



CITY COUNCIL MEETING

Monday, February 05, 2024 at 6:00 PM
Sandy City Hall and via Zoom

AGENDA

TO ATTEND THE MEETING IN-PERSON:

Come to Sandy City Hall (lower parking lot entrance) - 39250 Pioneer Blvd., Sandy, OR 97055

TO ATTEND THE MEETING ONLINE VIA ZOOM:

Please use this link: <https://us02web.zoom.us/j/87252642855>

Or by phone: (253) 215-8782; Meeting ID: 87252642855

WORK SESSION – 6:00 PM

1. [Sandy Museum & Chamber of Commerce Funding Discussion](#)

REGULAR MEETING – 7:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL

CHANGES TO THE AGENDA

PUBLIC COMMENT (3-minute limit)

The Council welcomes your comments at this time. The Mayor will call on each person when it is their turn to speak for up to three minutes.

-- **If you are attending the meeting in-person**, please submit your comment signup form to the City Recorder before the regular meeting begins at 7:00 p.m. Forms are available on the table next to the Council Chambers door.

-- **If you are attending the meeting via Zoom**, please complete the online comment signup webform by 4:00 p.m. on the day of the meeting:

<https://www.ci.sandy.or.us/citycouncil/webform/council-meeting-public-comment-signup-form-online-attendees>.

RESPONSE TO PREVIOUS COMMENTS

CONSENT AGENDA

2. [City Council Minutes: January 16, 2024](#)
3. [Business Oregon Funding for Alder Creek Water Treatment Plant Membrane Filtration Resolution 2024-04](#)

PRESENTATIONS

4. [Audit Presentation - Fiscal Year Ended June 30, 2023](#)

NEW BUSINESS

5. [Creation of an Advanced Financing Reimbursement District for 362nd and Bell Street Improvements](#)

REPORT FROM THE CITY MANAGER

COMMITTEE / COUNCIL REPORTS

STAFF UPDATES

Monthly Reports: <https://reports.cityofsandy.com/>

ADJOURN

Americans with Disabilities Act Notice: Please contact Sandy City Hall, 39250 Pioneer Blvd. Sandy, OR 97055 (Phone: 503-668-5533) at least 48 hours prior to the scheduled meeting time if you need an accommodation to observe and/or participate in this meeting.



STAFF REPORT

Meeting Type: City Council Work Session
Meeting Date: February 5th, 2024
From: David Snider, Economic Development Manager
Subject: Sandy Museum & Chamber of Commerce Funding Discussion

DECISION TO BE MADE:

- Whether to provide funding in the BN 2023-25 budget for the Sandy Area Chamber of Commerce and the Sandy Historical Museum to supplement staffing needs
- Whether to identify an alternative / more permanent funding process for these organizations in the future

BACKGROUND / CONTEXT:

At the City Council meeting on [September 18, 2023](#), the results of the 2023-2025 Special Service Contract Program (SSCP) application review were shared with the full City Council. Due to the fact that the requests for SSCP funding exceeded the budget for that grant program by more than \$30,000, review panel members (Mayor Pulliam, Councilor Walker, and Councilor Exner) were not able to recommend funding for all six proposals even though they found them all to have merit. Requests for the Sandy Area Chamber of Commerce (SACC) and the Sandy Historical Museum (Museum) were left unfunded, but the review panel recommended that the Council consider discussing a more regular funding mechanism for the SACC and the Museum at a future work session. Staff has invited the executive directors from both organizations to join the Council for this discussion.

The SSCP proposals from the SACC and the Museum were centered around increasing staffing for these organizations. The Museum's 2023 SSCP application was a **\$14,713.60** request for the 2023-2025 biennium to cover staff assistance in the form of student interns. This was their fourth consecutive request for assistance in this area, and this program has been very successful. The addition of student interns has not only improved staffing levels and visibility during peak hours, but has also helped to reinvigorate the Museum staff in many other ways. The Museum's 2023 SSCP application is attached to this staff report. SSCP tracking data for past Museum grant awards (dating to 2019) [is available here](#).

The original SSCP request from the SACC was also for assistance with expanding staff hours for the purpose of creating a regional destination marketing organization (RDMO) to more effectively promote regional tourism. However, the SACC requested to submit a different proposal for this evening's discussion that aspires to continue the work of the Sandy Business Resource Center beyond the ending of available funding through the ARPA program in May of 2024. This funding request is for

\$28,000.00 for the 2023-2025 biennium. The current SACC funding request is attached to this staff report. SSCP tracking data for past SACC grant awards (dating to 2019) [is available here](#). (Note: the tracking data report does not include the \$45,000 that SACC was awarded by City in October 2020).

KEY CONSIDERATIONS / ANALYSIS:

Staff is seeking direction from the City Council with regard to the following questions:

- Does the City Council wish to fund these requests in this current budget?
 - If so, how shall they be funded for the current biennium?
- Is the Council interested in identifying a more permanent funding stream to support the staffing needs of these organizations in the future, separate from the SSCP program?
 - A possible approach would be a dedicated appropriation from the [General Fund](#) for these purposes.
 - If funding for these programs is to be handled through the Budget Committee process instead of through the SSCP, does the Council still wish to receive biannual applications and tracking metrics from these organizations?

BUDGET IMPACT:

Funding the requests for this biennium would total **\$42,713.60** and would be paid from the General Fund.

RECOMMENDATION:

Provide direction to staff on the questions listed in the Key Considerations / Analysis section of this report.

LIST OF ATTACHMENTS / EXHIBITS:

- 23-25 SSCP Application - Sandy Historical Museum
- SACC.BRC Funding Request to City of Sandy 2024.2025



January 19, 2024

City of Sandy

39250 Pioneer Blvd.

Sandy, Oregon

97055

Dear Mayor Pulliam and Members of the City Council,

I am writing to you on behalf of the Sandy Area Chamber of Commerce (SACC) to request your support and funding for our Chamber programming. In August of 2023, we submitted a proposal for tourism funding with the long-term goal of becoming a local Destination Marketing Organization (DMO) through the City's Special Services Contract. While this remains a significant objective, we find ourselves in need of general funding at this time to sustain our ongoing initiatives and serve the Sandy Area community effectively.

One critical aspect of our current financial situation is the impending conclusion of our American Rescue Plan Act (ARPA) funding, scheduled to end on May 31st of this year. Unfortunately, there is no clear path to secure additional funding through ARPA, which has been vital in supporting our Chamber's activities and outreach. Our primary concern is the continuity of our Business Resource Center (BRC) programming, which has been instrumental in providing valuable resources and support to local businesses in the Sandy Area.

Through 2022 and 2023, our ARPA funding allowed 2.5 Full-Time Equivalents (FTEs). As of January 1st, we employ one dedicated staff member who works 30 hours a week to manage the BRC program. Additionally, this staff member dedicates 10 hours a week to various SACC marketing initiatives and projects. The BRC serves as a vital hub for local businesses seeking guidance, resources, and support in navigating the challenges of the current economic landscape. Without the essential funding we have received through ARPA, retaining our BRC staff and continuing these critical services will be severely impacted.

To ensure the sustainability of the BRC program and our broader efforts to support Sandy Area businesses, we kindly request the City of Sandy's financial support. Specifically, we are seeking

to retain \$14,000, contributing to a total of \$28,000 biannually, to maintain the vital work we do in assisting and promoting local businesses.

Your investment in our Chamber of Commerce programming not only empowers businesses in our community but also fosters economic growth and development in the Sandy Area. We believe that our collaborative efforts will continue to make our city a thriving and vibrant place to live and work.

We thank you for the opportunity to discuss this funding request in further detail and explore how our partnership can continue to benefit both the city and the local business community.

Sincerely,

Khrys Jones

Executive Director

Sandy Area Chamber of Commerce and Business Resource Center

503.668.4006

Khrys@SandyOregonChamber.org

LIST OF ATTACHMENTS:

- Programs and Services Provided by the Sandy Area Chamber of Commerce and the Sandy Business Resource Center

Attachment A:

These programs and services provided by the Sandy Area Chamber of Commerce and the Sandy Business Resource Center demonstrate our commitment to the local business community.

- Ribbon Cuttings
- Good Morning Sandy (3rd Wednesday of the month)
- Morning Perk (1st Wednesday of the month)
- REACH {Relationships Established at Cocktail Hour} (2nd Wednesday of the month)
- Career & Education Committee
 - Thrive @ 25
 - Principal For a Day
 - CTE Tours (MHCC) {Career and Technical Education}
 - Job Fairs
- Lunch & Learns
- Grow With Us Luncheons
- Annual Meeting
- Heart of the Community Award (Quarterly)
- Candidate Forums
- Music, Fair & Feast
- Trick or Treat Trail
- Welcome Home Bags
- Digital Marketing Boost
- Workforce Wednesday
- Friday Flyers
- Non-Profit Board Training
- Chamber Ambassadors – Chamber Squad
- Consulting services to business owners and entrepreneurs

- Engage with partners to ensure open communication and understanding of process guides and rulemaking
- Advocates for anything that improves the business climate of this community, county and state
- ARPA grants to local businesses, through ARPA funding
- Research for available grants, not only SACC but for businesses
- Serve on numerous boards, advisory boards, and committees

Special Service Contract Program 2023–2025 Biennium

Description of Proposed Program:

Sandy Historical Society, Inc. would like to apply, once again, for participation in the City of Sandy's SSCP for the 2023–2025 biennium. In the SSCP (2017–2019), the City's goal was to promote the creation of youth programs and encourage the growth of tourism. The Sandy Historical Society currently operates the Sandy Visitor's Center thanks to a previous grant from the City of Sandy. We would like to continue to partner with the city by offering an ongoing Tourism/Historical local youth internship. This internship promotes job skills and work experience for the selected youth of Sandy. It also provides a positive image and education to visitors and tourists.

We have welcomed 18 youth interns into our program since it started in 2017 and continue to train three at this time. The goals and details of the existing program can be found in Appendix A (pages 2–3).

Need for the SSCP:

The volume of visitors/tourists seeking information about what Sandy has to offer has steadily increased to the point that the weekend staff needs to be two people. The youth interns have provided the assistance needed on weekends especially since our visitor growth has been increasing yearly. Last year our visitors that signed the guestbook were 1,923, with many more getting visitor information who do not sign the guestbook.

Funding and Proposed Budget:

The Sandy Historical Society, Inc. and Museum is asking the City of Sandy to provide funds in the amount of \$14,713.60 (see attached Appendix C (page 6) for 3 part-time youth intern positions that total 6 hours per week. The minimum wage rate for the City of Sandy per the State of Oregon is \$14.20 hr. which started July 01, 2023, and will increase to \$15.45 on July 1, 2024.

The museum will fund \$19,849.72 by providing knowledgeable staff supervision and training of the youth interns throughout the program. One intern works each Saturday as they are active in school and other activities. We have them work at our events, which

include our Antiques, Collectibles, Fabric and Book sale, the Trick or Treat Trail, our Artisan's Bazaar, the City of Sandy Tree Lighting open house and our Sandy Mt. Festival Corn Booth. The partnership between the City of Sandy and the Sandy Historical Museum has been beneficial to each of us and an extrinsic value to the community since 2017.

