



TUALATIN CITY COUNCIL MEETING

MONDAY, OCTOBER 25, 2021

JUANITA POHL CENTER
8513 SW TUALATIN ROAD
TUALATIN, OR 97062

Mayor Frank Bubenik
Council President Nancy Grimes
Councilor Valerie Pratt Councilor Bridget Brooks
Councilor Maria Reyes Councilor Cyndy Hillier
Councilor Christen Sacco

To the extent possible, the public is encouraged to watch the meeting live on local cable channel 28, or on the City's website.

For those wishing to provide comment during the meeting, there is one opportunity on the agenda: Public Comment. Written statements may be sent in advance of the meeting to Deputy City Recorder Nicole Morris up until 4:30 pm on Monday, October 25. These statements will be included in the official meeting record, but not read during the meeting.

For those who would prefer to make verbal comment, there are two ways to do so: either by calling in using the number below or entering the meeting using the zoom link and writing your name in chat. As always, public comment is limited to three minutes per person.

Phone: +1 669 900 6833

Meeting ID: 861 2129 3664

Password: 18880

Link: <https://us02web.zoom.us/j/86121293664?pwd=SS9XZUZyT3FnMk5rbDVKN2pWbnZ6UT09>

Work Session

- 1. 5:30 p.m. (30 min) – Parks Utility Fee: Projects & Prioritization.** In December 2020 the Council authorized a Parks Utility Fee, and in April 2021, set a rate that was effective July 1, 2021. Tonight staff will present the process to prioritize the renovation and replacement of park assets, as well as present a prioritized project list as recommended by the Tualatin Park Advisory Committee (TPARK).
- 2. 6:00 p.m. 30 min) – Ballot Measure Review.** The City Attorney will present the draft Ballot Measure (which includes the Ballot Title, Question, and Summary) as well as the draft Explanatory Statement. Staff will bring forward a Resolution at the next Council meeting incorporating any changes made tonight.

- 3. 6:30 p.m. (30 min) – Council Meeting Agenda Review, Communications & Roundtable.** Council will review the agenda for the October 25th City Council meeting and brief the Council on issues of mutual interest.
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7:00 P.M. CITY COUNCIL MEETING

Call to Order

Pledge of Allegiance

Moment of silence for those who have lost their lives to COVID-19

Public Comment

This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

Consent Agenda

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda.

- 1.** Consideration of Approval of the Work Session and Regular Meeting Minutes of October 11, 2021
- 2.** Consideration of **Resolution No. 5574-21** Authorizing the City Manager to Execute a Grant Agreement with the Oregon Department of Transportation for the Oregon Community Path Program; and Appropriating Specific Purpose Revenues in the City's General Fund during the FY 2021-2022 Budget
- 3.** Consideration of **Resolution No. 5575-21** Awarding a Contract for Engineering Services for the B-Level Water Main Upsize – Ibach to Norwood Reservoirs Project; and Authorizing an Appropriation Transfer in the Water Development Fund for the FY 2021-2022 Budget
- 4.** Consideration of **Resolution No. 5576-21** to Annually Adopt the City of Tualatin Investment Policy
- 5.** Consideration of **Resolution No. 5577-21** Authorizing the City Manager to Enter into an Agreement With Washington County for a Distribution from the Major Streets Transportation Improvement Program Opportunity Fund; and Appropriating Specific Purpose Revenues in the City's General Fund during the FY 2021-2022 Budget
- 6.** Consideration of **Resolution No. 5578-21** Authorizing the City Manager to Execute a Grant Agreement for Two State Homeland Security Grant Program Grants; and Appropriating Special Purpose Revenues in the City's General Fund During the Fiscal Year 2021-22 Budget

- [7.](#) Consideration of **Resolution No. 5579-21** Authorizing the City Manager to execute an Intergovernmental Agreement with the Tualatin Development Commission
- [8.](#) Consideration of **Resolution No. 5580-21** Accepting Department of Justice's Office of Community Oriented Policing Services Grant Funds; and Appropriating Specific Purpose Revenue in the City's General Fund during FY2021-2022 Budget

Special Reports

- [1.](#) Annual Report of the Juanita Pohl Center Advisory Committee

General Business

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

- [1.](#) Tualatin Moving Forward 2022 Neighborhood Traffic Safety Projects Update
- [2.](#) Quarterly Financial Report- 1st Quarter of FY 2021/2022
- [3.](#) Consideration of Recommendations from the Council Committee on Advisory Appointments

Items Removed from Consent Agenda

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

Council Communications

Adjournment

Meeting materials, including agendas, packets, public hearing and public comment guidelines, and Mayor and Councilor bios are available at www.tualatinoregon.gov/council.

Tualatin City Council meets are broadcast live, and recorded, by Tualatin Valley Community Television (TVCTV) Government Access Programming. For more information, contact TVCTV at 503.629.8534 or visit www.tvctv.org/tualatin.

