

November 04, 2021
7:00 pm City Council Meeting
Audio/Video Teleconference
City Hall Conference Room
48318 E 1st Street
Oakridge OR, 97463



REGULAR / WORK SESSION

1. CALL MEETING TO ORDER

2. Pledge of Allegiance

3. Roll Call

4. Additions, Corrections or Adjustments to the Agenda

5. Public Comment– 30 Minutes

Individual speakers must be recognized by the presiding officer, provide their name and address, and will be allowed up to 3 minutes or less with Council approval. The Council will not engage in any discussion or make any decisions based public comment at this time. The Council may take comments under advisement for discussion and action at a future Council meeting. The Mayor may direct the City Administrator to follow up on comments received.

6. Mayor Comments / Announcements / Proclamation

7. Council Comments / Announcements

8. Consent Agenda

8.1 Minutes from October 7, 2021

8.2 Strategic Plan Scorecard Update

9. Business from the City Council

9.1 CA Resignation Formal Acceptance

9.2 CA Hiring Process Discussion

10. Business from the City Administrator

10.1 City Engineer RFP

11. Reports of Boards, Commissions and Committees

11.1 Administrative Advisory Committee

11.2 Parks and Community Services Committee

12. Items Removed from the Consent Agenda

13. Ordinances, Resolutions and Public Comments

13.1 Resolution 11-2021 Supplemental Budget for Berry & Garden Overlays

13.2 Resolution 12-2021 Authorizing a Loan from the Safe Water Revolving Loan Fund

14. Public Hearings

15. Appointments

16. Work Session – ARPA Funding

17. Public Comment

18. Adjourn

This will be a remote participation meeting. Citizens have four ways of attending and commenting:

1. Use your computer, tablet or smartphone and go to: <https://us02web.zoom.us/j/3664311610>, meeting ID: 3664311610.

2. Use your telephone and dial: +1 669 900 9128. Meeting ID: 366 431 1610.

3. Send comments by email to: cityadministrator@ci.oakridge.or.us by 2pm the day of the meeting.

4. It is discouraged due to COVID precautions, but citizens may attend in person at the Oakridge City Hall Conference Room. There will be an audio and video feed.

Detailed instructions are available at City Hall, on the city website, and the city Facebook page.

Accommodation for Physical Impairments: In order to accommodate persons with physical impairments, please notify the City of any special physical or language accommodations you may require as far in advance of the meeting as possible. To make arrangements, Contact City Hall at 541-782-2258. For the hearing impaired, the City's TTD Number is 541-782-4232.



October 7, 2021
City Council Regular/Work Session (Via Zoom)
Willamette Activity Center Room 8
47674 School Street
7:00 p.m.

MINUTES

1. CALL MEETING TO ORDER- 7:01 pm

Council Present: Mayor Holston, Councilors Bobbie Whitney, Michele Coker, Audy Spliethof and Dawn Kinyon

Staff Present: City Administrator Bryan Cutchen, Police Chief Kevin Martin and City Recorder Jackie Sims

2. Pledge of Allegiance

3. **Roll Call**-Councilors Hollett and Bjarnson were excused.

4. Additions, corrections or adjustments to the agenda

Adjustment 13.1 Discussion only
Addition 9.1 Joint Fire Science Program

5. Public Comment

Trudy Hammond 47752 Berry St.-asked what the procedures are for dog licensing.

6. Mayors Comments / Announcements / Proclamation

(The zoom connection was pretty bad)

Mayor Holston-the Great Willamette Cleanup will be on October 9 from 9am until noon. You can register on Facebook.

Old Canal trail revitalization grant money (inaudible)

Kayla Gadava -Tuffte, a University of Oregon student reached out to the Mayor, she is a family member of Charlie Tuffte who used to reside in Oakridge and she wants to reestablish connections with Oakridge. Mayor Holston will talk with her more. She wants to come talk to the city council.

Mayor Holston had the chance to take a back roads trip through other small towns to see what they were doing with derelict buildings, transients or homeless individuals. One of the things that she noticed that seemed to be consistent throughout the towns that she drove through was that there was no tolerance for abandoned vehicles, for properties that could be picked up, not abandoned, but that looked very unkempt. She realized that here in Oakridge we tend to tolerate too much. She wants the council to be thinking about this, mainly Councilor Whitney with the Community Services Committee. A conversation should be started with the police department and all of us on holding folks to a higher standard.

7. Council Comments / Announcements

Councilor Kinyon-said people are asking when the exemption forms will be available and where and when will the program for the fees start?

Bryan-the exemption forms should be available by November 1st for the billing cycle in December. The forms will need to be brought in along with proof of income to city hall or the information can be scanned and emailed along with the application.

Councilor Whitney- regarding St. Vincent DePaul and the WAC, she would hate to see a bunch of trailers down there. We could send out the PSF fee waiver application in the water bills.

8. Consent Agenda

8.1 Minutes from September 2 & 16

Motion: Councilor Whitney moved to approve the consent agenda. Councilor Kinyon seconded the motion.

Spliethof (aye), Whitney (aye), Coker (aye), Mayor Holston (aye), Kinyon (aye). Motion passed 5-0

9. Business from the City Council

9.1 Letter of support for Joint Fire Science Program

Mayor Holston-read the issue

Motion: Councilor Whitney moved to approve a letter of support for the Joint Fire Science Program grant application to do fire behavior modeling on the Middle Fork Ranger District. Councilor Coker seconded the motion.

Kinyon (aye), Whitney (aye), Coker (aye), Spliethof (aye), Mayor Holston (aye). Motion passed 5-0

10. Business from the City Administrator

10.1 Strategic Plan Scorecard Update

Bryan-read the issue.

Some of the councilors were not able to connect to the link that Bryan sent. We will discuss this at another meeting.

Bryan-wanted to update us on grants. We applied for a Hazard Mitigation Grant from FEMA and it was awarded for \$77,000 and will fund a project to install back up emergency generators at Greenwaters Park and the Fire Department.

The next two grants we were awarded was a Housing Needs Analysis (HNA) grant and a Transportation Growth Management grant. The two will run parallel and be coordinated to at our municipal code and housing needs currently and in the future. Together, both studies will take about two years.

Lastly, next week ODOT will submitting a Federal Lands Access Grant to provide sidewalks on the North Side of Hwy 58, if awarded, this is a huge win for the city.

10.2 City Engineer RFP

Bryan-read the issue.

Bryan-when we scored the applicants one of the committee members was absent. He added committee member comments to the score sheet, it is pretty significant who the choice would be to the committee, it was a two committee scoring. He hopes you had a chance to review this.

Mayor Holston-thanked the committee and the work they did for this. Were the references called for the three applicants?

Bryan- no, he was planning to do that after the selection was made.

Mayor Holston-she sees that Curran-McCleod was the highest scored.

Bryan-he was not a voting member, it was a citizen and a staff member.

Councilor Spliethof- Are we going with them because they had a higher score or what?

Bryan-those were the committee scores, it is ultimately a council decision.

Mayor Holston-asked Councilor Spliethof if he had a preference? Are you asking why their score was the lowest?

Bryan-explained how the committee came up with their scores. The historical knowledge of Oakridge was very important to them and valued that very high. They made some concerns that Civil West is new, but they didn't penalize them for that, and they didn't like the incompleteness and incorrect information.

Mayor Holston-asked Councilor Kinyon if she was on this committee?

Councilor Kinyon-yes, she was the one that was absent. She asked what the incorrect information was on Civil West and Keller Associates, after reading the proposals nothing stood out that was wrong information that they gathered for Oakridge.

Bryan-it had to do with the Million Gallon Tank, details about our systems, it was information like that.

Mayor Holston-she noticed the same things when she read the proposals, she was curious as well.

Councilor Whitney-wanted to confirm about Audy making phone calls, did he call diligently about all of the applicants or just the one he preferred?

Councilor Spliethof-he looked at all of the situations and who they serviced, he just called on Civil West only.

Councilor Whitney-it concerns her that we are only having discussions on the third engineer based on the research that Councilor Spliethof did and the research wasn't done fairly with the other two.

Councilor Spliethof-he wanted to find out more about them so he only called on them, the committee recommendations were for Keller Associates.

Mayor Holston-the recommendation was for Curran-McCleod, not Keller Associates.

Councilor Kinyon- asked Bryan to scroll back up to where the recommendations are.

Bryan-scrolled back up and read the scores, Curran-McCleod was 64, Keller Associates was 49 and Civil West was 43.

