Renee Brouse, and Dan Standke.

Mayor Rosener addressed the next agenda item.

B. Selection of Council President

Mayor Rosener explained that it was time to elect a Council President for the new year and asked for nominations. Councilor Young was nominated by Councilor Scott. Councilor Mays seconded the nomination. Councilor Young accepted the nomination. Mayor Rosener called for a roll call vote, and with a 7:0 vote, Councilor Young was elected Council President.

Mayor Rosener addressed the next agenda item.

6. CONSENT AGENDA:

- A. Approval of December 17, 2024, City Council Meeting Minutes**
- B. Resolution 2025-001, Amending the City of Sherwood Home Rule Charter as approved by the City Electors at the November 5, 2024 General Election**
- C. Resolution 2025-002, Adopting the American with Disabilities Act (ADA) Title II Self-Evaluation and Transition Plan**
- D. Resolution 2025-003, Establishing a Biennium City Budget cycle beginning in fiscal years 2025-27**
- E. Resolution 2025-004, Appointing the Budget Officer for Fiscal Years 2025-27**
- F. Resolution 2025-005, Authorizing the City Manager to Apply for an ODOT Transportation Infrastructure Bank Loan for SW Ice Age Dr. in an Amount Not to Exceed \$5,000,000**
- G. Resolution 2025-006, Authorizing the City Manager to Apply for Two Business Oregon Special Public Works Fund Loans for SW Ice Age Dr. in an amount not to exceed \$15,000,000**
- E. Resolution 2025-007, Adopting Rules of Procedure for City Council**

MOTION: FROM COUNCILOR BROUSE TO APPROVE THE CONSENT AGENDA. SECONDED BY COUNCILOR SCOTT. MOTION PASSED 7:0; ALL MEMBERS VOTED IN FAVOR.

Mayor Rosener addressed the next agenda item.

7. CITIZEN COMMENT:

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

8. PRESENTATIONS:

A. Washington County Sheriff's Annual Update

Washington County Sheriff Caprice Massey and Washington County Undersheriff John Koch came forward and presented the "Washington County Sheriff's Office Updates" PowerPoint presentation (see record, Exhibit A). Sheriff Massey reported that the Washington County Sheriff's Office managed the county's only jail, provided county-wide services for 616,000 residents and they were the primary first responders for rural, urban unincorporated residents and contract partners. She reported that Washington County was the safest major urban county in Oregon. She provided an overview of the Washington County Sheriff's Office mission and values on page 3 of the presentation. She stated that the Sheriff's Office mission was "conserving the peace through value driven services" and stated they accomplished that by doing their best, doing the right thing, and treating others the way you want to be treated. She provided an overview of their strategic goals and reported that they were currently developing a strategic plan through 2035. Sheriff Massey explained that Oregon Revised Statute Chapter 206 outlined the requirements, roles, and expectations of the Sheriff and outlined that the Sheriff's Office was also responsible for: providing security for State and Justice Courts; search and rescue, operations of the County Jail; execution of civil process and court orders; execution of all warrants; process, issue, deny and revoke concealed handgun licenses; and enforcement of laws on waterways. She referred to the 2023 WCSOA Annual Report that was provided to the Council (see record, Exhibit B). Sheriff Massey spoke on the management of the Washington County jail and reported that it was the second smallest jail per 1,000 residents in Oregon and had 572 beds but noted that only 388 beds were available due to staffing shortages. She reported there were 14,093 bookings in 2023. She explained that they had lifted many of their booking restrictions and they were building a pre-trial release program to help remove people from the original location where a crime had been committed and out on a release agreement or with electronic monitoring. She reported that the Washington County Sheriff's Department had recently received a \$750,000 grant to expand their pre-trial release program over the next three years and noted that the program would require collaboration with local city partners. Sheriff Massey outlined that due to the age of the jail, the facility was experiencing ongoing maintenance issues and reported that with the help of the County, their CAO and County Commissioners, the jail was receiving much needed updates and noted that the project would be complete in 2026. She reported a new courtroom was also being constructed in the Washington County Law Enforcement Center. Council President Young asked if there were certain criteria people must meet for the pre-trial release program and Sheriff Massey replied that was correct. She explained that ultimately, it was up to the judge to determine who was eligible to be released on what charge. She continued that the Washington County Sheriff's Office and a team of Court Release Officers would work together to administer the program. Councilor Brouse referred to the staffing shortage and asked how the monitoring program would be impacted. Sheriff Massey explained that the staffing shortage would not impact the monitoring program because those staff were already in place and commented that they would continue their recruitment efforts to be fully staffed. Councilor Brouse asked if the new Family Justice Center would have space for staff. Sheriff Massey replied that the center would house staff, which they had now, and when it transitioned over to the Family Peace Center, staff would follow. Councilor Mays asked if once the jail refurbishments were completed, was the goal to have all of the units fully staffed. Sheriff Massey replied that her goal was to have them staffed before the refurbishments were complete and commented she was optimistic that she would be able to do so. Washington County Undersheriff John Koch stated that it was fortunate that all the municipalities within Washington County worked so well with the County. He explained that public safety required them to respond to complex situations on a daily basis, which was only possible by pooling resources. He spoke on the Mental Health Response Team (MHRT) and reported the program was launched in 2011 and paired together a deputy and a Master's level mental health clinician. He outlined that as a team, there was more opportunities for on-scene problem-solving, which minimized the risk of a situation escalating and often helped those in crisis get medical attention instead of being taken to jail. He

reported that the MHRT had been very successful, and they now had eight teams working seven days a week and responded to over 2,000 calls per year. Councilor Mays asked if the program was currently “right-sized” and Undersheriff Koch replied that there would always be a bigger demand throughout the County, and funding and staffing were a large piece of that. He commented that he felt that the MHRT was currently providing a good level of service during peak hours. Councilor Scott asked if there were enough MHRTs to provide 24-hour coverage and Undersheriff Koch replied they did not have enough teams to provide 24-hour coverage. Councilor Scott asked how many teams would be needed to provide 24-hour coverage and Undersheriff Koch replied they would likely need twice the number of teams they currently had. He explained that the calls for service during peak hours did not necessarily warrant full-time staff and stated that their current model ensured that staff was available 7-days a week at different hours based on need. Councilor Scott asked if the 2,000 calls per year were calls specifically for the MHRT or were they routine calls. Undersheriff Koch replied that the 2,000 calls were exclusively for the MHRT and explained that when teams were not on calls, they were able to assist district cars on other calls for service. Councilor Scott asked how many calls were the MHRTs unable to respond to due to staffing shortages and Undersheriff Koch replied that it was one of those issues where there would always be calls for the service. He provided an overview of the Westside Interagency Narcotics (WIN) team on page 9 of the presentation. He reported that the WIN assisted Homeland Security Investigations in the seizure of 1.4 metric tons of liquid heroin in Washington County. He stated that the WIN also tracked Narcan deployments and Councilor Brouse asked how much Narcan was used and Undersheriff Koch replied that he did not have that number but deployment of Narcan was declining because more people were carrying Narcan with them. Councilor Standke asked if Washington County or Washington County Sheriff’s Office received any of the federal opioid settlement money and Undersheriff Koch replied that they would receive some settlement money, but he did not have the information on what those funds would be utilized for. Mayor Rosener asked if they also received funds from seizures and Undersheriff Koch replied that was correct and explained that the WIN team was funded in a variety of ways, including seizures. He provided an overview of Washington County’s interagency teams which included: Tactical Negotiations Team (TNT), Crisis Negotiation Unit (CNU), Remote Operated Vehicle Team (ROVT), and Incident Management Team (MIT). Mayor Rosener spoke on the increased use of drones as first responders by some communities and asked if that was something the County was considering. Undersheriff Koch replied that some conversations had been had with some Chiefs of police, but there were costs associated with creating that type of program. He clarified that the Washington County Sheriff’s Office used drones in community safety situations where they would previously send in dogs and people, they could now use drones and robots to ensure the safety of their officers. He added that they also used drones in search and rescue operations. Sheriff Massey recapped their plans for the upcoming year and outlined that they planned for their facility to be under construction for all of 2025. She reported they were currently working with an outside contractor to complete a jail capacity study which would estimate the anticipated population growth between now and 2055, and include potential necessary facility, staffing, and program expansions. Councilor Giles referred to the outside consultant performing the study and asked for clarification. Sheriff Massey explained that it was an outside company assessing what the future needs of the jail were, and they had expertise in corrections. She clarified that Matrix Consulting, the company performing the study, did not have attachments to a prison or correctional environment. Councilor Giles stated he was interested in what the motivation was for Washington County to improve or change its prisons and asked how much freedom the County had to make any changes. Sheriff Massey explained that it was up to individual counties to decide what services they wanted to provide. She stated that her motivation was the best practices for the success of the person leaving custody. She stated her goal was to provide a place: that was less institutional without sacrificing safety and security; that did not look like a punishment because being in custody was the punishment; and a place that was more calming because stress, anxiety, and isolation contributed to behavioral issues. She reported they were reviewing national and international best practices and provided

an overview of the responsibilities they were required to perform statutorily. Undersheriff Koch spoke on the success of such facility changes in other prisons. Councilor Scott referred to the understaffing and the necessity of releasing more people into the community and stated that they probably now had good data on what types of people worked successfully in releasing them into the community and which types did not and asked if that was correct. Sheriff Massey stated that monitoring was key because they had seen a significant increase in failure to appear from those they were forced to release due to being short staffed which impacted those in custody being adjudicated. Mayor Rosener asked if they were also reviewing how to distribute intake and jail space throughout the County. Undersheriff Koch replied that they have looked at jail satellite offices and determined that it would be very costly because there were the economies of scale when it came to medical services, laundry services, and feeding adults in custody. He continued that by having those services centralized, it greatly reduced the cost of those services. Sheriff Massey reported that Washington County's public safety levy would be on the ballot in November. She stated that they were working collaboratively with the County to identify the cost of doing business for the next several years and commented they would be in communication with the city as the levy was developed.

Mayor Rosener addressed the next agenda item.

9. CITY MANAGER REPORT:

City Manager Craig Sheldon reported that the City Council goal setting work session would be held on January 11th at City Hall.

Mayor Rosener addressed the next agenda item.

10. COUNCIL ANNOUNCEMENTS:

Councilor Giles spoke on upcoming Lunar New Year events at the Arts Center. He reported that he had no board liaison reports to share due to the holidays.

Councilor Brouse reported that the next Senior Advisory Board meeting would be held on January 8th. She reported on upcoming Chamber of Commerce events. She reported that Sherwood would host the Korean Eagles Martial Arts Demonstration Team on January 22nd at the Arts Center.

Councilor Mays reported he had no liaison reports to share due to the holidays. He asked pedestrians to wear brighter or more reflective clothing and asked drivers to turn on their lights.

Councilor Scott reported on the most recent meeting of the Parks and Recreation Advisory Board.

Councilor Standke reported he had no liaison reports to share due to the holidays. He reported the Sherwood Foundation for the Arts would host its annual puzzle competition on February 22nd.

Council President Young thanked City Manager Sheldon and city staff for the holiday luncheon for city staff. She reported on upcoming Chamber of Commerce events. She reported on CDBG board progress.

Mayor Rosener reported that January 27th was LOC's City Day in Salem. He reported on his ongoing work serving on the Metro Mayors Consortium. He reported Council would discuss upcoming Council liaison assignments at their next meeting.

11. ADJOURN:

Mayor Rosener adjourned the regular session at 8:05 pm.

Attest:

Sylvia Murphy, MMC, City Recorder

Tim Rosener, Mayor

TO: Sherwood City Council

FROM: Rich Sattler Interim Public Works Director
Through: Craig Sheldon, City Manager and Sebastian Tapia, Interim City Attorney

SUBJECT: **Resolution 2025-008, Authorizing the City Manager to Execute a Construction Contract for the Schamburg Drive Street, Storm, and Sanitary Rehabilitation Project**

Issue: Shall the City Council authorize the City Manager to execute a Construction Contract with the lowest responsive bidder for the Schamburg Drive Street, Storm, and Sanitary Rehabilitation Project?

Background: SW Schamburg Drive is in very poor condition with a pavement condition index of 59 and needs replacement, has a deficient sanitary sewer system in need of replacement, and does not have a storm sewer system. The project will improve the condition of Schamburg Drive by installing new pavement, new curb and gutter, a new storm sewer system, and a new sanitary sewer system.

Sanitary sewer system work will consist of installing a new 8" main in the rear yards at the homes on the west side of SW Schamburg Drive, on the south side of SW Division Street (between SW Schamburg Drive and SW Washington Street), and the full length of SW Schamburg Drive. Permanent sanitary sewer easements and temporary construction easements have been acquired to perform the sanitary work in the rear yards of the homes to the west of SW Schamburg Drive.