In compliance with the Americans with Disabilities Act, this meeting location is accessible to persons with disabilities. To request accommodations, please contact the City Manager's Office at 503.691.3011 36 hours in advance of the meeting.



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Ross Hoover, Parks and Recreation Director
Rich Mueller, Parks Planning and Development Manager

DATE: October 25, 2021

SUBJECT:
Park Utility Fee Projects

EXECUTIVE SUMMARY:

The Parks and Recreation Master Plan concluded that many of the current parks and facilities are 25 to 30 years old and in need of renovation, replacement and improvement. During 2019 and 2020 staff presented data about the parks system condition, costs to maintain, prioritization, repair and renovation of park assets. Council discussed and considered funding options. On December 14, 2020 Council adopted Ordinance No. 1447-20 authorizing a parks utility fee by creating Tualatin Municipal Code Chapter 3-7. April 26, 2021 Council approved Resolution No. 5540-21 setting the rates for a parks utility fee beginning July 1, 2021. During 2021, The Tualatin Park Advisory Committee (TPARK) has been involved in creating an asset sequencing criteria to rank and score asset projects based on System Balance, Urgency/Immediacy, Ease of Implementation, Synergistic, Environmental Sustainability, Operational Sustainability, and Scale of Benefit. At the October 12, 2021 TPARK meeting, committee members voiced support for the process, and recommended advancing the project list to Council.

Tonight staff will present the process to renovate and replace park assets, and priority project list identified through sequencing criteria to meet City priorities and vision.

ATTACHMENTS:

Presentation



City of

TUALATIN
PARKS & RECREATION

PARKS
UTILITY
FEE
PROJECTS

2018

- Master Plan Acceptance

2019

- Project Prioritization & Funding
- Parks Funding Options

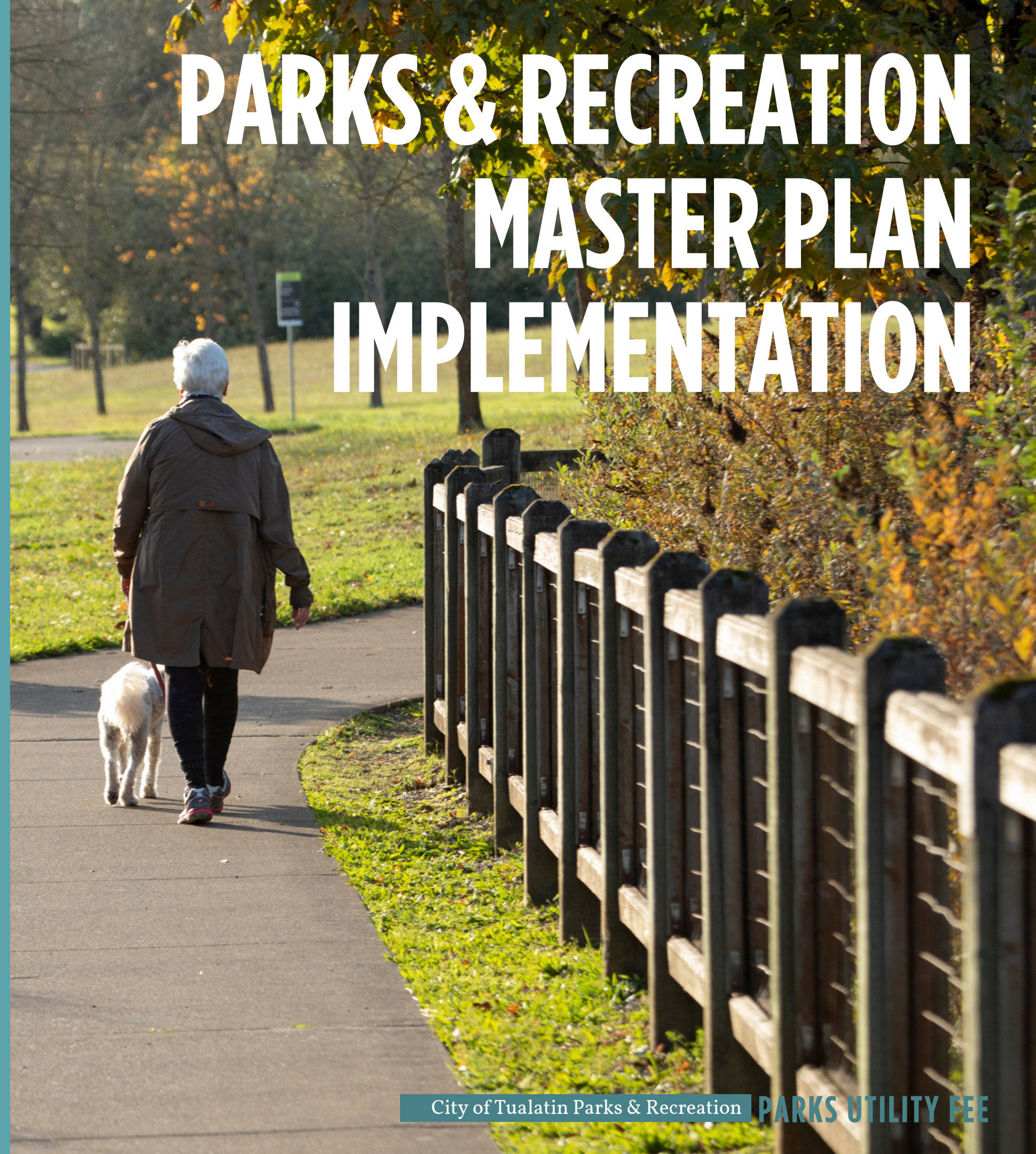
2020

- Parks Funding Options
- Parks Condition Assessment & Costs
- Parks Utility

2021

- TPARK Prioritization Recommendation

PARKS & RECREATION MASTER PLAN IMPLEMENTATION



CONDITION OF PARK SYSTEM



1

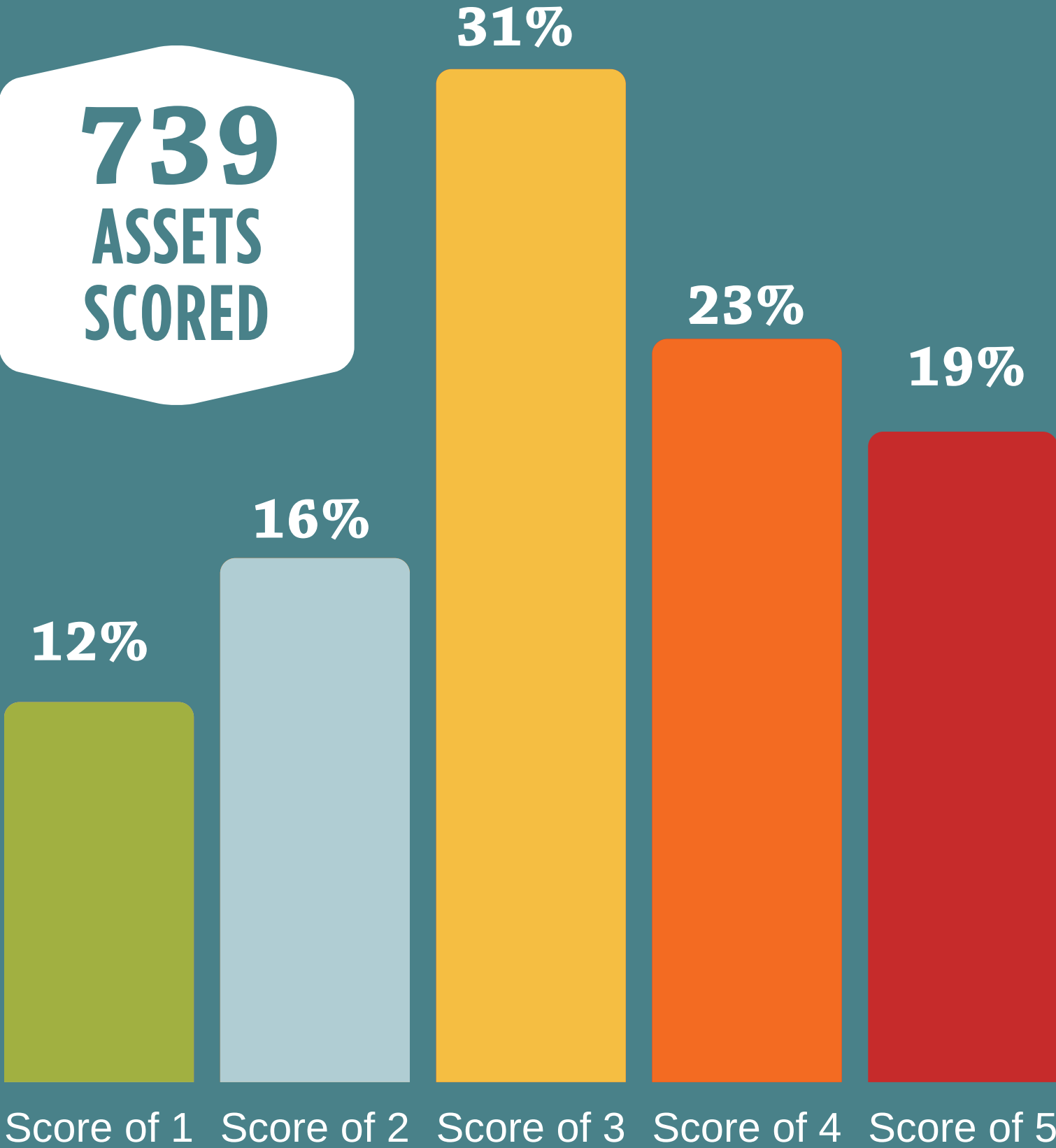
**BRAND NEW
PERFECT CONDITION
FULLY ACCESSIBLE**



5

**END OF LIFE CYCLE
SAFETY HAZARD
NON ACCESSIBLE**

**739
ASSETS
SCORED**



SCORING CRITERIA

- **SYSTEM BALANCE**
- **URGENCY/IMMEDIACY**
- **EASE OF IMPLEMENTATION**
- **SYNERGISTIC**
- **ENVIRONMENTAL SUSTAINABILITY**
- **OPERATIONAL SUSTAINABILITY**

PRIORITIZED ASSETS CONDITION



NEAR TERM SCORED 28-22		MID TERM SCORED 21-18		LONG TERM SCORED 17-1	
Location	Name	Location	Name	Location	Name
Stoneridge	Fence - Chain Link	99 boat ramp	Trail Surface (Gravel)	Atfalati	Sports Turf
Stoneridge	Bench, Picnic Table & Trash cans	99 boat ramp	Concrete ramp	Commons Park	Landscape Beds
Stoneridge	Fence - Wood	Lake	Concrete Surface & Trees	Jurgens	Pavement (Asphalt Trail)
TCP	Main Shelter Restrooms	Lake	Brick Surface	Jurgens	Surface (Parking Lot)
Stoneridge	Asphalt Path	Lake	Drain Grates	Sweek Pond	Cedar Fencing
Stoneridge	Landscape	Ltl Woodrose	90th Entrance Retaining Wall, Planter Bed & Stairs	BFRY	Browns Ferry Apt Studio
Stoneridge	Turf, Irrigation, Drainage	Ltl Woodrose	Trail surface	BFRY	Browns Ferry Community Center
Stoneridge	Gravel Path & Curb	Ltl Woodrose	Fences	BFRY	BF Garage
Stoneridge	Trees	Ltl Woodrose	Walkway & Railroad Tie Stairs	BFRY	Parking Lot Irrigation & Landscaping
TCP	Boat Ramp	TCP	Sports Field Lights	Ibach	Ibach Parking Lot
TCP	Boat Launch Parking & Drive	Tu Rvr GW	Boardwalk (behind Stonesthrow)	Saum Creek	Stairways
TCP	Ped Crossing at Boat Launch	99 boat ramp	Drainage	Jurgens	Fence (Swanson)
Lake	Aphalt Surface	99 boat ramp	ADA Parking	Jurgens	Fence (Rife)
Lake	Rock Surface	99 boat ramp	Parking Area & Bumpers	BFRY	Barn
Stoneridge	Park Entrance	TCP	BBQ Structure	BFRY	Community Center Parking Lot
THS Field	High School Lights	BFRY	Pedestrian Bridge	Commons Park	Bench & Pad
Lake	Lake Water Quality	Ibach	Trash Cans	Commons Park	Path Surface (Concrete)