Mayor Holston-she liked them all as she read them, she wasn't that impressed with Keller. Granted this is just a recommendation from the committee, she holds a strong preference for a firm that already knows our systems, that is very important because we have a very old system and it is important to know them. One thing she didn't see here was prices or rates on any of the applications.

Bryan- the rates are proprietary, they were all within \$5-\$10 an hour within each other. Two of them charged travel time and one didn't.

Councilor Kinyon-what about the percentage on change orders? Is there anything in the fee schedules about change orders?

Bryan-none of them have any reference to change orders.

Mayor Holston--we can put a cost cap on change orders for each project.

Councilor Spliethof-are we required to put an RFP out every so often or were we not happy and wanted to put an RFP out?

Mayor Holston-we were not unhappy with our current engineer, this is just something that is good to do every so often to see what is out there. She personally, is happy with Curran-McCleod, this wasn't because we didn't like Curran-McCleod. Just for history, the last time we did this we didn't have anyone apply and the time before that we had three apply and when we asked them to come down and interview only two showed up to interview in front of council and we chose Curran-McCleod.

Councilor Spliethof-wants to see the charges before we make a motion, he would make that request because he wants to see the one who isn't going to charge us travel time because that can really add up.

Bryan-he can give you that information, that isn't proprietary, Curran-McCleod are the ones who don't charge travel time.

Mayor Holston-asked Bryan to arrange for an executive session.

Councilor Kinyon-in the review that she did, even though she didn't attend the committee meeting, she pulled up our RFP and the individual applications and she felt like they all followed the rules pretty well. She did have a liking for Civil West because of the cities that they serviced.

Mayor Holston-we will make a decision at the next meeting, she still feels strongly about the history and having a firm that knows our systems, not that she doesn't think they could catch up, but that takes time and we have a small staff. That weighs heavily on her.

11. Reports of Boards, Commissions and Committees-none

12. Items Removed from the Consent Agenda-none

13. Ordinances, Resolutions and Public Comments

13.1 Supplemental Budget- discussion only

Mayor Holston-she encourages you all too really go through this.

Councilor Whitney-when going through the supplemental budget she realized that we won't have the full 12 months to collect on the PSF because of how long it took us to get here. To her it says that we are going to have additional cuts to the budget than originally thought. She would like to see the consequences to the cuts in real time.

Councilor Spliethof-if we don't make the money are we going to charge more money, are we going to have to put in another supplemental budget? If that happens it is going to really upset a lot of people.

Mayor Holston-this is the decision that you all made, recognizing that if it wasn't enough money in the PSF that there would be resulting cuts that would have to happen. It was shared with us several times that we will have to see how this will roll out and how to deal with the consequences.

Bryan-when we came up with the estimated anticipated revenue from the PSF we were very conservative in the supplemental budget, we included a 20% expected delinquency rate due to the lack of ability to conduct short-term enforcement, we made a good estimate on the expected exemption rates, this is a very conservative number, he hopes it is accurate or a little under. We will keep a very tight eye on those revenues as they come in.

Councilor Spliethof-is it too early to make a motion, he would like to see a pay freeze across the board for all city employees.

Mayor Holston-no, that is a motion you would ask to consider for a future meeting, there are no materials to look at to see what the results would be. If this is something that the council would like to consider we can then ask the city administrator to bring something forward.

Councilor Coker-asked Councilor Spliethof if he is talking all departments or just administration and police?

Councilor Spliethof-all city employees.

Councilor Whitney-she doesn't want to see anything regarding a pay freeze, we have already asked a lot of the employees and they have taken on a lot, they have already lost with having staffing changes. Morale has already had enough, to ask them to take a pay freeze on top of that. Some of them are represented staff, you have unions and contracts that come in to play, you get what you pay for and we have some great staff and she would hate to do that to them. Bryan is looking at additional ways to fund the EMS and she would like to hear more about that and additional ways that the council can help with that movement.

Mayor Holston-knowing we are going to be looking at the numbers each month would be a great idea, it would be great to see what has transpired once a month or so and make a running list as to what is going on. She is also not interested in putting a cap on salaries across the board. Are salaries on a revolving basis? Do they go up all at one time? Are they rotating? There has to be a lot of questions that we have to have answered before something like that is to be considered. We can put this on as an agenda item if you want.

Bryan-considering a pay freeze, at this time it is an utter waste of time. They have already received their COLA increases for July 1 and the next time they are scheduled as a work force for another COLA is July 2022. All but three are under collective bargaining units and you don't just go broad brush and say your pay is all frozen without getting a grievance. He would recommend bringing this up during the budget cycle as you building the 2022-2023 budget. As far as the EMS solutions he built a brief that covers the current financial situation of our fire department and EMS, he briefed Commissioner Buck, the Ambulance Service Area Subcommittee, the Lane County Public Health Committee, the County Administrator and County Ops and he sat down with the Chief and Deputy Chief of Eugene and Springfield Fire. He will continue to engage with the county because they are the organization who has to lead this effort in one way or another.

Mayor Holston-Bryan and I and Chief and Mikal all attended the Westfir City Council meeting on Monday night. Bryan gave them the formula that we used for the public safety fee and let them know that this is what we did for our community and we would be asking them to raise their contract and gave them a number. Westfir would like to have exemptions for their people too.

Councilor Whitney-she would like to know some of the feedback that Bryan received out of the meetings he attended.

Bryan- There have been comments from some saying we should look more at redistricting because citizens will more easily give to a fire district or EMS district than a city because you don't have the perception that the city is just wasting their money away. The County is anxious to help, they understand the problem although they do have some concerns about setting a precedent if they decide to subsidize.

Councilor Kinyon-she wanted to point out that during the last budget season they were in the contracts with all three of the unions had already been negotiated, this should be something we should be talking about as a council prior to the next negotiation as early as February or March. She does agree with Audy.

Bryan-it's a three year CBA so when he says negotiation that would be an add on negotiation, it wouldn't be a renegotiation, that wouldn't be for another year and a half, two years. This would be approaching the unions letting them know we intend to do a pay freeze.

Councilor Kinyon-we were told at one point that if the council feels it is necessary that they could direct Bryan to go into negotiations off cycle from what the regular contract periods are. She agrees with Audy, this is something we should schedule to discuss in council. She also wanted to point out a couple of things, she sent Eric about 12 questions regarding the supplemental budget. When she did review what was presented in the supplemental budget she still sees huge cuts recommended for our EMS and Fire/Ambulance and much smaller amounts for police and administration. Those three areas are our biggest costs. To cut this much out of Fire and Ambulance our ISO rating would change and the homeowners insurance would be significantly impacted. She thinks as a council we should be looking at directing for cuts anywhere else that we can that we wouldn't be affecting our ISO rating.

Mayor Holston-are you asking the question on the cuts that were suggested how they are going to impact the service?

Councilor Kinyon-no, she is not asking that, it is a fair question, she would like to say as a council they should be looking at directing for cuts anywhere else that they can that doesn't affect the ISO rating.

Mayor Holston-the ISO rating is based only on fire, not anything else. Are the cuts that are being done in the supplemental budget affecting our ability to respond in a timely manner to fire?

Councilor Kinyon-yes because it is over \$400,000 and if it's the same that was proposed in July it would be losing a lot of, if not all of the part timers.

Mayor Holston-you indicated that you didn't want to discuss this because you haven't had a chance to go through this, yet you have some very detailed questions.

Councilor Kinyon-she has a lot of questions for Eric that she thinks the council should hear too, but she doesn't want to ask them all tonight because it would take up the rest of the meeting and more.

Mayor Holston-if you have questions then let's do questions, as opposed to statements as to what you believe is going to happen.

Councilor Kinyon-I do have a specific question then Mayor, I want to know if it can be a council decision as to how we want to implement cuts in our supplemental budget.

Bryan-at the fund level, not the line-item level.

14. Public Hearings-none

15. Appointments

15.1 Library Board

Motion: Councilor Spliethof moved that we appoint Ms. Annie Brown to serve on the Oakridge Library Board for a term expiring 12/31/2023. Councilor Whitney seconded the motion.

Annie Brown-introduced herself and told the council why she wants to volunteer for the Oakridge Library, she wants to give back to the community.

Spliethof (aye), Coker (aye), Whitney (aye), Mayor Holston (aye), Kinyon (aye). Motion passed 5-0

16. Public Comment

Trudy Hammond 47752 Berry Street- she hopes we can take a proactive approach to abandoned vehicles. We shouldn't make any more cuts in Police, Fire and Ambulance since the PSF will be collected.