Storm sewer work will consist of installing a new, 12" storm sewer main within SW Division Street between SW Washington Street and SW Schamburg Drive, and within SW Schamburg Drive. Three catch basins will be installed on SW Schamburg Drive to correct the deficient street drainage along SW Schamburg Drive.

Street rehabilitation work will consist of; regrading street sections to meet AASHTO standards for a 25 MPH stopping sign distance, installing curb and gutter while increasing the width of the street to 28', limit parking to east side of street, cement treatment of the base rock and subgrade and install new asphalt surface.

The city solicited competitive bids from contractors and opened bids on January 16, 2025, to determine the lowest responsive bid. The bidding process is currently in the seven (7) day protest period.

Work is expected to begin in early February 2025, and to be completed by the beginning of summer 2025. City staff has provided notification to area residents of the upcoming project.

Financial Impacts: Funding for the project is included in the FY24-25 budget and includes 15% of the base contract amount for construction contingency.

Recommendation: Staff respectfully requests adoption of Resolution 2025-008, authorizing the City Manager to execute a construction contract for the Schamburg Drive Street, Storm, and Sanitary Rehabilitation Project upon completion of the seven (7) day protest period.



RESOLUTION 2025-008

AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT FOR THE SCHAMBURG DRIVE, STREET, STORM, AND SANITARY REHABILITATION PROJECT

WHEREAS, the City has identified the pavement on SW Schamburg Drive to be deficient and in need of replacement; and

WHEREAS, the City has identified the sanitary sewer within SW Schamburg Drive, within the backyards of residences on the western side of Schamburg Drive, and within SW Division Street between SW Washington Street and within SW Schamburg Drive, to be deficient and in need of replacement; and

WHEREAS, the City has identified the need for a new storm sewer system within SW Schamburg Drive, and within SW Division Street between SW Washington Street and SW Schamburg Drive; and

WHEREAS, the City has completed the design and produced bid documents to solicit contractors through a competitive bidding process in compliance with local and state contracting statutes and rules (ORS 279C, OAR 137-049) December 26 and December 30, 2024 with Daily Journal of Commerce; and

WHEREAS, the City opened bids on January 16, 2025, and posted a Notice of Intent to Award a construction contract on January 17, 2025, with the seven (7) day protest period concluding on January 24, 2025; and

WHEREAS, the City has budgeted the construction costs for this project within the FY2024/2025 budget.

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

Section 1. The City Manager is hereby authorized to execute a construction contract upon the completion of the seven (7) day protest period with the lowest responsive bidder with a Construction Contingency of 15% of the Base Contract Amount.

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

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Duly passed by the City Council this 21st of January 2025.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

TO: Sherwood City Council

FROM: Rich Sattler, Interim Public Works Director
Through: Craig Sheldon, City Manager and Sebastian Tapia, Interim City Attorney

SUBJECT: **Resolution 2025-009, Authorizing the City Manager to enter into an Intergovernmental Agreement with Clean Water Services for the Design Phase of the Rock Creek Sanitary Sewer Upgrade Phase B project**

Issue:

Shall the City Council authorize the City Manager to enter into an Intergovernmental Agreement (IGA) with Clean Water Services (CWS) for Design Phase of the Rock Creek Sanitary Sewer Upgrade Phase B project?

Background:

The City of Sherwood entered into an IGA with Clean Water Services (CWS), dated January 4th, 2005, for the operation, maintenance and management of the public sanitary sewer system within the city jurisdictional limits. Per this IGA, specific responsibilities for the proportionate share cost of operation, maintenance and management of the public sanitary sewer systems were established. Sanitary sewer lines larger than 12-inch in diameter become eligible for district funding for repairs, replacement and upsizing of sanitary sewer lines that are identified in the City and CWS master plans.

In February 2020, Council authorized an IGA with CWS (Resolution 2020-011), for construction of the Rock Creek Sanitary Sewer Upgrade Phase I project (crossing of Tualatin Sherwood Rd.). This phase was completed in 2022.

The next phase of the Rock Creek Sanitary Sewer Upgrade, Phase B, is approximately 3,000 feet in length and listed in the City's Sanitary Sewer Master Plan (SSMP). This phase of the upgrade has capacity and conditions issues and is recommended for upsizing from the existing 18-inch diameter to a 24-inch diameter trunkline. The SSMP classifies the project as a near term project (5 years).

Financial Impacts:

This IGA covers the design phase only and identifies that this proposed project is eligible for 100% District funding from CWS. The City's financial responsibility amounts to \$0. The financial impacts are the reimbursement of already budgeted and expended City sanitary sewer SDC funds.

Recommendation:

Staff respectfully recommends City Council approval of Resolution 2025-009, authorizing the City Manager to enter into an IGA with Clean Water Services for Design Phase of the Rock Creek Sanitary Sewer Upgrade Phase B project.



RESOLUTION 2025-009

**AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT
WITH CLEAN WATER SERVICES FOR THE DESIGN PHASE OF THE ROCK CREEK SANITARY
SEWER UPGRADE PHASE B PROJECT**

WHEREAS, the City of Sherwood previously entered into separate IGA's with Clean Water Services (CWS) for the design, property acquisition, and construction to upsize the segment of trunkline between SW Tualatin Sherwood Road and SW Pacific Highway via the Phase A project that was completed in 2022; and

WHEREAS, the Phase B project will complete the trunkline upsizing project east of SW Tualatin Sherwood Rd to SW Oregon Street to serve the full build out of the Ice Age Drive annexation area through a similar project managed by the City; and

WHEREAS, the Rock Creek Sanitary Sewer Upgrade Phase B project is listed in the City's Sanitary Sewer Master Plan (SSMP), which included capacity and conditions issues and recommended upsizing from the existing 18-inch diameter to a 24-inch diameter trunkline; and

WHEREAS, the SSMP classified the Rock Creek Sanitary Sewer Upgrade Phase B project as a near term project (within 5-years); and

WHEREAS, the Rock Creek Sanitary Phase B project area overlaps with the Tannery Site cleanup project area and schedule; and

WHEREAS, the existing service agreement IGA between the City and CWS specifically allows the use of CWS Regional Funds for the design, reconstruction and upsizing of the Rock Creek Sanitary Sewer Upgrade Phase B project; and

WHEREAS, this IGA covers the Design Phase only and identifies that the proposed Rock Creek Sanitary Sewer Upgrade Phase B project is eligible at 100% District funding from CWS; and

WHEREAS, the proposed IGA with CWS (see attached Exhibit A) provides the financial support to complete the needed modeling and design work; and

WHEREAS, the project is a benefit to the City.

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

Section 1. The City Manager is hereby authorized to execute an intergovernmental agreement with Clean Water Services in a form substantially similar to the attached Exhibit A and to take such other action as may be necessary to finalize and approve said agreement.

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

Duly passed by the City Council this 21st of January 2025.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

EXHIBIT A

INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF SHERWOOD AND CLEAN WATER SERVICES TO PROVIDE PROJECT EVALUATION AND PRELIMINARY DESIGN FOR THE ROCK CREEK SANITARY TRUNKLINE UPGRADE PHASE B (CITY CIP# 409-SS, CWS PROJECT 7171)

This Agreement, dated _____, is between Clean Water Services (District) a county service district organized under ORS Chapter 451 and the City of Sherwood (City) an Oregon Municipality.

A. RECITALS

1. ORS 190.003 - 190.110 encourages intergovernmental cooperation and authorizes local governments to delegate to each other authority to perform their respective functions as necessary.
2. District established a collaborative Districtwide Capital Improvement Program using a joint committee of District and member cities: Beaverton; Cornelius; Forest Grove; Hillsboro; Tigard; Tualatin; and Sherwood representatives, known as the Capital Improvement Program Prioritization Committee. City is represented on the Capital Improvement Program Prioritization Committee.
3. City intends to undertake Phase 1 of the Rock Creek Sanitary Trunkline Upgrade Phase B (Project) to provide sufficient hydraulic capacity for future development. This Project was identified in the 2021 East Basin Master Plan as project DU21C-8, adopted by the Clean Water Services Board on April 5, 2022 by Resolution and Order 22-6. This Project has been endorsed by the Capital Improvement Program Prioritization Committee to receive Regional SDC Funding through District.

NOW, THEREFORE, the parties agree as follows:

B. PROJECT DESCRIPTION

Phase 1 is the initial effort of the Project and consists of evaluation, providing preliminary design, work to provide permanent maintenance access, and exploring the footprint of natural area restoration for the Project. This Project upgrades an existing section of the Rock Creek Trunkline from the newly constructed manhole (MH) from the prior Rock Creek Sanitary Trunkline Upgrade Project (District MH 845882) to City MH 414NSan (District MH 806163), a total 3,057 linear feet. The existing 15-inch and 18-inch trunk line will be upgraded to a at least a 24-inch diameter trunk line. See attached Exhibit A for the Project location.

C. DISTRICT OBLIGATIONS

1. District will reimburse City up to \$810,000 for actual costs of Project approved by District.
2. District's Project Manager shall be the primary point of contact regarding the Project. District assigns Sheila Sahu as District's Project Manager for this Project.
3. District shall have twenty-five days upon receipt of the proposed design documents to comment on and approve the alternative and approach for the Project.
4. District will pay City actual costs not to exceed a total of \$810,000 for the Phase 1 Project.
5. District will pay invoices for reimbursement of actual costs incurred that are submitted by City within 30 days once invoices are approved by District.

D. CITY OBLIGATIONS

1. City will administer the Project.
2. City's Project Manager shall be the primary point of contact regarding the Project. City assigns Jason Waters as City's Project Manager for this Project.
3. City shall provide to District a copy of the evaluation report and the preliminary design plans for the Project, including project specific conflict lists, survey and utility mapping, specifications and bid item list.
4. City shall allow District a minimum of twenty-five (25) business days for review and comment. City shall respond to District's comments and questions in a timely manner.
5. City shall make timely payment to all vendors, contractors, and consultants on Project.
6. City shall submit monthly invoices for actual Project costs not to exceed \$810,000 total to District. Each invoice shall include a Project Summary of work completed. The invoice must include: District Project Name; District Project Number; Not to Exceed amount; and amount of the Not to Exceed amount remaining and not yet spent.
7. City shall provide design plans (30%, 60%, and 90% drawings) and specifications to District for District review.
8. City shall hold progress meetings at District's request during the evaluation and preliminary design phase of the Project. City shall ensure District has the right and opportunity to review options and provide input on the Project.
9. City shall coordinate public engagement related to the Project, including Public Notice as required.
10. City waives all land use or permit fees associated with the Project with the exception of plumbing inspection fees.
11. City shall meet with the District to review the Revegetation plan, necessary easements for the plan, and assess the scope of restoration.

E. GENERAL TERMS

1. Laws and Regulations. City and District agree to abide by all applicable laws and regulations.
2. Term of this Agreement. This Agreement is effective from the date on page one and will remain in effect until the Project is complete and the parties' obligations have been fully performed or this Agreement is terminated as provided herein.

3. Termination. This Agreement may be terminated immediately by mutual written agreement of the parties, or prior to award of a construction contract, by either of the parties notifying the other in writing, with the termination being effective in 30 days.
4. Integration. This document constitutes the entire agreement between the parties on the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind on the subject. No course of dealing between the parties and no usage of trade will be relevant to supplement any term used in this Agreement. Acceptance or acquiescence in a course of performance rendered under this Agreement will not be relevant to determine the meaning of this Agreement and no waiver by a party of any right under this Agreement will prejudice the waiving party's exercise of the right in the future.
5. Indemnification. Within the limits of the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each of the parties will indemnify and defend the other and their officers, employees, agents, volunteers, elected official, contractors, and representatives from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on account of personal injury, death, damage to property, or violation of law, which arises out of, or results from, the negligent or other legally culpable acts or omissions of the indemnitor, its officers, employees, agents, contractors, volunteers, elected officials, contractors, or representatives.
6. Resolution of Disputes. If any dispute out of this Agreement cannot be resolved by the project managers from each party, the City Manager and District's Chief Executive Officer will attempt to resolve the issue. If the City Manager and District's Chief Executive Officer are not able to resolve the dispute, the parties will submit the matter to mediation, each party paying its own costs and sharing equally in common costs. If the dispute is not resolved in mediation, the parties will submit the matter to arbitration. The decision of the arbitrator will be final, binding and conclusive upon the parties and subject to appeal only as otherwise provided in Oregon law. For clarity's sake, the parties waive their right to any trial by jury.
7. Interpretation of Agreement.
 - A. This Agreement will not be construed for or against any party by reason of the authorship or alleged authorship of any provision.
 - B. The paragraph headings in this Agreement are for ease of reference only and will not be used in construing or interpreting this Agreement.
8. Severability/Survival. If any of the provisions in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions will not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest will survive the termination of this Agreement for any cause.