Lake	Restrooms	Jurgens	Soccer Field	Commons Park	Bumper Curb (Wood)
Lake	Wood Benches & Pads	Lake	Drinking Fountains	Shaniko	Soft Surface Trail
Lake	Concrete Planters/Trash Cans	Lake	Ground Lights	Ltl Woodrose	Park Border Wire Fence
Lake	Bike Racks	Lake	Electrical System	Ltl Woodrose	Fence on Boones Ferry
Stoneridge	Park Lights	Lake	Irrigation System	Ltl Woodrose	Log Benches
Stoneridge	Playground	Lake	Landscape Beds	Saum Creek	Surface behind Venetia
TCP	Irrigation	TCP	Rustic Shelter		
TCP	Van Raden Community Center	TCP	Patio Shelter		
TCP	Parks & Recreation Offices	Atfalati	Restrooms		
TCP	Lafky House	BFRY	Drinking Fountain		
TCP	Parking Lots & Paths (ADA)	Ibach	Drainage (Upper Field & Pathways)		
TCP	Trail Surface (Asphalt)	Jurgens	Invasive Species		
		Sweek Pond	Hedges Creek Bridge		

*REVIEWED & UPDATED ANNUALLY

ANNUAL PROCESS

**Annual Staff
Evaluation**



**Selected
Projects**



**Reviewed &
Recommended
by TPARK**



**Submitted for
Budget
Consideration**



**Budget
Approval**

PROJECT EXECUTION

IN PROGRESS

Brown's Ferry Boardwalk



5

**END OF LIFE CYCLE
SAFETY HAZARD
NON ACCESSIBLE**



QUESTIONS & DISCUSSION

MEASURE LANGUAGE

No person shall be eligible to serve on the City Council more than twelve (12) years in any twenty (20) year period, whether serving as Councilor, Mayor, a pro tem member, or a combination thereof, except if a person has served only two terms as a City Councilor, then that person shall be eligible to serve another two consecutive terms as Mayor. No person may be elected or appointed to an office on the City Council if completing that term of office would cause a violation of these term limits. The calculation of "years" shall include those preceding the passage of this Section, but shall not prevent any member of the City Council from completing a term of office that commenced prior to its passage. For the purposes of this Section, years of service on the City Council shall be calculated by first determining the aggregate number of days a person has served as a member of the City Council within an applicable window of twenty calendar years, and then attributing a year of service for every 365.25 days of service. This Section becomes effective immediately upon passage.