17. Adjourn 8:41

Signed: _____
Kathy Holston, Mayor

Signed: _____
Jackie Sims, City Recorder

Oakridge Strategic Plan Scorecard

OBJECTIVE	STATUS	PRIORITY	START DATE	END DATE	TARGET	% DONE	Reviewed	Comments	Reviewed	Comments
							3/18/2021		10/1/2021	
STRATEGIC THEME AREA: SAFE COMMUNITY										
Educate and involve community in efforts to improve community safety and reduce crime	In Progress	Medium	11/10/20	1/2/24	100%	30%	Green	COVID, Speed gun underway	Green	
Increase access to medical, mental health and social services	In Progress	High	11/9/20	11/20/24	100%	5%	Red	White Bird non-responsive	Yellow	OSD Program
Become a model community for emergency preparedness, wildfire, and smoke risk reduction	In Progress	Medium	11/12/20	11/20/25	100%	83%	Green		Green	
Improve street safety	In Progress	High	11/1/20	11/10/20	100%	53%	Green	Awaiting MOU, tickets to stops	Green	FLAP Grant
Expand transportation services within the community and for commuters	In Progress	Medium	11/12/20	11/20/20	100%	23%	Yellow	COVID	Yellow	
Recruit volunteers for emergency services	In Progress	Low	11/10/20	11/14/20	100%	38%	Yellow	COVID, OPD Reserves	Yellow	
STRATEGIC THEME AREA: RESPONSIVE GOVERNMENT										
Improve consistency and reliability of City communications	In Progress	High	11/9/20	11/10/21	100%	45%	Yellow	Website improvements, no stratcom plan	Yellow	
City council work to promote a positive work environment for City staff	In Progress	High	11/9/20	11/10/22	100%	30%	Yellow	Funding limited, no awards program yet	Yellow	
Leverage volunteer time wisely	In Progress	Medium	11/20/20	11/20/21	100%	25%	Red	No webpage yet	Yellow	Volunteer Program established
Modernize City guiding documents, policies and procedures	In Progress	Medium	7/15/19	11/1/25	100%	40%	Green	On track	Green	
Invest in City infrastructure where needed	In Progress	High	11/9/20	11/10/20	100%	54%	Yellow	Street paving, OIP improvements	Green	Berry & Garden, OIP activity
Stabilize funding for emergency services	In Progress	High	11/9/20	11/10/20	100%	70%	Yellow		Yellow	PSF, Lane County discussions
Operate within a Balanced budget	In Progress	High	11/9/20	11/10/20	100%	75%	Yellow		Yellow	Balanced using grant funding
STRATEGIC THEME AREA: STRONG ECONOMY										
Grow existing businesses and recruit new businesses	In Progress	High	11/9/20	11/10/25	100%	67%	Green	On track, OEDAC quorum	Green	On track
Fill the OIP with businesses that provide living wage jobs	In Progress	High	11/9/20	11/10/22	100%	50%	Yellow	OIP improvements	Yellow	OIP Activity
Develop tourist amenities and services in collaboration with businesses and partners	In Progress	Medium	11/9/20	11/10/25	100%	40%	Red	COVID	Yellow	Chamber activity
Work with recreation businesses and partners to extend the tourism season	In Progress	Medium	11/12/20	11/20/25	100%	28%	Yellow	On track, long term project	Yellow	
Provide an atmosphere that is open and welcoming to business/economic growth	In Progress	High	11/9/20	11/10/21	100%	50%	Yellow	Economic strategy not adopted, awaiting design standards review	Green	Code review, HNA

Oakridge Strategic Plan Scorecard

Improve the city's economy by focusing on ways to increase and support new businesses	In Progress	High	11/9/20	11/10/21	100%	25%	Yellow	Barrier removal plan in work, still not published.	Yellow			
Market the Oakridge Industrial Park	In Progress	Medium	11/11/20	11/20/21	100%	18%	Red	No commercial realtor, still not listed on Prospector	Yellow	Not listed, BPA lease, other lease opportunities		
STRATEGIC THEME AREA: COMMUNITY LIVABILITY												
Maintain and improve infrastructure and facilities that enhance quality of life for residents	In Progress	Medium	11/9/20	11/10/25	100%	10%	Yellow	Long term project	Yellow			
Support efforts to increase quality childcare and before and after school programs	In Progress	High	11/9/20	11/10/24	100%	25%	Yellow	COVID	Yellow			
Foster positive conversations and culture within Oakridge	In Progress	Medium	11/12/20	11/12/25	100%	58%	Yellow	COVID, Art is on display	Yellow			
Explore options for workforce housing	In Progress	High	11/9/20	11/10/22	100%	45%	Yellow	City properties identified, STR policy in work	Green			
Work with community members, agencies and nonprofits to increase options for affordable housing for vulnerable residents	In Progress	High	11/9/20	11/10/24	100%	50%	Yellow	Relationships initiated	Green			
Review housing inventory for current and future needs	In Progress	Medium	11/12/20	11/20/23	100%	33%	Yellow	Beginning derelict structure enforcement	Green			
Revitalize and beautify business corridors	In Progress	High	11/9/20	11/10/24	100%	18%	Yellow	Increase in new businesses	Yellow			
Utilize vacant properties	In Progress	Medium	11/12/20	11/20/24	100%	20%	Yellow	Beginning derelict structure enforcement	Yellow			
Continue to improve and market City parks	In Progress	High	11/9/20	11/10/24	100%	45%	Green	Rezone, OIP Park, Osprey and Diamond View improvements	Green			

Business of the City Council

City of Oakridge, Oregon

November 04, 2021

**Agenda Title: City Administrator
Resignation Acceptance**

Agenda Item No: 9.1

**Exhibit: (1) Letter of Resignation
(2) Acceptance of Resignation Letter**

**Proposed Council Action: A motion from
the floor to accept**

**Agenda Bill Author: Bryan Cutchen
City Administrator: Bryan Cutchen**

ISSUE: The City of Oakridge City Administrator resigned on 10/22/2021. This action is to formally acceptance of the resignation in a public forum.

In accordance with the city administrator contract, 60 days' notice of resignation required. That date would be December 21, 2021.

FISCAL IMPACT: None.

**OPTIONS: (1) Accept the resignation
(2) Take other action**

RECOMMENDATION: Staff recommends option (1)

RECOMMENDED MOTION: I move we accept the resignation of the city administrator effective February 28, 2021

Oakridge City Council,

In accordance with my contract dated July 15, 2019, and subsequently amended March 24, 2021, I respectfully resign as the Oakridge City Administrator with an effective date of February 28, 2022.

Since the November 2020 election, it is apparent the current city council majority and I have diverging views on the current condition and future of Oakridge. It has resulted in a working relationship lacking trust and respect. For the good of the city, the city council should find an administrator more aligned with their vision.

During the transition, I am committed to keeping the priority projects on track and providing my successor what they need to affect a seamless transition.

I am grateful to the city staff for their support, expertise, and tireless work ethic during my tenure. I wish the citizens of Oakridge all the best during these financially challenging times for the city.

Sincerely,

Bryan Cutchen
City Administrator
City of Oakridge



City of Oakridge
48318 E. 1st Street – PO Box 1410
Oakridge, Oregon 97463
Phone: 541-782-2258 FAX 541-782-1081

November 4, 2021

Bryan Cutchen
City Administrator
City of Oakridge

Dear Bryan Cutchen,

This letter is to acknowledge and confirm the receipt and acceptance of your letter of resignation, received on October 22, 2021, for the city administrator position at the City of Oakridge, effective February 28, 2022.

Please return all City of Oakridge property on or before your last day of working, February 28, 2022, including keys, company credit card, and any other city-owned property.

You will be provided information for exiting employees regarding benefit coverage, final wages and other information you may need.

Optionally, you may participate in an exit interview to provide valuable feedback to the city. If you choose to participate in a face-to-face exit interview, please let the Mayor know by emailing mayor@ci.oakridge.or.us.

Thank you for your work here at the City of Oakridge. We wish you the best in your future endeavors.

Sincerely,

Kathy Holston
Mayor
City of Oakridge

Business of the City Council

City of Oakridge, Oregon

November 04, 2021

**Agenda Title: City Administrator Hiring
Process Discussion**

Agenda Item No: 9.2

Exhibit: None

**Proposed Council Action: None, discussion
only**

**Agenda Bill Author: Bryan Cutchen
City Administrator: Bryan Cutchen**

ISSUE: The City of Oakridge City Administrator resigned on 10/22/2021. This agenda item is to discuss the process to hire a relief.

FISCAL IMPACT: None.