9. Approval Required. This Agreement and all amendments, modifications or waivers of any portion thereof will not be effective until approved by 1) District's Chief Executive Officer or the Chief Executive Officer's designee and when required by applicable District rules, District's Board of Directors and 2) City and signature of their designee.
10. Choice of Law/Venue. This Agreement and all rights, obligations and disputes arising out of the Agreement will be governed by Oregon law. All disputes and litigation arising out of this Agreement will be decided by the state courts in Oregon. Venue for all disputes and litigation will be in Washington County, Oregon.
11. Easements. District and City grant each other the right to perform work on their respective easements to the extent necessary to complete work on the Project.
12. Condemnation. Costs incurred by the City to condemn an easement for the Project will be reimbursed as a Project cost if the City has obtained previous approval from the District. The City will provide the District with all pertinent information to evaluate its request including a written justification for pursuing condemnation, a summary of the property owner's position, a copy of the appraisal report and any other information requested by the District. The District will respond to the City's request within ten business days of receiving all required information.
13. Electronic Signature. This Agreement may be executed in several counterparts, each of which will be an original, all of which will constitute one and the same instrument. An electronic signature will be considered an original. The individuals signing this Agreement certify that they are authorized to execute this Agreement on behalf of the City and District respectively.
14. Third Party Beneficiaries. The Parties are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to any third party.

CLEAN WATER SERVICES

CITY OF SHERWOOD, OREGON

By: _____
Chief Executive Officer or Designee

By: _____
City Manager or Designee

Date: _____

Date: _____

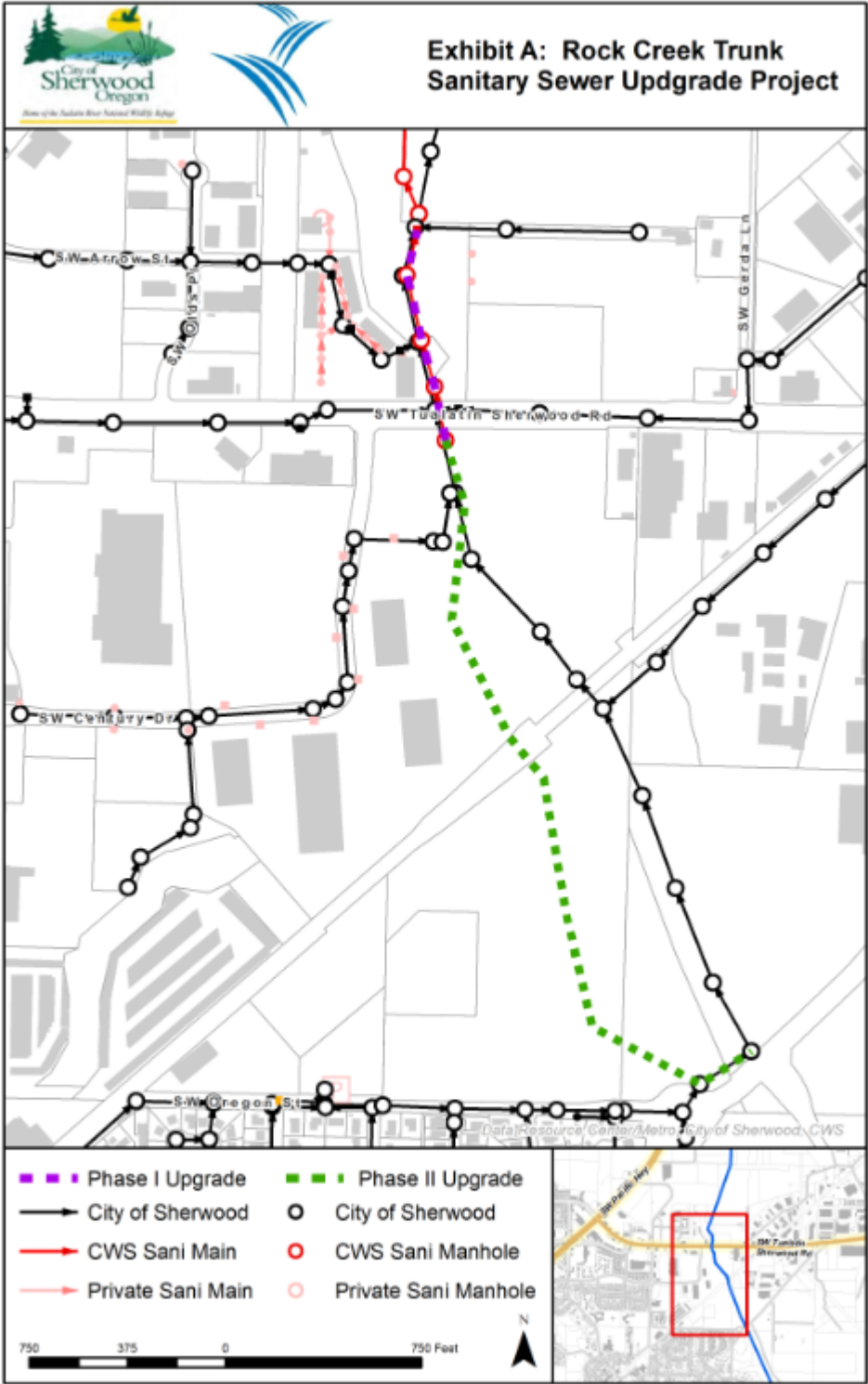
APPROVED AS TO FORM

APPROVED AS TO FORM

District Counsel

City Attorney

PROJECT LOCATION MAP



Agenda Item: Consent Agenda

TO: Sherwood City Council

FROM: Brad Crawford, IT Director

Through: Craig Sheldon, City Manager and Sebastian Tapia, Interim City Attorney

SUBJECT: Resolution 2025-010, Authorizing the City Manager to Sign the Broadband Deployment Program Grant Agreement

Issue:

Shall the City Council authorize the City Manager to sign the Broadband Deployment Program grant agreement with the Oregon Broadband Office (OBO) for providing broadband expansion in the rural area south of Sherwood?

Background:

The City of Sherwood was awarded a broadband grant through the Broadband Deployment Program offered by OBO for providing broadband services to the rural areas south of Sherwood and east of Newberg. This grant award will bring Sherwood Broadband Internet service to roughly 688 homes in the grant area. Furthermore, nearly all of these homes are currently unserved by the FCC definition and therefore completing this project will bring modern broadband service to a large number of homes.

Once this grant agreement is fully executed, staff intends to post an RFP for a design-build contract for completing the work under this grant. With this type of contract, the awarded contractor will both engineer the fiber routes and construct them. In the event bids come back over budget staff may need to separate the engineering and construction scopes of work. This could also result in staff needing to perform more of this work with broadband staff.

The grant requires that the work be completed by September 30, 2026, which is a very tight timeline but staff feels they can get this completed if the project is out to bid in February. In the event that the project is not completed by that time the City would be required to complete the project with its own funds. Staff is planning the project so that some of the highest cost portions of the project (such as the underground work) are completed early in the timeline so reimbursements can be received.

Financial Impacts:

The award amount in the Notice of Intent to Award from OBO was \$9,006,867.42 however staff is proposing an award of \$9,285,314.29. This discrepancy is due to the change in the number of homes served and staffs estimation on the budget with those homes removed. Staff will negotiate with OBO on the final amount and those numbers will be inserted into the grant agreement.

The BDP grant application had a matching component to it that gave higher scoring for those that included a financial and/or in-kind match of services. In Sherwood's application we proposed an in-kind match of staff services for project management and engineering support. Also included was having staff do all the customer installations and having our construction crew do half of the service drop installs. These in-kind services are estimated to be \$2.3M with most of this staff work occurring after the project is substantially complete.

Recommendation:

Staff respectfully recommends City Council approval of Resolution 2025-010, authorizing the City Manager to sign the Broadband Deployment Program grant agreement.



RESOLUTION 2025-010

**AUTHORIZING THE CITY MANAGER TO SIGN THE BROADBAND DEPLOYMENT
PROGRAM GRANT AGREEMENT**

WHEREAS, the City of Sherwood has been awarded a Broadband Deployment Program grant from the Oregon Broadband Office for providing broadband expansion in the rural areas south of Sherwood; and

WHEREAS, this project will provide broadband services to the unserved and underserved residents and businesses in the project area; and

WHEREAS, this project will connect with existing Sherwood Broadband infrastructure in the area and will enhance services to both new and existing customers; and

WHEREAS, this project has a completion deadline of September 30, 2026.

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

Section 1. The City Manager is hereby authorized to execute a grant agreement with Oregon Broadband Office in a form substantially similar to the attached Exhibit A.

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

Duly passed by the City Council this 21st of January 2025.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

SAMPLE GRANT AGREEMENT –PROVISIONS SUBJECT TO CHANGE

STATE OF OREGON ARPA CAPITAL PROJECTS FUND – BROADBAND DEPLOYMENT PROGRAM GRANT AGREEMENT

Contract Number: «ProjectNumber»

Project Name: «ProjectName»

This grant agreement (“Contract”) is between the State of Oregon, acting through its Oregon Business Development Department’s (“OBDD”) Oregon Broadband Office (“OBO”) (collectively, the “State”), and «Recipient» (“Recipient”). This Contract becomes effective only when fully signed and approved as required by applicable law (“Effective Date”).

For the purposes of this Contract, notwithstanding the above terminology and the terminology used throughout the Contract, Recipient is a subrecipient for federal award purposes and OBDD is a recipient. For federal law purposes, “subrecipient” means an entity receiving federal funds through a recipient (i.e. here, OBDD) to support the performance of a federal project or program (i.e. here, ARPA Capital Projects Fund) for which the federal funds were awarded. Subrecipient (Recipient) is subject to the terms and conditions of the federal award (available at [TBD weblink]) to the recipient (OBDD), including program compliance requirements.

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

- This Contract less exhibits
- Exhibit A - Project Description and Reporting Requirements
 - Appendix 1- Project Service Locations by FCC Fabric ID
 - Appendix 2- Work Plan with Milestones and Cost Estimates
 - Appendix 3- Project Grant Budget
- Exhibit B- Certificate Regarding Lobbying

The information in Exhibit C (Federal Award Information) is required by 2 C.F.R. § 200.332 and is attached to this Contract for informational purposes only.

Pursuant to Oregon Laws 2023, chapter 338, Sections 1 and 1a and Oregon Laws 2023, chapter 605, Section 79 (collectively, the “Act”), OBDD is authorized to distribute funds received by the State of Oregon from the federal American Rescue Plan Act Coronavirus Capital Projects Fund (“ARPA CPF” codified as 42 U.S.C. § 804) in the form of loans or grants for the purpose of supporting broadband access, affordability and adoption. Pursuant to the Act, OBDD established the ARPA Capital Projects Fund Broadband Deployment Program (“BDP”) to provide financial assistance that utilizes the ARPA CPF moneys specifically for broadband infrastructure grants, including the infrastructure project more particularly described in Exhibit A (the “Project”).

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

Equipment means the cable, fiber, materials, components, and supplies used to construct, maintain or operate a broadband network.

Facilities means a place or building used to construct, maintain or operate a broadband network.

Federal Award Agency means the U.S. Department of the Treasury (“Treasury”).

Financing Proceeds means Grant disbursements.

Fixed Amount Subaward means a type of grant under which the Pass-Through Entity provides a specific level of support. (For additional information on Fixed Amount Subawards, see 2 C.F.R. Section 200.201 and the “SLFRF and CPF Supplementary Broadband Guidance” issued by Treasury on May 17, 2023.)

Grant Amount: \$«Grant»

[Insert with Contracts with required Match: **Match Amount:** \$ _____. The Match Amount is the amount that Recipient shall contribute from its own fiscal resources or money from sources other than this Grant Contract to pay towards costs of the Project.]

Pass-Through Entity means a non-federal entity that provides a Subaward to a subrecipient to carry out part of federal program. The Oregon Department of Administrative Services (DAS) is the Pass-Through Entity for this Contract; the Oregon Business Development Department entered into an intergovernmental agreement with DAS to make Subawards to carry out the federal ARPA CPF. Note: Recipient is a subrecipient for the purposes of this defined federal term.

Project Completion Deadline: 30 September 2026.

Subaward means an award by the State to Recipient that is funded in whole or in part by a federal program award (i.e. an ARPA CPF award). The terms and conditions of the ARPA CPF award to the State flow down to the Subaward unless the terms and conditions of the federal ARPA CPF award specifically indicate otherwise in accordance with 2 C.F.R. § 200.101. The term does not include payments to a contractor or payments to an individual that is a beneficiary of the federal program award.

Substantial Completion means that the Project can fulfill the primary operations that it was designed to perform, delivering services to end-users. At Substantial Completion, service operations and management systems infrastructure must be operational to the end-users for the Project Service Locations.

Uniform Guidance means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal program awards, which is codified in Part 200 of Title 2 of the Code of Federal Regulations (C.F.R.).

