



Location: City Hall – Council Chambers
Date: April 25, 2023
Time: 6:00 PM

City Council Meeting Agenda

Mayor Jason Beebe, Council Members Steve Uffelman, Janet Hutchison, Shane Howard, Gail Merritt, Scott Smith, Raymond Law and City Manager Steve Forrester
ATTEND TELEPHONICALLY BY CALLING 346-248-7799 Meeting ID: 947 5839 2608 Passcode: 123456

Call to Order

Flag Salute

Additions to Agenda

Consent Agenda

1. Regular Meeting Brief 4-11-2023

Visitors, Appearances and Requests

Council Presentations

Council Business

2. Enterprise Zone Extension - **PUBLIC HEARING** - Kelsey Lucas
3. HB 3115 & Possible Ordinance Regulating Camping Within City Limits - Jered Reid

Staff Reports and Requests

4. City Managers Report - Steve Forrester

Committee Reports

Ordinances

Resolutions

5. Resolution 1552 - Approving an IGA with the State of Oregon Department of Transportation for Roads Transportation Intersection Updates - Casey Kaiser
6. Resolution No 1553 - Approving a Personal Services Agreement with Divergent Engineering Services, LLC to Provide Engineering Services Regarding Prineville Water Treatment Plant Operations - Casey Kaiser
7. Resolution No 1554 - Approving a Personal Services Agreement with Dowl, LLC to Provide Personal Services for Engineering Services Regarding Transportation Design - Casey Kaiser

Visitors, Appearances and Requests

Adjourn

Agenda items maybe added or removed as necessary after publication deadline



CITY OF PRINEVILLE
Regular Meeting Brief
387 NE Third Street – Prineville, OR 97754
541.447.5627 ph 541-447-5628 fax

Full Meeting Recordings Available at:
<http://cityofprineville.com/meetings/>

City Council Meeting Brief
April 11, 2023

Council Members Present:

Scott Smith
Shane Howard
Janet Hutchison
Jason Beebe
Steve Uffelman
Gail Merritt

Council Members Absent

Ray Law

Additions to the Agenda

None

Consent Agenda

1. Regular Meeting Brief 3-28-2023

Councilor Smith made a motion to approve consent agenda as presented. Motion seconded. No discussion on motion. All in favor, motion carried.

Visitors, Appearances and Requests

No one came forward.

Council Presentations

2. Prineville Downtown Association Presentation – Bryan Iverson

Bryan Iverson, Prineville Downtown Association President went through a power point presentation that highlighted things the Association has accomplished. Mr. Iverson referenced the Portland State University population estimates and how much Prineville has grown compared to their estimates. Mr. Iverson went over a map that showed what they see as the downtown area for Prineville. He went through a couple of picture slides that show the new street lights starting

to go up on Main Street and the recently completed Prineville monument (archway). Mr. Iverson talked about the street trees and pavers with pictures showing the condition of the pavers, trees and tree wells.

Mr. Iverson then brought up slides of a conceptual design for new cross walks, sidewalks, art and street lights with banners that will go from Third Street to the North to the intersection of 4th Street and then east on 4th Street. Mr. Iverson explained that they have the funds to complete this project now.

Discussions continued regarding water lines for flower baskets, lamps on street lights are directed down, adequate distance between trees and lamps, not being practical to maintain flower baskets and leaving it up to each individual business if they want flower pots.

Mr. Iverson explained they are focusing on infrastructure on what the downtown looks like. He is seeing several buildings downtown selling and remodeling. They are also looking at empty spaces to turn it into pocket parks.

Council Business

3. Consideration of LOC Support for Statewide Homeless Response – Mayor Beebe / Councilor Hutchison

Councilor Hutchison talked about City Day of the Capital and that she received a brochure regarding the Mayors getting on board for Governor Kotek funding for homelessness that covered the west side of the state. The Mayors got together to go after funding for funding based on population rather than focusing the funding on the other side of the Cascades.

Mayor Beebe said is in favor of the initiative, but wanted it to come to Council to consider as a group.

Councilor Hutchison made motion to approve the City of Prineville’s support for the LOC and OMA Homelessness Task Force for funding. Motion seconded. Mayor Beebe said that this is no guarantee for funding, but if we did get the funding, we could help other partners. All in favor, motion carried.

4. Regional Housing Rehabilitation Grant Closing Update (PUBLIC HEARING) – Andrew Spreadborough

Mayor Beebe opened the public hearing portion of the meeting.

Andrew Spreadborough, NeighborImpact provided background information for the purpose of the public hearing. Funding was from Community Development Block Grant (CDBG) that is intended to support low to medium income. Only city or county government can apply for these funds. It is a competitive grant program. There was a grant awarded in 2020 in the amount of \$400,000. It was a regional program and was ran through NeighborImpact as a loan or grant. NeighborImpact also has a lending program The Regional Housing Rehabilitation program was

different and for people who couldn't go get a typical loan. The repayment of the loan is deferred until the home changes hands.

Mr. Spreadborough went through the program statistics which had a wide range of projects throughout the region and all are completed and successful.

Next steps is they are going to apply for another round of CDBG, and loans can only be reissued once loans are paid off.

Mr. Spreadborough thanked city staff who helped with the grant and thanked the city for being the applicant.

Steve Forrester, City Manager thanked Mr. Spreadborough for focusing on Prineville.

Councilor Hutchison says it is a great program that helps people that can't necessarily otherwise get help.

No one from the public came forward. No written comments were received.

Mayor closed public portion of the hearing.

There were no more questions.

5. Draft Findings for Personal Services Contract for Prineville Water Treatment Plant (PUBLIC HEARING) – Casey Kaiser

Mayor Beebe opened the public hearing portion of the meeting.

Casey Kaiser, Public Works Director provided background information on the ASR and how complex and advanced it is. It was completed in 2021. The goal of the contract would be to fine tune operation of the ASR and the different phases of the facility and standard operating procedures. Mr. Kaiser continued with his staff report.

There were no questions.

No one from the public came forward. No written comments were received.

Mayor Beebe closed the public hearing portion of the meeting.

Councilor Uffelman made a motion to adopt the draft findings as presented. Motion seconded. No discussion on motion. All in favor, motion carried.

Staff Reports and Requests:

6. City Manager’s Report– Steve Forrester

Mr. Forrester went through his report highlighting each department’s activities. On the Rail Road, golf course sand has been coming through the Rail Road for all the golf courses in the region.

Mr. Forrester explained that on this day we are at 585% of normal for snow. It is looking that we could possibly have enough water at Prineville reservoir to recreate and farm.

Mr. Forrester continued with possible uses of the old Police Department building and that Baker Technical Institute is considering using the old council chambers for a class room, and we have also had discussions with St. Vincent wanting to use as a temporary food distribution location.

Committee Reports

Mayor Beebe said that Councilor Hutchison, Councilor Uffelman and he attended the Meta Awards Ceremony. Councilor Uffelman and he also attended the Wilco grand opening.

There were no other reports.

Ordinances:

7. Ordinance No. 1283 – Updating Chapter 52 (Water) of the Prineville Code (SECOND PRESENTATION) – Josh Smith

Mr. Smith explained that there have not been any changes made since the first presentation.

There were no questions.

Councilor Howard made a motion to approve the second presentation of Ordinance No. 1283. Motion seconded. No discussion on motion. All in favor, motion carried.

Resolutions

Visitors, Appearances and Requests:

No one came forward.

Adjourn

Councilor Smith made a motion to adjourn the meeting. Motion seconded. No discussion on motion. All in favor, motion carried.

Meeting adjourned at 7:12 P.M.

Motions and Outcomes:

Motion:	Outcome	Beebe	Howard	Hutchison	Law	Merritt	Smith	Uffelman
Consent Agenda	PASSED	Y	Y	Y	-	-	Y	Y
Consideration of LOC Support for Statewide Homeless Response	PASSED	Y	Y	Y	-	Y	Y	Y
Draft Findings for Personal Services Contract for Prineville Water Treatment Plant (PUBLIC HEARING)	PASSED	Y	Y	Y	-	Y	Y	Y
Ordinance No. 1283 – Updating Chapter 52 (Water) of the Prineville Code (SECOND PRESENTATION)	PASSED	Y	Y	Y	-	Y	Y	Y
Adjourn Meeting	PASSED	Y	Y	Y	-	Y	Y	Y

Public Records Disclosure

Under the Oregon public records law, all meeting information, agenda packets, ordinances, resolutions, audio and meeting briefs are available at the following URL:

<https://www.cityofprineville.com/meetings> .