BALLOT TITLE -10 Words

Amends Charter to Modify Mayoral Term Limits in Certain Circumstances.

QUESTION – 20 Words

Should the Charter be amended to allow a two-term City Councilor the opportunity to serve two consecutive terms as Mayor?

SUMMARY – 175 Words

The Measure would amend the City of Tualatin Charter to modify the term limits for the Office of Mayor. If passed, the Measure would allow a person to serve two terms (8 years) as a City Councilor followed by two consecutive terms (8 years) as Mayor, in a 20-year period.

The existing City Charter imposes term limits on a person serving on City Council as Mayor, a Councilor, or a combination of the two offices, to no more than 12 years in a 20-year period. Under the current Charter language, if a person previously served two terms (8 years) as a City Councilor, the person is limited to serving one term (4 years) as Mayor, in a 20-year period. The measure would modify the Charter such that a person who previously served two terms (8 years) as a City Councilor could serve two consecutive terms (8 years) as Mayor, for a total of 16 years on City Council in a 20-year period. In all other circumstances, the 12-year term limit in a 20-year period applies.

EXPLANATORY STATEMENT
MAYOR TERM LIMITS REFERRAL

This Measure, if approved, would amend Section 12(a) of the City of Tualatin Charter (“Charter”) to create a new term limits provision applicable to the Office of Mayor. If passed, the Measure would allow a person who has previously served two terms (8 years) as a City Councilor to be eligible to serve two consecutive terms (8 years) as Mayor, if elected, in a 20-year period.

The City Council consists of the Mayor and six City Councilors. The Charter provides that the Mayor is elected to a four-year term and each City Councilor is elected to a four-year term. The existing Charter language imposes term limits to prohibit a person from serving on City Council to no more than 12 years in any 20-year period. The 12-year limit in the Charter applies to the total amount of time a person serves on the City Council, whether the person is serving as a Mayor, a Councilor, or any combination of the two offices.

This Measure would amend the Charter to modify the term limits applicable to the Office of Mayor in the circumstance where the person has previously served two terms (8 years) as a City Councilor. Under the existing Charter language, if a person has previously served two terms (8 years) as a City Councilor, the person can only serve one term (4 years) as Mayor, in a 20-year period. If approved, this Measure would allow a person to serve as Mayor for two consecutive terms (8 years), instead of only one term (4 years).

The effect of the Measure would allow a person to possibly serve a total of 16 years on City Council in a 20-year period. In all other circumstances, the general term limits of 12 years in any 20-year period would apply to the Office of Mayor. The Measure does not change the term limits for City Councilors.

This Measure would become effective immediately upon passage.



City of Tualatin

CITY OF TUALATIN
Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Nicole Morris, Deputy City Recorder
DATE: October 25, 2021

SUBJECT:

Consideration of Approval of the Work Session and Regular Meeting Minutes of October 11, 2021

RECOMMENDATION:

Staff respectfully recommends the Council adopt the attached minutes.

ATTACHMENTS:

- City Council Work Session Meeting Minutes of October 11, 2021
- City Council Regular Meeting Minutes of October 11, 2021



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL WORK SESSION MEETING FOR OCTOBER 11, 2021

Present: Mayor Frank Bubenik, Council President Nancy Grimes, Councilor Bridget Brooks, Councilor Maria Reyes, Councilor Valerie Pratt, Councilor Cyndy Hillier, Councilor Christen Sacco

Mayor Bubenik called the meeting to order at 5:30 p.m.

1. Equity Committee Discussion.

Deputy City Manager Megan George presented information on the potential establishment of an Equity Committee. She stated the interest for the committee came from the Council Committee on Advisory Appointments (CCAA). Manager George stated the group met in July and has recommended an Equity Committee be formed. In addition they identified potential groups of people for appointments to the committee. She stated the primary objective of the committee would be to build and strengthen relationships and lessen barriers to public participation.

Councilor Pratt stated the CCAA is cognizant of having a diverse group of people serve on city committees. She stated an inclusive and engaged community is part of the council goals and this committee would encompass that. Councilor Pratt stated representatives on the committee would be from diverse backgrounds.