SECTION 2 - FINANCIAL ASSISTANCE

- A. OBDD shall provide Recipient, and Recipient shall accept from OBDD, a grant (the “Grant”) in an aggregate amount not to exceed the Grant Amount. OBDD shall disburse the Grant according to the disbursement procedures described in Section 3.
- B. Conditions Precedent. The State’s obligations are subject to the receipt of the following items, in form and substance satisfactory to the State and its Counsel:
- (1) This Contract duly signed by an authorized officer of Recipient; and
 - (2) Such other certificates, documents, opinions and information as OBO may reasonably require [, including but not limited to the following requirements: (*insert* conditions of award item from Recipient’s Notice of Intent to Award, etc.)].
- C. Financing Availability. OBDD’s obligation to make, and Recipient’s right to request disbursements under this Contract terminates on **01 December 2026**.
- D. Eligible Use.

- (1) The Financing Proceeds may be used solely for actual, reasonable and necessary costs to complete the activities described in Exhibit A (“Project”) and for costs that are in accordance with the Grant Budget (Appendix 3). For avoidance of doubt, Recipient shall use all Financing Proceeds in accordance with the federal American Rescue Plan Act Coronavirus Capital Projects Fund (codified as 42 U.S.C. § 804), including all implementing guidance promulgated by the U.S. Department of the Treasury and Oregon law, as applicable.
- (2) Recipient shall not use Financing Proceeds for costs in excess of one hundred percent (100%) of the total Project costs.
- (3) Financing Proceeds cannot be used for costs that will be reimbursed by other federal, state, or local government funding streams.

E. Ineligible Use. Recipient shall not use the Financing Proceeds to:

- (1) Retire any debt or to lobby, influence or attempt to influence, any federal, state or local government official.
- (2) Pay for this Contract’s administrative costs or other indirect Project costs.
- (3) Pay for costs incurred prior to the date of the Notice of Intent to Award to Recipient except that the Grant money may be used for Project Equipment costs incurred on or after February 8, 2022 (the “Federal Award Date”). Such Project Equipment costs are limited to Recipient’s actual costs (i.e. not market rate costs) that are in the Project Budget.
- (4) Pay for costs incurred after the Project Completion Deadline.
- (5) Buy materials and resell them to the Project at a profit (as a component of Recipient’s Match Amount, or as an expenditure paid for with Grant funds).
- (6) Pay for surplus materials not used in the Project. If Recipient purchases in bulk, the reimbursable amount of material used is limited to the actual amount used in the Project.
- (7) Personal expenses not directly related to the Project’s construction (examples: food and beverage, training, equipment maintenance).
- (8) Operational costs, including but not limited to employee salary and wages, insurance expenditures, bookkeeping costs, etc.
- (9) 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.
- (10) Fundraising activities.
- (11) Political endorsements, donations, or advertisements.
- (12) Computers or office equipment.
- (13) Vehicles as defined in ORS 801.590.

F. Eligible Use or Payment Disputes. If Recipient disputes any eligible use determination, calculation, or amount of any disbursement, Recipient shall notify OBO in writing of its dispute within thirty (30) days following the earlier of Recipient’s receipt of the payment or notification of the determination or calculation of the payment by the State. OBO will review the information presented by Recipient and may make changes to its determination based on this review. The calculation, determination or payment amount that results from OBO’s review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after OBO has concluded its review. The Department will make final determinations on cost eligibility and disbursements at its sole discretion.

- G. Misexpended or Unexpended Grant Money. Any Grant money disbursed to Recipient, or any interest earned by Recipient on the Financing Proceeds, that is not used for Project costs according to this Contract or that remain after the earlier of the date the Project is completed, the date this Contract is terminated, or December 31, 2026, shall be immediately returned to OBDD, unless otherwise directed by the State.

SECTION 3 – DISBURSEMENTS & DISBURSEMENT PROCEDURES

- A. Fixed Amount Subaward. This Contract is issued as a Fixed Amount Subaward per 2 C.F.R. § 200.201 and pursuant to the SLFRF and CPF Supplementary Broadband Guidance. The State will pay Recipient the Grant Amount in accordance with conditions set forth in this Contract and the schedule set forth in Appendix 2 to Exhibit A.
- B. Disbursement Requests and Disbursements.
- (1) Notwithstanding Section 3A. above, OBDD's payment of the Grant Amount through individual disbursements to Recipient will be limited to actual costs after OBO's review of Recipient's evidence of costs. Recipient must submit each disbursement request for payment of Grant funds on an OBDD-provided or OBDD-approved disbursement request form ("Disbursement Request"). Recipient must submit Disbursement Requests for costs incurred in accordance with each of the following: Exhibit A (describing the Project), Appendix 2 (providing timeline for disbursements based on milestones), Appendix 3 (providing permitted budget items), and Section 3C.(4) below.
 - (2) OBDD will make disbursements to Recipient for eligible Project costs upon OBO's finding that the conditions in this Section 3 are met. Incorporation of Appendix 3 into this Contract is not confirmation by OBO that specific expenditures by Recipient qualify as eligible Project costs. OBO reserves the right to examine or refuse to remit payment for costs which do not qualify as eligible Project costs. OBO may periodically review evidence of costs contemporaneously or retroactively. OBO may reject or adjust any current or previously submitted Disbursement Request not supported by evidence satisfactory to the State.
 - (3) Retainage. OBDD will withhold five percent (5%) retainage from each payment made to Recipient and shall release and disburse the cumulative retainage to Recipient after the following conditions are met:
 - (a) By the Project Completion Deadline, OBO receives certification in writing from Recipient that the Project has reached Substantial Completion; and
 - (b) Recipient timely completes the closeout requirements described in Section 5O.(6) of this Contract to the satisfaction of OBO.

OBDD may not pay, and Recipient will forfeit the retainage if Recipient does not meet the conditions of this Section 3B.(3).
- C. Conditions to Disbursements. OBDD has no obligation to disburse Grant funds unless:
- (1) There is no Event of Default. This includes Recipient being current on all required reporting requirements described in Exhibit A and elsewhere in this Contract.
 - (2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.
 - (3) The State, in the reasonable exercise of its administrative discretion, has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.

- (4) OBO (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as OBO may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Project costs, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Coronavirus State Fiscal Recovery Fund and any implementing administrative rules and guidance.
- (5) OBO finds that Recipient has made adequate progress on the work plan and milestones outlined in Appendix 2.
- (6) All other conditions precedent under this Contract are met.

D. Disbursement Request Deadline. Recipient must submit its **final Disbursement Request to the State not later than 01 December 2026**.

SECTION 4 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to the State:

A. Organization and Authority.

- (1) Recipient is a [Municipality, Corporation, Limited Liability Company, etc.] validly organized and existing under the laws of the State of Oregon.
- (2) Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive financing for the Project.
- (3) [*Required for government recipients*: This Contract has been authorized by an ordinance, order or resolution of Recipient's governing body if required by its organizational documents or applicable law.] [Reserved.]
- (4) This Contract has been duly executed by Recipient, and when executed by the State, is legal, valid and binding, and enforceable in accordance with their terms.

B. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract will not: (i) cause a breach of any agreement or instrument to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.

C. Full Disclosure. Recipient has disclosed in writing to the State all facts that materially adversely affect the Grant, or the ability of Recipient to perform all obligations required by this Contract. Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract, including Exhibit A and the Appendices, is true and accurate in all respects.

D. Pending Litigation. Recipient has disclosed in writing to the State all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Grant or the ability of Recipient to perform all obligations required by this Contract.

- E. Governmental Consent. Recipient has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the undertaking and Substantial Completion of the Project.
- F. Compliance with Tax Laws. Recipient is not in violation of any 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.

SECTION 5 - COVENANTS OF RECIPIENT

Recipient covenants as follows:

- A. Notice of Adverse Change. Recipient shall promptly notify OBO of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to perform all obligations required by this Contract.
- B. Compliance with Laws.
- (1) Compliance with Federal Coronavirus Capital Project Fund Program.
 - (a) Recipient will comply with the terms, conditions and requirements of the federal Coronavirus Capital Project Fund program established by section 604 of the Social Security Act, as added by section 9901 of the America Rescue Plan Act of 2021 and codified as 42 U.S.C. § 804 (the “CPF Statute”), including all implementing regulations (31 C.F.R. § 35.1 et seq.) and other guidance promulgated by the U.S. Department of the Treasury, including but not limited to the Guidance for the Coronavirus Capital Projects Fund for States, Territories and Freely Associated States issued by the Treasury on September 20, 2021 and the SLFRF and CPF Supplementary Broadband Guidance issued by the Treasury on May 17, 2023 (collectively, “Guidance”). Recipient acknowledges that Treasury may amend or update the Guidance from time to time and Recipient agrees to comply with such updated Guidance.
 - (b) Recipient will comply with the Uniform Guidance unless provided otherwise by the U.S. Department of the Treasury. See Guidance for provisions of the Uniform Guidance that Treasury has determined are inapplicable for Fixed Amount Subawards for broadband infrastructure projects. The Guidance provides clarifications and guidance for example on property, program income, cost principles, procurement, audit, and monitoring requirements related to broadband infrastructure projects that are Fixed Amount Subawards.
 - (c) Pursuant to § 200.201(b)(3) of the Uniform Guidance, Recipient must certify in writing to OBO by the Project Completion Deadline that the Project has reached Substantial Completion.
 - (2) Compliance with State Broadband Deployment Program (BDP). Recipient shall comply with ORS 285A.181-285A.185 and Oregon Administrative Rules chapter 123, division 047 applicable to BDP, including but not limited to the ARPA Capital Projects Funds Broadband Deployment Program Handbook adopted as such a rule.
 - (3) Compliance with Civil Rights Laws. Recipient shall not discriminate against any qualified employee or applicant for employment because of race, national origin, color, sex, gender identity, sexual orientation, age, religion, physical or mental disability, military status, or marital or family status. Recipient agrees to comply with all applicable federal and state statutes, rules and regulations

prohibiting discrimination in employment including but not limited to Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; and Oregon Revised Statutes Chapter 659A.

- (4) Compliance with Tax Laws. Recipient is responsible for compliance with all federal and state tax laws applicable to its implementation of the Project and its use of the Grant or compensation or payments paid with the Grant. Recipient will, for the term of this Contract, comply with the Oregon Tax Laws, (as defined in Section 4F.), except to the extent a governmental tax is contested in good faith and by proper proceedings.
- (5) Compliance with All Other Laws. Recipient, in its performance of all obligations required by this Contract, will comply with the requirements of all other applicable federal, state and local laws, rules, regulations, and orders of any governmental authority, except to the extent an order of a governmental authority is contested in good faith and by proper proceedings. This includes but is not limited to compliance with other applicable federal statutes, regulations, and executive orders, including but not limited to applicable statutes and regulations prohibiting discrimination in programs receiving federal financial assistance and all applicable federal environmental laws and regulations.

C. Federal Audit Requirements. The Grant is federal financial assistance, and the associated CFDA/FAIN Number is [TBD]. Recipient is a subrecipient. 2 C.F.R. Part 200, Subpart F—Audit Requirements of the Uniform Guidance, implementing the Single Audit Act (2 C.F.R. § 200.501 et seq), shall apply to this Contract except as otherwise provided by Treasury in their Guidance.

- (1) If Recipient receives federal funds in excess of \$1,000,000 in Recipient's fiscal year and is not otherwise exempt by Treasury, Recipient is subject to audit conducted in accordance with the provisions of 2 C.F.R. part 200, Subpart F. Recipient, if subject to this requirement, shall at its own expense submit to OBO a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to OBO the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Contract.
- (2) If Recipient is a for-profit entity, Recipient is not subject to 2 C.F.R. part 200, Subpart F, but Recipient is subject to the terms and conditions in the award between Treasury and the State, and, pursuant to 2 C.F.R. 200.501(h), the State has an obligation to ensure compliance by Recipient. If Recipient is a for-profit entity, Recipient agrees to comply with the requirements of the award as it relates to federal audits.
- (3) Recipient shall save, protect and hold harmless the State from the cost of any audits or special investigations performed by Treasury or any federal agency with respect to the funds expended under this Contract. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and the State of Oregon.

D. System for Award Management (SAM) Registration and Compliance. Recipient must comply with applicable requirements regarding the federal Universal Identifier and System for Award Management ("SAM"), 2 C.F.R. Part 25, including Appendix A. SAM is currently accessible at <https://www.sam.gov>. Recipient shall register and maintain the currency of its information in SAM until Recipient completes its required reporting under this Contract. Recipient shall review and update SAM information at least annually. Recipient shall provide its Unique Entity ID to OBO. Recipient shall not contract with any parties listed on the government-wide exclusions in the SAM.