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April 25, 2023

Prineville City Council

Re: HB 3115 and Possible Ordinance Regulating Camping Within City Limits

Dear Council:

Cities possess a significant amount of property including parks, greenways, sidewalks, public buildings and developed and undeveloped rights of way. Sizeable portions of a city belong to the city itself and are held in trust for particular purposes or use by residents. Historically, cities have regulated their various property holdings in a way that prohibits persons from camping, sleeping, sitting or lying on the property. The historic regulation and management of a city's public spaces must be reimagined considering recent federal court decisions and the Oregon Legislature's enactment of HB 3115, both of which direct cities to consider their local regulations within the context of available local shelter services for those persons experiencing homelessness. Below will assist Council in understanding the legal principals involved in regulating public property considering recent court decisions and statutory enactments and provide guidance on what the City must do, cannot do, and may do.

Legal Principles Involved in Regulating Public Property

Two key federal court opinions, *Martin v. Boise* and *Blake v. Grants Pass*, have significantly impacted the traditional way cities regulate their public property. In addition to these two pivotal cases, the Oregon Legislature enacted HB 3115 during the 2021 legislative session as an attempt to clarify, expand, and codify some of the key holdings within the court decisions. An additional piece of legislation, HB 3124, also impacts the way cities regulate public property in relation to its use by persons experiencing homelessness. And, as the homelessness crisis intensifies, more legal decisions that directly impact how a city regulates its public property when it is being used by persons experiencing homelessness are expected. Some of these pending cases will seek to expand, limit, or clarify the decisions reached in *Martin* and *Blake*; other pending cases seek to explain how the well-established legal principle known as State Created Danger applies to actions taken, or not taken, by cities as they relate to persons experiencing homelessness.

A. The Eighth Amendment to the US Constitution.

The Eighth Amendment to the US Constitution states that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. In 1962, the US

Supreme Court in *Robinson v. California*, established the principle that "the Eighth Amendment prohibits the state from punishing an involuntary act or condition if it is the unavoidable consequence of one's status or being." 370 US 660 (1962).

B. *Martin v. Boise*

In 2018, the US 9th Circuit Court of Appeals in *Martin v. Boise*, interpreted the Supreme Court's decision in *Robinson* to mean that the Eighth Amendment to the U.S. Constitution "prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter ... because sitting, lying, and sleeping are ... universal and unavoidable consequences of being human." The court declared that a governmental entity cannot "criminalize conduct that is an unavoidable consequence of being homeless – namely sitting, lying, or sleeping." 902 F3d 1031, 1048 (2018).

The 9th Circuit clearly stated in its *Martin* opinion that its decision was intentionally narrow, and that some restrictions on sitting, lying, or sleeping outside at particular times or in particular locations, or prohibitions on obstructing the rights of way or erecting certain structures, might be permissible.

One of the most misunderstood aspects of the *Martin* decision is the belief that a city can never prohibit a person experiencing homelessness from sitting, sleeping or lying in public places. The *Martin* decision, as noted, was deliberately limited. Cities are allowed to impose city-wide prohibitions against persons sitting, sleeping, or lying in public, provided the city has a shelter that is accessible to the person experiencing homelessness against whom the prohibition is being enforced. Even if a city lacks enough shelter space to accommodate the specific person experiencing homelessness against whom the prohibition is being enforced, it is still allowed to limit sitting, sleeping, and lying in public places through reasonable restrictions on the time, place, and manner of these acts ("where, when, and how").

A key to understanding *Martin* is recognizing that an analysis of how a city's ordinance, and its enforcement of that ordinance, can be individualized. For example, a city may have an ordinance which prohibits persons from sleeping in city parks if a person has nowhere else to sleep, and a person who violates that ordinance can be cited and arrested. A law enforcement officer finds 11 persons sleeping in the park and can locate and confirm that 10 of said persons have access to a shelter bed or a different location in which they can sleep. If any of those 10 persons refuses to avail themselves of the available shelter beds, the law enforcement officer is within their rights, under *Martin*, to cite and arrest the persons who refuse to leave the park. The 11th person could not be cited as he or she did not have a shelter to attend.

What is clear from the *Martin* decision is the following:

1. Cities cannot punish a person who is experiencing homelessness for sitting, sleeping, or lying on public property when that person has no place else to go.
2. Cities are not required to build or provide shelters for persons experiencing homelessness.

3. Cities can continue to impose the traditional sit, sleep, and lie prohibitions and regulations on persons who do have access to shelter.
4. Cities are allowed to build or provide shelters for persons experiencing homelessness.

After *Martin*, what remains unclear, and unknown is the following:

1. What other involuntary acts or human conditions, aside from sleeping, lying and sitting, are considered to be an unavoidable consequence of one's status or being?
2. Which specific time, place and manner restrictions can cities impose to regulate when, where, and how a person can sleep, lie, or sit on public property.
3. What specific prohibitions can cities impose that will bar a person who is experiencing homelessness from obstructing the right of way?
4. What specific prohibitions can cities impose that will present a person who is experiencing homelessness from erecting a structure, be it temporary or permanent, on public property.

The City of Boise asked the United States Supreme Court to review the 9th Circuit decision in *Martin*. The Supreme Court declined to review the case, which means the opinion remains the law in the 9th Circuit. However, as other federal circuit courts begin considering a city's ability to enforce sitting, sleeping and camping ordinances against persons experiencing homelessness, there is a chance that the Supreme Court may review a separate but related opinion to clarify the *Martin* decision and provide clarity to the outstanding issues raised in this guide.

C. *Blake v. Grants Pass*

Before many of the unanswered questions in *Martin* could be clarified by the 9th Circuit or the US Supreme Court, an Oregon federal district court issued an opinion, *Blake v. Grants Pass*, which provided some clarity, but also provided an additional layer of confusion.

From the *Blake* case we also know the following:

1. Whether a city's prohibition is a civil or criminal violation is irrelevant. If the prohibition punishes an unavoidable consequence of one's status as a person experiencing homelessness, then the prohibition, regardless of its form is unconstitutional.
2. Persons experiencing homelessness who must sleep outside are entitled to take necessary minimal measures to keep themselves warm and dry while they are sleeping.
3. A person does not have access to shelter if:
 - a. They cannot access the shelter because of their gender, age, disability, or familial status;

- b. Accessing the shelter requires a person to submit themselves to religious teaching or doctrine for which they themselves do not believe;
- c. They cannot access the shelter because the shelter has a durational limitation that has been met or exceeded; or
- d. Accessing the shelter is prohibited because the person seeking access is under the influence of some substance or because of their past or criminal behavior.

But just like *Martin*, the *Blake* decision left some unanswered questions. The key unknown after *Blake*, is what constitutes a minimal measure for person to keep themselves warm and dry?

And while defining the aforementioned unknown question after *Blake* is more certainly difficult for cities, what cities must also keep ever present in their mind is the fact that the 9th Circuit Court of Appeals is presently reviewing the *Blake* decision. When the 9th Circuit finishes its review and issues an opinion, cities should reasonably expect the rules and parameters established by the Oregon district court in *Blake* to change.

D. House Bill 3115

HB 3115 was enacted by the Oregon Legislature during its 2021 session. It is the product of a workgroup involving the League of Oregon Cities and the Oregon Law Center as well as individual cities and counties.

The bill requires that any city or county law regulating the acts of sitting, lying, sleeping or keeping warm and dry outside on public property must be "objectively reasonable" based on the totality of the circumstances as applied to all stakeholders, including persons experiencing homelessness. What is objectively reasonable may look different in different communities. The bill retains cities' ability to enact reasonable time, place and manner regulations, aiming to preserve the ability of cities to manage public spaces effectively for the benefit of an entire community. The Bill also defined "keeping warm and dry" to mean using measures necessary for an individual to survive outdoors given the environmental conditions and does not include using any measure that involves fire or flame.

HB 3115 includes a delayed implementation date of July 1, 2023, to allow local governments time to review and update ordinances and support intentional community conversations. From a strictly legal perspective, HB 3114 did nothing more than restate the judicial decisions found in *Martin* and *Blake*, albeit a hard deadline to comply with those judicial decisions was imposed. A copy of the enrolled House Bill 3115 is attached.

E. House Bill 3124

Also enacted during the 2021 legislative session, HB 3124 does two things. First, it changes and adds to existing guidance and rules for how a city is to provide notice to homeless persons

that an established campsite on public property is being closed, previously codified at ORS 203.077, now found at ORS 195.500. Second, it gives instructions on how a city is to oversee and manage property it removes from an established campsite located on public property. It is important to remember that HB 3124 applies to public property; it is not applicable to private property. This means that the rules and restrictions imposed by HB 3124 are not applicable city-wide, rather they are only applicable to property classified as public.