OPTIONS:

RECOMMENDATION:

RECOMMENDED MOTION:

Business of the City Council

City of Oakridge, Oregon

November 04, 2021

Agenda Title: City Engineer Request for Proposal Cancellation

Agenda Item No: 10.1

Exhibit: (1) RFP

Proposed Council Action: A motion from the floor

Agenda Bill Author: Bryan Cutchen

City Administrator: Bryan Cutchen

ISSUE: Errors were made in the evaluation and selection process for the City Engineer of Record. The process was not consistent with Section III of the Request for Proposal (RFP) for the following reasons:

- (1) The scoring process was not done as described in the RFP.**
- (2) The options described to the city council in the agenda bill were not correct. The options available to the city council were to 1) select the recommended candidate or 2) cancel the RFP. There is no option available to select other than the highest scoring candidate.**

To avoid the possibility of a protest, the RFP should be canceled and republished with an accelerated timeline.

FISCAL IMPACT: None.

OPTIONS: (1) Cancel the RFP and republish a new request.
(2) Choose the highest scoring candidate

RECOMMENDATION: Staff recommends option (1) to reduce the possibility of a protest.

RECOMMENDED MOTION: I move we cancel the Request for Proposal dated June 15, 2021, and republish the request.



REQUEST FOR PROPOSALS CITY ENGINEER OF RECORD SERVICE

I. GENERAL INFORMATION

A. INTRODUCTION

The City of Oakridge (City) is soliciting proposals for an Engineer of Record (City Engineer) to provide engineering services as an independent contractor to the City. Services typically conducted by the City Engineer include but are not necessarily limited to the items listed in Article I of this RFP. Services may include supervising work produced by City which is subject to ORS 672. Work shall be provided to City on an as-needed basis, as authorized by the City Administrator or the City Administrator's designee.

Proposers shall be licensed to practice engineering in the State of Oregon and be members in good standing with the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS). The City will consider proposals from engineering firms as well as individual engineers.

B. BACKGROUND

The City of Oakridge is an Oregon municipal corporation with city limits covering approximately 2 square miles. The population of the City is approximately 3,028. The City is located in Lane County on OR-58. The City Council consists of the Mayor and six council members elected from the city at large. The Council acts as the local contract review board for the City. The City operates under a council-manager form of government.

The City has an annual expenditure budget of over \$8.9 million with revenue from a variety of sources. The funding is derived primarily from property tax support, fees, grants and contracts.

The City currently contracts out Engineer of Record services. The City desires to evaluate the market of competitive companies to provide this service.

The City's day-to-day Planning and Public Works Engineering services are generally performed by City staff, with Lane Council Organization of Governments contracted to provide additional Planning services. Due to demands on staff time or other factors City may require the City Engineer to perform general engineering services to assist with day-to-day issues at the City's discretion or to perform specific task-based engineering projects on the City's behalf.

Through the Public Works Department, the City owns and operates various utility systems and infrastructure that serve the residents including the water system, the wastewater system, the storm drainage system, and the local street system. The Public Works Department also provides operation and maintenance for City Parks and general City-owned building maintenance.

The City owns and operates a number of public facilities including the following:

- A. Water treatment plant (4 water wells producing 1400+ gpm and a chlorine contact chamber for disinfection)
- B. Water storage reservoir (3), booster pump station (2), and distribution system (28 miles of pipe)
- C. Wastewater collection system (23 miles of gravity pipe).
- D. Wastewater treatment plant (activated sludge).
- E. Storm water conveyance system discharging to Salmon Creek, and the Middle Fork of the Willamette River.
- F. Transportation system (20-25 centerline miles).
- G. Parks system (7 owned, 8 managed, 80 acres).

C. ANTICIPATED SELECTION SCHEDULE

The City anticipates the following general timeline for its selection process. The City reserves the right to change this schedule.

- | | |
|----------------------------------|----------------------------------|
| ● RFP advertised | June 15, 2021 |
| ● Proposal due date | September 15, 2021, 2pm |
| ● Selection Committee evaluation | Week of September 20 - 24 |
| ● Interviews (if needed) | Week of September 27 – October 1 |
| ● Contract approval | October 7, 2021 |
| ● Commencement of contract | November 1, 2021 |

D. SCOPE OF SERVICES

- Serve as the City Engineer of Record.
- Consult with State and federal agencies having jurisdictional authority over the project as warranted. Work with City staff to review or complete federal, state or county permits, applications, or agency notifications.
- Attend pre-application, construction, Planning Commission, City Council or other meetings as requested by the City.
- Review City Council meeting packet material and comment as needed and/or requested.
- Perform engineering work pertaining to public records, property acquisitions, condemnations, forfeiture activities, public improvements and improvement districts, public rights of ways, easements, code enforcement, and matters relating to special assessments and public utilities.
- Review contracts, intergovernmental agreements, and developer/construction agreements relative to public utilities (water, sewer, and storm sewer), transportation improvements and other general activities.
- Work with City staff, organizations, and funding agencies to help develop competitive and complete grant applications or funding proposals.
- Identify needed code updates and long-range needs. Perform updates as needed for Public Works-related ordinances, resolutions, construction specifications, and contracts (new or amendments) and ensure that same are prepared in compliance with the City Charter, ORS, and OAR.
- Assist with budgeting, planning, and rate studies. Review City rate structures and make recommendations.
- Serve as the City's representative as needed and/or requested during the review, plan approval, construction management, and project closeout phases of any development or

- planning project prepared by other engineers and submitted to the City for approval. This includes land development projects such as subdivisions or site-specific developments. Provide written recommendations and/or conditions of approval from an infrastructure perspective when requested. Assist with providing construction oversight and inspection services of public improvements installed as part of private development projects.
- Work with architects, engineers and contractors concerning technical interpretations and applications of the City's Public Works ordinances, construction standards and specifications, laws, engineering codes and any other policy matter compliance.
- Provide infrastructure impact analysis.
- Establish and/or update system development charges.
- Update utility master plans and feasibility studies.
- Review engineering construction plans/design drawings and design calculations prepared by other professionals for conformance with state, county, and City requirements and sound engineering practices.
- Provide engineering for City facilities. Troubleshoot issues with City facilities and make recommendations for improvements.
- Perform final construction observations and punch lists for completion of private developments and for City project sites, including review of as-built drawings, testing results, as-built certification, project closeout and initiation of the required construction warranty period.
- Provide various construction services for selected City public works construction and maintenance projects, e.g. project management, engineering design and construction specifications, pre-qualification, preparation of bid documents, solicitation, procurement, construction oversight/inspection, and as-builts.
- Subconsultants may be used, subject to written approval by the City, on design projects or where supplemental expertise is desired.
- Perform additional basic engineering and special services which cannot be fully described at this time, as requested by the City.
- It is further understood that in addition to the general and recurring activities listed above, ad hoc duties including verbal communications with the Mayor, City Council, City Administrator, or authorized department heads and City employees in elements of prudent administration of the city's infrastructure systems.

The City Engineer reports directly to the Public Works Lead. Much of the work occurs via telephone conferences and e-mail. Inquiries from the general public and/or press are outside the purview of the City Engineer. All inquiries for the City Engineer's time shall be channeled through the Public Works Lead or the City Administrator, who must authorize such request prior to the City Engineer taking any action.

The City Engineer may be directed to undertake specific projects for the City that have a finite scope of work, are relatively large in scale, or for any other reason the City wishes to assign the work on a task-basis to the City Engineer. For such projects, the City Engineer shall provide a work order upon written request from the City. The work order shall include a detailed proposal and scope of work, schedule and cost proposal.

The City intends to undertake a number of projects over the next few years. These projects may include, but are not limited to:

- ☐ Water system projects.
- ☐ Review wastewater system; identify and design corrections to deficiencies.
- ☐ Street projects.
- ☐ I&I rehab projects.
- ☐ Establish system development charges.
- ☐ Update of system master plans.

II. PROPOSAL INSTRUCTIONS

A. PROPOSAL SUBMITTAL AND DUE DATE

Proposers shall provide four (4) hard copies and one (1) digital copy in .PDF format of proposer's proposal in a sealed envelope clearly marked: "Confidential: City of Oakridge City Engineer of Record Proposal". Proposals shall be submitted by **2:00 p.m. on September 15, 2021** to:

Bryan Cutchen
City Administrator
PO Box 1410
48318 E 1st Street
Oakridge, OR 97463

Proposals shall be organized as specified in Article II.E, Proposal Contents. The City of Oakridge assumes no responsibility for delayed or undelivered mail or express packages. Proposals which are not delivered by the above specified time and date will not be considered. Faxed or electronically transmitted proposals will be rejected as non-responsive.