E. Executive Compensation Reporting in SAM.

- (1) “Total Compensation” means the cash and noncash dollar value earned by an Executive during Recipient’s preceding fiscal year (see 48 C.F.R. § 52.204-10, as prescribed in 48 C.F.R. § 4.1403(a)) and includes the following:
 - (a) Salary and bonus;
 - (b) Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - (c) Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - (d) Change in present value of defined benefit and actuarial pension plans;
 - (e) Above-market earnings on deferred compensation which is not tax-qualified; and
 - (f) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- (2) Recipient shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - (a) The total federal funding authorized to date under this Contract is \$30,000 or more; and
 - (b) In the preceding fiscal year, Recipient received:
 - (i) 80% or more of its annual gross revenues from federal procurement agreements and subcontractors and/or federal financial assistance awards or subawards subject to the Federal Funding Accountability and Transparency Act of 2006 as amended by section 6202 of Public Law 110-252 (“Transparency Act”); and
 - (ii) \$30,000,000 or more in annual gross revenues from federal procurement agreements and subcontractors and/or federal financial assistance awards or subawards subject to the Transparency Act; and
 - (iii) The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

F. Protections for Whistleblowers.

- (1) In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- (2) The list of persons and entities referenced in the paragraph above includes the following:
 - (a) A member of Congress or a representative of a committee of Congress;

- (b) An Inspector General;
- (c) The Government Accountability Office;
- (d) A Treasury employee responsible for contract or grant oversight or management;
- (e) An authorized official of the Department of Justice or other law enforcement agency;
- (f) A court or grand jury; or
- (g) A management official or other employee of Participant or its subcontractor who has the responsibility to investigate, discover, or address misconduct.

(3) Recipient shall inform its employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

- G. Lobbying. Recipient acknowledges and agrees that the costs of the Project will not include any Lobbying costs or expenses incurred by Recipient or any person on behalf of Recipient, and that Recipient will comply with federal restrictions on lobbying at 31 U.S.C. § 1352 and 40 C.F.R. Part 34 and will not request payment or reimbursement for Lobbying costs and expenses. “Lobbying” means influencing or attempting to influence a member, officer or employee of a governmental agency or legislature in connection with the awarding of a government contract, the making of a government grant or loan or the entering into of a cooperative agreement with such governmental entity or the extension, continuation, renewal, amendment or modification of any of the above. Recipient shall submit to OBO a Certification Regarding Lobbying, the form of which is attached as Exhibit B, and any applicable quarterly disclosure statement of covered lobbying activity. Recipient will cause any entity, firm or person receiving a contract or subcontract utilizing Financing Proceeds in excess of \$100,000 to complete the same certification and any applicable disclosure statement and submit them to Recipient. Recipient shall retain such certifications and make them available for inspection and audit by OBO, the federal government or their representatives. Recipient shall forward any disclosure statements to OBO.
- H. Federal Employment. OBDD’s payments to Recipient under this Grant will be paid by funds received from the United States Federal Government. Recipient, by signing this Grant certifies neither it nor its employees, contractors, subcontractors or subrecipients who will administer this Contract are currently employed by an agency or department of the federal government.
- I. American Made. Recipient and its subcontractor(s) will to the extent practicable, and consistent with applicable law under the federal award, provide a preference for the procurement or use of goods, products or materials produced in the United States as described in 2 C.F.R. § 200.322 and Executive Order 14005 Ensuring the Future is Made in All of America by All of America’s Workers (January 25, 2021).
- J. Prohibited Telecommunications and Video Surveillance Services or Equipment. Recipient shall not use Financing Proceeds to procure or obtain any covered telecommunication and video surveillance services or equipment as described in 2 C.F.R § 200.216, including covered telecommunication and video surveillance services or equipment provided or produced by entities owned or controlled by the Peoples’s Republic of China and telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- K. Conflicts of Interest. Recipient acknowledges that all Public Officials, as defined by ORS 244.020, are subject to the requirements of Oregon’s ethics laws as provided in ORS Chapter 244. Recipient shall refrain from any practices, activities or relationships that reasonably create or appear to create a “potential conflict of interest” or “actual conflict of interest”, as those terms are defined in ORS Chapter 244, with the full performance of Recipient’s obligations under this Contract. If a conflict or the appearance of a conflict arises regarding this Contract, or if Recipient is uncertain whether a conflict or the appearance of a conflict has arisen, Recipient shall submit to OBO a disclosure statement setting forth the relevant details for the State’s consideration. Failure to promptly submit a disclosure statement or to follow OBO’s direction in

regard to the actual or potential conflict constitutes an Event of Default of the Contract. Recipient shall disclose in writing to OBO any potential or actual conflict of interest affecting the Grant funds in accordance with 2 C.F.R. § 200.12.

- L. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its employees and contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
- M. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees and subcontractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.
- N. Debarment and Suspension. This Contract is subject to 2 C.F.R. Part 180 and the U.S. Treasury's implementing regulation at 31 C.F.R. Part 19. These provisions prohibit Recipient from entering into contracts with suspended or debarred parties.
- O. Project Completion Obligations. Recipient shall:

- (1) Provide the following administrator for the Project: *[insert name]* ("Responsible Administrator") with the following contact information: *[insert phone, email, and address]*

If the Responsible Administrator is an agent of Recipient, Recipient must have signature authority to bind Recipient. The Responsible Administrator is considered essential to the completion of the Project as key personnel. Recipient shall immediately notify OBO if the Responsible Administrator ceases to provide services under this Contract. Recipient may replace the Responsible Administrator only after obtaining OBO's prior written approval, which shall be at OBO's reasonable discretion, as the State executed this Agreement in part in reliance on Recipient's representations regarding key personnel. Recipient's request for such approval shall specify, in writing, why the change is necessary, who the proposed replacement is, what their qualifications are, and when the change will take effect. Any time key personnel cease to provide services under this Agreement, Recipient shall notify OBO in writing and the State, in its sole discretion, may direct Recipient to suspend Work until such time as replacements are approved.

- (2) Permit OBO to conduct inspection of the Project at any time and conduct testing for compliance with Service Quality Requirements described in Exhibit A.
- (3) Make adequate progress on the Project's work plan and milestones as outlined in Appendix 2 of Exhibit A in order to complete the Project [or sub-Projects as defined in Appendix 2] by the Project Completion Deadline, including meeting all hard deadlines provided within Appendix 2.
- (4) Complete the Project as described in Exhibit A using its own fiscal resources or money from other sources to pay for any Project costs in excess of the total amount of financial assistance provided pursuant to this Contract.

[Include in Contracts with Match Amount Requirements: Recipient shall contribute not less than the Match Amount towards the total cost of the Project as set forth in Exhibit A, Appendix 3, "Project Grant Budget". Recipient shall document compliance with the Match Amount obligation by submitting documentation of costs and payments for OBO review and approval. The documentation shall be submitted along with Recipient's Disbursement Requests.

OBDD will reimburse *[insert number]*% of eligible costs submitted in each Disbursement Request and Recipient will pay the remainder as matching funds until the Match Amount is fully

contributed. OBDD's payment will be further reduced by the applicable retainage amount per Section 3.]

- (5) Reach Substantial Completion of the Project no later than the Project Completion Deadline, unless otherwise permitted by OBO in writing.
- (6) No later than 90 days following the earlier of the Project completion date or the Project Completion Deadline, complete the following closeout requirements: (a) provide OBO with a final project completion report on a form provided by OBO; and (b) provide OBO with Project test results (at minimum from terminal ends of service routes) demonstrating satisfaction of the Service Quality Requirements provided for in Exhibit A. Recipient's obligations under this Contract shall not terminate until all closeout requirements are completed to the satisfaction of OBO. OBO may inspect the Project and conduct Project testing for compliance with the Service Quality Requirements as it deems necessary.
- (7) Obtain and maintain as-built drawings for the Project, including but not limited to all Facilities constructed as part of the Project.
- (8) Participate in federal programs that provide low-income consumers with subsidies on broadband internet access services. Specifically, Recipient will allow subscribers in their service area to utilize the Federal Communications Commission's Emergency Broadband Benefit program (if available) or the Affordable Connectivity Program (ACP). Recipient will participate in ACP for the duration of the ACP or until the date the Project is no longer in use. *[Insert in contracts with rate used in application: In addition, Recipient will offer broadband services at [\$ insert amount] per month for five years after the certified Project completion date to the Project Service Locations.]*
- (9) Provide pricing data to OBO as part of Project performance and monitoring for such Broadband Infrastructure Project for a period of five (5) years after Substantial Completion of the Project.

P. Prevailing Wage Requirements.

- (1) Recipient shall comply with state prevailing wage law as set forth in ORS 279C.800 through 279C.870, and the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) (collectively, state "PWR"). This includes but is not limited to imposing an obligation that when PWR applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage for workers in each trade or occupation in each locality as determined by the Commissioner of the Bureau of Labor and Industries ("BOLI") under ORS 279C.815.
- (2) When the federal Davis-Bacon Act applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage as determined by the United States Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*).
- (3) Notwithstanding (1) and (2) above, when both PWR and the federal Davis-Bacon Act apply to the Project, contractors and subcontractors on the Project must pay a rate of wage that meets or exceeds the greater of the rate provided in (3)(a) or (3)(b) above.
- (4) When PWR applies, Recipient and its contractors and subcontractors shall not contract with any contractor on BOLI's current List of Contractors Ineligible to Receive Public Works Contracts.
- (5) When PWR applies, Recipient shall be responsible for both providing the notice to the BOLI Commissioner required by ORS 279C.835 and the payment of any prevailing wage fee(s) required under ORS 279C.825 and BOLI's rules, including OAR 839-025-0200 to OAR 839-025-0230. For avoidance of any doubt, Recipient contractually agrees to pay applicable prevailing wage fees for the Project rather than OBDD, the public agency providing Financing Proceeds under this

Contract.

- (6) Pursuant to ORS 279C.817, Recipient and any contractors or subcontractors may request that the BOLI Commissioner make a determination about whether the Project is a public works on which payment of the prevailing rate of wage is required under ORS 279C.840 (i.e. whether PWR applies).
- (7) Davis-Bacon Act Requirements. To the extent applicable, a Recipient that is awarded an amount of \$5,000,000 or more under this Contract must provide a certification that all laborers and mechanics employed by it and/or its contractors and/or subcontractors in performance of the award are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. In lieu of a certification, Recipient may provide a project employment and local impact report detailing the number of contractors and subcontractors working on the Project, the number of employees on the Project hired directly and hired through a third party, the wages and benefits of workers on the Project by classification, and whether those wages are at rates less than those prevailing. Recipient must maintain sufficient records to substantiate this information upon request.

These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

Q. Professional Responsibility. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty. A professional engineer or architect, as applicable, registered and in good standing in Oregon, will be responsible for any construction design for the Project. Recipient shall follow standard construction practices, such as bonding requirements for construction contractors, requiring errors and omissions insurance, and performing testing and inspections during construction. When applicable, Recipient may be subject to performance and payment bonding requirements pursuant to 2 C.F.R. § 200.326.

R. Use, Maintenance, and Insurance of Project; Federal Interest Period; Encumbrances.

- (1) Recipient agrees that any Equipment, Facilities, supplies or real property purchased, or in the case of real property, improved, using the Financing Proceeds, will be used for the purpose and in the manner described in this Contract, subject to the Guidance, and the requirements of 2 C.F.R. § 200.311 (Real Property), 2 C.F.R. § 200.313 (Equipment), 2 C.F.R. § 200.314 (Supplies), and 2 C.F.R. § 200.315 (Intangible Property), as applicable, and any other restriction Treasury may impose. *[Insert additional sentence referencing an additional Exhibit detailing uses/purposes of Financing Proceeds as needed, and also may need to incorporate parts of Recipient's Application to further define purposes.]*
- (2) While title to real property or Equipment acquired or improved under the Grant (i.e. the broadband infrastructure installed pursuant to this Contract) ("Project Property") vests in Recipient, the federal government maintains a federal interest in the Project Property through 31 December 2034, (the "Federal Interest Period"). For the duration of the Federal Interest Period, Recipient, and successors or transferees of Recipient:
 - (a) must use the Project Property for the authorized purposes of the project in the same manner as they use comparable real property and Equipment within their networks in the ordinary course of their business, subject to the rights to disposition provided below;
 - (b) must continue to provide broadband service to the service areas and at the standard initially agreed upon by OBO and Recipient;
 - (c) must participate in federal programs that provide low-income consumers with subsidies on broadband internet access services, as provided by Section 5O.(8) above;

- (d) must comply with the requirements of section 200.310 of the Uniform Guidance (Insurance), including but not limited to: comprehensive general liability insurance (bodily injury and property damage); professional liability insurance; and [*insert additional insurance requirements-- TBD*] which may be satisfied by adequate self-insurance., [*Additional details with minimum insurance coverage amounts- TBD*].
- (e) must comply with the use and management requirements for equipment in §§ 200.313(c)(4) and 313(d) of the Uniform Guidance, which may be satisfied by applying Recipient's government or commercial practices for meeting such requirements in the normal course of business (e.g., commercial inventory controls, loss prevention procedures, etc.), provided that such inventory controls indicate the applicable Federal Interest Period;
- (f) must maintain records of real property that include an indication of the applicable Federal Interest Period;
- (g) may dispose of Project Property in the ordinary course of business when no longer needed to operate the network, such as in order to upgrade Equipment and improve Facilities, provided that at least the same level of service provided by the network is maintained and there is no material interruption to service and that such upgraded property is subject to the same Contract requirements as other Project Property;
- (h) may otherwise sell or transfer Project Property only after provision of notice to OBDD and Treasury that identifies the successor or transferee and after securing the agreement of the successor or transferee to comply with these requirements and the acknowledgement of the successor or transferee of the federal property interest and Federal Interest Period; and
- (i) must notify OBDD and Treasury upon the filing of a petition under the Bankruptcy Code, whether voluntary or involuntary, with respect to Recipient or its affiliates.