HB 3124 does not specify, with any true certainty, what constitutes public property. There has been significant discussions within the municipal legal field as to whether rights of way constitute public property for the purpose of interpreting and implementing HB 3124. The general consensus is that rights of way should be considered public property for purposes of HB 3124. If an established homeless camp is located on rights of way, it should generally be treated in the same manner as an established camp located in a city park. However, as discussed below, depending on the dangers involved with a specific location, exceptions to this general rule exist.

When a city seeks to remove an established camp site located on public property, it must do so within certain parameters. Specifically, a city is required to provide 72-hour notice of its intent to remove the established camp site. Notices of the intention to remove the established camp site must be posted at each entrance to the site. In the event of an exceptional emergency, or the presence of illegal activity other than camping at the established campsite, a city may act to remove an established camp site from public property with less than 72-hour notice. Examples of an exceptional emergency include possible site contamination by hazardous materials, a public health emergency, or immediate danger to human life or safety.

While HB 3124 specifies that the requirements contained therein apply to established camping sites, it fails to define what constitutes an established camping site. With no clear definition of what the word established means, guidance on when the 72-hour notice provisions of HB 3124 apply is difficult to provide. A cautious approach to defining the word established at the local level is prudent. To that end, the LOC recommends that if, for example, a city were to enact an ordinance which permits a person to pitch a tent between the hours of 7 p.m. and 7 a.m., that the city also then consistently and equitably enforce the removal of that tent by 7 a.m. each day, or as close as possible to 7 a.m. Failing to require the tent's removal during restricted camping hours each day, *may*, given that the word established is undefined, provide an argument that the tent is now an established camp

In the process of removing an established camp site, HB 3124 also dictates rules regarding the removal of property owned by persons who are experiencing homelessness. When removing items from established camp site, HB 3124 requires the following:

- Items with no apparent value or utility may be discarded immediately.
- Items in an unsanitary condition may be discarded immediately.
- Law enforcement officials may retain weapons, drugs, and stolen property.

- Items reasonably identified as belonging to an individual and that have apparent value or utility must be preserved for at least 30 days so that the owner can reclaim them.
- Items removed from established camping sites must be stored in a facility located in the same community as the camping site from which it was removed.

A copy of the enrolled House Bill 3124 is attached.

G. State Created Danger

In 1989, the US Supreme Court, in *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, interpreted the Fourteenth Amendment to the U.S. Constitution to impose a duty upon the government to act when the government itself has created dangerous conditions – this interpretation created the legal principle known as State Created Danger. 489 U.S. 189 (1989). The 9th Circuit has interpreted this State Created Danger doctrine to mean that a governmental entity has a duty to act when the government actor “affirmatively places the plaintiff in danger by acting with ‘deliberate indifference’ to a ‘known or obvious danger.’” *LA Alliance for Human Rights v. City of Los Angeles*, 2021 WL 1546235.

The State Created Danger principle has three elements. First, the government’s own actions must have created or exposed a person to an actual, particularized danger that the person would not have otherwise faced. Second, the danger must have been one that is known or obvious. Third, the government must act with deliberate indifference to the danger. *Id.* Deliberate indifference requires proof of three elements: “(1) there was an objectively substantial risk of harm; (2) the [state] was subjectively aware of facts from which an inference could be drawn that a substantial risk of serious harm existed; and (3) the [state] either actually drew that inference or a reasonable official would have been compelled to draw that inference.” *Id.*

The State Created Danger principle as it relates to the use of public spaces by persons experiencing homelessness is important for four reasons. First, many cities are choosing to respond to the homeless crisis, the legal decisions of *Martin* and *Blake*, and HB 3115, by creating managed homeless camps where unhoused persons can find shelter and services that may open the door to many State Created Danger based claims of wrongdoing (e.g. failure to protect from violence, overdoses, etc. within the government sanctioned camp). Second, in California, at least one federal district court has recently ruled that cities have a duty to act to protect homeless persons from the dangers they face by living on the streets, with the court's opinion resting squarely on the State Created Danger principle. Third, when imposing reasonable time, place, and manner restrictions to regulate the sitting, sleeping or lying of persons on public rights of way, cities should consider whether their restrictions, and the enforcement of those restrictions, trigger issues under the State Created Danger principle. Fourth, when removing persons and their belongings from public rights of way, cities should be mindful of whether the removal will implicate the State Created Danger principle.

In creating managed camps for persons experiencing homelessness, cities should strive to create camps that would not reasonably expose a person living in the camp to a known or obvious danger they would not have otherwise faced. And if there is a danger to living in the camp, a city should not act with deliberate indifference to any known danger in allowing persons to live in the camp.

And while the California opinion referenced above has subsequently been overturned by the 9th Circuit Court of Appeals, at least one federal district court in California has held that a city “acted with deliberate indifference to individuals experiencing homelessness” when the city allowed homeless persons to “reside near overpasses, underpasses, and ramps despite the inherent dangers - such as pollutants and contaminant.” *LA Alliance/in- Human Rights v. City of Los Angeles*, 2022 WL 2615741. The court essentially found a State Create Danger situation when a city allowed persons experiencing homelessness to live near interstates – a living situation it “knew” to be dangerous.

How to Proceed

As shown above, the law surrounding the use of public spaces by persons experiencing homelessness is newly emerging, complex, and ripe for additional change. To simply, as much as possible, the complexity of this legal conundrum, below is an explanation of what the City must do, must not do, and may potentially do.

A. What the City Must Do

Considering the court decisions discussed herein, the recent House bills enacted by the Oregon Legislature, cities must do the following:

1. Review all ordinances and policies to determine which ordinances and policies, if any, are impacted by the court decisions or recently enacted statutes.
2. Review the City’s response to the homelessness crisis to ensure the chosen response is consistent with all court decisions and statutory enactments. If ordinances exclude persons experiencing homelessness from certain areas of the city for violating a local or state law, the person must be provided the right to appeal that expulsion order, and the order must be stayed while the appeal is pending.
3. If the City chooses to remove a homeless person’s established camp site, the City must provide at least 72-hour notice of its intent to remove the site, with notices being posted at every point into the camp site.
4. If a city obtains possession of items reasonably identified as belonging to an individual and that item has apparent value or utility, the City must preserve that item for at least 30 days so that the owner can reclaim the property, and store that property in a location that complies with state law.

B. What the City Cannot Do

When the decisions rendered by the federal district court of Oregon and the 9th Circuit Court of Appeals are read together, particularly in conjunction with Oregon statutes, the City must not do the following:

1. The City cannot punish a person who is experiencing homelessness for sitting, sleeping, or lying on public property when that person has no place else to go.
2. The City cannot prohibit persons experiencing homelessness from taking necessary minimal measures to keep themselves warm and dry when they must sleep outside.
3. The City cannot presume that a person experiencing homelessness has access to shelter if the available shelter options are:
 - Not accessible because of their gender, age, or familial status;
 - Ones which require a person to submit themselves to religious teaching or doctrine for which they themselves do not believe;
 - Not accessible because the shelter has a durational limitation that has been met or exceeded; or
 - Ones which prohibit the person from entering the shelter because the person is under the influence of some substance (for example alcohol or drugs) or because of their past or criminal behavior.

C. What the City May Do

As previously noted, the recent court decisions, and those which are presently pending before the various federal district courts and in the 9th Circuit Court of Appeals, lack clarity in many key respects. This lack of clarity, while frustrating, also provides cities some leeway to address the homelessness crisis, specifically with how the crisis impacts the management of public property.

1. The City may impose reasonable time, place, and manner restrictions on where persons, including those persons experiencing homelessness, may sit, sleep, or lie.
2. The City may prohibit persons, including those persons experiencing homelessness, from blocking rights of way.
3. The City may prohibit persons, including those persons experiencing homelessness, from erecting either temporary or permanent structures on public property.

Very Truly Yours,

Jered Reid
City Attorney
Enclosures (per text)

Enrolled
House Bill 3115

Sponsored by Representative KOTEK; Representatives DEXTER, MARSH, MCLAIN, POWER,
REYNOLDS, WILDE, Senators DEMBROW, MANNING JR, RILEY

CHAPTER

AN ACT

Relating to the regulation of public property with respect to persons experiencing homelessness; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) "City or county law" does not include policies developed pursuant to ORS 203.077 or 203.079.

(b)(A) "Keeping warm and dry" means using measures necessary for an individual to survive outdoors given the environmental conditions.

(B) "Keeping warm and dry" does not include using any measure that involves fire or flame.

(c) "Public property" has the meaning given that term in ORS 131.705.

(2) Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.

(3) It is an affirmative defense to a charge of violating a city or county law described in subsection (2) of this section that the law is not objectively reasonable.

(4) A person experiencing homelessness may bring suit for injunctive or declaratory relief to challenge the objective reasonableness of a city or county law described in subsection (2) of this section. The action must be brought in the circuit court of the county that enacted the law or of the county in which the city that enacted the law is located.