See the attached letter concerning our financial statements (Appendix D, page 7). The Sandy Historical Society, Inc. has been a 501(C)3 tax exempt organization since 1971, Employer ID number 93-6031823 (see attached letter of proof Appendix E, (page 8).

In Closing:

An active core operational group of 7-12 people operate the Visitor Center 5 days a week. We are continually answering questions from visitors about places to visit, where to find restaurants, gas and other local services and products. We have a TV monitor in the lobby that advertises local businesses. Our focus includes sharing the history of the Sandy area and its businesses and services. Promoting Sandy is our goal, and we continue to need the help of the Youth Intern Program to serve the visitors.

The Sandy Museum can accomplish a Sandy city council goal, meet community needs and provide a public benefit to all visitors. The interns in the program will gain valuable job skills and experience with working with the public, computer and sales skills as well as acquire knowledge of Sandy's pioneer history and the preservation of artifacts.

The Sandy Museum does not have a dedicated source of income and depends on fundraisers, memberships, gift shop sales and donations. Without the funds provided by the SSCP for the Youth Intern program, the museum might have to reduce their hours as many volunteers do not prefer to work on weekends. Volunteers typically help with projects, archiving, exhibits and fundraisers which our Youth Interns will also assist with.

Appendix A: Summary of Existing Program

To meet the Sandy City Councils' goals of ongoing youth programs and opportunities, the Sandy Museum has created part-time youth positions, one intern each Saturdays from 10 am-4 pm (6 hours), during which the youth interns will be mentored by knowledgeable museum staff in job skills such as: greeting and assisting visitors in the Sandy Visitors' center, assisting with retail sales in the gift shop, archiving artifacts, conducting historical tours of the museum and computer skills for accessioning historic objects and ephemera. See attached "Weekend Intern Training" (page 9) for additional job training opportunities.

Currently we are open Tuesdays through Saturdays. We are planning to open on Sundays, with an additional staff member, from June through August, starting next year that will require an additional staff member which would be one of our interns.

The Youth Interns will be required to work the weekends when the museum is open. On snow days or days of inclement weather or when the museum does close due to other factors, the interns will be notified by the responsible staff member who makes the closure decision.

Youth applicant criteria:

- 16–19 years of age.
- Currently enrolled at one of the Oregon Trail Schools, or homeschooled, lives in the area, and demonstrates regular attendance and punctuality.
- Demonstrates ability to effectively communicate and work as part of a team with a variety of personalities.
- Interested in history and learning new job skills.
- Has ability to take direction and follow through with tasks efficiently.
- Has some basic familiarity with computers.
- Will respond to visitor questions in a concise and enthusiastic manner.
- Has the ability to commit to the entire term of employment of 6–12 months.

Physical requirements would require periods of standing, frequent walking indoors, repeated bending, crouching, stooping, stretching, or reaching; ability to lift objects up to 20 pounds occasionally.

Intern Application Process: Youths interested in these positions would submit a letter describing:

1. What year of school and school attending.
2. Why you would like museum experience.
3. What job skills you are particularly eager to learn.
4. How you hope this internship will help you toward gaining skills for a future career.

They are to include two letters of recommendation, one from a teacher and one from an unrelated adult.

Appendix B: Tourism–Historical Intern Program Summary

Article written April 21, 2019, by volunteer David Nelson

What do the City of Sandy and the Sandy Historical Society have in common? High School Interns! If you happen to spend some time touring the museum on a weekend, you will have an opportunity to meet one of the three interns as they happily take on whatever task assigned by their Student Intern Coordinator, Cathy Crownover.

The two–year grant, which must be renewed in 2019, provides funding for the student interns to work weekends, learning about all things historical. But, as the older volunteers have discovered, these energetic interns came with great ideas and never–ending stamina.

“We have gained a lot of these kids,” Crownover said. “They always seem to have ideas that will make our work easier or more streamlined. It’s amazing to work with them. I can give them a boring repetitive job and they either just whiz through it or have an idea of how to do it better. I love working with them.”

So far, six students have participated in the internship program with three currently working.

“The generous funding from the City of Sandy has been a godsend for us and for the students,” said Ann Marie Amstad, Museum Director and Volunteer Coordinator. “From the beginning, as a direct result of the intern’s help, we’ve not only seen our workload decrease, but we’ve also seen the students gain confidence as they interact with volunteers and visitors.

“We requested a two–year grant for three students working at minimum wage. The funding expires June 2019. We are hoping to renew the funding because we’ve seen direct results of positive change in the intern’s lives and ours. This experience has truly been a win/win.

According to Yolanda Sanchez, 18, who is in her second year at the museum, “I was expecting the job to be sitting at a desk but it’s not really because I get to interact with people one on one. I’ve helped people who’ve come from across the country (some used to live here) find information about their family histories. I think that’s really neat.”

“Working with older people gives me a different perspective. In school you’re surrounded by people your own age and when you work here, you’re surrounded by people with different perspectives than you and I really like that. Working here has helped me understand older people because they tell me stories of how things were when they were my age. I like it here.”

Another beneficiary of Yolanda's internship at the museum is 16-year-old, Alejandra Ortega, a fellow student at Sandy High School. "Last year, my friend, Yolanda, told me that the museum had an internship position available, and I have been considering looking for a job (my first). Last summer I came to the museum to look around and decided I wanted to be involved so I volunteered at the Annual Tree Lighting children's craft activity and thought it was fun. That was the day I brought my completed application to Ann Marie."

"In the beginning I thought the work would be routine but it's not like that at all. You get to do different things and meet lots of people. You learn about the lives of people here and they become like family. It's a very relaxed work environment."

"I feel like I'm able to help by doing the books (cutting and pasting newspaper articles into binders) which allow other volunteers to do their specialties rather than working on this routine job. Sometimes I help with inventory for the same reason. As long as the city grant is in place, I hope to work here until the end of my senior year in 2020."

The newest intern is Liz Corona, 16, whose first day was April 13, 2019. "I came in after school and got the application, filled it out and they accepted me. Today is my first day. I will be working Saturdays and some Sundays. They told me I would be working at the front desk and helping with computers. I like being around older people. My mom used to work at a retirement home, and I got to help. I help my aunt with community service at our church a lot. I need a job and I want to experience working at the museum."

This grant would directly benefit both high school students and the Sandy Historical Society Museum which will continue to prove a worthwhile taxpayer expense if renewed this year.

Appendix C Museum Youth Internship Program Budget (page 6)

Appendix D Sandy Historical Society, Inc. letter concerning our 2022 Financial Statements (page 7)

Appendix E 501(c)3 Tax Exempt Status (page 8)

Appendix F Weekend intern training (page 9)

C

Sandy Historical Society Inc
Requested grant funding

	07/01-12/31/2023	01/01-6/30/2024	07/01-12/31/2024	01/01-12/31/2025	Total grant requested
Intern working hours:					
Saturdays, 6 hrs per week shift	156	156	156	156	624
Sundays, 4 hrs per week shift *	56		56		112
Annual events **	18	72	18	72	180
Total hours	230	228	230	228	916
Hourly payrate thru 06/30/2023	14.20	14.20	15.45	15.45	
Interns gross payroll, 6 hrs shift	2215.20	2215.20	2410.20	2410.20	9250.80
Interns gross payroll, 4 hrs shift	795.20		865.20		1660.40
Annual events	255.60	1022.40	278.10	1112.40	2668.50
Gross payroll	3266.00	3237.60	3553.50	3522.60	13579.70
Employer intern payroll tax expense:					
Social Security	202.49	200.73	220.32	218.40	841.94
Medicare	47.36	46.95	51.53	51.08	196.91
Oregon SUTA	22.86	22.66	24.87	24.66	95.06
Total employer payroll tax expense	272.71	270.34	296.72	294.14	1133.90
Total requested grant funds	3538.71	3507.94	3850.22	3816.74	14713.60
SHS inc gross training staff payroll based on total hours above	4600.00	4560.00	4600.00	4560.00	18320.00
SHS inc training staff employer payroll tax expense	384.10	380.76	384.10	380.76	1529.72
Total training staff funded by SHS Inc	4984.10	4940.76	4984.10	4940.76	19849.72

* 14 Sundays @ 4 hrs shift June 03-Sept 02, 2023
14 Sundays @ 4 hrs shift June 01-August 31, 2024

** Antiques/collectibles sales, Trick or Treat Trail, Artisans Bazaar, tree lighting, Sandy Mtn Festival corn booth

Page 6

Weekend Intern Training

1. Be on time to open the museum on Saturdays at 10 am and Sundays at 12 noon and work until 4 pm.
2. Help turn on lights, open signs and turn on TV slide show in lobby.
3. Place donation box by guest book.
4. Give a warm welcome and tour to any visitors that come in our doors.
5. Give visitors information as needed which can include pamphlets, maps and places to visit.
6. Introduce museum visitors to the 3 focuses in the main exhibit hall (the Barlow Road section of the Oregon Trail, 100 years of logging and historic families, schools and businesses) and the library, resource center and family life in the upstairs exhibit hall.
7. Ask all guests to sign the guest book and thank them for coming to visit.
8. Demonstrate the player piano in the entry way for the visitors that are interested (especially children).
9. Learn to use the Point of Sale cash register from staff members, which will include scanning, using the credit card machine, printing receipts, making change and bagging and packaging the sale items.
10. Give a 20% discount to Sandy Historical members but not on consignments (pink of sales tag).
11. Answer the telephone "Sandy Historical Museum & Visitor Center, May I help you?", answer questions, transfer calls and take messages if necessary.
12. Work on projects that are given by staff members.
13. Work on the front desk as needed.
14. Closing the museum:
 - a. Help turn off lights and signs.
 - b. Put the donation box in the office.
 - c. Assist staff with any other closing procedure.
15. Fill out and turn in time sheet at the end of the month, adding signature at the bottom.

Projects and jobs:

- A. Newspaper articles are to be trimmed, glued to white paper and put into sheet protectors then placed by category into the long hanging file cabinet (2nd drawer) in the office.
- B. Newspaper obituaries should be trimmed, glued to a single sheet of white paper and put in the green folder at the right end of the counter.
- C. Jobs with directions are found in the bottom drawer of the long filing cabinet in the office. There are typing jobs such as Tables of Contents for 3 ring notebooks or scrapbooks or transcribing handwritten or faint mimeographed pages on the computer in the office. Print the results.
- D. Learn how to input objects and books into the PastPerfect archiving program on the laptop in the office. These will be found in the bottom long filing cabinet drawer in the office.
- E. Assisting with the production of our quarterly newsletter "Buckboard Tales" as needed.
- F. Cleaning (as needed and directed by staff) such as dusting the gift shop area, vacuuming lobby rugs, carpets in each exhibit area and stairs, dust mopping the wood floors in the gift shop area and entryway tile floor. Empty waste baskets, take out the trash and recycling.

Assist with seasonal events: All interns are permitted to work at these events.