(3) Encumbrances on Project Property.

- (a) Pursuant to 2 C.F.R. § 200.316 and in recognition that BDP and ARPA CPF are being executed for the benefit of the public being served by the broadband infrastructure, for the duration of the Federal Interest Period, Recipient must hold Project Property in trust for the beneficiaries of the ARPA CPF broadband infrastructure project.
- (b) Recipient may encumber Project Property only if Treasury receives a shared first lien position in the Project Property such that, if the Project Property were foreclosed upon and liquidated, Treasury would receive the portion of the fair market value of the property that is equal to Treasury's percentage contribution to the Project costs. For example, in the case in which Treasury had contributed 50% of the Project costs, Treasury would receive 50% of the fair market value of the Project Property when liquidated. Recipient shall use standard forms of liens, covenants, and intercreditor agreements provided or approved by Treasury to implement this requirement.
- (c) Recipient must comply with 2 C.F.R. § 200.312, to the extent any federally-owned real property or equipment is used by Recipient.
- (d) If Recipient is unable to comply with the requirements provided in the Guidance, Recipient must request disposition instructions from Treasury pursuant to 2 C.F.R. § 200.311(c) or 200.313(e), as applicable.

- S. Books and Records; Inspections; Monitoring; Information. Recipient shall keep accurate books and records (electronic and otherwise) sufficient to evidence compliance with ARPA CPF, the Guidance, and this Contract. Recipient shall maintain the books and records according to generally accepted accounting principles [*for government entities only*: established by the Government Accounting Standards Board in effect at the time. Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient]. Recipient shall permit the State, the federal government and their duly authorized representatives, and any party designated by the State: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters. Recipient shall be responsible for monitoring any subcontract it enters into with this Contract's federal Grant funding. Recipient understands and agrees that OBO and authorized representatives may evaluate Recipient's ability to complete the activities funded under this Contract through ongoing monitoring. Recipient shall supply any related reports and information as OBO may reasonably require, including cooperation with OBO to provide all necessary financial information and records to comply with ARPA CPF reporting requirements, including but not limited to the reporting requirements detailed in Exhibit A.
- T. Records Maintenance. Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Grant for a minimum of ten years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Completion Deadline. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- U. Notice of Event of Default. Recipient shall give OBDD prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.
- V. Select one [FOR private entities, and out of state governmental entities: Indemnity; Release.
- (1) To the extent authorized by law, Recipient shall defend, indemnify, save and hold harmless and release the State of Oregon, OBDD, OBO and their officers, employees and agents from and against any and all claims, demands, suits, actions, proceedings, losses, damages, liability and court awards, including but not limited to costs, expenses, and reasonable attorneys' fees incurred (collectively, "Claims"), related to any actual or alleged act or omission by Recipient, or its officers, employees, agents or contractors, in connection with this Contract, the Project, PWR or Davis-Bacon Act requirements, including without limitation, any expenses incurred or amounts paid in connection with an inquiry, investigation, audit or similar proceeding by BOLI, the U.S. Department of Labor, the Internal Revenue Service, Treasury and any other federal, state, governmental or quasi-governmental body with regulatory jurisdiction arising from the Project or the actions or omissions of Recipient, or its officers, employees, contractors, or agents.
 - (2) Notwithstanding the foregoing, neither Recipient nor any attorney engaged by Recipient may defend any Claim in the name of the State of Oregon, nor purport to act as legal representative for the State of Oregon, without first receiving from the Oregon Attorney General in a form and manner determined appropriate by the Oregon Attorney General, authority to act as legal counsel for the State of Oregon, nor may Recipient settle any Claim on behalf of the State of Oregon without the approval of the Oregon Attorney General. If the State of Oregon assumes its own defense, Recipient will be liable for the attorney fees of the State of Oregon, including but not limited to any fees charged by the Oregon Department of Justice. The provisions of this section are not to be construed as a waiver by the State of Oregon, OBDD, or OBO of any immunity, defense or limitation on

damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon. If attorney fees are awarded to Recipient, such attorney fees shall not exceed the rate charged to OBDD by its attorneys.]

[FOR Oregon Governmental Entities:

(1) Contributory Liability and Contractor Indemnification- Tort Claims.

- (a) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (“Third-Party Tort Claim”) against a party to this Contract (the “Notified Party”) with respect to which the other party may have liability, the Notified Party must promptly notify the other party in writing and deliver a copy of the claim, process, and all legal pleadings related to the Third-Party Tort Claim. Either party is entitled to participate in the defense of a Third-Party Tort Claim, and to defend a Third-Party Tort Claim with counsel of its own choosing. The foregoing provisions are conditions precedent for either party’s liability to the other in regard to the Third-Party Claim.

If the parties are jointly liable (or would be if joined in the Third-Party Tort Claim), the parties shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable in such proportion as is appropriate to reflect their respective relative fault. The relative fault of the parties shall be determined by reference to, among other things, the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Each party’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if that party had sole liability in the proceeding. This Section shall survive termination of this Contract.

- (b) Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (“Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys’ fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient’s contractor or any of the officers, agents, employees or subcontractors of the contractor (“Contractor Tort Claims”). It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Contractor Tort Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Contractor Tort Claims. This Section shall survive termination of this Contract.

(2) Indemnity; Release- Claims Other Than Torts.

- (a) Except for Third-Party Tort Claims and Contractor Tort Claims as provided in Section 5V.(1) above, to the extent authorized by law, Recipient shall defend, indemnify, save and hold harmless and release the State, OBDD, OBO and their officers, employees and agents from and against any and all claims, demands, suits, actions, proceedings, losses, damages, liability and court awards including but not limited to costs, expenses, and reasonable attorneys’ fees incurred (collectively, “Non-Tort Claims”), related to any actual or alleged act or omission by Recipient, or its officers, employees, contractors, or agents in connection with this Contract, the Project, PWR or Davis-Bacon Act requirements, including without limitation, any expenses incurred or amounts paid in connection with an inquiry, investigation, audit or similar proceeding by BOLI, the U.S. Department of Labor, the

Internal Revenue Service, Treasury and any other federal, state, governmental or quasi-governmental body with regulatory jurisdiction arising from the Project or the actions or omissions of Recipient, or its officers, employees, contractors, or agents.

- (b) Notwithstanding the foregoing, neither Recipient nor any attorney engaged by Recipient may defend any Non-Tort Claim in the name of the State of Oregon, nor purport to act as legal representative for the State of Oregon, without first receiving from the Oregon Attorney General in a form and manner determined appropriate by the Oregon Attorney General, authority to act as legal counsel for the State of Oregon, nor may Recipient settle any Non-Tort Claim on behalf of the State of Oregon without the approval of the Oregon Attorney General. If the State of Oregon assumes its own defense, Recipient will be liable for the attorney fees of the State of Oregon, including but not limited to any fees charged by the Oregon Department of Justice. The provisions of this section are not to be construed as a waiver by the State of Oregon, OBDD, or OBO of any immunity, defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon. If attorney fees are awarded to Recipient, such attorney fees shall not exceed the rate charged to OBDD by its attorneys.]

W. Disadvantaged Business Enterprises. ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses...” OBDD encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at https://www.oregonlegislature.gov/bills_laws/ors/ors200.html. Additional resources are provided by the Governor’s Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/SearchCertifiedDirectory.asp?XID=2315&TN=oregon4biz>.

SECTION 6 - DEFAULT

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

A. False or Misleading Statement.

- (1) Any material false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to this Grant.
- (2) In addition, making false statements or claims in connection with this Grant is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

B. Failure to Perform. Recipient fails to perform any obligation required under this Contract, other than those referred to in subsection A of this Section 6, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 7 – REMEDIES

A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract and any

other remedies available at law or in equity to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to any one or more of the following:

- (1) Terminating OBDD's commitment and obligation to make the Grant or disbursements of Financing Proceeds under the Contract.
 - (2) Barring Recipient from receiving future OBO awards.
 - (3) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract.
 - (4) Requiring repayment of all or a portion of the Grant and interest on all or any portion of the Grant earned by Recipient on those Grant funds.
 - (5) Terminating the Contract.
- B. Application of Moneys. Any moneys collected by OBDD pursuant to Section 8.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD; then, as applicable, to repay any Financing Proceeds owed; then, to pay other amounts due and payable under this Contract, if any.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in Section 6B. of this Contract.
- D. Default by OBDD or OBO. In the event OBDD or OBO defaults on any obligation in this Contract, Recipient's sole remedy will be for disbursement of Financing Proceeds for costs of the Project, not to exceed the Grant Amount, less any claims the State has against Recipient.

SECTION 8 - TERMINATION

In addition to terminating this Contract upon an Event of Default as provided in Section 7, OBDD may terminate this Contract upon 30 days written notice to Recipient under any of the following circumstances:

- A. If OBDD anticipates a shortfall in applicable revenues or OBDD fails to receive sufficient funding, appropriations or other expenditure authorizations to allow OBDD, in its reasonable discretion, to continue making payments under this Contract.
- B. There is a change in federal or state laws, rules, regulations or guidelines so that the uses of the Grant are no longer eligible for funding.
- C. If OBDD, in its discretion, desires to terminate the Contract for convenience. In the event of such termination not the fault of Recipient, Recipient may be reimbursed for costs and non-cancellable commitments incurred in connection with the Contract, up to the date of termination.

This Contract may be terminated at any time by mutual written consent of the parties.

SECTION 9 - MISCELLANEOUS

- A. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.
- B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.

- (1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.
- (2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.
- (3) This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and permitted assigns.
- (4) Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract without the prior written consent of OBDD. OBDD may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to OBDD, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of OBDD's Counsel. Any approved assignment is not to be construed as creating any obligation of OBDD beyond those in this Contract, nor does assignment relieve Recipient of any of its duties or obligations under this Contract.
- (5) Recipient hereby approves and consents to any assignment, sale or transfer of this Contract that OBDD deems to be necessary.

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

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

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

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

If to OBDD: Deputy Director
Oregon Business Development Department
775 Summer Street NE Suite 310
Salem, OR 97301-1280

With Copy to: Oregon Broadband Office
[TBD]

If to Recipient: «ContactTitle»
«Recipient»
«RecipAddress»
«RecipCityStateZip»

E. Confidentiality of Submissions.

- (1) Reports, documentation and other information that Recipient submits to the State pursuant to this Contract (“Submissions”), including but not limited to the reports required in Exhibit A, are subject to the Oregon Public Records Law, ORS Chapter 192.
- (2) In addition, Recipient acknowledges that any information that the State submits, including Recipient’s Submissions, for its reporting and compliance obligations established by the U.S. Treasury, including the submission of quarterly project and expenditure reports, annual performance reports and information on workforce plans and practices, may be publicly disclosed.
- (3) Recipient should not submit any information to the State that it does not want publicly disclosed and should assume that all Submissions are subject to public disclosure without any prior notice, even if marked confidential.
- (4) Recipient may mark Submissions or portions of a Submission that Recipient believes qualify under a Public Records Law exemption or other law that exempts from disclosure the Submission or portion of the Submission. To mark a Submission or portion of a Submission believed exempt from disclosure, Recipient shall clearly identify in the body of the Submission the material that is believed exempt from disclosure with words such as “CONFIDENTIAL – DO NOT DISCLOSE” or other words to the same effect. Notwithstanding the foregoing, Recipient’s failure to mark a Submission or portion of a Submission, shall not be conclusive evidence as to whether a Submission was submitted in confidence or is subject to disclosure.
- (5) OBDD will disclose Submissions or portions of Submissions to the extent required by Oregon Public Records Law and to the extent disclosure is required by other law, court order or government order, including orders from the Attorney General.

F. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.

G. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.

H. Amendments, Waivers.

- (1) This Contract may not be amended without the prior written consent of OBDD (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and signed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
- (2) Notwithstanding Section 9H.(1) above, the parties agree that OBDD may extend the Project Completion Deadline by sending a written notice of amendment to Recipient (“Letter Amendment”), and Recipient will not be required to provide written consent to effect the amendment.