B. INQUIRIES

Questions concerning this RFP should be submitted in writing to:

Bryan Cutchen
City Administrator
PO Box 1410
48318 E 1st Street
Oakridge, OR 97463
cityadministrator@ci.oakridge.or.us

C. RESERVATION OF RIGHTS

The City reserves the right to: 1) seek clarifications of each proposal; 2) negotiate a final contract that is in the best interest of the City and the public; 3) reject any or all proposals; 4) cancel this RFP at any time if doing so would be in the public interest, as determined by City in its sole discretion; 5) award the contract to any proposer based on the evaluation criteria set forth in this RFP; 6) waive minor informalities contained in any proposal, when, in the City's sole judgment, it is in the City's best interest to do so; and 7) request any additional information City deems reasonably necessary to allow City to evaluate, rank and select the most qualified proposer to perform the services described in this RFP.

D. PROTESTS

Proposers are directed to the protest procedures contained in City Public Contracting Rule OAR 137-048-0240.

Protests of Solicitation

Proposers are directed to the protest procedures contained in OAR 137-048-0240. Proposers may submit a written protest of anything contained in an RFP and may request a change to any provision, specification or Contract term contained in an RFP, no later than seven (7) calendar days prior to the date Proposals are due. Each protest and request for change must include the reasons for the protest or request, and any proposed changes to the RFP provisions, specifications or Contract terms.

Protests of Contract Award

Proposers are directed to the protest procedures contained in OAR 137-048-0240. A Proposer who claims to have been adversely affected or aggrieved by the selection of the highest ranked Proposer may submit a written protest of the selection to the Contracting Agency no later than seven (7) calendar days after the date of the selection notice. A Proposer submitting a protest must claim that the protesting Proposer is the highest ranked Proposer because the proposals of all higher ranked Proposers failed to meet the requirements of the RFP or because the higher ranked Proposers otherwise are not qualified to perform the Engineering Services described in the RFP.

E. PROPOSAL CONTENTS

Proposals shall include, at a minimum, the following items:

- The name of the person(s) authorized to represent the proposer in negotiating and signing any agreement which may result from the proposal.
- Qualifications:
 - Name and qualifications of the individual who will serve as the City Engineer.
 - The names of professional persons who will assist the City Engineer in performing the work and a current résumé for each, including a description of qualifications, skills, and responsibilities. The City is interested in professionals with experience serving small governmental entities and especially serving cities comparable in size to Sweet Home.
 - Specifically address proposer's familiarity with laws and regulations governing public water, wastewater, storm water, and transportation systems, including operations, construction and maintenance of the City's current systems.
 -
- Description of proposer's expertise in the following areas:
 - Civil, Electrical, Mechanical and Transportation Engineering;
 - Water distribution systems;
 - Municipal ground/surface water rights acquisition and maintenance of;
 - Pump station and gravity wastewater collection systems;
 - Activated sludge wastewater treatment with land applied effluent disposal;
 - WPCF and NPDES permit regulations and compliance;
 - Municipal transportation systems involving state and federal highways;
 - Road maintenance techniques and applications;

- Oregon land use law/planning and development related infrastructure issues;
- Public improvement contracting and administration;
- Contract law and intergovernmental agreements; Public Utility billing operations and maintenance; and,
- Public finance and infrastructure financing.
- Explanation of proposer's workload capacity and level of experience commensurate with the level of service required by the City.
- Explanation of proposer's facilities and availability of support staff.
- Proof of Insurance of: \$2 million per occurrence/\$2 million aggregate comprehensive general liability insurance; \$2 million per occurrence professional liability insurance for errors and omissions; and automobile liability insurance. Proof of coverage by Workers' Compensation Insurance or exemption.
- A list of at least three references from government clients of similar size for whom similar services have recently been provided. (For all references, please include names, phone numbers, and description of work performed.)
- A list of the tasks, responsibilities, and qualifications of any subconsultants proposed to be used on a routine basis and proof of adequate professional liability insurance for any subconsultants.
- Written affirmation that the firm has a policy of nondiscrimination in employment because of race, age, color, sex, religion, national origin, mental or physical handicap, political affiliation, marital status or other protected class, and has a drug-free workplace policy.
- Confirmation that the proposer is a civil engineer licensed to work in the State of Oregon.
- A discussion of proposer's use of local resources and community involvement.
- An explanation of any potential or actual conflicts of interest within the jurisdictional boundaries of the City. Conflict of interest is defined for purposes of this RFP and any resulting contract as proposer's provision of professional engineering services to any private property owner or developer within the City's jurisdictional boundaries.

F. PUBLIC RECORDS

All proposals submitted are the property of the City of Oakridge, thus subject to disclosure pursuant to the public records law, as qualified by ORS 279C.107. Accordingly, proposals received and opened shall not be available for public inspection until after City's notice of intent to award this contract is issued. Thereafter, except for information marked "Proprietary", all documents received by City shall be available for public disclosure. The City will attempt to maintain the confidentiality of materials marked "Proprietary" to the extent permitted under the Oregon Public Records law.

G. COSTS

Proposers responding to this RFP do so solely at their own expense.

III. PROPOSAL EVALUATION

A. MINIMUM QUALIFICATIONS

The City will review proposals received to determine whether or not each proposer meets the following minimum qualifications:

- A Civil Engineer licensed to work in the State of Oregon.
- Ability to provide the engineering work needed by the City to the standards required by the City, County and State.
- Has the financial resources for the performance of the desired engineer services, or the ability to obtain such resources.
- An Equal Opportunity Employer and otherwise qualified by law to enter into the attached Engineering Service Contract.

B. EVALUATION CRITERIA

Proposals meeting the above minimum qualifications will be evaluated by the City using the following criteria:

	Maximum Points
1) Specialized experience in the type of work to be performed, specifically including work in a city of similar size.	(25)
2) Qualifications and experience of the staff assigned by proposer to perform these services.	(15)
3) Past experience of proposer and project team members with relevant county, state, and federal regulatory and funding agencies.	(10)
4) Quality of proposed scope of work, including the proposed management techniques and practices for City service needs.	(10)
5) Familiarity with the City and City locale.	(10)
6) Distance from City.	(10)
7) Availability and capability to perform the engineering services described in this RFP on an ongoing basis, including flexibility to perform services on projects of projects of widely varying sizes.	(15)
8) References.	(5)
Maximum Total Points	100

C. SELECTION

The City is using a qualifications-based selection (QBS) process as mandated for engineering contracts anticipated to exceed \$100,000 by ORS 279C.110. As a result, selection of the most qualified candidate will be made without regard to the price of the services. Only after selection of the most qualified candidate will the City and selected candidate enter into contract negotiations for the price of the services.

Each member of the evaluation committee shall complete an evaluation sheet ranking each qualified proposer against the weighted criteria set forth in Article III.B of this RFP. Completed evaluations shall be combined and tallied. The City reserves the right to interview one or more of the highest ranked candidates. Upon completion of its evaluation process, the evaluation committee shall provide the results of the scoring and ranking to the City Council, with an awardee recommendation. If the Council does not cancel the RFP after receipt of the evaluation committee's scoring results and recommendation, the City will begin negotiating a contract with the highest-ranking candidate. The City shall direct negotiations toward obtaining written agreement on the Engineer's performance obligations, a payment methodology that is fair and reasonable to the City, and any other provisions the City believes to be in the City's best interest to negotiate.

If the City and the selected candidate are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the City, the City shall, either orally or in writing, formally terminate negotiations with the selected candidate. The City may then negotiate with the next most qualified candidate. The negotiation process may continue in this manner through successive candidates until an agreement is reached or the City terminates this RFP.

It is the desire of the City to have a new engineering contract in place no later than November 1, 2021.

D. CONTRACT

The City desires to enter into a professional services agreement in the form attached, which includes all services necessary for this position, whether or not the services are specifically outlined in this RFP.

The selected proposer will be expected to sign the attached written agreement, which will incorporate this RFP and awardee's proposal. Submittal of a proposal indicates a proposer's agreement with the terms of the attached contract. Any open terms in the attached contract will be completed, based upon awardee's proposal. Negotiations shall be limited to cost and any other terms the City chooses to negotiate, in City's sole discretion.

The City anticipates payment for services on an hourly basis. However, the City will also consider alternative proposals. The City reserves the right to negotiate a compensation package that is fair and reasonable to the City, as determined solely by City.

It is anticipated that the City of Oakridge will enter into a one (1) year agreement, which thereafter may be extended upon written consent of both parties for additional three (3) year terms.

Any contract requires that awardee will comply with all applicable federal and state laws, rules and regulations. This solicitation is not an implied contract and may be modified or revoked without notice.