(5) For purposes of subsections (2) and (3) of this section, reasonableness shall be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.

(6) In any suit brought pursuant to subsection (4) of this section, the court, in its discretion, may award reasonable attorney fees to a prevailing plaintiff if the plaintiff:

(a) Was not seeking to vindicate an interest unique to the plaintiff; and

(b) At least 90 days before the action was filed, provided written notice to the governing body of the city or county that enacted the law being challenged of an intent to bring the action and the notice provided the governing body with actual notice of the basis upon which the plaintiff intends to challenge the law.

(7) Nothing in this section creates a private right of action for monetary damages for any person.

SECTION 2. Section 1 of this 2021 Act becomes operative on July 1, 2023.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 15, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 9, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State

Enrolled
House Bill 3124

Sponsored by Representative LIVELY; Representatives POWER, WILDE, Senator GORSEK

CHAPTER

AN ACT

Relating to homelessness; amending ORS 203.079 and section 1, chapter 21, Oregon Laws 2018; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 203.079 is amended to read:

203.079. (1) A policy developed pursuant to ORS 203.077 shall *[include, but is not limited to,]* conform, but is not limited, to the following~~[.]~~ provisions.

(2) As used in this section, "personal property" means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

~~[(a)]~~ (3) ~~[Prior to]~~ Except as provided in subsection (9) of this section, at least 72 hours before removing homeless individuals from an established camping site, law enforcement officials shall post a written notice, ~~[written]~~ in English and Spanish, ~~[24 hours in advance]~~ at all entrances to the camping site to the extent that the entrances can reasonably be identified.

~~[(b)]~~ (4)(a) ~~[At the time that a 24-hour]~~ When a 72-hour notice is posted, law enforcement officials shall inform the local agency that delivers social services to homeless individuals as to where the notice has been posted.

~~[(c)]~~ (b) The local agency may arrange for outreach workers to visit the camping site ~~[where a notice has been posted]~~ that is subject to the notice to assess the need for social service assistance in arranging shelter and other assistance.

~~[(d)]~~ (5)(a) All ~~[unclaimed]~~ personal property at the camping site that remains unclaimed after removal shall be given to ~~[law enforcement officials whether 24-hour]~~ a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (10) of this section, whether notice is required under subsection (3) of this section or not.

(b) The unclaimed personal property must be stored:

(A) For property removed from camping sites in counties other than Multnomah County, in a facility located in the same community as the camping site from which it was removed.

(B) For property removed from camping sites in Multnomah County, in a facility located within six blocks of a public transit station.

(c) Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.

(d) Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.

(6) The written notice required under subsection (3) of this section must state, at a minimum:

(a) Where unclaimed personal property will be stored;

(b) A phone number that individuals may call to find out where the property will be stored; or

(c) If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.

(7)(a) The unclaimed personal property shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.

(b) The property shall be stored for a minimum of 30 days during which it *will* shall be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed *for* after 30 days may be disposed of or donated to a corporation described in section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2020. *[For purposes of this paragraph, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site. Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to law enforcement officials.]*

[(e)] (8) Following the removal of homeless individuals from a camping site on public property, the law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes are needed in the policy.

[(2)] (9)(a) The *[24-hour]* 72-hour notice *[required]* requirement under subsection *[(1)]* (3) of this section *[shall]* does not apply:

[(a)] (A) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site.

[(b)] (B) In the event of an exceptional emergency *[such as]* at an established camping site, including, but not limited to, possible site contamination by hazardous materials *[or when there is]*, a public health emergency or other immediate danger to human life or safety.

(b) If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under subsection (3) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

[(3)] (10) A person authorized to issue a citation for unlawful camping under state law, administrative rule or city or county ordinance may not issue the citation if the citation would be issued within 200 feet of *[the]* a notice *[described in]* required under subsection (3) of this section and within two hours before or after the notice was posted.

(11) Any law or policy of a city or county that is more specific or offers greater protections to homeless individuals subject to removal from an established camping site pre-empts contrary provisions of this section.

SECTION 1a. If Senate Bill 410 becomes law, section 1 of this 2021 Act (amending ORS 203.079) is repealed and ORS 203.079, as amended by section 1, chapter ____, Oregon Laws 2021 (Enrolled Senate Bill 410), is amended to read:

203.079. (1) A policy developed pursuant to ORS 203.077 shall *[include, but is not limited to,]* conform, but is not limited, to the following $[:]$ provisions.

(2) As used in this section, "personal property" means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

[(a)] (3) *[Prior to]* Except as provided in subsection (9) of this section, at least 72 hours before removing homeless individuals from an established camping site, law enforcement officials

shall post a written notice, *[written]* in English and Spanish, *[24 hours in advance]* at all entrances to the camping site to the extent that the entrances can reasonably be identified.

[(b)] (4)(a) *[At the time that a 24-hour]* When a 72-hour notice is posted, law enforcement officials shall inform the local agency that delivers social services to homeless individuals as to where the notice has been posted.

[(c)] (b) The local agency may arrange for outreach workers to visit the camping site *[where a notice has been posted]* that is subject to the notice to assess the need for social service assistance in arranging shelter and other assistance.

[(d) Except as otherwise provided in paragraph (e) of this subsection:]

[(A)] (5)(a) All *[unclaimed]* personal property at the camping site that remains unclaimed after removal shall be given to *[law enforcement officials whether 24-hour]* a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (10) of this section, whether notice is required under subsection (3) of this section or not.

(b) The unclaimed personal property must be stored:

(A) For property removed from camping sites in counties other than Multnomah County, in a facility located in the same community as the camping site from which it was removed.

(B) For property removed from camping sites in Multnomah County, in a facility located within six blocks of a public transit station.

(c) Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.

(d) Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.

(6) The written notice required under subsection (3) of this section must state, at a minimum:

(a) Where unclaimed personal property will be stored;

(b) A phone number that individuals may call to find out where the property will be stored; or

(c) If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.

(7)(a) The unclaimed personal property shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.

(b) The property shall be stored for a minimum of 30 days during which it *[will]* shall be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed *[for]* after 30 days may be disposed of or donated to a corporation described in section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2020.

[(B) For purposes of this paragraph, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.]

[(C) Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.]

[(e) For unclaimed personal property located in Multnomah County:]

[(A) All unclaimed personal property shall be given to a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (3) of this section, whether 24-hour notice is required or not.]

[(B) Facilities for storage of personal property under paragraph (d) of this subsection must be located within six blocks of a public transit station.]

[(f)] (8) Following the removal of homeless individuals from a camping site on public property, the law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes are needed in the policy.

[(2)] (9)(a) The [24-hour] 72-hour notice [required] requirement under subsection [(1)] (3) of this section [shall] does not apply:

[(a)] (A) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site.

[(b)] (B) In the event of an exceptional emergency [such as] at an established camping site, including, but not limited to, possible site contamination by hazardous materials [or when there is], a public health emergency or other immediate danger to human life or safety.

(b) If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under subsection (3) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

[(3)] (10) A person authorized to issue a citation for unlawful camping under state law, administrative rule or city or county ordinance may not issue the citation if the citation would be issued within 200 feet of [the] a notice [described in] required under subsection (3) of this section and within two hours before or after the notice was posted.

(11) Any law or policy of a city or county that is more specific or offers greater protections to homeless individuals subject to removal from an established camping site preempts contrary provisions of this section.

SECTION 2. Section 1, chapter 21, Oregon Laws 2018, is amended to read:

Sec. 1. (1) The Department of Transportation may enter into an intergovernmental agreement with a city that has a population of 500,000 or more for the removal, storage and disposition of personal property deposited, left or displayed on property that is owned by the department.

(2) Notwithstanding ORS 377.650, 377.653 and 377.655, an intergovernmental agreement entered into under this section may provide alternative provisions related to the removal, storage and disposition of personal property if the alternative provisions conform with the requirements for local government policy for removal of homeless individuals and personal property [described] under ORS 203.079[except that under this section the notices described in ORS 203.079 must be posted 48 hours in advance].

(3) In addition to the requirements described in subsection (2) of this section, an intergovernmental agreement entered into under this section must include the following:

(a) Requirements for posting notice before the removal of personal property, including but not limited to the following:

(A) That the notice is created using durable materials and securely posted within 30 feet of the personal property to be removed;

(B) That the notice must provide the date the notice begins and the date upon which the city may begin removing personal property; and

(C) That the notice must provide a description of:

(i) How an individual may access personal property that is removed and stored; and

(ii) The length of time the city will store personal property before the city disposes of it.

(b) A requirement that the notice expires 10 days after the city posts the notice.

(c) A severe weather protocol regarding the weather conditions under which the city will not remove personal property.