- A. Help set up and assist at our annual Antiques, Collectibles & Fabric Sale on a Saturday in September.
- B. Dress up and give candy for the Trick or Treat Trail on the Saturday before Halloween with other Sandy merchants.
- C. Help set up and assist at our Artisan's Bazaar the Saturday before Thanksgiving.
- D. Help at the Sandy Tree Lighting event the first Friday in December from 5 to 8 pm helping staff the children's craft area in our meeting room.
- E. Work at the Sandy Mt. Festival Corn booth on the second weekend in July, Saturday and Sunday.
- F. Help at any other event or fundraiser as needed.



CITY COUNCIL MEETING

Tuesday, January 16, 2024 at 7:00 PM

Virtual via Zoom

MINUTES

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT

Council President Laurie Smallwood
Councilor Chris Mayton
Councilor Rich Sheldon
Councilor Kathleen Walker
Councilor Carl Exner
Councilor Don Hokanson

ABSENT

Mayor Stan Pulliam

CHANGES TO THE AGENDA

PUBLIC COMMENT (3-minute limit)

(none)

RESPONSE TO PREVIOUS COMMENTS

CONSENT AGENDA

1. City Council Minutes: December 18, 2023

MOTION: Adopt the consent agenda.

Motion made by Councilor Sheldon, Seconded by Councilor Hokanson.

Voting Yea: Council President Smallwood, Councilor Mayton, Councilor Sheldon, Councilor Walker, Councilor Exner, Councilor Hokanson

MOTION CARRIED: 6-0

NEW BUSINESS

2. Contract Award: Construction of Cedar Park (Formerly Community Campus Park)

The City Manager and Parks and Recreation Director summarized the staff report, which was included in the agenda packet. It was noted that the bids received were consistent with the engineer's estimate. Council discussion ensued on the additional extra items that were not included in the contract total recommended by staff: picnic shelter, play area rubberized surfacing, vehicular concrete on paths, and electrical conduit at loop path. It was suggested that all the items are needed, and that necessary funds should be identified as delay would not be prudent. Staff clarified that it may be possible to absorb the cost of all the extras within the current budget if contingency funds are not needed. Further discussion related to the details and advantages of applying a rubberized play surface, as well as vehicular concrete in the event of emergency vehicle utilization. Ultimately the consensus of the Council was that all four additional extra items are necessary, but that while funds will be identified for electrical conduit and vehicular concrete at this point, rubberized play surface and picnic shelter will wait until after demolition is completed and further budget analysis can be performed.

MOTION: Authorize the City Manager to execute a contract with Goodfellow Bros., LLC for the construction of Cedar Park in an amount not to exceed \$3,548,815, which includes the amount recommended by staff plus additional funding for vehicular concrete and electrical conduit.

Motion made by Councilor Walker, Seconded by Councilor Hokanson.

Voting Yea: Council President Smallwood, Councilor Mayton, Councilor Sheldon, Councilor Walker, Councilor Exner, Councilor Hokanson

MOTION CARRIED: 6-0

REPORT FROM THE CITY MANAGER

- Thanks for the Council's support for the Cedar Park project
- Praise for staff response to the recent winter storm; in particular Public Works, Police, SandyNet, and Parks and Recreation
- Notice of trail closures for storm cleanup
- PGE outage update, and note of continued communication between City and PGE staff
- Reminder that residents should report frozen water meters to the City
- Overview of feedback received on the Public Works after hours answering service
- Recap of water system low pressure event
- Overview of downed trees around town
- Discussion on trash pickup schedule impacts from the winter storm

COMMITTEE / COUNCIL REPORTS

Councilor Hokanson

- Praise for staff response to the recent winter storm

Councilor Exner

- Praise for staff response to the recent winter storm
- Praise for the new MySandy app

- Discussion on procedures for addressing downed trees in rights-of-way; plans to involve AntFarm; considerations for disposition of downed trees in riparian areas, including possible retention for habitat where desirable
- Note that an arborist will be on site soon to evaluate risk trees

Councilor Walker

- Emphasis on the need to formally thank staff for their efforts during the storm; also PGE staff deserve thanks and appreciation
- Concerns regarding drainage issues on the Bell Street extension
- Note of the storm debris on Bluff Road
- Suggestion to leverage the supplemental environmental project with Clackamas River Watershed Council to address post-storm vegetation management along the Tickle Creek Trail

Councilor Sheldon

- Praise for staff response to the recent winter storm

Councilor Mayton

- Praise for staff response to the recent winter storm

Council President Smallwood

- Updates from the Parks and Recreation Department: demolition of the old skatepark has begun; privacy fencing is being installed adjacent to the elementary school; shelters are being constructed at Bluff Park; Winterfest attendance figures show large increase in visitation to Meinig Park over 2022, help is needed in the future due to the large time commitment for set up and tear down; volunteers are needed for trail development
- Discussion ensued on the need to create a Winterfest Committee. The consensus of the Council was that staff should develop a proposed scope for the committee and bring the concept back for Council action at a future meeting

STAFF UPDATES

Monthly Reports: <https://reports.cityofsandy.com/>

ADJOURN



STAFF REPORT

Meeting Type: City Council
Meeting Date: February 5, 2024
From: Jenny Coker, Public Works Director
Subject: Resolution 2024-04 Business Oregon Funding For Alder Creek Water Treatment Plant Membrane Filtration Improvements

DECISION TO BE MADE:

Whether to authorize the City Manager to execute Loan Agreement B24004 with Business Oregon to fund project management, membrane procurement, engineering/design services, construction bid services, construction management, and reporting for Alder Creek Water Treatment Plant Membrane Filtration Improvements.

PURPOSE / OBJECTIVE:

To secure sufficient financing for the Alder Creek Water Treatment Plant Membrane Filtration project, in light of the relatively limited availability of Drinking Water State Revolving Funds.

BACKGROUND / CONTEXT:

The City of Sandy Water Master Plan was adopted by Council into the City's Comprehensive Plan on April 3, 2023. Key next steps to deliver the Drinking Water Reinvestment Program include securing debt financing and addressing immediate stabilization repairs and upgrades needed to keep Alder Creek Water Treatment Plant operational.

Although the City applied for \$88 million in Drinking Water State Revolving Funds (DWSRF) in September of 2022, the pool of funds available from DWSRF is insufficient to meet all the State Drinking Water Capital Improvement debt servicing needs. The City was notified that the maximum that could be provided under the Drinking Water State Revolving fund loan was approximately \$6 million. As such, staff have turned to the Special Public Works Fund from Business Oregon, which provides financing for up to \$10 million per project.

Table 1 summarizes the Drinking Water Reinvestment Program Financing Package. Initial estimates from the program team baselined the budget of the Drinking Water Reinvestment Program at approximately \$70 Million. To date, \$25,417,120 in financing has been secured through Business Oregon Special Public Works Fund Loans, and State Revolving Fund Loan. The Program team will next work on securing the larger construction loan needed for the Portland to Sandy Filtration Plant Transmission System Construction Project, as well as other grant funding now that initial funding is secured for smaller construction projects and design engineering.

Table 1: Sandy Drinking Water Reinvestment Program Financing Package

Lender	Project	Council Approval	Status	Loan Amount	Project Phase
SPWF (Business Oregon)	Sandercock Reservoir	4/3/2023	Complete	\$871,420	Construction Complete
SPWF (Business Oregon)	Portland to Sandy Filtration Transmission System Design	6/20/2023	Complete	\$7,000,000	Predesign
SPWF (Business Oregon)	Alder Creek Water Treatment Plant Immediate Needs Project	11/20/2023	Complete	\$2,016,600	Predesign
SPWF (Business Oregon)	Alder Creek Membrane Improvement Project	2/5/2023	Closing	\$9,500,000	PreDesign Pre-Award On-going
DW State Revolving Fund	Alder Creek Conveyance Improvements		Closing	\$6,029,100	
(WIFIA loan or Bond)	Portland to Sandy Filtration Transmission System Construction		Not Started	\$33,000,000	
Program Reserve Funds	Contingency		Not Started	\$11,582,880	
Total Financing Package				\$70,000,000	

KEY CONSIDERATIONS / ANALYSIS:

Alder Creek Water Treatment Plant is the primary water supply for the City of Sandy and the most economical source of water. The treatment plant is at the end of its useful life and is in critical need of immediate upgrades to remain operational. These improvements were identified in the 2022 Water Master Plan, and were refined in a Conceptual Design Report completed by Stantec in 2023. The improvements must be in place prior to September 30, 2027. In the event connection to the new Portland Filtration Plant is delayed, Alder Creek can provide the majority of Sandy's non-peak season water demands.

Pre-award for a membrane treatment system has been approved with Business Oregon, and the City is expecting to evaluate bids from and RFP for the new membrane treatment system in Spring of 2024.

BUDGET IMPACT:

Business Oregon is offering a loan totaling \$9,500,000 million at an interim interest rate of 3.02%. Business Oregon is using an interim financing contract that will be in place until bonds are sold. The maturity date of the interim contract is 3 years but can be extended as needed. Once the bonds are sold, the interest rate will be approximately 3.77% over 20 years. Repayment is made from water rate revenues and is included in our current rate model.

Business Oregon Loans provide below market interest rates with makes this source of funding preferable over regular market-rate loans.

RECOMMENDATION:

Authorize the City Manager to execute Loan Agreement B24004 in the amount of \$9,500,000.

SUGGESTED MOTION LANGUAGE:

"I move to approve Resolution 2024-04."

LIST OF ATTACHMENTS / EXHIBITS:

- Resolution 2024-04
 - Business Oregon Loan Packet
 - Opinion of Counsel



RESOLUTION NO. 2024-04

A RESOLUTION AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC WORKS FUND BY ENTERING INTO A FINANCING CONTRACT WITH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY

WHEREAS, The City of Sandy (the Recipient) is a “municipality” within the meaning of Oregon Revised Statutes 285b.410(9); and

WHEREAS, Oregon Revised Statutes 285B.410 through 285B.482 (the ‘Act’) authorize any municipality to file an application with the Oregon Infrastructure Finance Authority of the Business Development Department (“OBDD”) to obtain financial assistance from the special Public Works Fund; and

WHEREAS, The Recipient has filed an application with the OBDD to obtain financial assistance for a “development project” within the meaning of the Act; and

WHEREAS, The Recipient is required, as a prerequisite to the receipt of financial assistance from the OBDD, to enter into a Financing Contract with OBCC, number B24004, substantially in the form attached hereto as Exhibit 1. The project is described in Exhibit C to the Financing Contract (the “Project”); and

WHEREAS, Notice relating to the Recipient’s consideration of the adoption of this Resolution was published in full accordance with the Recipient’s charter and laws for public notification.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANDY:

Section 1: Financing Loan Authorized The City Council authorizes the City Manager (the “Authorized Officer”) to execute on behalf of the Recipient the Financing Contract and such other documents as may be required to obtain financial assistance (the “Financing Documents’), including a loan from the OBDD, on such terms as may be agreed upon between the Authorized officer and OBDD, on the condition that the principal amount of the loan from the OBCC to the Recipient is not in excess of \$9,500,000 and an interest rate of 3.02% per annum. The proceeds of the loan from the OBDD will be applied solely to the “Costs of the Project” as such term is defined in the Financing Contract.

Section 2: Sources of Repayment Amounts payable by the Recipient are payable from the sources described in Section 4 of the Financing Contract and the Oregon Revised Statutes Section 285B.437(3) which include: a) The revenues of the project, including special assessment revenues; b) Amounts withheld under ORS 285B.449 (1); c) The General Fund of the City of Sandy; or d) Any other source.