I. Attorneys’ Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys’ fees and costs at trial and on appeal. Reasonable attorneys’ fees cannot exceed the rate charged to OBDD by its attorneys.

J. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion

County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

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

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

SIGNATURES TO FOLLOW BELOW



STATE OF OREGON
acting by and through its Oregon
Business Development Department

[logo]

«Recipient NAME»

By: _____
Chris Cummings, Deputy Director

By: _____
«Person & Title»

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

[Not Required per OAR 137-045-0030]

/s/ [Approving Attorney] as per email dated [dd Mmm 202y]

EXHIBIT A
PROJECT DESCRIPTION AND REPORTING REQUIREMENTS

Project Description: Recipient will, with the assistance of a professional engineer licensed in Oregon, create, install and deploy a fully-functioning, commercially servicable broadband network that meets all of the Project Completion Standards for all the locations listed in the attached **Appendix 1** (“Project Service Locations”), which is incorporated herein by reference. The Project Service Locations provided in Appendix 1 can be described as serving the following communities: [insert general description using counties and cities or landmarks, etc.]. The broadband network infrastructure for the Project will be owned by [Recipient or *insert name(s) of other permitted owners*] at the Project’s Substantial Completion. The Internet Service Provider[s] (ISP[s]) for the Project at Substantial Completion shall be [*insert name(s)*].

Project Completion Standards:

1. Recipient agrees that upon Project completion the network will serve no less than [*insert number*] Project Service Locations that are detailed in Appendix 1.
2. Recipient shall ensure that the final outcome of this Project will be increased access to high-speed broadband service which will result in improved broadband infrastructure.
3. The Project shall:
 - A. Deploy [*insert description, e.g. wired, wireless, fiber, etc.*] technology to provide service to the Project Service Locations;
 - B. Deploy approximately [*insert number*] new fiber miles; and
 - C. Utilize the following infrastructure deployment method[s]: [*insert method, i.e. aerial, buried, or mixed*].
4. The Project shall be designed and built to provide end users at all Project Service Locations service that upon Project completion meets the following requirements (collectively, “**Service Quality Requirements**”):
 - A. Reliably meets or exceeds symmetrical speeds of 100 Mbps. [*In cases where that is not practicable, because of the excessive cost of the Project, geography, or topography of the Project Service Location to be served (identified and approved by OBO), the following exception may be inserted: Notwithstanding the previous sentence, the following Project Service Location shall reliably meet or exceed 100 Mbps download speed and at least 20 Mbps upload speed, and be scalable to symmetrical speeds of 100 Mbps: insert fabric location IDs or provide a separate exhibit of the IDs.*]
 - B. Network Capacity: Service must remain available at or near minimum speeds to all Project Service Locations, regardless of peak network load times.
 - C. Latency: Service that enables access to health, education, and remote work resources with a measured latency less than 100ms.
 - D. Data Caps, Throttling: 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 Service Locations.
5. The Project shall be fully operational and available to customers by September 30, 2026.

Project Work:

Recipient will do each of the following:

1. Design, install, construct, test, maintain, and operate the Project’s broadband network to serve the Project Service Locations;
2. Secure all necessary permits for the Project;
3. Acquire such Equipment as is necessary to install, create, and maintain the Project’s broadband network;
4. Construct and install its related Facilities for the Project.
5. Acquire all necessary real property interests or access rights to real property for the purpose of installing its Equipment and Facilities.

Project Reporting Requirements:

Recipient shall submit quarterly and annual reports to OBO, using reporting templates to be provided by OBO, which must include such information as is necessary for OBO to comply with the reporting requirements established by the U.S. Treasury, primarily found in the Coronavirus Capital Projects Fund Compliance and Reporting Guidance For States, Territories, and Freely Associated States at <https://home.treasury.gov/system/files/136/Revised-CPF-State-Guidance.pdf> (issued March 2024).

The quarterly reports, called Project and Expenditure Reports, will provide information on the Project funded, obligations, expenditures, project status, outputs, performance indicators, and other information. The annual report, called a Performance Report, will provide information on the BDP Project funded by ARPA CPF and describe the outputs and outcomes of the BDP.

Report Name	Frequency	Due Dates for Recipient Submission to OBO
Quarterly Report	Quarterly	April 10 th (for January 1-March 31 period), July 10 th (for April 1- June 30 period), October 10 th (for July 1- September 30), January 10 th (for October 1-December 31 period)
Annual Report	Annually	July 10, 2025 (for July 1, 2024 -June 30, 2025) July 10, 2026 (for July 1, 2025- June 30, 2026) February 10, 2027(for July 1, 2026 – December 31, 2026)

The reporting due dates in the Treasury Guidance apply to the State. The due dates in the above Contract table, rather than the Treasury Guidance dates, apply to Recipient as they are earlier dates and allow time for the State to submit cumulative reports to Treasury.

Quarterly Project and Expenditure Reports

Reporting requirements shall include but are not limited to providing the following:

1. Any Project Budget updates.
2. Information describing the Project (including start, completion and operation dates) and any update changes to that information.
3. Obligations and expenditures for current period and cumulatively.
4. Project status/progress.
5. Certification that prevailing wage requirements are fulfilled.

6. Project data (Including but not limited to identification of type of delivery technology; number and type of locations served – planned/actual; speed and latency data; etc.).
7. Geographic location of locations served.

Annual Performance Reports

Reporting requirements shall include but are not limited to providing the following:

1. A high-level overview of Recipient's actual uses of funding and progress made during the period covered, and an overview of key outcomes and any noteworthy challenges or opportunities identified during the period covered.
2. A short narrative describing the intended and actual use of funds, and the performance of the Project that describes the activities implemented and still planned.
3. Narratives about the people at the locations served.
4. Efforts and outcomes during the period covered to promote equity and address critical needs.
5. Workforce practices and labor standards implemented during the Project.
6. Community engagement – how feedback is received and handled during project implementation.
7. Information to show compliance with federal civil rights laws, including not denying benefits or services, or otherwise discriminating on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity).
8. Project Data, including but not limited to the following: (i) The number of homes and businesses that Recipient's grant-supported broadband network serves; (ii) The number of additional homes and businesses that Recipient expects to serve through the grant supported broadband network within the following year; (iii) The speed tiers, advertised rates, and services that Recipient offers to customers through the grant-supported broadband network, including speed tiers, rates, and other services that Recipient offers to low-income households; and (iv) Other performance metrics as requested, in writing, by OBO.

APPENDIX 1- PROJECT SERVICE LOCATIONS BY FCC FABRIC ID

[TBD—tailored list for each Recipient]

DRAFT

APPENDIX 2- WORK PLAN WITH MILESTONES AND COST ESTIMATES

[TBD—tailored by each Recipient’s Project and negotiated with OBO]

DRAFT

APPENDIX 3- PROJECT GRANT BUDGET

Project Budget Line Items	ARPA CPF Funds (Grant)	[Required Cash Match Funds]
TOTAL	\$«Grant»	[\$«OtherFunds»]

Recipient may transfer Grant funds among line items in the Budget with written notice to and approval by OBO. Notice to OBO and approval by OBO shall be by email.

[Recipient may transfer Match Funds among line items in the Budget table as Recipient chooses.]

Recipient shall complete the Project and use its own fiscal resources or money from other sources not provided in the above table to pay for any costs of the Project in excess of the total amount described in the Budget table.

EXHIBIT B – CERTIFICATION REGARDING LOBBYING

(Awards in excess of \$100,000)

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

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

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

Signed _____

Title _____

Date _____

EXHIBIT C – FEDERAL AWARD INFORMATION
REQUIRED BY 2 C.F.R. § 200.332(A)(1)

[TBD—tailored to each Recipient]

DRAFT

TO: Sherwood City Council

FROM: Craig Sheldon, City Manager
Through: Sebastian Tapia, Interim City Attorney

SUBJECT: Resolution 2025-012, Appointment of City Council Liaison Assignments

Issue:

Shall the City Council approve the City Council Liaison assignments for 2025?

Background:

At the beginning of each new calendar year, the mayor appoints City Councilors to various liaison assignments for both city and non-city commissions, boards and committees as the mayor deems necessary. Mayor Rosener has made such appointments which are outlined in Exhibit A which is attached to the subject resolution. The primary role of the liaison member is to convey information from the Council to the commission or committee and from the commission or committee to the Council.

Chapter 6.II.A.1 of the Rules of Procedure for City Council stipulates that the mayor's appointments are approved by the consent of the City Council by resolution. These assignments are for the calendar year 2025.

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 2025-012, Appointment of City Council Liaison Assignments.



RESOLUTION 2025-012

APPOINTMENT OF CITY COUNCIL LIAISON ASSIGNMENTS

WHEREAS, the current Rules of Procedure for City Council in Chapter 6 outlines the process for appointment of Councilor Liaisons to both city and non-city commissions, boards and committees; and

WHEREAS, Mayor Tim Rosener has appointed Councilors to their respective assignments as outlined in the attached Exhibit A; and

WHEREAS, Councilor liaison assignments are required to be approved by consent of City Council.

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

Section 1. The Council Liaison assignments as outlined in the attached Exhibit A are approved for 2025.

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

Duly passed by the City Council this 21st of January 2025.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

Boards and Commissions - 2025 Council Liaison Assignments

	New - 2025		2024	
	Liaison	Alternate	Liaison	Alternate
Planning Commission	Taylor Giles	Kim Young	Dan Standke	Keith Mays
Parks and Recreation Advisory Board	Doug Scott	Dan Standke	Doug Scott	Taylor Giles
Library Advisory Board	Dan Standke	Renee Brouse	Taylor Giles	Dan Standke
Culture Arts Commission	Keith Mays	Dan Standke	Keith Mays	Taylor Giles
Police Advisory Board	Kim Young	Doug Scott	Kim Young	Renee Brouse
Budget Committee	Tim Rosener	Kim Young	Tim Rosener	Kim Young
Senior Advisory Board	Renee Brouse	Keith Mays	Renee Brouse	Doug Scott

Other Boards and Organizations

	Liaison	Alternate	Liaison	Alternate
Comm Development Block Grant Adv BD	Kim Young	Taylor Giles	Kim Young	Dan Standke
Willamette River Water Coalition	Keith Mays	Kim Young	Keith Mays	Kim Young
Regional Water Providers Consortium	Renee Brouse	Doug Scott	Renee Brouse	Doug Scott
Willamette Intake Facilities Commission	Keith mays	Kim Young	Keith mays	Kim Young
WCCC	Tim Rosener	Kim Young	Tim Rosener	Kim Young
Metro in General	Tim Rosener	Kim Young	Tim Rosener	Kim Young
Washington County in General	Tim Rosener	Kim Young	Tim Rosener	Kim Young
Sherwood YMCA BOM	Taylor Giles	Renee Brouse		
Sherwood SSD/YSAT	Dan Standke	Kim Young	Taylor Giles	Kim Young

TO: Sherwood City Council

FROM: David Bodway, Finance Director

Through: Craig Sheldon, City Manager and Sebastian Tapia, Interim City Attorney

SUBJECT: Resolution 2025-011, Adopting a Supplemental Budget for fiscal year 2024-25 and making appropriations

Issue:

Shall the City Council adopt a supplemental budget and approve the corresponding appropriations for fiscal year 2024-25?

Background:

Pursuant to ORS 294.463, Oregon Municipalities can transfer appropriation between existing categories during the budget year and pursuant to ORS 294.471 and 294.473, Oregon Municipalities can make one or more supplemental budgets. 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.

The purposes for the appropriations have been detailed in Exhibit 1 and sorted by the source of funding for each expenditure. Please refer to that exhibit for additional information.

Financial Impacts:

The financial impacts are detailed in Exhibit 2 to the Staff Report as well as in the Resolution itself. The net impact by fund is shown in the increases / (decreases) of "Total Unappropriated and Reserve Amounts". All funds have a positive net impact of this supplemental budget aside from the Economic Development and Promotion Fund and Storm Fund which have negative net impacts.

Recommendation:

Staff respectfully recommends City Council approval of Resolution 2025-011, adopting a supplemental budget for fiscal year 2024-25 and making appropriations.

Exhibit 1
Requested appropriations by source of funding

GENERAL FUND

1. The beginning fund balance in the General Fund was higher than expected due to revenue exceeding expectations and prudent spending. Additionally, funds are being transferred in from the Community Investment Fund to assist the Police Department in over hiring due to upcoming planned retirements and the police department received a grant of \$45,000 to assist in purchasing an evidence van.
2. Additionally, the administration appropriation is being increased by \$66,362 to account for a project that carried over from prior fiscal year \$55,000, this was the upgrade of our current financial software, and the city insurance rates (Auto, Property and General Liability) came in slightly higher than originally budgeted by \$11,362.
3. Contingency is being reduce by \$109,550, this amount accounts for some of the Opioid settlement funds the City has received to date, \$25,000 will be used to purchase a drug identification machine, \$24,550 will pay for the Mental Health Response Team (MHRT) and the remaining amount \$60,000 is being used to cover the balance owing on the community outreach/evidence van.
4. Public Safety appropriation is being increased by \$130,960. This accounts for the \$25,000 drug detection machine, \$24,550 for (MHRT) and \$81,410 for over hiring to assist in covering planned retirements.
5. Public works appropriation is being increased by \$105,000 to purchase the evidence van for the Police Department.