(d) Provisions related to inventorying and storing the personal property to be removed.

(e) Provisions related to the city relinquishing unclaimed personal property after the storage period to the city's designated agent.

(f) Provisions related to when the city will provide impact reduction services, including but not limited to trash collection.

(4) The [48-hour] 72-hour notice under ORS 203.079 required under subsection (2) of this section does not apply:

(a) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring;

(b) Where there is an exceptional emergency, such as possible site contamination by hazardous materials; or

(c) When there is immediate danger to human life or safety.

(5) Before the city adopts an intergovernmental agreement under this section or changes to the agreement, the city shall invite public comment on the proposed agreement or the proposed changes to the agreement.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 19, 2021

Received by Governor:

Repassed by House June 9, 2021

.....M.,....., 2021

Approved:

.....
Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2021

.....
Tina Kotek, Speaker of House

.....
Kate Brown, Governor

Passed by Senate June 8, 2021

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Peter Courtney, President of Senate

.....
Shemia Fagan, Secretary of State

City Manager Update to Council

April 25, 2023

Public Safety / Dispatch

Dispatch had a fairly new dispatcher resign last week and continues recruitment efforts. A conditional offer was made to another candidate and hoping to get them on board soon.

A couple of our officers will be attending Officer Joseph Johnson's funeral in Ontario who was killed by gunshot over the last weekend while in pursuit. The services are in Ontario this weekend and our officers are to participate in the motorcade.

Public Works

Work continues on the Water and Wastewater Mast Plans. The modeling work is wrapping up to continue progress on the Transportation System Master Plan. The Downtown Sidewalk/Streetscape plans with the Downtown Association is being finalized. We are also coordinating with the builders on both the Justice Center and Bowman Museum Annex building projects downtown. This is being coordinated to make sure sidewalk improvements and decorative lighting is all consistent throughout downtown. The North Main sidewalk replacement project will place new sidewalks, street lights and trees on North Main between 3rd & 4th Streets. We are also working with ODOT on the final design for the 3rd Street Project.

Rail Road

The Rail Road is coming in with stronger freight activity than anticipated and is moving a variety of commodities.

Meadow Lakes Golf

Senior Leagues started las Wednesday. Revenue has been strong and has helped them bounce back from the slower months. The rest of the facility is all charged up and ready for the season and typical spring maintenance projects. As of the date of this report, there are 144 signed up for the High School Golf Team fundraiser over the weekend.

Airport

Things have calmed down at the airport for a bit. Erickson's Air Crane will be starting up training here again soon with more fuel sales. A lot of things in the hopper as previously reported.

Planning

A zone change has been submitted for the old hospital building to allow the Christian School to move in. The Prineville 45 (industrial land south of Facebook) has been purchased and will be developed by a group that has another development getting ready to start. Staff has been working with Central Oregon Trail Alliance (COTA) on design for a soft surface trail on the north portion of Barnes Butte Recreation Area that will loop back around and connect to tie into the existing trail.

Human Resources – Nothing to report.

Information Technology

Still working on spring maintenance, conversions and equipment installs. Hope to have two of the new police vehicles equipped and in service soon.

Finance

The budget is coming along great and our first budget presentation will be on May 8th with the Budget Committee.

City Recorder/Risk Management

We have finally received our final appraisal report that was conducted in October for all property valued at over \$70,000. As of November, 2022 the city's buildings, contents, property in the open has an actual cash value of \$82,475,200 with a replacement cost of \$117,361,200.

City Legal – No Update

EDCO

EDCO lead generation is going. They are also getting a lot of semiconductor inquiries. Kelsey recently held four enterprise zone presentations regarding the zone extension and the first one was very well attended by other taxing districts.

Public Relations

The Central Oregon Daily News recently did an excellent interview with Officer Nesbitt regarding his life saving efforts at the academy.

ShanRae is working on the quarterly newsletter which will be rolling out next month.

Mayor/Council

Just a reminder, the Priorities Strategy Workshop has been successfully scheduled for June 7 at 5:00 P.M.

Other

In state legislation, the city continues to testify in support of the enterprise zone bills, juniper remediation and trying to get that part of the drought package. Caroline went to Newport to submit comment to the Ways & Means Committee at their road show. The focus and top project priority with Ways & Means is to seek funding for the Combs Flat Road extension project. She will have another opportunity to submit comments to the Ways & Means Committee soon.



STAFF REPORT

MEETING DATE:	4/25/2023	PREPARED BY:	Casey Kaiser
SECTION:	Resolutions	DEPARTMENT:	Public Works
CITY GOAL(S):	Provide Quality Municipal Services, Community Safety		
SUBJECT:	Resolution 1552 authorizing an intergovernmental agreement with ODOT allowing them access to City ROW or property.		

REASON FOR CONSIDERATION: The proposed agreement would authorize ODOT to access and work within the City property and right-of-way located near the intersection of Rimrock Road and Hwy 126. ODOT is requesting the access to allow them to install safety improvements related to the intersections with SW Rimrock Rd. and the O'Neil Hwy.

BACKGROUND: As traffic volumes have increased on Hwy 126 there are emerging safety considerations with the intersections at SW Rimrock Rd. and the O'Neil Hwy. City staff has been communicating the need for safety improvements at these intersections to ODOT. Additionally, the City in partnership with ODOT is beginning a deep dive planning effort to determine the long-term improvements needed to keep these intersections functional and safe into the future. In the meantime, ODOT is planning safety improvements to these intersections that will include signage and striping. The proposed intergovernmental agreement with ODOT is simply to allow them to access City property and ROW to perform these improvements.

FISCAL IMPACT: There is no anticipated fiscal impact to the City.

RECOMMENDATION: Staff recommends approval of Resolution 1552 authorizing staff to execute the intergovernmental agreement with ODOT allowing them access to City of Prineville property and right-of-way.

RELATED DOCUMENT(S): Resolution 1552, ODOT Intergovernmental Agreement

**RESOLUTION NO. 1552
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE
STATE OF OREGON DEPARTMENT OF TRANSPORTATION FOR ROADS
TRANSPORTATION INTERSECTION UPDATES**

Whereas, the City of Prineville (“City”) and the State of Oregon, acting by and through its Department of Transportation (“ODOT”) have negotiated an agreement titled “Intergovernmental Agreement: All Roads Transportation Safety Intersection Upgrades” designated by ODOT as Miscellaneous Contracts and Agreements No. 73000-00017181 (“Agreement”).

Whereas, by authority granted by ORS 190.110, state agencies and city governments may enter into agreements for the performance of any or all functions and activities that a party to the agreement, its officers or agents have the authority to perform.

Whereas, The Ochoco Highway, OR126, Highway No. 041, O’Neil Highway, OR370, and State Highway No. 370 are under the jurisdiction and control of the Oregon Transportation Commission (“OTC”).

Whereas, SW Rimrock Road is a part of the City street system and under the jurisdiction and control of City.

Whereas, State’s All Roads Transportation Safety Intersection Upgrades Project (Key No. 21655) consists of sign, signal, and safety improvements throughout Region 4 within the City of Prineville at highway intersections to reduce crashes and increase driver safety.

Whereas, State will require access to City’s property in order to construct the intersection upgrades.

Whereas, City Staff believes it is in the best interest of the City to approve and execute the Agreement.

NOW, THEREFORE, the City of Prineville resolves that the attached Agreement is hereby approved and that the Mayor and City Manager are authorized to sign such Agreement on behalf of the City.

Approved by the City Council this ____ day of April, 2023.

Rodney J. Beebe, Mayor

ATTEST:

Lisa Morgan, City Recorder

INTERGOVERNMENTAL AGREEMENT
All Roads Transportation Safety Intersection Upgrades
City of Prineville

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State;" and the CITY OF PRINEVILLE, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. The Ochoco Highway, OR126, Highway No 041 and the O'Neil Hwy, OR370, State Highway No. 370 are under the jurisdiction and control of the Oregon Transportation Commission (OTC).
3. SW Rimrock Road is a part of the city street system under the jurisdiction and control of Agency.
4. State's All Roads Transportation Safety Intersection Upgrades Project (Key No. 21655) consists of sign, signal and safety improvements throughout Region 4 in the city of Prineville, Deschutes County and Jefferson County at highway intersections to reduce crashes and increase driver safety.
5. State will require access to Agency's property in order to construct the intersection upgrades.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, State and Agency agree to State accessing Agency's property for the purpose of constructing sign improvements on OR126 and OR370 at its intersections with SW Rimrock Road, hereinafter referred to as "Project." The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.
2. **Americans with Disabilities Act Compliance**

- a. When the Project scope includes work on sidewalks, curb ramps, or pedestrian-activated signals or triggers an obligation to address curb ramps or pedestrian signals, the Parties shall:
 - i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
 - iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:
- b. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed;
 - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.