Section 3: Tax-Exempt Status The Recipient covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Recipient pursuant to the Financing Documents not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The Recipient may enter into covenants to protect the tax-exempt status of the interest paid by the Recipient pursuant to the Financing Documents and may execute any Tax Certificate, Internal Revenue Service forms or other documents as may be required by the OBDD or its bond counsel to protect the tax-exempt status of such interest.

Section 4: Reimbursement Bonds The Recipient may make certain expenditures on the Project prior to the date the Financing Contract is executed with OBDD or the date the State of Oregon issues any bonds to fund the loan. The Recipient hereby declares its intent to seek reimbursement of such expenditures with amounts received from the OBDD pursuant to the Financing Contract, but only as permitted by OBDD policy, the Financing Contract, and federal tax regulations. Additionally, the Recipient understands that the OBDD may fund or reimburse itself for the funding of amounts paid to the Recipient pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This Resolution constitutes “official intent” within the meaning of 26 C.F.R. §1.150-2 of the income tax regulations promulgated by the United States Department of Treasury.

This resolution is adopted by the City Council of the City of Sandy this 5th day of February, 2024.

Stan Pulliam, Mayor

ATTEST:

Jeffrey Aprati, City Recorder

SPECIAL PUBLIC WORKS FUND DEVELOPMENT PROJECT
INTERIM FINANCING CONTRACT

Project Name: Alder Creek Water Treatment Plant: Water Treatment Improvements

Project Number: B24004

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

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

Exhibit A	General Definitions
Exhibit B	Security
Exhibit C	Project Description
Exhibit D	Project Budget

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

“Estimated Project Cost” means \$9,500,000.

“Interest Rate” means 3.02% per annum.

“Loan Amount” means \$9,500,000.

“Maturity Date” means the earlier of 3 years plus 90 days after the date of this Contract, or the receipt of Refunding Proceeds by either party.

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

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

SECTION 2 - FINANCIAL ASSISTANCE

OBDD shall provide Recipient, and Recipient shall accept from OBDD, financing for the Project a non-revolving loan (the “Loan”) in an aggregate principal amount not to exceed the Loan Amount.

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

SECTION 3 - DISBURSEMENTS

- A. Reimbursement Basis. The Financing Proceeds will be disbursed to Recipient on an expense reimbursement or costs-incurred basis. Recipient must submit each disbursement request for the Financing Proceeds on an OBDD-provided or OBDD-approved disbursement request form (“Disbursement Request”).

- B. Financing Availability. OBDD's obligation to make, and Recipient's right to request, disbursements under this Contract terminates on the Project Closeout Deadline.
- C. Payment to Contractors. OBDD, in its sole discretion, may make direct payment to suppliers, contractors and subcontractors and others for sums due them in connection with construction of the Project, instead of reimbursing Recipient for those sums.

SECTION 4 - LOAN PAYMENT; PREPAYMENT

- A. Promise to Pay. Recipient shall repay the Loan and all amounts due under this Contract in accordance with its terms. Payments required under this Contract are, without limitation, payable from the sources of repayment described in the Act and this Contract, including but not limited to Exhibit B, and the obligation of Recipient to make all payments is absolute and unconditional. Payments will not be abated, rebated, set-off, reduced, abrogated, terminated, waived, postponed or otherwise modified in any manner whatsoever. Payments cannot remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of purpose, any change in the laws, rules or regulations of the United States of America or of the State of Oregon or any political subdivision or governmental authority, nor any failure of OBDD to perform any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project or this Contract, or any rights of set off, recoupment, abatement or counterclaim that Recipient might otherwise have against OBDD or any other party or parties; provided further, that payments hereunder will not constitute a waiver of any such rights.
- B. Interest. Interest accrues at the Interest Rate on each disbursement from the date of disbursement until the Loan is fully paid. Interest is computed by counting the actual days occurring in a 360-day year.
- Recipient authorizes OBDD to calculate interest accrued under the Loan, including as necessary to determine the loan amortization schedule, a loan prepayment, or a loan payoff amount. Absent manifest error, such calculations will be conclusive.
- C. Loan Payment. The entire outstanding balance of the Loan, including all accrued unpaid interest, is due and payable in full on the Maturity Date.
- D. Loan Prepayments.
- (1) Mandatory Prepayment. The Refunding Proceeds shall be applied to repay the outstanding balance of the Contract. Further, Recipient shall prepay all or part of the outstanding balance of the Loan as may be required by this Contract.
 - (2) Optional Prepayment. Recipient may prepay all or part of the outstanding balance of the Loan on any day except a Saturday, Sunday, legal holiday or day that banking institutions in Salem, Oregon are closed.
- E. Application of Payments. Regardless of any designation by Recipient, payments and prepayments by Recipient under this Contract or any of the Financing Documents will be applied first to any expenses of OBDD, including but not limited to attorneys' fees, then to unpaid accrued interest (in the case of prepayment, on the amount prepaid), then to the principal of the Loan. In the case of a Loan prepayment that does not prepay all the principal of the Loan, OBDD will determine, in its sole discretion, the method for how the Loan prepayment will be applied to the outstanding principal payments. A scheduled payment received before the scheduled repayment date will be applied to

interest and principal on the scheduled repayment date, rather than on the day such payment is received.

SECTION 5 - CONDITIONS PRECEDENT

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

SECTION 6 - USE OF FINANCIAL ASSISTANCE

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

SECTION 7 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to OBDD:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded. Recipient will have adequate funds available to repay the Loan, and the Maturity Date does not exceed the usable life of the Project.
- B. Organization and Authority.
- (1) Recipient is a Municipality under the Act, and validly organized and existing under the laws of the State of Oregon.
 - (2) Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract and the other Financing Documents, (b) incur and perform its obligations under this Contract and the other Financing Documents, and (c) borrow and receive financing for the Project.
 - (3) This Contract and the other Financing Documents executed and delivered by Recipient have been authorized by an ordinance, order or resolution of Recipient's governing body, and voter approval, if necessary, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings.
 - (4) This Contract and the other Financing Documents have been duly executed by Recipient, and when executed by OBDD, are legal, valid and binding, and enforceable in accordance with their terms.
- C. Full Disclosure. Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Project, or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents. Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract and the other Financing Documents is true and accurate in all respects.
- D. Pending Litigation. Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.

E. No Events of Default.

- (1) No Events of Default exist or occur upon authorization, execution or delivery of this Contract or any of the Financing Documents.
- (2) Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.

F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract and the other Financing Documents will not: (i) cause a breach of any agreement, indenture, mortgage, deed of trust, or other instrument, to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) cause the creation or imposition of any third party lien, charge or encumbrance upon any property or asset of Recipient; (iii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iv) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.

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

SECTION 8 - COVENANTS OF RECIPIENT

Recipient covenants as follows:

- A. Notice of Adverse Change. Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to make all payments and perform all obligations required by this Contract or the other Financing Documents.
- B. Compliance with Laws. Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract or the other Financing Documents, and the Project and the operation of the System of which the Project is a component. In particular, but without limitation, Recipient shall comply with the following, as applicable:
- (1) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.
 - (2) State labor standards and wage rates found in ORS chapter 279C.
 - (3) OAR 123-042-0165 (5) requirements for signs and notifications.

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

C. Project Completion Obligations. Recipient shall:

- (1) Provide OBDD with copies of all plans and specifications relating to the Project, and a timeline for the bidding/award process, at least ten (10) days before advertising for bids.
- (2) Provide a copy of the bid tabulation, notice of award, and contract to OBDD within ten (10) days after selecting a construction contractor.

- (3) Permit OBDD to conduct inspection of the Project at any time.
- (4) Complete the Project using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.
- (5) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by OBDD in writing.
- (6) Obtain and maintain as-built drawings for all facilities constructed as part of the Project.
- D. Ownership of Project. During the term of the Loan, the Project is and will continue to be owned by Recipient. The Project will be operated by Recipient or by a person under a management contract or operating agreement with Recipient.
- E. Operation and Maintenance of the Project. Recipient shall operate and maintain the Project in good repair and operating condition so as to preserve the long term public benefits of the Project, including making all necessary and proper repairs, replacements, additions, and improvements during term of the Loan. On or before the Project Closeout Deadline, Recipient shall adopt a plan acceptable to OBDD for the on-going operation and maintenance of the Project without reliance on OBDD financing and furnish OBDD, at its request, with evidence of such adoption. The plan must include measures for generating revenues sufficient to assure the operation and maintenance of the Project during the usable life of the Project.
- F. Insurance, Damage. Recipient shall maintain, or cause to be maintained, insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried by governmental units constructing, operating and maintaining similar facilities. Nothing in this provision precludes Recipient from asserting a defense against any party other than OBDD, including a defense of immunity. If the Project or any portion is destroyed, any insurance proceeds will be paid to OBDD and applied to prepay the outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees in writing that the insurance proceeds may be used to rebuild the Project.
- G. Sales, Leases and Encumbrances. Except as specifically described in Exhibit D, Recipient shall not sell, lease, exchange, abandon, transfer or otherwise dispose of any substantial portion of or interest in the Project or any system that provides revenues for payment or is security for the Loan, unless worn out, obsolete, or, in the reasonable business judgment of Recipient, no longer useful in the operation of the Project. Nevertheless, OBDD may consent to such disposition if it has received 90 days' prior written notice from Recipient. Such consent may require assumption by transferee of all of Recipient's obligations under the Financing Documents and payment of OBDD's costs related to such assumption. In the case of sale, exchange, transfer or other similar disposition, Recipient shall, within 30 days of receipt of any proceeds from such disposition, prepay the entire outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees otherwise in writing. If Recipient abandons the Project, Recipient shall prepay the entire outstanding balance of the Loan immediately upon demand by OBDD.
- H. Condemnation Proceeds. If the Project or any portion is condemned, any condemnation proceeds will be paid to OBDD and applied to prepay the outstanding balance of the Loan in accordance with section 4.D.(1).
- I. Financial Records. Recipient shall keep accurate books and records for the revenues and funds that are the source of repayment of the Loan, separate and distinct from its other books and records, and maintain them according to generally accepted accounting principles established by the Government

Accounting Standards Board in effect at the time. Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient.

- J. Inspections; Information. Recipient shall permit OBDD and any party designated by OBDD: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. Recipient shall supply any related reports and information as OBDD may reasonably require. In addition, Recipient shall, upon request, provide OBDD with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of Recipient that are issued after the date of this Contract.
- K. Records Maintenance. Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Financing Proceeds for a minimum of six years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Closeout Deadline. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- L. Economic Benefit Data. OBDD may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion Date. Recipient shall, at its own expense, prepare and submit the data within the time specified by OBDD.
- M. Disadvantaged Business Enterprises. ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses...” OBDD encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at https://www.oregonlegislature.gov/bills_laws/ors/ors200.html. Additional resources are provided by the Governor’s Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/SearchCertifiedDirectory.asp?XID=2315&TN=oregon4biz>.
- N. Professional Responsibility. A professional engineer or architect, as applicable, registered and in good standing in Oregon, will be responsible for the design and construction of the Project. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty. Recipient shall follow standard construction practices, such as bonding requirements for construction contractors, requiring errors and omissions insurance, and performing testing and inspections during construction.
- O. Notice of Default. Recipient shall give OBDD prompt written notice of any Default as soon as Recipient becomes aware of its existence or reasonably believes a Default is likely.
- P. Contributory Liability and Contractor Indemnification.
- (1) 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 a party (the “Notified Party”) with respect to which the other party may have liability, the Notified Party must

promptly notify the other party in writing and deliver a copy of the claim, process, and all legal pleadings related to the Third Party Claim. Either 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. The foregoing provisions are conditions precedent for either party's liability to the other in regards to the Third Party Claim.