**The City of Oakridge is an Equal Opportunity/Affirmative Action
Employer.
Women, Minorities and Disabled Persons are encouraged to apply.**

THIS SOLICITATION IS NOT AN IMPLIED CONTRACT AND MAY BE
MODIFIED OR REVOKED WITHOUT NOTICE.

Business of the City Council

City of Oakridge, Oregon

November 04, 2021

Agenda Title: Resolution Adopting a Supplemental Budget for Fiscal Year 2021-2022

Agenda Item No: 12.1

Exhibit: (1) Resolution 11-2021

Proposed Council Action: A motion from the floor to approve the resolution.

**Agenda Bill Author: Eric Kytola
City Administrator: Bryan Cutchen**

ISSUE: ORS 294.471 permits the governing body to create a supplemental budget for the fiscal year in which the regular budget has been adopted for certain and specific reasons. In this case, for clarity and transparency, this supplemental budget was developed to account for receipt of an Oregon Department of Transportation Small Cities Allotment grant and subsequent expenditures to pave portions of Garden Road and Berry Street.

FISCAL IMPACT: As described in the exhibit.

**OPTIONS: (1) Adopt the resolution.
(2) Reject the resolution.**

RECOMMENDATION: Staff recommends adoption of the resolution.

RECOMMENDED MOTION: I move we adopt Resolution 11-2021, providing a supplemental budget for fiscal year 2021-2022.

RESOLUTION NO. 11-2021

A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET FOR FISCAL YEAR 2021-2022 AND MAKING APPROPRIATIONS

The City of Oakridge resolves the following:

WHEREAS, ORS 294.471 permits the governing body of a municipal corporation to make a supplemental budget for the fiscal year for which the regular budget has been prepared if one or more of the following circumstances exist:

- a. An occurrence or condition that is not ascertained when preparing the original budget or a previous supplemental budget for the current year or current budget period and that requires a change in financial planning.
- b. A pressing necessity that could not reasonably be foreseen when preparing the original budget or a previous supplemental budget for the current year or current budget period and that requires prompt action.
- c. Funds that are made available by another unit of federal, state or local government and the availability of which could not reasonably be foreseen when preparing the original budget or a previous supplemental budget for the current year or current budget period.
- d. A request for services or facilities the cost of which is to be supplied by a private individual, corporation or company or by another governmental unit and the amount of which could not be accurately estimated when preparing the original budget or a previous supplemental budget for the current year or current budget period.
- e. Proceeds from the involuntary destruction, involuntary conversion, or sale of property that necessitates the immediate purchase, construction or acquisition of different facilities in order to carry on governmental operations.
- f. Ad valorem property taxes that are received during the fiscal year or budget period in an amount sufficiently greater than the amount estimated to be collected such that the difference will significantly affect the level of government operations to be funded by the taxes as provided in the original budget or a previous supplemental budget for the current year or current budget period.
- g. A local option tax described in ORS 294.476 that is certified for extension on the assessment and tax roll under ORS 310.060 for the fiscal year or budget period in which the local option tax measure is approved by voters.
- h. A reduction in available resources that requires the governing body to reduce appropriations in the original budget or a previous supplemental budget for the current year or current budget period.

- i. The original budget of the municipal corporation adopted under ORS 294.456 did not include estimated requirements to pay debt service pursuant to ORS 294.477 or the actual requirements are different from the estimated requirements included in the original budget or a previous supplemental budget.

WHEREAS, the supplemental budget proposed meets one or more requirements of ORS 294.471;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oakridge hereby adopts a supplemental budget for fiscal year 2021-2022 in the amounts shown below for each Fund and,

BE IT FURTHER RESOLVED that the amounts shown below as appropriations for the fiscal year beginning July 1, 2021 and for purposes shown are hereby appropriated for each Fund:

Supplemental Budget- FY 2022

Fund-Streets	Current Budget	Increase (Decrease)	Revised Budget	Impact on Resources/ Appropriations
<u>Resources</u>				
Total Resources	\$434,000			
ODOT Small City Allotment		\$176,530		
Resources Total		\$176,530	\$610,530	\$176,530
<u>Expenditures/Appropriations</u>				
Street Program	\$334,000	\$176,530	\$510,530	\$176,530
Expenditures Total				\$176,530

To reflect the ODOT Small City Allotment grant revenue that was used for IGA #33175 & #34547 (Garden Rd. & Berry St.)

BE IT FURTHER RESOLVED that this resolution shall be effective immediately upon its passage.

PASSED BY THE COUNCIL of the City of Oakridge this 4th day of November 2021.

APPROVED AND SIGNED BY THE MAYOR of the City of Oakridge this 4th day of November 2021.

Attest:

Jackie Sims, Asst. City Recorder

Kathy Holston, Mayor

Ayes:

Nays

Business of the City Council

City of Oakridge, Oregon

November 04, 2021

Agenda Title: Authorizing A Loan from the Safe Drinking Water Revolving Loan Fund

Agenda Item No: 13.2

**Exhibit: (1) Resolution 12-2021
(2) Exhibit - Loan Contract**

Proposed Council Action: A motion from the floor to approve

**Agenda Bill Author: Bryan Cutchen
City Administrator: Bryan Cutchen**

ISSUE: To complete the rehabilitation of Well #2, a loan was obtained from the Oregon Infrastructure Finance Authority (IFA). The IFA requires a resolution from the governing body as part of the approval process. This agenda item will also authorize the mayor to sign the loan contract contained in the resolution exhibit.

The loan total amount is for a maximum of \$260,000, of which \$135,000 is forgivable, making the city principal maximum amount \$125,000. This is a reimbursable loan with an interest rate of 1% and a term of 30 years.

FISCAL IMPACT: Dependent on expenditures. A maximum of approximately \$4,824 annual payment.

OPTIONS: (1) Adopt the resolution and approve the loan contract.
(2) Do not adopt the resolution or approve the loan contract.

RECOMMENDATION: Staff recommends option (1).

RECOMMENDED MOTION: I move we adopt Resolution 12-2021 and approve the loan contract with the State of Oregon Infrastructure Finance Authority for \$260,000.

CITY OF OAKRIDGE

RES. 12-2021

**A RESOLUTION AUTHORIZING A LOAN FROM THE SAFE DRINKING WATER
REVOLVING LOAN FUND BY ENTERING INTO A FINANCING CONTRACT
WITH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY**

WHEREAS, the City of Oakridge is a community water system as defined in Oregon Administrative Rule 123-049-0010.

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

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

WHEREAS, the City of Oakridge is required, as a prerequisite to the receipt of financial assistance from the OBDD, to enter into a Financing Contract with the OBDD, number S22006, substantially in the form attached hereto as Exhibit 1. The project is described in Exhibit C to that Financing Contract (the "Project").

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oakridge as follows:

1. **Financing Loan Authorized.** The Governing Body authorizes the Mayor to execute the Financing Contract (the "Financing Documents") and such other documents as may be required to obtain financial assistance including a loan from the OBDD on the condition that the principal amount of the loan from the OBDD to the City of Oakridge is not more than \$260,000 with \$135,000 eligible for principal forgiveness if contract conditions are met, and the interest rate is not more than 1% if contract conditions are met (and 1.65% if not met). The proceeds of the loan from the OBDD must be applied solely to the "Costs of the Project" as such term is defined in the Financing Contract.
2. **Sources of Repayment.** Amounts payable by the City of Oakridge are payable from the sources described in Section 4 of the Financing Contract and the Oregon Revised Statutes Section 285A.213(5) which include:
 - (a) Revenue from the City of Oakridge water system, including special assessment revenue;
 - (b) Amounts withheld under subsection 285A.213(6);
 - (c) The general fund of the City of Oakridge;

- (d) Any combination of sources listed in paragraphs (a) to (c) of this subsection;
or
- (e) Any other source.

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

BE IT FURTHER RESOLVED that this resolution shall be effective immediately upon its passage.

PASSED BY THE COUNCIL of the City of Oakridge this 4th day of November, 2021.

APPROVED AND SIGNED BY THE MAYOR of the City of Oakridge this __th day of November, 2021.

Attest:

Jackie Sims, Asst City Recorder

Kathy Holston, Mayor

Ayes:

Nays

SAFE DRINKING WATER REVOLVING LOAN FUND
FINANCING CONTRACT

Project Name: Well No. 2 Improvements

Project Number: S22006

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

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

- Exhibit A General Definitions
- Exhibit B Loan Security
- Exhibit C Project Description
- Exhibit D Project Budget
- Exhibit E Information Required by 2 CFR § 200.332(a)(1)
- Exhibit F Certification Regarding Lobbying

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

“Estimated Project Cost” means \$260,000.