- c. Maintenance obligations in this section shall survive termination of this Agreement.
3. This Agreement does not change any existing maintenance responsibilities.
4. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance (and power if applicable) responsibilities for the useful life of the facilities constructed as part of the Project. The useful life is defined as twenty (20) calendar years. The Project shall be completed within ten (10) calendar years following the date of final execution of this Agreement by both Parties.

AGENCY OBLIGATIONS

1. Agency grants State the right to enter onto Agency property for the performance of State's duties as set forth in this Agreement.
2. Agency agrees State will perform all right of way functions and shall enter into a separate Right of Way Services Agreement between Agency and State Right of Way, referencing this Agreement number.
3. Upon completion of the Project, State shall transfer by deed, and Agency shall accept, that property acquired by the State and needed for the operation and maintenance of the Agency's transportation facilities within the Project limits. The conveyance from State to Agency shall be free of costs or fees. Any property being conveyed shall be vested in Agency only so long as used for public transportation purposes. If said property is no longer used for public transportation purposes, it shall automatically revert to State.
4. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
5. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
6. Agency's Project Manager for this Casey Kaiser – City Engineer, 387 NE Third Street, Prineville, OR 97754, 541-447-8338, ckaiser@cityofprineville.com, or assigned

designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

1. State shall perform the work described in Terms of Agreement, Paragraph 1 above.
2. State shall be responsible for all costs associated with the Project.
3. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
4. State's Project Manager for this Project is Abbey Driscoll – Transportation Project Manager, 63055 N. Highway 97, Bldg M, Bend, OR 97703, (541) 410-5906, abbey.driscoll@odot.oregon.gov, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both Parties.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
5. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
6. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
7. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

8. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
9. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

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

This Project is in the 2021-2024 Statewide Transportation Improvement Program, (Key #21655) that was adopted by the Oregon Transportation Commission on July 15, 2020 (or subsequently approved by amendment to the STIP).

SIGNATURE PAGE FOLLOWS

CITY OF PRINEVILLE, by and through its
elected officials

By _____
Mayor

Date _____

STATE OF OREGON, by and through
its Department of Transportation

By _____
Central Oregon Area Manager

Date _____

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

By _____
Agency's Counsel

Date _____

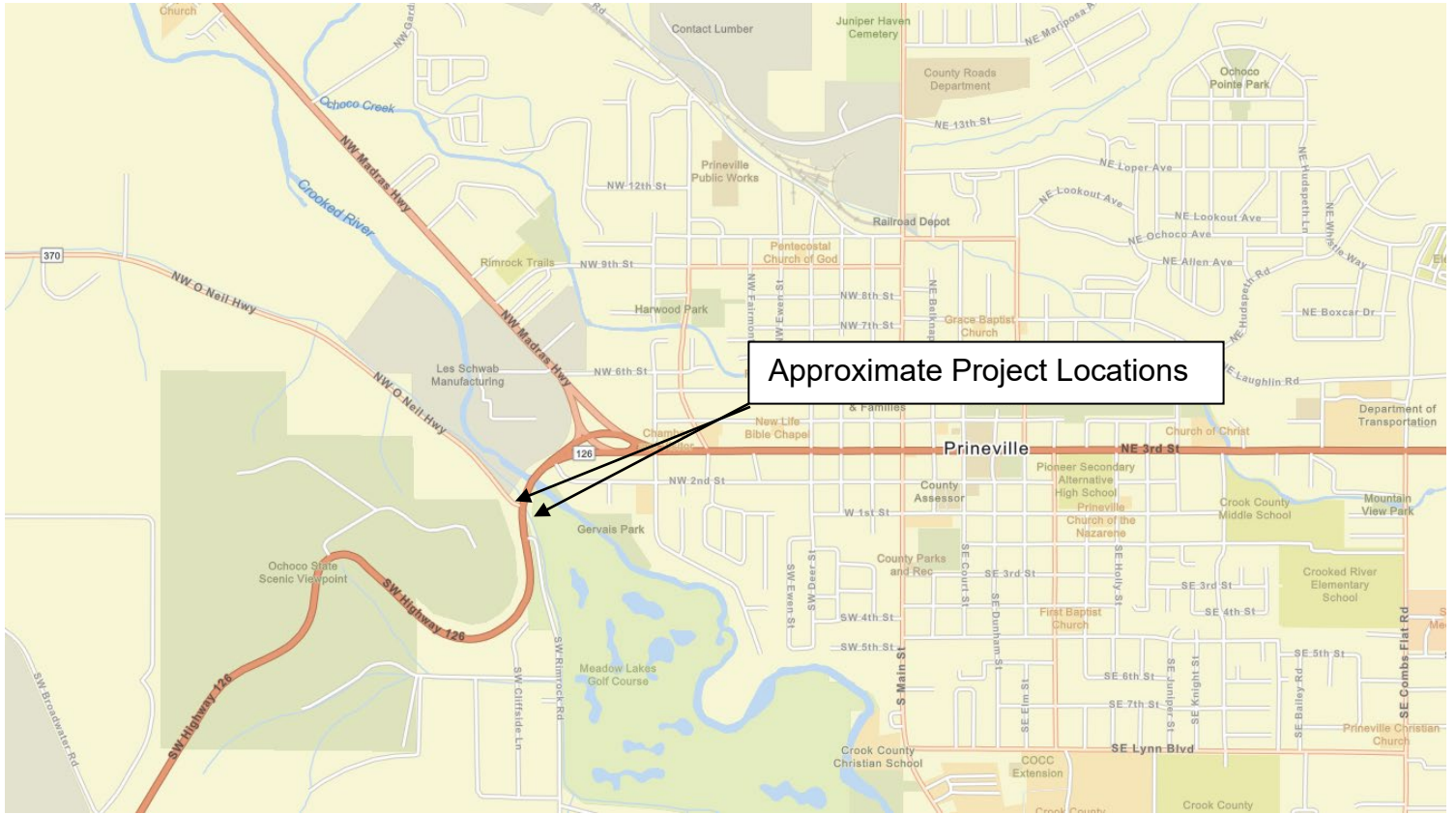
Agency Contact:

Casey Kaiser – City Engineer
387 NE Third Street
Prineville, OR 97754
(541) 447-8338
ckaiser@cityofprineville.com

State Contact:

Abbey Driscoll – Transportation Project
Manager
63055 N. Highway 97, Bldg M
Bend OR, 97703
(541) 410-5906
abbey.driscoll@odot.oregon.gov

EXHIBIT A Approximate Project Location



Agency/State
Agreement No.

**RESOLUTION NO. 1553
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION APPROVING A PERSONAL SERVICES AGREEMENT WITH DIVERGENT
ENGINEERING SERVICES, LLC TO PROVIDE ENGINEERING SERVICES REGARDING
PRINEVILLE WATER TREATMENT PLANT OPERATIONS**

RECITALS:

- A. City of Prineville (“City”) Resolution No. 1266 authorizes the City Council acting as the Contract Review Board for the City to award personal service contracts according to specific criteria that are applicable to the services provided.
- B. The City requires the assistance of a consultant to develop a feasibility study for a potential Prineville Renewable Energy Project.
- C. Consultation services are considered personal services pursuant to City Resolution 1266.
- D. A public notice was published in the April 4, 2023 edition of the Central Oregonian setting the April 11, 2023 Prineville City Council meeting as the time and place to comment on the City’s draft findings for awarding a personal services contract to Divergent Engineering Services, LLC (“Divergent”) for the personal services.
- E. A public hearing was held April 11, 2023, at the Prineville City Council meeting to allow an opportunity for any interested person to appear and present comment. No interested person was present nor were any comments made.
- F. Pursuant to City Resolution No. 1266, the City Council makes the following findings as their basis of the selection of Divergent for a personal services contract:
1. Total costs to the City for delivery of services:
 - The total costs are estimated not to exceed \$350,000.00. Divergent will provide services on a time and materials basis with a markup of eight percent (8%). Approximately \$113,800.00 of the costs are payments to subcontractors.
 2. Expertise of Divergent in the required area of specialty:
 - Divergent is familiar with the Water Treatment Plant design and has experience with the plant operations and the water treatment technology utilized. Divergent has the required Oregon Health Authority Drinking Water System Operator Level 2 Certification and is Registered in the State of Oregon as a Professional Civil Engineer with a focus in Water Resources and Environmental.
 3. References regarding prior work done by the Divergent:
 - City has been provided sufficient references regarding past work completed by Divergent.
 4. Capacity and capability to perform the work, including any specialized services within the time limitations for the work:
 - Divergent has the capacity and capability to perform the work within the time limitations. Divergent has relationships with capable vendors to provide the required specialty for different components of the facility.
 5. Educational and professional records, including past records of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability in schedules, and contract administration, where applicable:

- See Factors 2 and 8.
6. Availability to perform the assignment and familiarly with the area in which the specific work is located:
- Divergent is available to perform the work.
7. Timelines of delivery of service:
- Divergent is able to deliver the services requested within the timeline required by the City.
8. Experience in working with the City:
- Divergent staff has a long history of working with the City. City staff found Divergent’s work highly satisfactory, timely provided, and reasonably priced.
9. Knowledge of the City’s needs and desires related to the Contact:
- Divergent and City have discussed the project in detail and Divergent is fully aware of the City’s needs and desires related to the project. Divergent has the institutional knowledge regarding the City’s needs and desires regarding the Water Treatment Plant.