Councilor Brooks believes having citizen participation at a formalized level would be beneficial for the City.

Councilor Reyes stated the need for this committee would solidify the intention of diversity the Council desires.

Manager George presented a matrix sharing Equity Committees throughout the state.

Councilor Brooks stating the committee is suggesting forming an Ad Hoc Committee to establish the charter for the formal committee. She stated the group size should be similar to other committees so it is manageable.

Councilor Pratt stated the CCAA would like to be responsible for interviewing committee members.

Councilor Sacco concurred with the establishment of the committee. She wants to make sure there are clear guidelines for the group.

Councilor Hillier stated this is a perfect time to move this committee forward.

Mayor Bubenik stated he is in support of the committee. He stated there are other great cities out there doing this and the city needs to look at what they are doing to be successful.

Manager George asked what the size of the committee should be. Councilor Reyes stated she doesn't want to put a number on it yet. Mayor Bubenik suggested a maximum number of members instead so the numbers can fluctuate. Manager Lombos suggested the ad hoc committee look at what the number should be for the permanent committee.

Manager George asked if the rule regarding not allowing 50% or more than one diverse group on the committee should be included. Council concurred with the notion.

Councilor Brooks wants to leave room for intersectionality amongst group types.

Mayor Bubenik asked when the ad hoc committee could be formed. Manager Lombos stated staff will need to have further discussions on what staff will be involved and the potential need for a consultant.

2. Council Meeting Agenda Review, Communications & Roundtable.

Councilor Sacco stated she attended the C4 Retreat.

Councilor Brooks stated she attended the Council Committee on Advisory Appointments meeting and the Regional Water Consortium meeting.

Councilor Hillier stated yesterday was World Mental Health Day.

Councilor Pratt stated she attended the C4 Retreat, the Council Committee on Advisory Appointments meeting, the Land and Indigenous Peoples Acknowledgement Committee meeting, and participated in the Atfalati Walk and Bike to School Day.

Councilor Reyes stated she attended the Council Committee on Advisory Appointments meeting.

Council President Grimes expressed appreciation to everyone who worked on the Diversity and Equity Ad Hoc Committee.

Mayor Bubenik stated he attended the Greater Portland Inc. Economic Summit, participated in the Walk and Bike to School Day, participated in a Tualatin Historical Society Interview, and attended the Washington County Mayors meeting.

Adjournment

Mayor Bubenik adjourned the meeting at 6:28 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Frank Bubenik, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR OCTOBER 11, 2021

Present: Mayor Frank Bubenik, Council President Nancy Grimes, Councilor Bridget Brooks, Councilor Maria Reyes, Councilor Valerie Pratt, Councilor Cyndy Hillier, Councilor Christen Sacco

Call to Order

Mayor Bubneik called the meeting to order at 7:00 p.m.

Pledge of Allegiance

Moment of silence for those who have lost their lives to COVID-19

Announcements

Councilor Sacco recognized Indigenous People's Day.

1. Proclamation Declaring October 2021 as National Long-Term Care Residents' Rights Month in the City of Tualatin

Councilor Pratt read the proclamation declaring October 2021 as National Long-Term Care Residents' Rights Month in the City of Tualatin.

Public Comment

None.

Consent Agenda

Motion to adopt the consent agenda made by Councilor Brooks, Seconded by Councilor Pratt.
Voting Yea: Mayor Bubenik, Council President Grimes, Councilor Brooks, Councilor Reyes, Councilor Pratt, Councilor Hillier, Councilor Sacco
MOTION PASSED

1. Consideration of Approval of the Work Session and Regular Meeting Minutes of September 27, 2021
2. Consideration of Approval of a Change in Liquor License Application for Boones Ferry Chevron
3. Consideration of **Resolution No. 5567-21** Awarding the Contract for the Martinazzi Sanitary Sewer Trunk Line Upsizing Project to Icon Construction & Development and Authorizing the City Manager to Execute a Contract
4. Consideration of **Resolution No. 5571-21** Authorizing the City Manager to Execute a Contract Amendment with Wallis Engineering for Professional Engineering and Related Services for the Garden Corner Curves Project

5. Consideration of **Resolution No. 5572-21** Awarding Fiscal Year 2021-22 Outside Agency Grant Funds to Provide Services to the Tualatin Community
6. Consideration of **Resolution No. 5573-21** Authorizing the Purchase of Storage Area Network Equipment, Design, Materials, and Installation

Items Removed from Consent Agenda

1. Consideration of **Resolution No. 5570-21** Awarding a Contract for Purchase of Body Worn Cameras, Tasers, Digital Evidence Storage, Maintenance, and Support

Police Chief Bill Steele stated body worn cameras are a piece of technology the department is now ready to incorporate. He recapped benefits of the cameras including helping with investigating cases and transparency. Chief Steele spoke to the use of tasers and how and when they are deployed. He noted these items were discussed during the community conversations on police use of force.