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

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

Q. Further Assurances. Recipient shall, at the request of OBDD, authorize, sign, acknowledge and deliver any further resolutions, conveyances, transfers, assurances, financing statements and other instruments and documents as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Contract and the other Financing Documents.

SECTION 9 - DEFAULTS

Any of the following constitutes an "Event of Default":

- A. Recipient fails to make any Loan payment when due.
- B. Recipient fails to make, or cause to be made, any required payments of principal, redemption premium, or interest on any bonds, notes or other material obligations, for any other loan made by the State of Oregon.
- C. Any false or misleading representation is made by or on behalf of Recipient in this Contract, in any other Financing Document or in any document provided by Recipient related to this Loan or the Project.
- D. (1) A petition, proceeding or case is filed by or against Recipient under any federal or state bankruptcy or insolvency law, and in the case of a petition filed against Recipient, Recipient acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal;

- (2) Recipient files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up or composition or adjustment of debts;
 - (3) Recipient becomes insolvent or bankrupt or admits its inability to pay its debts as they become due, or makes an assignment for the benefit of its creditors;
 - (4) Recipient applies for or consents to the appointment of, or taking of possession by, a custodian (including, without limitation, a receiver, liquidator or trustee) of Recipient or any substantial portion of its property; or
 - (5) Recipient takes any action for the purpose of effecting any of the above.
- E. Recipient defaults under any other Financing Document and fails to cure such default within the applicable grace period.
- F. Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through E of this section 9, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 10 - REMEDIES

- A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract or any other Financing Document, and any other remedies available at law or in equity to collect amounts due or to become due or to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to:
- (1) Terminating OBDD's commitment and obligation to make any further disbursements of Financing Proceeds under the Contract.
 - (2) Declaring all payments under the Contract and all other amounts due under any of the Financing Documents immediately due and payable, and upon notice to Recipient the same become due and payable without further notice or demand.
 - (3) Barring Recipient from applying for future awards.
 - (4) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract, including as provided in ORS 285B.449.
 - (5) Foreclosing liens or security interests pursuant to this Contract or any other Financing Document.
- B. Application of Moneys. Any moneys collected by OBDD pursuant to section 10.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD; then, to pay interest due on the Loan; then, to pay principal due on the Loan; and last, to pay any other amounts due and payable under this Contract or any of the Financing Documents.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract or any of the Financing Documents will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 9 of this Contract.

D. Default by OBDD. In the event OBDD defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD's obligations.

SECTION 11 - MISCELLANEOUS

A. Time is of the Essence. Recipient agrees that time is of the essence under this Contract and the other Financing Documents.

B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.

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

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

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

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

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's

confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

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

If to Recipient: Public Works Director
City of Sandy
39250 Pioneer Blvd
Sandy, OR 97055

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

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

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

- J. Integration. This Contract (including all exhibits, schedules or attachments) and the other Financing Documents constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.

K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

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



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



CITY OF SANDY

By: _____
Chris Cummings, Deputy Director

By: _____
Tyler Deems, City Manager

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ David Berryman per email dated 18 December 2024
David Berryman, Assistant Attorney General

EXHIBIT A - GENERAL DEFINITIONS

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

“Act” means ORS 285B.410 through 285B.482, as amended.

“Award” means the award of financial assistance to Recipient by OBDD dated 22 November 2023.

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

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

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

“Financing Proceeds” means the proceeds of the Loan.

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

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

“ORS” means the Oregon Revised Statutes.

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

“Refunding Proceeds” means the proceeds of any subsequent short- or long-term financing, whether resulting from the sale of tax-exempt bonds or otherwise, issued to refund the Loan or to finance the Project.

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

EXHIBIT B - SECURITY

- A. Full Faith & Credit Pledge. Recipient pledges its full faith and credit and taxing power within the limitations of Article XI, sections 11 and 11 b, of the Oregon Constitution to pay the amounts due under this Contract. All amounts due under this Contract are payable from all legally available funds of Recipient.
- B. Refunding Proceeds. The outstanding principal of and accrued, but unpaid, interest on the Loan shall be payable from any Refunding Proceeds. Recipient hereby grants to OBDD a security interest in and irrevocably pledges the Refunding Proceeds to pay all of the obligations owed by Recipient to OBDD under this Contract. The Refunding Proceeds pledged and hereafter received by Recipient will be immediately subject to the lien of this pledge without physical delivery or further act, and the lien of this pledge will be superior to all other claims and liens to the fullest extent permitted by ORS 287A.310. Recipient represents and warrants that this pledge of Refunding Proceeds complies with, and is valid and binding from the effective date of this Contract as described in, ORS 287A.310.
- C. Pledge of Net Revenues of the System.
1. All payment obligations under this Contract and the other Financing Documents are payable from the revenues of Recipient's System after payment of operation and maintenance costs of the System ("Net Revenues"). Recipient irrevocably pledges and grants to OBDD a security interest in the Net Revenues to pay all of Recipient's obligations under this Contract and the other Financing Documents. The Net Revenues pledged pursuant to the preceding sentence and received by Recipient will immediately be subject to the lien of this pledge without physical delivery, filing or further act, and the lien of this pledge is superior to all other claims and liens, except as provided in subsections 2 and 3 of this section C, to the fullest extent permitted by ORS 287A.310. Recipient represents and warrants that this pledge of Net Revenues complies with, and is valid and binding from the date of this Contract as described in, ORS 287A.310.
 2. Recipient shall not incur, without the prior written consent of OBDD, any obligation payable from or secured by a lien on and pledge of the Net Revenues that is superior to, or on parity with the Loan.
 3. Notwithstanding the requirements of subsection 2 of this section C, loans previously made and loans made in the future by OBDD to Recipient that are secured by the Net Revenues may have a lien on such Net Revenues on parity with the Loan; provided that nothing in this paragraph will adversely affect the priority of any of OBDD's liens on such Net Revenues in relation to the lien(s) of any third party(ies).

EXHIBIT C - PROJECT DESCRIPTION

Recipient will, with the assistance of a professional engineer licensed in Oregon, make water treatment improvements to the Alder Creek Water Treatment Plant. These improvements will include, but are not limited to, procurement, design and installation of a containerized, pre-packaged, low-pressure membrane filtration treatment and neutralization system and installation of a canopy structure attached to an approximately 420 square foot concrete slab/foundation. The Costs of the Project include, but are not limited to, project management, construction bid services, construction management services, and financial and reporting services, as well as pre-award funding for a conceptual design report for the Alder Creek Water Treatment Plant.

EXHIBIT D - PROJECT BUDGET

Line Item Activity	OBDD Funds	Other / Matching Funds
Design/Engineering	\$1,150,000	\$0
Construction	\$4,623,737	\$0
Contingency	\$501,263	\$0
Planning and Conceptual Design (Pre-Award)	\$150,000	\$0
Membrane System Purchase	\$3,000,000	\$0
Membrane System Procurement	\$75,000	\$0
Total	\$9,500,000	\$0

January 22, 2024

Oregon Infrastructure Finance Authority
775 Summer Street NE Suite 200
Salem OR 97301-1280

Re: City of Sandy – Project No. B24004 – Alder Creek WTP

To Whom It May Concern:

I am the City Attorney for the City of Sandy (the “Recipient”), which has entered into a Financing Contract (as hereinafter defined) with the Oregon Infrastructure Finance Authority of the Oregon Business Development Department (“OBDD”) pursuant to Sections 285B.410 through 285B.482 of the Oregon Revised Statutes (the “Act”), and have acted as such in connection with the authorization, execution and delivery by the Recipient of the Contract (as hereinafter defined). Capitalized terms not otherwise defined in this letter shall have the meanings assigned to them by the Contract.

In so acting I have examined the Constitution and laws of the State of Oregon and the Recipient’s Charter, if any. I have also examined originals, or copies certified or otherwise identified to my satisfaction, of the following:

- A. The Financing Contract by and between the OBDD and the Recipient, number B24004, signed by Recipient on _____, 2024, in the principal loan amount of \$9,500,000, executed by the Recipient (collectively, the “Contract”).
- B. Proceedings of the governing body of the Recipient relating to the approval of the Contract and the execution, issuance and delivery thereof on behalf of the Recipient, and the authorization of the undertaking and completion of the Project as defined in the Contract;
- C. All outstanding instruments relating to bonds, notes or other indebtedness of or relating to the Recipient.

I have also examined and relied upon originals, or copies certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in my judgment I have deemed necessary or appropriate to enable me to render the opinions expressed below.

Based upon the foregoing, I am of the opinion that:

- 1. The Recipient is a duly formed and operating municipality as defined in ORS 285B.410(9), with the legal right to own and operate the Project.

2. The Recipient has full legal right and authority to execute and deliver the Contract and to observe and perform its duties, covenants, obligations and agreements thereunder and to undertake and complete the Project.
3. Amounts due to the OBDD pursuant to the Contract are payable from the sources described in Section 4 of the Contract.
4. The Ordinance (the “Ordinance”) of the Recipient approving the Contract and authorizing their execution, issuance and delivery on behalf of the Recipient, and authorizing the Recipient to undertake and complete the Project has been duly and lawfully adopted and authorized in accordance with the Recipient’s Charter, if any, the Act and other applicable Oregon law, and the Ordinance was adopted at a meeting or meetings which were duly called with public notice and held in accordance with the Recipient’s Charter, if any, and applicable Oregon law, and at which quorums were present and acting throughout.
5. The Contract has been duly authorized, executed and delivered by the authorized officers of the Recipient and constitutes the legal, valid and binding obligation of the Recipient enforceable in accordance with its terms; subject, however, to bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws affecting creditors’ rights or remedies generally (“Creditor’s Rights Limitations”) heretofore or hereafter enacted and the application of equitable principles.
6. To the best of my knowledge, after such investigation as I have deemed appropriate, the authorization, execution and delivery of the Contract by the Recipient, the observation and performance by the Recipient of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of Project, do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Recipient or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond ordinance, resolution, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Recipient is a party or by which it, the Project, or its property or assets is bound.
7. To the best of my knowledge, after such investigation as I have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Recipient in connection with the authorization, execution, delivery and performance of the Contract and the undertaking and completion of the Project have been obtained or made.
8. To the best of my knowledge, after such investigation as I have deemed appropriate, there is no litigation or other proceeding pending or threatened in any court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the Recipient or of the validity, legality or enforceability of the Contract or the undertaking or completion of the Project.