Additional beginning fund balance	\$ 70,713
Intergovernmental Grant	45,000
Transfer In	81,410
Total to General Fund	197,123
Administration	66,362
Public Safety	130,960
PW Operations – Fleet	105,000
Contingency	(109,550)
Total proposed FY24-25 uses of funds	\$ 192,772
Remaining funds – Reserve for Future Years	\$ 4,351

PUBLIC ART FUND

1. The beginning fund balance in the Public Art Fund was higher than budgeted due to the timing of the roundabout Art project and the crossing of fiscal years. The Capital Department appropriation is being increased by this \$113,501 carry over fund balance since the completion of the roundabout art will occur this fiscal year.

Additional beginning fund balance	\$ 113,501
Total to Public Art Fund	113,501
Capital Department	113,501
Total proposed FY24-25 uses of funds	\$ 113,501

COMMUNITY INVESTMENT FUND

1. The beginning fund balance for the Community Investment Fund was higher than projected. Additionally, and as presented to the budget committee, this fund is loaning money to other city funds this fiscal year. Due to the timing of these interfund loans, interest revenue is higher than originally budgeted.
2. Contingency is being reduced by \$35,552 and the transfer out appropriation is being increased by \$81,410 to assist the Police Department in over hiring. The thought here was to use interest earnings to assist the Police Department while still keeping the principal amount in this fund intact.

Additional beginning fund balance	\$ 506
Interest	45,858
Total to Community Investment Fund	\$ 46,364
Contingency	(35,552)
Transfer Out to General Fund	81,410
Total proposed FY24-25 uses of funds	\$ 45,858
Reserve for Future Years	\$ 506

GENERAL CONSTRUCTION FUND

1. The beginning fund balance in the General Construction Fund was higher than projected. This was due to timing of the Cedar Creek Trail project. The carryforward, unspent funding for this project has been included and an adjustment to Capital is reflected below.

Additional beginning fund balance	\$ 237,389
Total to General Construction Fund	\$ 237,389
Capital Department	237,389
Total proposed FY24-25 uses of funds	\$ 237,389
Remaining Funds	\$ 0

STREET CAPITAL FUND

1. The beginning fund balance for the Street Capital Fund was higher than projected. This was due to timing of various projects. Additionally, the city wants to make pedestrian safety improvements on sunset. The carryforward balance, and additional funding needed for these safety improvements has been included and is reflected below.

Additional beginning fund balance	\$ 1,715,367
Total to Street Capital Fund	\$ 1,715,367
Capital Department	375,000
Total proposed FY24-25 uses of funds	\$ 375,000

Exhibit 2

Supplemental Budget, Appropriations and Financial Impacts FY 24-25

Fund	General	TLT	Public Art	ED & Promotion	Community Investment	Grants	General Construction	Street Operations	Street Capital	Water	Sanitary	Storm	Total
Resources													
Beginning fund balance	70,713	41,730	113,501	(17,166)	506	12,889	237,389	220,128	1,715,367	1,337,838	967,379	(103,936)	4,596,338
Intergov	45,000	-	-	-	-	-	-	-	-	-	-	-	45,000
Charges for services	-	-	-	-	-	-	-	-	-	-	-	-	-
Infrastructure Development Fees	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest	-	-	-	-	45,858	-	-	-	-	-	-	-	45,858
Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfers in	81,410	-	-	-	-	-	-	-	-	-	-	-	81,410
Total Resources	197,123	41,730	113,501	(17,166)	46,364	12,889	237,389	220,128	1,715,367	1,337,838	967,379	(103,936)	4,768,606
Requirements													
Administration	66,362	-	-	-	-	-	-	-	-	-	-	-	66,362
Comm. Development	-	-	-	-	-	-	-	-	-	-	-	-	-
Public Safety	130,960	-	-	-	-	-	-	-	-	-	-	-	130,960
Community Services	-	-	-	-	-	-	-	-	-	-	-	-	-
PW Operations	105,000	-	-	-	-	-	-	-	-	-	-	-	105,000
Operations Department	-	-	-	-	-	-	-	-	-	-	-	-	-
Capital Department	-	-	113,501	-	-	-	237,389	-	375,000	-	-	-	725,890
Debt Service	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfers Out	-	-	-	-	81,410	-	-	-	-	-	-	-	81,410
Contingency	(109,550)	41,730	-	-	(35,552)	-	-	-	-	-	-	-	(103,372)
Total Appropriations	192,772	41,730	113,501	-	45,858	-	237,389	-	375,000	-	-	-	1,006,250
Total Unappropriated and Reserve Amounts	4,351	-	-	(17,166)	506	12,889	-	220,128	1,340,367	1,337,838	967,379	(103,936)	3,762,356
Total Requirements	197,123	41,730	113,501	(17,166)	46,364	12,889	237,389	220,128	1,715,367	1,337,838	967,379	(103,936)	4,768,606



RESOLUTION 2025-011

ADOPTING A SUPPLEMENTAL BUDGET FOR FISCAL YEAR 2024-25 AND MAKING APPROPRIATIONS

WHEREAS, on June 18, 2024, the City of Sherwood budget for fiscal year 2024-25 was adopted and funds were appropriated by the City Council; and

WHEREAS, the City of Sherwood has since received or expects to soon receive unanticipated revenues and a supplemental budget is required in order to expend those revenues; and

WHEREAS, beginning fund balances either exceeded or fall short of projections due to savings in the later part of fiscal year 2023-2024 or revenue and expenditures failing to meet budgeted/projected expectations; and

WHEREAS, certain unplanned events have occurred during the course of this budget year; and

WHEREAS, in order not to overspend appropriations in any category of expenditures, it is necessary to transfer appropriations within several funds from certain expenditure categories to other expenditure categories; and

WHEREAS, the purpose of all new and transferred appropriations are detailed in Exhibit A attached hereto; and

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

WHEREAS, pursuant to ORS 294.471 and 294.473, Oregon Municipalities can make one or more supplemental budgets; and

WHEREAS, in accordance with local budget law, notice was published on January 16, 2025 of the public hearing that was held before the City Council on January 21, 2025.

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

Section 1. **Adoption of an FY24-25 Supplemental Budget.** The City Council of the City of Sherwood, Oregon hereby adopts the supplemental budget for FY24-25 in the sum of \$4,768,606.

Section 2. Making Appropriations. The additional amounts for the fiscal year beginning July 1, 2024 shown below are hereby appropriated as follows:

Fund	General	TLT	Public Art	ED & Promotion	Community Investment	Grants	General Construction	Street Operations	Street Capital	Water	Sanitary	Storm	Total
Resources													
Beginning fund balance	70,713	41,730	113,501	(17,166)	506	12,889	237,389	220,128	1,715,367	1,337,838	967,379	(103,936)	4,596,338
Intergov	45,000	-	-	-	-	-	-	-	-	-	-	-	45,000
Charges for services	-	-	-	-	-	-	-	-	-	-	-	-	-
Infrastructure Development Fees	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest	-	-	-	-	45,858	-	-	-	-	-	-	-	45,858
Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfers in	81,410	-	-	-	-	-	-	-	-	-	-	-	81,410
Total Resources	197,123	41,730	113,501	(17,166)	46,364	12,889	237,389	220,128	1,715,367	1,337,838	967,379	(103,936)	4,768,606
Requirements													
Administration	66,362	-	-	-	-	-	-	-	-	-	-	-	66,362
Comm. Development	-	-	-	-	-	-	-	-	-	-	-	-	-
Public Safety	130,960	-	-	-	-	-	-	-	-	-	-	-	130,960
Community Services	-	-	-	-	-	-	-	-	-	-	-	-	-
PW Operations	105,000	-	-	-	-	-	-	-	-	-	-	-	105,000
Operations Department	-	-	-	-	-	-	-	-	-	-	-	-	-
Capital Department	-	-	113,501	-	-	-	237,389	-	375,000	-	-	-	725,890
Debt Service	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfers Out	-	-	-	-	81,410	-	-	-	-	-	-	-	81,410
Contingency	(109,550)	41,730	-	-	(35,552)	-	-	-	-	-	-	-	(103,372)
Total Appropriations	192,772	41,730	113,501	-	45,858	-	237,389	-	375,000	-	-	-	1,006,250
Total Unappropriated and Reserve Amounts													
	4,351	-	-	(17,166)	506	12,889	-	220,128	1,340,367	1,337,838	967,379	(103,936)	3,762,356
Total Requirements	197,123	41,730	113,501	(17,166)	46,364	12,889	237,389	220,128	1,715,367	1,337,838	967,379	(103,936)	4,768,606

Section 3. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 21st of January 2025.

Tim Rosener, Mayor

Attest:

Sylvia Murphy, MMC, City Recorder

Exhibit A
Requested appropriations by source of funding

GENERAL FUND

1. The beginning fund balance in the General Fund was higher than expected due to revenue exceeding expectations and prudent spending. Additionally, funds are being transferred in from the Community Investment Fund to assist the Police Department in over hiring due to upcoming planned retirements and the police department received a grant of \$45,000 to assist in purchasing an evidence van.
2. Additionally, the administration appropriation is being increased by \$66,362 to account for a project that carried over from prior fiscal year \$55,000, this was the upgrade of our current financial software, and the city insurance rates (Auto, Property and General Liability) came in slightly higher than originally budgeted by \$11,362.
3. Contingency is being reduce by \$109,550, this amount accounts for some of the Opioid settlement funds the City has received to date, \$25,000 will be used to purchase a drug identification machine, \$24,550 will pay for the Mental Health Response Team (MHRT) and the remaining amount \$60,000 is being used to cover the balance owing on the evidence van.
4. Public Safety appropriation is being increased by \$130,960. This accounts for the \$25,000 drug detection machine, \$24,550 for (MHRT) and \$81,410 for over hiring to assist in covering planned retirements.
5. Public works appropriation is being increased by \$105,000 to purchase the evidence van for the Police Department.

Additional beginning fund balance	\$ 70,713
Intergovernmental Grant	45,000
Transfer In	81,410
Total to General Fund	197,123
Administration	66,362
Public Safety	130,960
PW Operations – Fleet	105,000
Contingency	(109,550)
Total proposed FY24-25 uses of funds	\$ 192,772
Remaining funds – Reserve for Future Years	\$ 4,351

PUBLIC ART FUND

1. The beginning fund balance in the Public Art Fund was higher than budgeted due to the timing of the roundabout Art project and the crossing of fiscal years. The Capital Department appropriation is being increased by this \$113,501 carry over fund balance since the completion of the roundabout art will occur this fiscal year.

Additional beginning fund balance	\$ 113,501
Total to Public Art Fund	113,501
Capital Department	113,501
Total proposed FY24-25 uses of funds	\$ 113,501

COMMUNITY INVESTMENT FUND

1. The beginning fund balance for the Community Investment Fund was higher than projected. Additionally, and as presented to the budget committee, this fund is loaning money to other city funds this fiscal year. Due to the timing of these interfund loans, interest revenue is higher than originally budgeted.
2. Contingency is being reduced by \$35,552 and the transfer out appropriation is being increased by \$81,410 to assist the Police Department in over hiring. The thought here was to use interest earnings to assist the Police Department while still keeping the principal amount in this fund intact.

Additional beginning fund balance	\$ 506
Interest	45,858
Total to Community Investment Fund	\$ 46,364
Contingency	(35,552)
Transfer Out to General Fund	81,410
Total proposed FY24-25 uses of funds	\$ 45,858
Reserve for Future Years	\$ 506

GENERAL CONSTRUCTION FUND

1. The beginning fund balance in the General Construction Fund was higher than projected. This was due to timing of the Cedar Creek Trail project. The carryforward, unspent funding for this project has been included and an adjustment to Capital is reflected below.

Additional beginning fund balance	\$ 237,389
Total to General Construction Fund	\$ 237,389
Capital Department	237,389
Total proposed FY24-25 uses of funds	\$ 237,389
Remaining Funds	\$ 0

STREET CAPITAL FUND

1. The beginning fund balance for the Street Capital Fund was higher than projected. This was due to timing of various projects. Additionally, the city wants to make pedestrian safety improvements on sunset. The carryforward balance, and additional funding needed for these safety improvements has been included and is reflected below.

Additional beginning fund balance	\$ 1,715,367
Total to Street Capital Fund	\$ 1,715,367
Capital Department	375,000
Total proposed FY24-25 uses of funds	\$ 375,000