“Forgivable Loan Amount” means \$135,000.

“Section 2A. Loan Amount” means \$125,000.

“Interest Rate” means 1.0% per annum.

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

“Payment Date” means December 1.

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

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

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

SECTION 2 - FINANCIAL ASSISTANCE

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

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

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

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

SECTION 3 - DISBURSEMENTS

- A. Reimbursement Basis. The Financing Proceeds shall be disbursed to Recipient on an expense reimbursement or costs-incurred basis. The Recipient must submit each disbursement request for the Financing Proceeds on an OBDD-provided or OBDD-approved disbursement request form (“Disbursement Request”).
- B. Financing Availability. The OBDD’s obligation to make, and Recipient’s right to request, disbursements under this Contract terminates on the Project Closeout Deadline.
- C. Payment to Contractors. The OBDD, in its sole discretion, may make direct payment to suppliers, contractors and subcontractors and others for sums due them in connection with construction of the Project, instead of reimbursing Recipient for those sums.
- D. Order of Disbursement.

OBDD shall allocate any disbursement equally between the Section 2.A. Loan and the Forgivable Loan. Notwithstanding the preceding sentence, those portions of the Forgivable Loan indicated in the budget line-items for Labor Standards Compliance and Project Management remain dedicated to those specific line-item activities and not affected by any equal division allocation.

SECTION 4 - LOAN PAYMENT; PREPAYMENT; FORGIVENESS

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

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

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

Notwithstanding the preceding paragraph, if, at the Project Completion Date, the average monthly residential water rates for the water supplied by the System are not at or above the affordability rate of \$39.03 per 7,500 gallons, then \$50,000 of the amount due under the Forgivable Loan will not be forgiven. Further, the Section 2.A. Loan and the Forgivable Loan will, at OBDD's discretion and after notice to Recipient, be modified as follows:

Interest accrues from the Project Completion Date at the rate of 1.65% per annum.

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

SECTION 5 - CONDITIONS PRECEDENT

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

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

SECTION 6 - USE OF FINANCIAL ASSISTANCE

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

SECTION 7 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to OBDD:

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

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

SECTION 8 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

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

attached as Exhibit F, and any applicable quarterly disclosure statement of covered lobbying activity. The Recipient will cause any entity, firm or person receiving a contract or subcontract utilizing Loan proceeds in excess of \$100,000 to complete the same certification and any applicable disclosure statement, and submit them to Recipient. The Recipient shall retain such certifications and make them available for inspection and audit by OBDD, the federal government or their representatives. The Recipient shall forward any disclosure statements to OBDD.

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

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

“The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.”

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

C. Project Completion Obligations. The Recipient shall:

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

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

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

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

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

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

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

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

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

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

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

SECTION 9 - DEFAULTS

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

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

SECTION 10 - REMEDIES

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

SECTION 11 - MISCELLANEOUS

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

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

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

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

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

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

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

If to Recipient: City Administrator
City of Oakridge
48318 E 1st St
Oakridge, OR 97463

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

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

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

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

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

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

SIGNATURE PAGE FOLLOWS

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



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



CITY OF OAKRIDGE

By: _____
Chris Cummings, Assistant Director
Economic Development

By: _____
The Honorable Kathy Holston,
Mayor of Oakridge

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Wendy Johnson as per email dated 21 October 2021
Wendy Johnson, Senior Assistant Attorney General

EXHIBIT A - GENERAL DEFINITIONS

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

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

“Award” means the award of financial assistance to Recipient by OBDD dated 9 September 2021.

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

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

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

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

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

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

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

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

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

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

“ORS” means the Oregon Revised Statutes.

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

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

EXHIBIT B – LOAN SECURITY

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

EXHIBIT C - PROJECT DESCRIPTION

Recipient shall with the assistance of an Oregon licensed contractor:

Remove and replace the existing well pump, pump shaft and column. The well column will then be cleaned along with the well screen by physically brushing and chemical treatment methods. After cleaning the well column and screen, the well will be flushed and flow tested to record the improvement in production. A new well pump, column and shaft will then be installed in the well and then tested and started up. Additional minor improvements will be made to motor controls and electrical and telemetry systems so the well operates more efficiently.

EXHIBIT D - PROJECT BUDGET

Line Item Activity	OBDD Funds	Other / Matching Funds
Design / Engineering	\$20,000	\$0
Construction	\$230,000	\$0
Labor Standards	\$5,000	\$0
Project Management	\$5,000	\$0
Construction	\$260,000	\$0

EXHIBIT E - INFORMATION REQUIRED BY 2 CFR § 200.332(A)(1)

Federal Award Identification:

- (i) Subrecipient* name (which must match registered name in DUNS): City of Oakridge
 - (ii) Subrecipient's DUNS number: 140785739
 - (iii) Federal Award Identification Number (FAIN): 98009020
 - (iv) Federal Award Date: 9 September 2020
 - (v) Sub-award Period of Performance Start and End Date: 1 September 2021 through 1 July 2022
 - (vi) Total Amount of Federal Funds Obligated by this Contract: \$260,000
 - (vii) Total Amount of Federal Funds Obligated by this initial Contract and any amendments: \$260,000
 - (viii) Total Amount of Federal Award to the pass-through entity: \$14,487,000
 - (ix) Federal award project description: Oregon's Drinking Water State Revolving Fund: This fund increases the capacity of Oregon to ensure that its public water systems continue to provide safe drinking water. This is done by (1) continuing loan financing to public water systems and support for newly proposed priority projects, (2) providing grant support for covering administrative expenses, small public water system technical assistance, State program management and local assistance, and (3) continuation of the loan fund to finance source water protection project initiatives, including acquiring conservation easements.
 - (x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:
 - (a) Name of Federal awarding agency: U.S. Environmental Protection Agency
 - (b) Name of pass-through entity: Oregon Business Development Department
 - (c) Contact information for awarding official of the pass-through entity: Ed Tabor, Programs & Incentives Manager, 503-949-3523
 - (xi) CFDA Number and Name: 66.468 Safe Drinking Water State Revolving Fund
Amount: \$260,000
 - (xii) Is Award R&D? No
 - (xiii) Indirect cost rate for the Federal award: N/A
- * For the purposes of this Exhibit E, "Subrecipient" refers to Recipient and "pass-through entity" refers to OBDD.

EXHIBIT F - CERTIFICATION REGARDING LOBBYING

(Awards in excess of \$100,000)

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

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

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

Signed _____

Title _____

Date _____

Business of the City Council

City of Oakridge, Oregon

November 04, 2021

**Agenda Title: American Rescue Plan Act
Information Session**

Agenda Item No: 16.0

**Exhibit: (1) Summary
(2) Interim Final Rule Excerpt**

**Proposed Council Action:
Information only**

**Agenda Bill Author: Eric Kytola
City Administrator: Bryan Cutchen**

ISSUE: To provide information to the city council to enable them to make expenditure decisions with the funding provided by ARPA. This session will be followed with another working session to discuss staff recommendations on project prioritization for the funds.

It should be noted the city council has already committed up to \$100,000 of the \$374,000 in ARPA funds to address the current operating deficit. The city will receive another tranche of funding next year of approximately the same amount.

A link to a hi-lighted version of the full Interim Final Rule can be found in your council folder here:

<https://drive.google.com/file/d/1rN0II8XxHZh2v0a2B5FC4C9m798qmRuq/view?usp=sharing>

FISCAL IMPACT: None.

OPTIONS:

RECOMMENDATION:

RECOMMENDED MOTION:

Eligible Uses (page 117 – 121)

Congress expressed clear intent that Fiscal Recovery Funds be spent within the four eligible uses identified in the statute.

1. to respond to the public health emergency and its negative economic impacts
2. to provide premium pay to essential workers
3. to provide government services to the extent of eligible governments' revenue losses
4. to make necessary water, sewer, and broadband infrastructure investments

In implementing the ARPA, Treasury also sought to support disadvantaged communities that have been disproportionately impacted by the pandemic.

Covered time frame: March 3, 2021 through December 31, 2026

1. Public Health and Economic Impacts

Resources have been provided to “respond to” the public health emergency with respect to COVID-19 or its negative economic impacts. To assess whether a program or service is included in this category of eligible uses, a recipient should consider whether and how the use would respond to the COVID-19 public health emergency. Eligible uses under this category must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency.

First: identify a need or negative impact of the COVID-19 public health emergency.

Second: identify how the program, service, or other intervention addresses the identified need or impact.