This opinion is rendered on the basis of the laws of the State of Oregon, including the Act, as enacted and construed on the date hereof. I express no opinion as to any matter not set forth in the numbered paragraphs herein.

Sincerely,

UNSIGNED DRAFT
Ashleigh K. Dougill

AKD/kkb



STAFF REPORT

Meeting Type: City Council
Meeting Date: February 5, 2024
From: Tyler Deems, City Manager
Subject: Audit Presentation - Fiscal Year Ended June 30, 2023

BACKGROUND / CONTEXT:

At the end of each fiscal year the City of Sandy and the Sandy Urban Renewal Agency are audited in accordance with state law. In addition to the state required audits, the City is subject to a federally required audit, known as a Single Audit, if the City expends over \$750,000 in federal funds during the year. A Single Audit was required for fiscal year 2023. The City has contracted with Talbot, Korvola & Warwick, LLP to conduct these required annual audits.

Tim Gillette, Partner, Talbot, Korvola & Warwick LLP, will present the audited financial statements to the Council. The audited financial statements for the fiscal year ended June 30, 2023 have been linked below:

DOCUMENT LINKS:

- [Annual Comprehensive Financial Report](#)
- [Sandy Urban Renewal Agency Financial Statements](#)
- [Single Audit](#)



STAFF REPORT

Meeting Type: City Council
Meeting Date: February 5th, 2024
From: Jennifer Coker, Public Works Director
AJ Thorne, Assistant Public Works Director
Subject: Creation of an Advanced Financing Reimbursement District for 362nd and Bell Street Improvements

DECISION TO BE MADE:

Whether to direct staff to pursue establishment of an Advanced Financing Reimbursement District (AFRD) to recoup City Utility funds invested to build the 362nd and Bell Streets Extension Improvements Project.

BACKGROUND / CONTEXT:

The extension and connection of 362nd and Bell Street has been nearly a 30-year goal of the City. The project accomplished three objectives:

1. Relief of chronic traffic congestion;
2. Emergency access connecting Hwy 26 to the High School and Bluff Road; and
3. Economic Development opportunities for the last remaining large parcels of land.

Advanced Financing of Public Improvements

[Section 12.14 of the Sandy Municipal Code](#) provides a method for a developer (in this case the City) to apply for reimbursement of some or all the eligible cost of public improvements (streets, water lines, sewer lines, etc) that may directly or indirectly benefit other property owners at the time they develop or redevelop their property and connect to the advanced financed utility improvements.

When a developer or public agency invests in public improvements that have the potential to spur development of adjacent or intervening properties it is reasonable to allow for recovery of some or all of the eligible costs from the benefitting property(ies). By doing so, the value of the benefitting properties can be significantly increased since developers often net out the cost of entitlements or public improvements from their land purchase offers. Public improvements can enable development of property that might otherwise not be feasible to develop without access to street or utility improvements.

Impact to Property

If a property owner has no interest in developing or redeveloping property subject to reimbursement

during the term of the reimbursement obligation, then they incur no costs. The reimbursement obligation is only collectable upon development or redevelopment of the benefitting property and does not become a lien on the property. The property can be sold or conveyed without satisfaction of the reimbursement obligation, which is only collected upon “*connection to an advance financed water, sanitary sewer or storm sewer system or the connection and use of advance financed street and sidewalk improvements*”.

History of AFRD Use in Sandy

Advanced Financed Public Improvement reimbursements are fairly common, although a City acting as a developer for a public improvement is unusual. The City Council has approved about a dozen AFRDs since Section 12.14 of the Municipal Code was adopted in 1993. Most recently the Council approved a private development Advance Financed Public Improvement reimbursement for the Viewpoint Subdivision in November, 2021.

KEY CONSIDERATIONS / ANALYSIS:

If the Council wishes to establish an AFRD, several policy choices must be made regarding the new district: (1) interest rate and term; (2) apportionment methodology; and (3) reimbursement value.

Interest Rate and Term

The code cites an interest rate of 9% per annum using simple interest, but gives Council discretion in setting interest rate terms and duration.

Recommendation

Staff recommends using a 5% simple interest rate, as this is the rate of return Sandy receives on City resources and will preserve the purchasing power of the dollars invested. Had the project cost been in line with initial estimates, and had the City not spent excess funds on 362nd and Bell, the fund would be receiving 5% interest.

Staff recommends a term of 20 years for the AFRD.

Apportionment Methodology

The AFRD would include six properties, encompassing nearly 96 acres of developable land. Staff reviewed two options for apportioning the reimbursement amount among the benefitting properties.

- 1) Method 1 divides the reimbursement amount by the Total Street Frontage of all the parcels adjacent to the new extensions of Bell St. and 362nd Ave. This method is straightforward, but does not fully account for the developable land, and does not account for shape of parcels, and does not correlate well with development potential.
- 2) Method 2 divides the reimbursement amount by Developable Area per property. This method only considers developable land and excludes easements and FSH overlays. This approach correlates better with the benefit each lot receives from access to the new street and utilities.

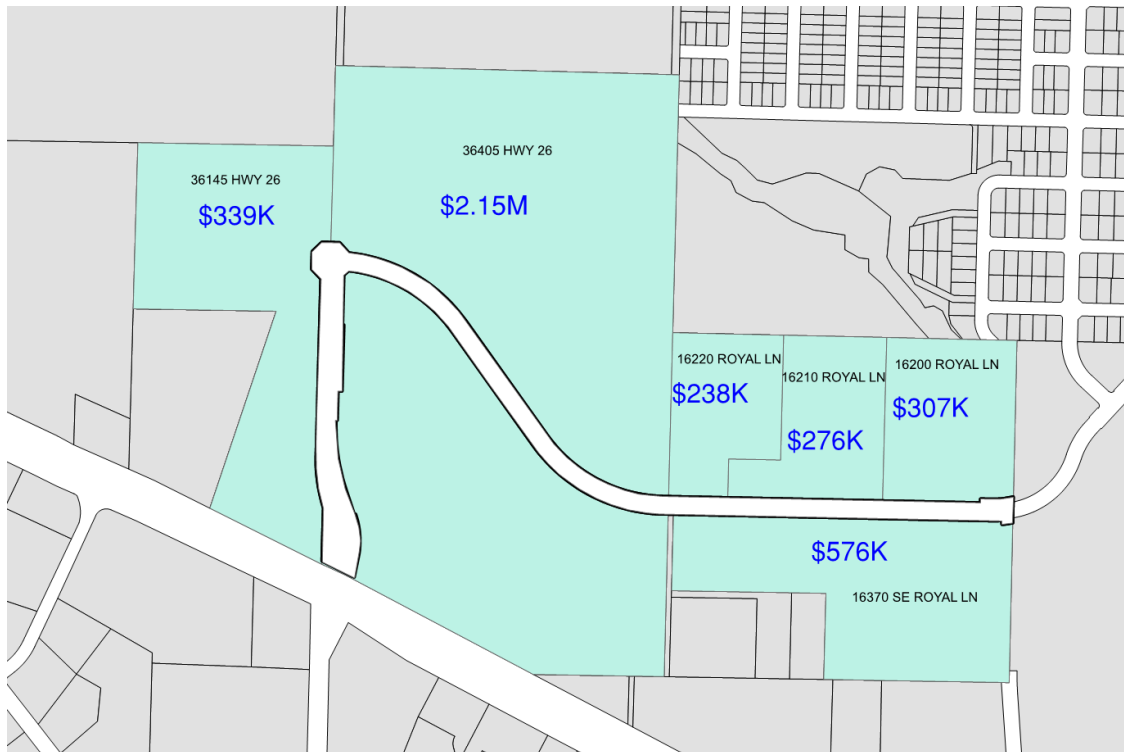
Table 1 indicates which method produces the highest AFRD impact per property. Three properties would pay proportionally more based on the frontage method and two properties would pay

proportionally more based on the area method. One square shaped property is not affected much by either method. The property with the largest developable area is affected most by the area method.

Table 1: Method that produces highest AFRD impact per Parcel

Parcel	Site Address	Method
1	16370 Royal Ln.	Frontage
2	16200 Royal Ln.	N/A
3	16210 Royal Ln.	Frontage
4	16220 Royal Ln.	Area
5	36405 Hwy 26	Area
6	36145 Hwy 26	Frontage

Figure 1 – Example AFRD allocation using Area Method – 30% Total Project Cost



Recommendation

It is recommended that the AFRD be developed using the area method. This appears to offer the best chance of reimbursement and does not unfairly burden smaller properties with long street frontages.

Reimbursement Value

The project cost the City **\$12.94 Million to complete**. The City bonded against vehicle registration fees, which contributed \$5,483,898 to the funding total. The remainder was taken from fund balances in the Street Operations and Street Capital Funds, contributions from the Water and Sewer Fund, and a late transfer of \$600,000 from the General Fund.

As a result, the City's Street Fund; including key operations funds used for the pavement management program, traffic calming, street sweeping, and other obligations (such as ADA ramps, desired improvements to HWY 211, and the TSP); will take significant time to replenish. This timeline can be accelerated if additional funding sources are obtained from taxes or street fees, grant funds, and/or recouping some of the project costs through an AFRD.

Staff proposes two possibilities for the reimbursement value of the AFRD. Both options are lower than the total project cost. **Option A** includes the balance of funds from Street, General Fund, Water and Sewer along with the Bond used to complete the project reduced by the cost of Right of Way acquisition. This is approximately 46% of the total project cost. If this option too high, a lower **Option B** is also presented, which is 30% of total project cost. Alternatively, Council may direct staff to include set the AFRD at whatever alternative dollar or percentage they consider appropriate.

Option A: \$5,941,924 – 46% Reimbursement (project cost less the vehicle registration bond and Right of Way acquisition costs)

Option B: \$3,882,000 – 30% Reimbursement (30% of Project Cost)

OR: Other amount as directed by Council

Recommendation

Due to the multiple goals of the project, staff recommends a balanced approach that will recoup some funds invested while keeping economic development attractive. **Option B** recoups a portion of funds while not placing overly burdensome costs of economic development: \$3,882,000 or 30% of the total project cost.

BUDGET IMPACT:

Creation of an AFRD will have a positive impact on the Street, Sewer and Water Funds, and will cost little to administer, although it is uncertain which properties will develop and on what timeline.

RECOMMENDATION:

Staff recommends creation of an AFRD as a tool for recouping some of the investment in 362nd and Bell Street Extension for the street, water and sewer investments. Staff also recommends that no more than 30% or \$3,882,000 of the total project cost be included in the AFRD (Option B) due to the pledge of Vehicle Registration Fees to pay the bond for the improvements, and the need to balance recouping of investments while keeping economic development viable. Staff recommends a simple interest rate of 5%, a duration of 20 years, and the area method for apportioning the reimbursement amount of the benefitting properties.

SUGGESTED MOTION LANGUAGE:

"I move to direct the City Manager to prepare a Resolution for the creation of an Advance Financing Reimbursement District for the improvements of 362nd and Bell streets, for consideration at a City Council public hearing. The District is to be valued at \$_____(\$3,882,000), and is to use the _____ (Area) apportionment methodology. The District is to expire after ____ (20) years and use a simple interest rate of _____(5) %."