Now, Therefore, the City of Prineville Resolves as Follows:

1. That the City Council, serving in its role as the Local Contract Review Board for the City, hereby approves the City entering into a personal services contract with Divergent Engineering Services, LLC, to provide engineering services related to the Prineville Water Treatment Plant and authorizes the City Manager to executed, on behalf of the City, such contract and any other related documents.

Passed by the City Council this ____ day of April, 2023.

Rodney J. Beebe, Mayor

ATTEST:

Lisa Morgan, City Recorder



STAFF REPORT

MEETING DATE: 4/25/23

PREPARED BY: Casey Kaiser

SECTION: Resolutions

DEPARTMENT: Public Works

CITY GOAL: Fiscal Responsibility, Provide Quality Municipal Service & Programs

SUBJECT: Resolution 1554 authorizing a Professional Services Contract for the Peters Road and N Main St Intersection Improvement Design Services

REASON FOR CONSIDERATION:

To progress the previously developed conceptual design for the intersection to the final construction documents and cost estimate.

BACKGROUND:

In early 2020 city staff began working with DOWL on the conceptual design of Peters Rd and N. Main St intersection improvements. In 2021 the City received 1.5 million in ARPA funds to use towards the project. Upon being awarded that funding the City advanced the concept design with DOWL to a point where the needed right of way could be determined. The City then purchased all the necessary ROW for the project. With the concept design developed and the ROW acquired the City is now ready to develop the full design of the intersection and adjacent road segment. The proposed contract includes the full construction design, cost estimate, and the development of bid documents. Completing full design will position the City to move forward with construction once full funding has been secured. This project ties in to the currently progressing Combs Flat to Peters Road extension project providing the final segment to complete the connection to N. Main St.

FISCAL IMPACT:

The cost is estimated at \$268,500 and will be funded from the 1.5 Million in ARPA funds awarded the City for the project.

RECOMMENDATION:

Staff recommends Council approve resolution 1554 to award the Professional Services Contract for the Peters Rd. and N. Main Intersection Improvements Design Services to DOWL, in the amount of \$268,500.00.

RELATED DOCUMENT(S):

Resolution 1554

**RESOLUTION NO. 1554
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION APPROVING A PERSONAL SERVICES AGREEMENT WITH
DOWL, LLC TO PROVIDE PERSONAL SERVICES FOR ENGINEERING SERVICES
REGARDING TRANSPORTATION DESIGN**

Whereas, the City of Prineville (“City”) requires a transportation design for the Peters Road and North Main Intersection improvements.

Whereas, City requires engineering services to complete the aforementioned services.

Whereas, City’s Council serves as the Local Contract Review Board for the City and pursuant to City Resolution 1266 Section 8(C), may award personal services contracts according to specific criteria that are applicable to the services provided.

Whereas, Engineering services are considered personal services pursuant to City Resolution 1266.

Whereas, DOWL, LLC, worked with the City regarding the conceptual design of Peters Road and N. Main intersection improvements, including identifying necessary rights-of-way for the project. With the concept design developed and the rights-of-way acquired, City requires the full design of the intersection and adjacent road.

Whereas, DOWL, LLC, has provided the attached material marked as Exhibit A and incorporated herein.

Whereas, City Counsel finds that DOWL, LLC, meets the following applicable criteria as set out in City Resolution 1266, Section 8(C): (1) total costs to the City for delivery of services; (2) expertise of the contractor in the required area of specialty; (3) references regarding prior work done by the Contractor; (4) capacity and capability to perform the work, including any specialized services within the time limitations for the work; (5) educational and professional records; (6) availability to perform the assignment and familiarity with the area in which the specific work is located; (7) timeliness of delivery of service; (8) experience in working with the City; and (9) knowledge of City’s needs and desires related to the contract.

Now, Therefore, the City of Prineville Resolves as follows:

1. That the City Council, serving in its role as the Local Contract Review Board for the City, hereby approves the City entering into a personal services contract with DOWL, LLC, to provide engineering services related to the City’s transportation design regarding the Peters Road and N. Main Street Intersection improvement and authorizes the City Manager to execute, on behalf of the City, such contract and any other related documents.

Approved by the City Council this ____ day of April, 2023.

Rodney J. Beebe, Mayor

ATTEST:

Lisa Morgan, City Recorder



April 11, 2023

Mr. Casey Kaiser
Public Works Director
City of Prineville
387 NE Third Street
Prineville, OR 97754
(541) 447-8338

**Subject: Civil Engineering Professional Services Proposal
Peters Road and Main Street Intersection Improvement Design Services
Prineville, Oregon**

Dear Casey:

Thank you for the opportunity to submit this professional services proposal to assist with preparations of designs and construction plans for the Peters Road and N. Main Street intersection improvements. Our services will take the previously developed conceptual designs for the intersection to final construction documents. We appreciate the opportunity to continue work on this project with you and the Prineville staff again.

Based on our discussions on March 9, 2023, we understand the City's desire to move forward with designs and construction plans for the intersection improvements. Generally, the project will relocate the T-intersection of Peters Road and N. Main Street to the SW and construct a new signalized, 4-way intersection. This will require realignment of portions of N. Main Street and Peters Road. The project also includes upgrades to the existing, exempt at-grade rail crossing on N. Main Street south of Peters Road and designs for the upgrade of Peters Road from the N. Main intersection to Yellowpine Road.

The proposed improvements can be broken into two segments:

- Segment 1B** – Peters Road/Main Street Intersection and Rail Crossing Improvements
- Segment 1C** – Peters Road Improvements: Yellowpine Road to Main Street

We propose to work with Prineville staff to develop construction documents for Segment 1B. We understand that the city may choose not to proceed with construction documents for Segment 1C at this time. DOWL is prepared to prepare preliminary designs for the Segment 1C portion, which can be developed into construction documents if the city chooses to proceed. Plans, specifications, and cost estimates will be developed and refined with each milestone. The two Segments are discussed further below:

Segment 1B – Peters Road/Main Street Intersection and Rail Crossing Improvements

The existing Peters Road/Main Street intersection will be relocated to allow Peters Road to continue west past N. Main Street in a future expansion. N. Main Street and Peters Road will be realigned to accommodate the new signalized intersection location. With the realignment, city utilities and storm drains will need to be redesigned. Overhead utilities will also likely need to be relocated to avoid conflicts with the new roadway alignment.

The new intersection will be immediately adjacent to the existing at-grade rail crossing owned and operated by City of Prineville Railway (COPR). We understand that the existing rail crossing is exempt and that COPR desires to add an island circuit and signals to upgrade the crossing to current standards. We also understand that the intersection signals may need to be interconnected with the new rail signals.

During the conceptual development of the intersection, the City of Prineville purchase right-of-way from W Scott, LLC to accommodate the new intersection location and realignment of Main Street and Peters Road. We understand the dedication is complete and the final design is to stay within public right-of-way.

Improvements within Segment 1B also include removal of the existing northbound right-turn lane, illumination at the new intersection, new fencing, underground utilities, and other related work. We will use existing traffic planning data/volumes, from Transight Consulting, to determine preliminary intersection signal phasing and left turn queue lengths. Final designs may be dependent on potential development plans for the Smith Landing, LLC property to the west. Design of the new traffic signals will follow ODOT specifications and standards.

Segment 1C - Peters Road Improvements: Yellowpine Road to Main Street

We understand the City also intends improving Peters Road from Yellowpine Road to the intersection improvements at N. Main Street in the future. The design portion of the project will be a separate design phase from Segment 1B. The intent is to set the roadway and utility designs that can later be used in construction and bidding documents.

We assume that the limits of Segment 1C will be from the west side of the Yellowpine Road/Peters Road intersection to the east side of the Segment 1B improvements, or where Peters Road begins its realignment. Segment 1C improvements will include upgrading the corridor to a collector street with two 12-foot lanes, a 14-foot center turn lane, 6-foot bike lanes, standard curb, and 5-foot concrete sidewalks. This is the same section that will be used for the Segment 1B improvements. The alignment of Peters Road in Segment 1C will match the existing alignment.