Mayor Bubenik stated the company that was chosen was recommended by the League of Oregon Cities.

Councilor Sacco stated she is proud to be part of the community especially since the department is implementing these technologies to be more accountable and to build trust.

Councilor Brooks thanked Chief Steele for his leadership and building community trust through the process.

Council President Grimes asked how the contract is structured. Chief Steele stated the contract is for five years and covers upgrades to equipment as new technology is released.

Councilor Reyes stated she is happy to see the cameras implemented as they offer transparency. Chief Steele spoke to the policies they have in place and the confidentiality around blurring faces before any images would be released.

Motion to adopt Resolution No. 5570-21 awarding a contract for purchase of Body Worn Cameras, Tasers, Digital Evidence Storage, Maintenance, and Support made by Councilor Pratt, Seconded by Councilor Brooks.

Voting Yea: Mayor Bubenik, Council President Grimes, Councilor Brooks, Councilor Reyes, Councilor Pratt, Councilor Hillier, Councilor Sacco

MOTION PASSED

Council Communications

Councilor Hillier encouraged citizens to participate in Drug Take Back Day on October 23rd.

Councilor Pratt stated blood donations are down. She encouraged citizens to donate blood.

Councilor Sacco stated fall events in Tualatin include the Tualatin Pumpkin Hunt and the Shrunken Regatta.

Councilor Brooks stated the Tualatin Sustainability Network and the City will be hosting the Hug A Street Litter Blitz event to help with litter pickup in the community. She stated Moms Demand Action are hosting a donation drive to help domestic violence survivors.

Adjournment

Mayor Bubenik adjourned the meeting at 7:32 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Frank Bubenik, Mayor



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Ross Hoover, Parks and Recreation Director
Rich Mueller, Parks Planning and Development Manager

DATE: October 25, 2021

SUBJECT:

Consideration of **Resolution No. 5574-21** Authorizing the City Manager to Execute a Grant Agreement with the Oregon Department of Transportation for the Oregon Community Path Program; and Appropriating Specific Purpose Revenues in the City's General Fund during the FY 2021-2022 Budget.

RECOMMENDATION

Staff recommends Council approval of Resolution No 5574-21.

EXECUTIVE SUMMARY:

The City submitted a letter of intent for Oregon Department of Transportation (ODOT), Oregon Community Paths Program (OCP) grant funds in November 2020 to design and build a section of the Tualatin River Greenway Trail. This trail section runs from Hazelbrook Road, under Highway 99W through Roamers Rest RV Park, and connects to the existing trail at River Ridge Apartments. The .45 mile regional trail section is a critical active transportation link for safety, accessibility, connectivity, and equity. This multimodal off street trail will connect commuters to residential and employment. ODOT received 81 letters of interest totaling 105 million.

The City followed up in January 2021 by submitting an application for grant funds. ODOT received 57 applications totaling \$35 million from across the state. The Oregon Bicycle and Pedestrian Advisory Committee reviewed applications and recommended funding. In May 2021 the Oregon Transportation Committee approved funding Tualatin's project. Tualatin was one of five agencies to be offered State Multimodal Active Transportation funds.

FINANCIAL IMPLICATIONS:

Grant funding for trail design and construction in the amount of \$1,508,427. ODOT Oregon Community Paths Program to provide \$1,055,898.90, and a 30% (\$452,528) match from Washington County Major Streets Transportation Improvement Program (MSTIP) Opportunity Fund. We expect use approximately \$65,000 in Park System Development Charge funds.

ATTACHMENTS:

Resolution No. 5574-21

Exhibit 1 - Grant Agreement, Oregon Department of Transportation, Oregon Community Path Program (OCP)

RESOLUTION NO. 5574-21

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT WITH THE OREGON DEPARTMENT OF TRANSPORTATION FOR THE OREGON COMMUNITY PATHS PROGRAM; AND APPROPRIATING SPECIFIC PURPOSE REVENUES IN THE CITY'S GENERAL FUND DURING THE FY 2021-2022 BUDGET.

WHEREAS, the Oregon Department of Transportation awarded the City \$1,055,898.90 in grant funds for the Oregon Community Paths Program;

WHEREAS, under ORS 294.338(2), during the year the Council may authorize the acceptance of specific purpose revenues and the associated appropriations through a specific purpose revenue budget adjustment resolution;

WHEREAS, the City will receive \$1,055,898.90 in specific purpose revenues from the Oregon Department of Transportation to be used for remote offering of the Oregon Community Paths program; and

WHEREAS, the City of Tualatin desires to participate in this grant program to enhance the Tualatin River Greenway Trail.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager is authorized to execute the grant agreement with the Oregon Department of Transportation, which is attached as Exhibit 1, for the Oregon Community Paths Program.