LIST OF ATTACHMENTS / EXHIBITS:

- AFRD presentation slides



362nd & Bell Street Project AFRD

Sandy City
Council
February 5, 2024



Background

Benefits

- Relief of Traffic Bottleneck
- Access to Schools
- Resiliency – Evacuation and Emergency Access
- Economic Development

Project Cost \$12.94M



Decision(s) to be made

- 1) Does the council desire a reimbursement district?**
- 2) Interest rate and term limit?**
- 3) Basis of calculation: street frontage or area?**
- 4) What should be the value of the district?**

Question 1: AFRD

- Investment made by City decreases cost of development of adjacent properties
- AFRD allows City to recoup investment; allows reallocation of funds to other City utility needs
- Properties are impacted only if development occurs

Does the Council wish to establish an AFRD?

Question 2: Interest Rate and Term

- Municipal code prescribes 9% simple interest rate
- The funding spent for this project would earn **5%**
- Standard length of reimbursement districts is **20 years**

What interest rate and term to use?

Question 3: AFRD Methodology

By Area

- Reimbursement amount based on area of affected lots
- Only developable land
- Fair approach

By Street Frontage

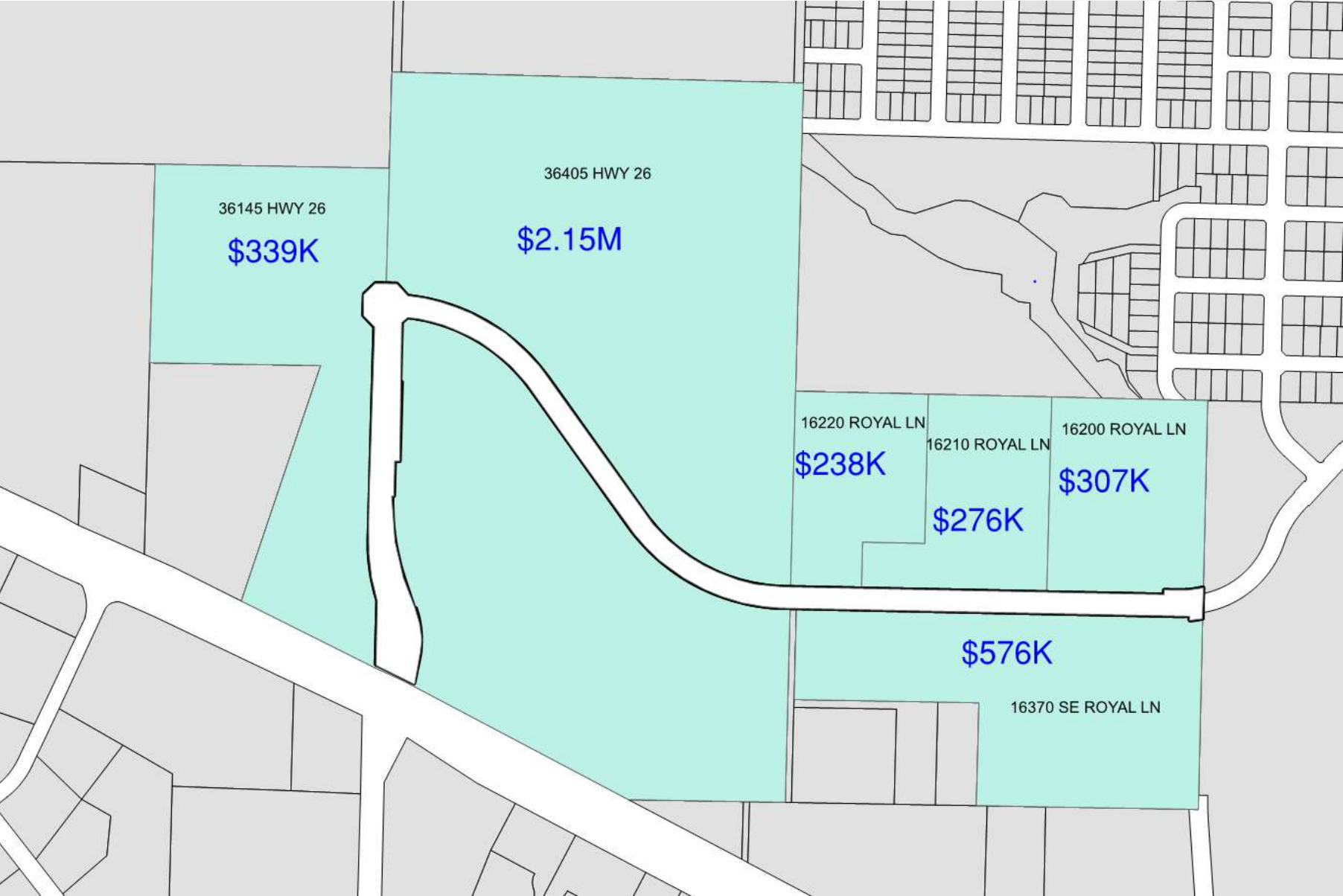
- Reimbursement based on street frontage on 362nd and Bell
- Good representation of direct access to roadway
- Based on lot shape, may not correlate well with development potential

Relative Methodology Impacts to Properties

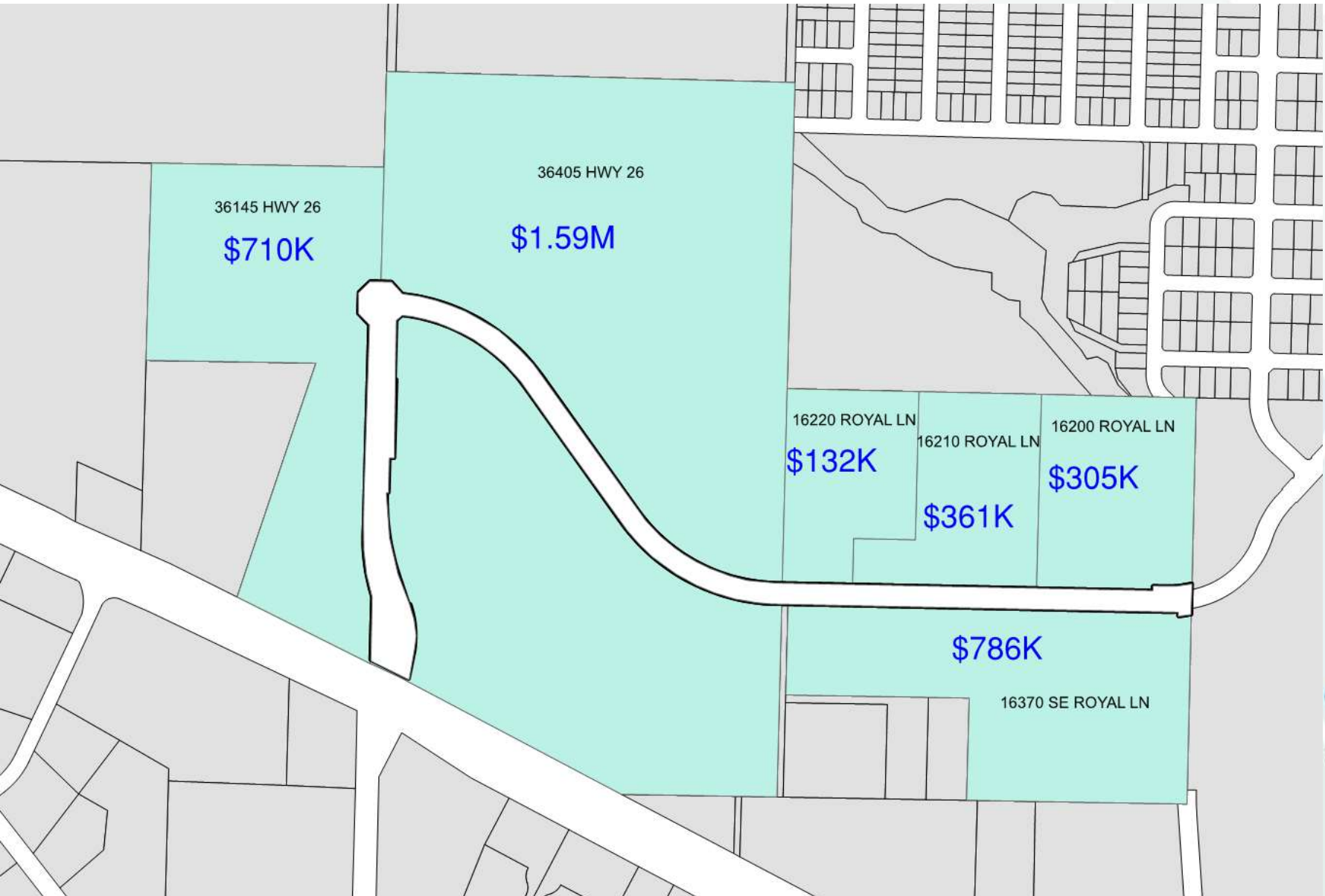
Property Address	Higher Impact of AFRD
16370 Royal Lane	Frontage
16200 Royal Lane	-
16210 Royal Lane	Frontage
16220 Royal Lane	Area
36405 Hwy 26	Area
36145 Hwy 26	Frontage



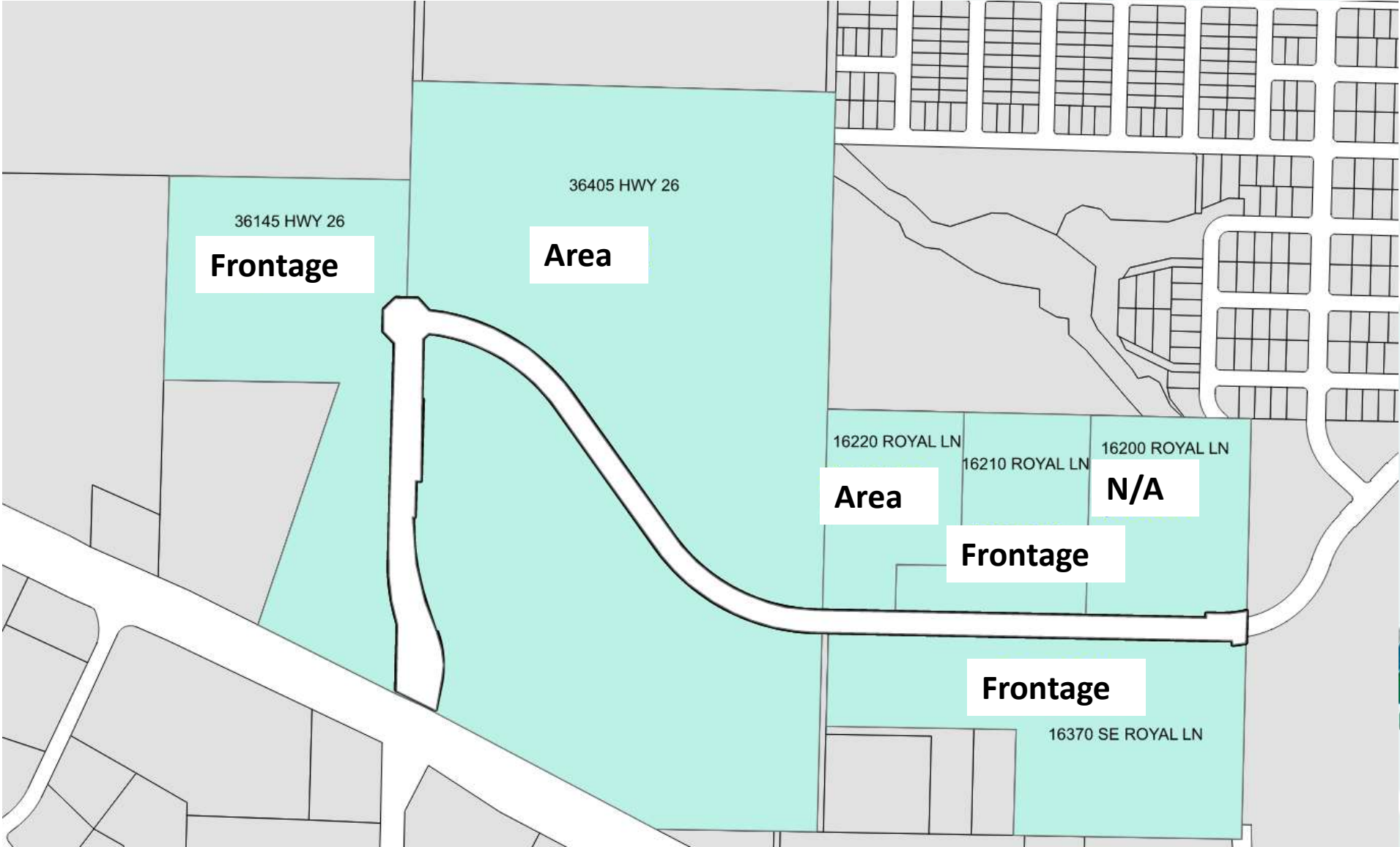
Example – Area Method – 30% Project Cost