The pandemic affected communities across the country, it disproportionately impacted some demographic groups and exacerbated health inequities along racial, ethnic, and socioeconomic lines. Similarly, low-income and socially vulnerable communities have seen the most severe health impacts. Treasury encourages recipients to provide assistance to those households, businesses, and non-profits in communities most disproportionately impacted by the pandemic.

Eligible Public Health Uses (page 18 – 21)

- COVID-19 Mitigation and Prevention
- Medical Expenses
- Behavioral Health Care
- Public Health and Safety Staff
- Address Disparities in Public Health Outcomes

Responding to Negative Economic Impacts (page 23 – 41)

- Impacts on Households and Individuals
- Impacts on Businesses
- Impacts to State, Local, and Tribal Governments
- Exacerbation of Pre-existing Disparities

2. Premium Pay

The Interim Final Rule provides that any premium pay or grants provided using the Fiscal Recovery Funds should prioritize compensation of those lower income eligible workers that perform essential work. As such, providing premium pay to eligible workers responds to such workers by helping address the disparity between the critical services and risks taken by essential workers and the relatively low compensation they tend to receive in exchange. Furthermore, because premium pay is intended to compensate essential workers for heightened risk due to COVID-19, it must be entirely additive to a worker's regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker's normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID-19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.¹⁰⁷ Treasury encourages recipients to prioritize providing retrospective premium pay where possible...

3. Revenue Loss

Recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency.

4. Investment in Infrastructure

The Interim Final Rule outlines eligible uses within each category, allowing for a broad range of necessary investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service.

Water and Sewer Infrastructure (page 63 – 68)

- construct, improve, and repair wastewater treatment plants
- control non-point sources of pollution
- improve resilience of infrastructure to severe weather events
- create green infrastructure
- protect waterbodies from pollution
- installation and replacement of failing treatment and distribution systems
- Treasury encourages recipients to consider projects to replace lead service lines

Broadband Infrastructure (page 69 – 77)

- the ability to support the simultaneous use of work, education, and health applications
- eligible projects are expected to focus on locations that are unserved or underserved
- focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last mile-connections.

its costs. It has done so by aiming to target relief in key areas according to the congressional mandate; offering clarity to States, territories, Tribal governments, and localities while maintaining their flexibility to respond to local needs; and limiting administrative burdens.

Analysis of Benefits. Relative to a pre-statutory baseline, the Fiscal Recovery Funds provide a combined \$350 billion to State, local, and Tribal governments for fiscal relief and support for costs incurred responding to the COVID-19 pandemic. Treasury believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Economic research has demonstrated that state fiscal relief is an efficient and effective way to mitigate declines in jobs and output during an economic downturn.¹⁸³ Absent such fiscal relief, fiscal austerity among State, local, and Tribal governments could exert a prolonged drag on the overall economic recovery, as occurred following the 2007-09 recession.¹⁸⁴

This Interim Final Rule provides benefits across several areas by implementing the four eligible funding uses, as defined in statute: strengthening the response to the COVID-19 public health emergency and its economic impacts; easing fiscal pressure on State, local, and Tribal governments that might otherwise lead to harmful cutbacks in employment or government

¹⁸³ Gabriel Chodorow-Reich et al., Does State Fiscal Relief during Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act, *American Econ. J.: Econ. Policy*, 4:3 118-45 (Aug. 2012), available at <https://www.aeaweb.org/articles?id=10.1257/pol.4.3.118>

¹⁸⁴ See, e.g., Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), <https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html>; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), available at <https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf>; Gordon, *supra* note 9.

services; providing premium pay to essential workers; and making necessary investments in certain types of infrastructure. In implementing the ARPA, Treasury also sought to support disadvantaged communities that have been disproportionately impacted by the pandemic. The Fiscal Recovery Funds as implemented by the Interim Final Rule can be expected to channel resources toward these uses in order to achieve substantial near-term economic and public health benefits, as well as longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure and aid to families.

These benefits are achieved in the Interim Final Rule through a broadly flexible approach that sets clear guidelines on eligible uses of Fiscal Recovery Funds and provides State, local, and Tribal government officials discretion within those eligible uses to direct Fiscal Recovery Funds to areas of greatest need within their jurisdiction. While preserving recipients' overall flexibility, the Interim Final Rule includes several provisions that implement statutory requirements and will help support use of Fiscal Recovery Funds to achieve the intended benefits. The remainder of this section clarifies how Treasury's approach to key provisions in the Interim Final Rule will contribute to greater realization of benefits from the program.

- Revenue Loss: Recipients will compute the extent of reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have plausibly been expected to occur in the absence of the pandemic. The counterfactual trend begins with the last full fiscal year prior to the public health emergency (as required by statute) and projects forward with an annualized growth adjustment. Treasury's decision to incorporate a growth adjustment into the calculation of revenue loss ensures that the formula more fully captures revenue shortfalls relative to recipients' pre-pandemic expectations. Moreover, recipients will have the opportunity to re-calculate revenue loss

at several points throughout the program, recognizing that some recipients may experience revenue effects with a lag. This option to re-calculate revenue loss on an ongoing basis should result in more support for recipients to avoid harmful cutbacks in future years. In calculating revenue loss, recipients will look at general revenue in the aggregate, rather than on a source-by-source basis. Given that recipients may have experienced offsetting changes in revenues across sources, Treasury's approach provides a more accurate representation of the effect of the pandemic on overall revenues.

- Premium Pay: Per the statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay or otherwise respond to essential workers. While the Interim Final Rule generally preserves the flexibility in the statute, it does add a requirement that recipients give written justification in the case that premium pay would increase a worker's annual pay above a certain threshold. To set this threshold, Treasury analyzed data from the Bureau of Labor Statistics to determine a level that would not require further justification for premium pay to the vast majority of essential workers, while requiring higher scrutiny for provision of premium pay to higher-earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic. Treasury believes the threshold in the Interim Final Rule strikes the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The Interim Final Rule also requires that eligible workers have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will also help encourage use of

financial resources for those who have endured the heightened risk of performing essential work.

- Withholding of Payments to Recipients: Treasury believes that for the vast majority of recipient entities, it will be appropriate to receive funds in two separate payments. As discussed above, withholding of payments ensures that recipients can adapt spending plans to evolving economic conditions and that at least some of the economic benefits will be realized in 2022 or later. However, consistent with authorities granted to Treasury in the statute, Treasury recognizes that a subset of States with significant remaining elevation in the unemployment rate could face heightened additional near-term needs to aid unemployed workers and stimulate the recovery. Therefore, for a subset of State governments, Treasury will not withhold any funds from the first payment.

Treasury believes that this approach strikes the appropriate balance between the general reasons to provide funds in two payments and the heightened additional near-term needs in specific States. As discussed above, Treasury set a threshold based on historical analysis of unemployment rates in recessions.

- Hiring Public Sector Employees: The Interim Final Rule states explicitly that recipients may use funds to restore their workforces up to pre-pandemic levels. Treasury believes that this statement is beneficial because it eliminates any uncertainty that could cause delays or otherwise negatively impact restoring public sector workforces (which, at time of publication, remain significantly below pre-pandemic levels).

Finally, the Interim Final Rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need, particularly communities that have been historically disadvantaged and have experienced disproportionate impacts of the COVID-19

crisis. Targeting relief is in line with Executive Order 13985 On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, which laid out an Administration-wide priority to support “equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”¹⁸⁵ To this end, the Interim Final Rule enumerates a list of services that may be provided using Fiscal Recovery Funds in low-income areas to address the disproportionate impacts of the pandemic in these communities; establishes the characteristics of essential workers eligible for premium pay and encouragement to serve workers based on financial need; provides that recipients may use Fiscal Recovery Funds to restore (to pre-pandemic levels) state and local workforces, where women and people of color are disproportionately represented;¹⁸⁶ and targets investments in broadband infrastructure to unserved and underserved areas. Collectively, these provisions will promote use of resources to facilitate the provision of assistance to individuals and communities with the greatest need.

Analysis of Costs. This regulatory action will generate administrative costs relative to a pre-statutory baseline. This includes, chiefly, costs required to administer Fiscal Recovery Funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires States to allocate Fiscal Recovery Funds to nonentitlement units, which are smaller units of local government that are statutorily required to receive their funds through States.

¹⁸⁵ Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/> (last visited May 9, 2021).

¹⁸⁶ David Cooper, Mary Gable & Algernon Austin, Economic Policy Institute Briefing Paper, The Public-Sector Jobs Crisis: Women and African Americans hit hardest by job losses in state and local governments, <https://www.epi.org/publication/bp339-public-sector-jobs-crisis> (last visited May 9, 2021).