We do not anticipate utility improvements or relocations for Segment 1C. Storm drain improvements are expected. Illumination in Segment 1C is also not anticipated in the scope of work.

DOWL has existing topographic survey for Segments 1B and 1C from previous design phases. and we do not anticipate needs to collect additional data.

SCOPE OF PROFESSIONAL SERVICES

This proposal is based upon our preparation of the prior planning efforts, our discussions on March 9, 2023 and our understanding of the City needs. The following Scope of Professional Services is provided for your review and confirmation. Please review the following Scope of Services to confirm it meets your exact expectations. The scope can easily be modified to meet specific requirements.

Segment 1B – 60% Plans, Specifications, and Estimate

- Refine roadway designs for Peters Road, Main Street, and the new intersection including horizontal and vertical designs and modeling
- Design the signalized intersection at Peters Road/Main Street
- Prepare designs for the rail crossing upgrade and coordinate with COPR on the designs
- Coordinate with ODOT Rail on a crossing order for the updated rail crossing
- Participate in one Design Team coordination and progress review meeting in Prineville.
- Prepare utility plans for street crossings (water, sewer, or franchise utilities) or main extensions (City water or sewer) at specific locations or by direction from City staff.
- Prepare draft 1200-CA permit
- Coordinate with franchise utilities on needed utility relocations including initial meetings, conflict analysis, and notifications.
- Prepare storm drain designs
- Prepare project specifications
- Prepare project cost estimate

- Prepare plan set include the following sheets
 - Public Infrastructure Construction Plan Cover Sheet
 - General Construction Notes Sheet
 - Demolition sheets
 - Street Plan and Profile Sheets
 - Intersection Improvement Sheets
 - Signal sheets
 - Illumination sheets
 - City utility improvements sheets
 - Stormwater Drainage Facilities plans, sections, and detail sheets
 - Miscellaneous Detail Sheets, including details for each curb return and ADA curb ramp
 - Signage and Striping Plans
 - Construction Traffic Control Plans
 - Erosion and Sediment control sheets
 - Rail crossing sheets

Segment 1B – 90% Plans, Specifications, and Estimate

- Respond to City of Prineville review comments
- Refine roadway designs for Peters Road, Main Street, and the new intersection including horizontal and vertical designs and modeling
- Refine the signalized intersection design at Peters Road/Main Street
- Refine designs for the rail crossing upgrade and coordinate with COPR on the designs
- Coordinate with ODOT Rail on a crossing order for the updated rail crossing
- Participate in one Design Team coordination and progress review meeting in Prineville.
- Refine utility plans for street crossings (water, sewer, or franchise utilities) or main extensions (City water or sewer) at specific locations or by direction from City staff.
- Submit 1200-CA permit
- Continue coordination with franchise utilities including review of relocation designs
- Refine storm drain designs
- Refine project specifications
- Refine project cost estimate
- Refine the plan set including the following sheets
 - Public Infrastructure Construction Plan Cover Sheet
 - General Construction Notes Sheet
 - Demolition sheets
 - Street Plan and Profile Sheets
 - Intersection Improvement Sheets
 - Signal sheets
 - Illumination sheets
 - City utility improvements sheets
 - Stormwater Drainage Facilities plans, sections, and detail sheets
 - Miscellaneous Detail Sheets, including details for each curb return and ADA curb ramp
 - Signage and Striping Plans
 - Construction Traffic Control Plans
 - Erosion and Sediment control sheets
 - Rail crossing sheets

Segment 1B – 100% Plans, Specifications, and Estimate

- Respond to City of Prineville review comments
- Complete roadway designs for Peters Road, Main Street, and the new intersection including horizontal and vertical designs and modeling
- Complete the signalized intersection design at Peters Road/Main Street
- Complete designs for the rail crossing upgrade and coordinate with Prineville Rail on the designs

- Coordinate with ODOT Rail on a crossing order for the updated rail crossing
- Participate in one Design Team coordination and progress review meeting in Prineville.
- Complete utility plans for street crossings (water, sewer, or franchise utilities) or main extensions (City water or sewer) at specific locations or by direction from City staff.
- Complete 1200-CA permit
- Complete franchise utility coordination
- Complete storm drain designs
- Complete project specifications
- Complete project cost estimate
- Complete the plan set including the following sheets
 - Public Infrastructure Construction Plan Cover Sheet
 - General Construction Notes Sheet
 - Demolition sheets
 - Street Plan and Profile Sheets
 - Intersection Improvement Sheets
 - Signal sheets
 - Illumination sheets
 - City utility improvements sheets
 - Stormwater Drainage Facilities plans, sections, and detail sheets
 - Miscellaneous Detail Sheets, including details for each curb return and ADA curb ramp
 - Signage and Striping Plans
 - Construction Traffic Control Plans
 - Erosion and Sediment control sheets
 - Rail crossing sheets

Segment 1C – 60% Designs and Estimate

- Refine roadway designs for Peters Road including horizontal and vertical designs and modeling
- Participate in one Design Team coordination and progress review meeting in Prineville.
- Prepare utility designs for street crossings (water, sewer, or franchise utilities) or main extensions (City water or sewer) at specific locations or by direction from City staff.
- Coordinate with franchise utilities on needed utility relocations including initial meetings, conflict analysis, and notifications.
- Prepare storm drain designs
- Prepare a preliminary project cost estimate
- Prepare plan sheets to demonstrate the design (to be used for future construction plans)
 - Demolition sheets
 - Street Plan and Profile Sheets
 - City utility improvements sheets
 - Stormwater Drainage Facilities plans, sections, and detail sheets
 - Miscellaneous Detail Sheets, including details for each curb return and ADA curb ramp
 - Signage and Striping Plans
 - Construction Traffic Control Plans
 - Erosion and Sediment control sheets

Segment 1C – 90% Designs and Estimate

- Respond to City of Prineville review comments
- Refine roadway designs for Peters Road including horizontal and vertical designs and modeling
- Participate in one Design Team coordination and progress review meeting in Prineville.
- Refine utility plans for street crossings (water, sewer, or franchise utilities) or main extensions (City water or sewer) at specific locations or by direction from City staff.
- Coordinate with franchise utilities on needed utility relocations including initial meetings, conflict analysis, and notifications.
- Refine storm drain designs

- Refine preliminary project cost estimate
- Provide plots of the refined design plan set noted in the 60% Design phase.

Bi-weekly Progress Meetings and Project Management

- Gather information, review schedules, solicit input from the Design Team, and prepare meeting agendas for bi-weekly project review meetings with City of Prineville staff.
- Participate in bi-weekly project review meetings through video conference calls (Teams Meetings).
- For budgeting purposes, 20 bi-weekly meetings are included.
- Develop and maintain a Project Schedule.

Assumptions and Exclusions:

- Construction cost estimates will be based upon recent local construction projects, contractor input and regional average bid item prices.
- Survey, Right of Way, Geotechnical, Environmental, Cultural, Structural related services are not included in this proposal.
- Transportation Engineering services, to further evaluate intersections or roadway capacity or establish anticipated traffic volumes, are not anticipated and not included in this proposal.
- The Phase 1B construction documents are anticipated to graphically show the basic layout for the railroad grade crossing warning system. This will be prepared based on industry practices and presented to ODOT Rail for review and input. As the railroad owner, it is assumed COPR will contract directly with a rail signal contractor, such as CDL Electric, to develop circuit plans and install the crossing warning system.

DOWL is excited to provide these services to help make your project a success. We are available to begin work on this project immediately and will commit appropriate staff to meet your expectations.

DOWL will complete the Scope of Services described above on a **Time and Materials, Not to Exceed** basis. These fees are provided in the following table.

Fee Summary:

Task	Fee
Segment 1B – Peters Rd./Main St. Intersection and Rail Crossing	
60% Plans, Specifications, & Estimate	\$60,200.00
90% Plans, Specifications, & Estimate	\$71,900.00
100% Plans, Specifications & Estimate	\$65,700.00
Segment 1C – Peters Road, Yellowpine Rd. to Main St.	
60% Design & Estimate	\$29,900.00
90% Design & Estimate	\$23,500.00
Bi-weekly Progress Meetings and Project Management	\$17,300.00
Total:	\$268,500.00

Thank you for considering the DOWL team. Please contact us with any questions regarding this proposal or our approach to this project. DOWL is willing to review a City of Prineville Professional Services Contract for the services noted as Scope of Professional Services.

Sincerely,

DOWL



Justin A. Mason, PE, CWRE, DBIA
 Civil & Land Development – Site Design Leader

DOWL



Steven R. Hannas, PE, PLS
 Project Manager