Example – Frontage Method– 30% Project Cost



Relative Methodology Impacts to Properties



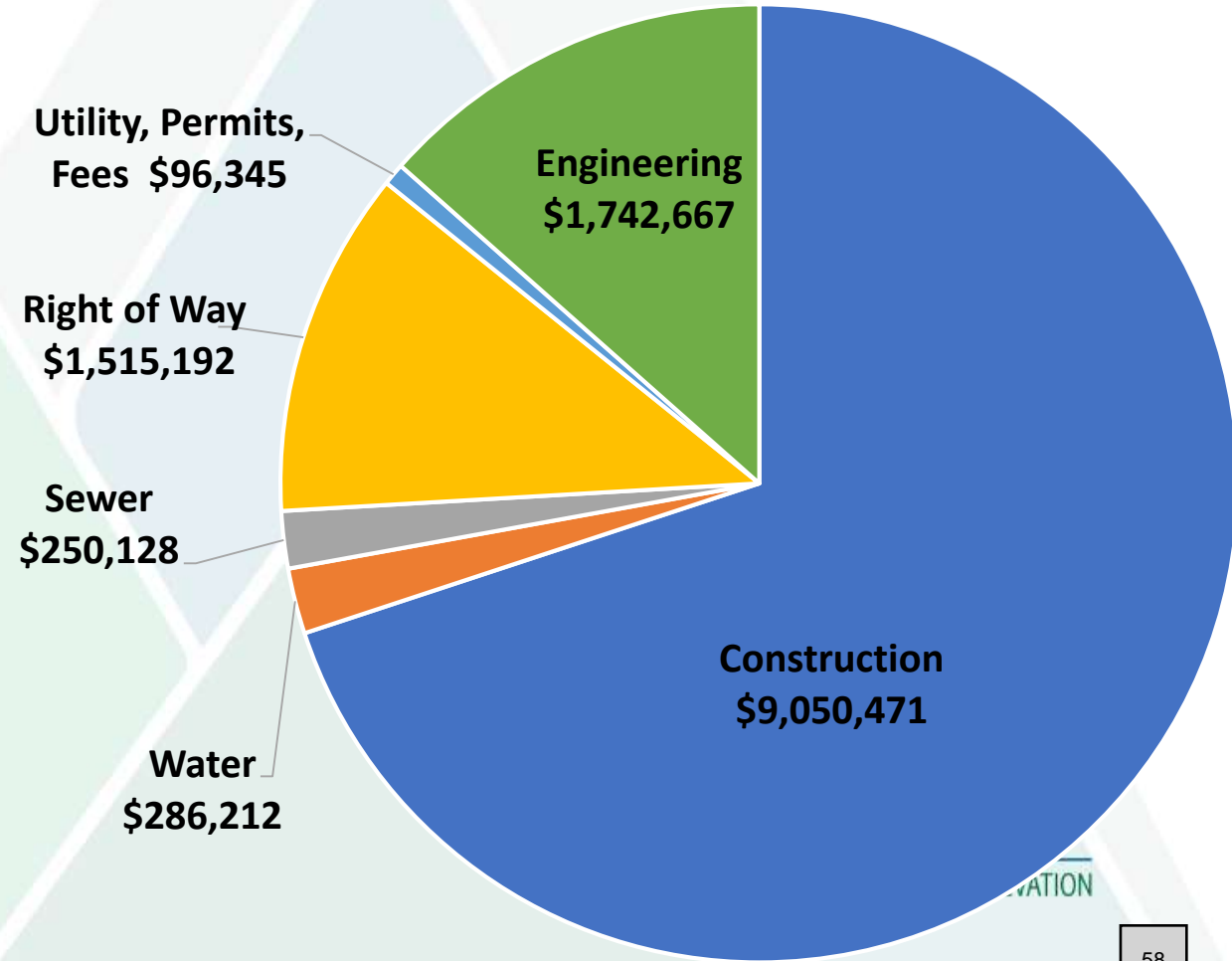
Which method does Council prefer to use?



Question 4: What Should Be the Value of the AFRD?

Item # 5.

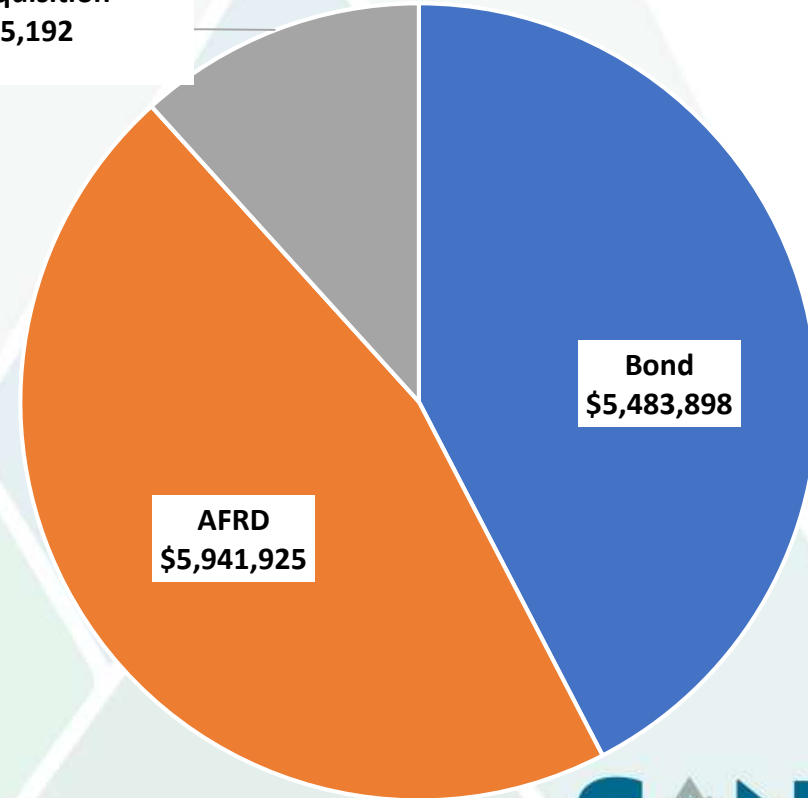
Construction	\$	9,050,471
Water	\$	286,212
Sewer	\$	250,128
Right of Way	\$	1,515,192
Utility, Permits, Fees	\$	96,345
Engineering	\$	1,742,667
Project TOTAL	\$	12,941,014



AFRD Option A-- 46% of Project

- Recoup unbonded cost of project less ROW cost
- AFRD will be \$5,942,000 or approximately 46% of project

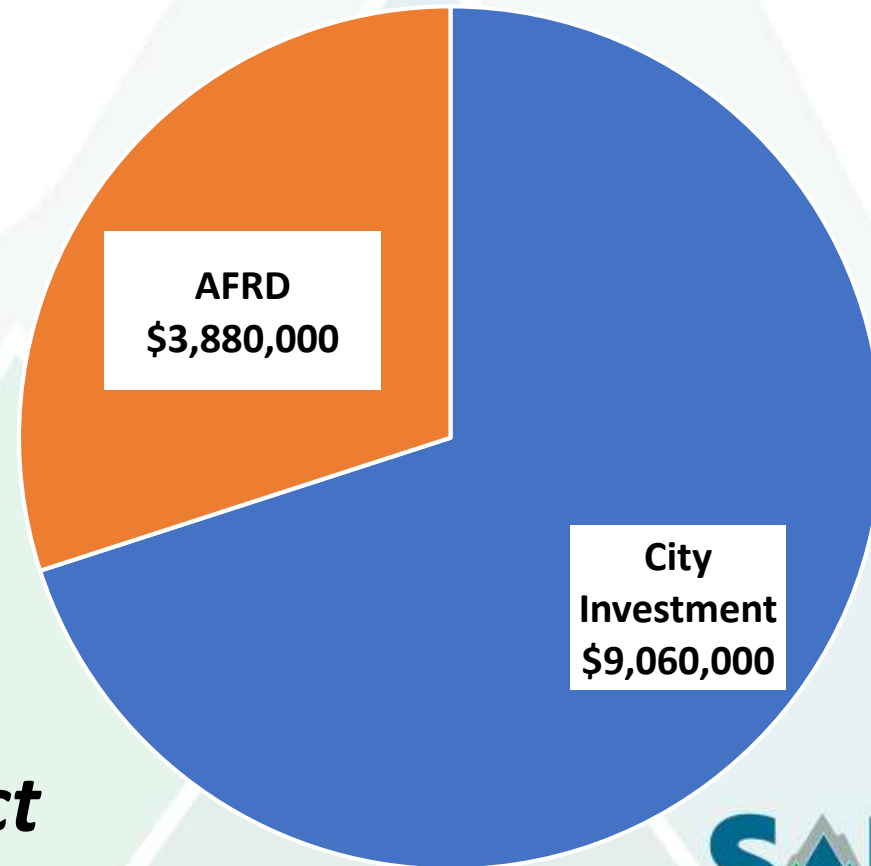
ROW acquisition
\$1,515,192



What value or percent of project does Council wish to use?

AFRD Option B-- 30% of Project

- Recoups some costs
- Keeps economic development incentives
- Total AFRD \$3.88M



What value or percent of project does Council wish to use?

Next Steps

- Council direct staff by motion
- Staff to issue Public Notice with terms
- Bring Public Hearing and Resolution with AFRD terms to Council
- Council to pass Resolution (at future meeting)



Questions?

Thank you!