Section 2. The City Manager is authorized and instructed to adjust the General Fund's budget to reflect receipt of the specific purpose revenue and the associated appropriation:

General Fund Revenues: \$1,055,900

General Fund Expenditures, Parks and Recreation: \$1,055,900

Section 3. This resolution is effective upon adoption.

Adopted by the City Council this ____ day of _____, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

APPROVED AS TO FORM

BY _____
City Attorney

GRANT AGREEMENT
OREGON DEPARTMENT OF TRANSPORTATION
OREGON COMMUNITY PATHS PROGRAM (OCP)

Project Name: Tualatin River Greenway Trail Extension

This Grant Agreement (“Agreement”) is made and entered into by and between the **State of Oregon**, acting by and through its Department of Transportation (“ODOT”), and City of Tualatin, acting by and through its Governing Body, (“Recipient”), both referred to individually or collectively as “Party” or “Parties.”

- 1. Effective Date.** This Agreement shall become effective on the date this Agreement is fully executed and approved as required by applicable law (the “Effective Date”). The availability of Grant Funds (as defined in Section 3) shall end five (5) years after the Effective Date (the “Availability Termination Date”).
- 2. Agreement Documents.** This Agreement consists of this document and the following documents:
 - a. Exhibit A: Project Description, Key Milestones, Schedule and Budget**
 - b. Exhibit B: Recipient Requirements**
 - c. Exhibit C: Subagreement Insurance Requirements**
 - d. Exhibit D: Documentation provided by Recipient prior to execution of the Agreement (i.e. application, Part 1 of the Project Prospectus)**

Exhibits A, B and C are attached to this Agreement. Exhibit D is incorporated by reference. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C; Exhibit D.

- 3. Project Cost; Grant Funds.** The total estimated Project cost is \$1,508,427.00. In accordance with the terms and conditions of this Agreement, ODOT shall provide Recipient grant funds in a total amount not to exceed \$1,055,898.90 (the “Grant Funds”). Recipient will be responsible for all Project costs not covered by the Grant Funds.
- 4. Project.**
 - a. Use of Grant Funds.** The Grant Funds shall be used solely for the Project described in Exhibit A (the “Project”) and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless ODOT approves such changes by amendment pursuant to Section 4(c).

ODOT/Recipient
Agreement No. 34898

- b. Eligible Costs.** Recipient may seek reimbursement for its actual costs to develop the Project, consistent with the terms of this Agreement (“Eligible Costs”).
- i.** Eligible Costs are actual costs of Recipient to the extent those costs are:
- A.** reasonable, necessary and directly used for the Project;
 - B.** permitted by generally accepted accounting principles established by the Governmental Accounting Standards Board, as reasonably interpreted by the State, to be capitalized to an asset that is part of the Project;
 - C.** eligible or permitted uses of the Grant Funds under the Oregon Constitution, the statutes and laws of the state of Oregon, and this Agreement.
- ii.** Eligible Costs do NOT include:
- A.** operating and working capital or operating expenditures charged to the Project by Recipient;
 - B.** loans or grants to be made to third parties;
 - C.** any expenditures incurred before the Oregon Transportation Commission awards this Project or after the Availability Termination Date; or
 - D.** costs associated with the Project that substantially deviate from Exhibit A, Project Description, unless such changes are approved by ODOT by amendment of this Agreement;
- c. Project Change Procedures.**
- i.** If Recipient anticipates a change in scope, Key Milestone Dates, or Availability Termination Date, Recipient shall submit a written request to CommunityPaths@odot.state.or.us. The request for change must be submitted before the change occurs.
- ii.** Recipient shall not proceed with any changes to scope, Key Milestone Dates, or Availability Termination Date before the execution of an amendment to this Agreement executed in response to ODOT’s approval of a recipients request for change. A request for change may be rejected at the sole discretion of ODOT.

5. Reimbursement Process and Reporting.

- a.** ODOT shall reimburse Recipient for 70% (seventy) of Eligible Costs up to the Grant Fund amount provided in **Section 3**. ODOT shall reimburse Eligible Costs within forty-five (45) days of ODOT’s receipt and approval of a request for reimbursement from Recipient. Recipient must pay its contractors, consultants and vendors before submitting a request for reimbursement to ODOT for reimbursement. ODOT will not reimburse more than one request for reimbursement per month.

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- b. Recipient must submit to ODOT its first reimbursement request within two (2) years of the Effective Date.
- c. Each reimbursement request shall be submitted on ODOT's Reimbursement Request form <https://www.cognitofrms.com/ODOT2/ocpreimbursementrequest> to the CommunityPaths@odot.state.or.us and include the Agreement number, the start and end date of the billing period, itemize all expenses for which reimbursement is claimed. Upon ODOT's request, Recipient shall provide to ODOT evidence of payment to contractors. Recipient shall also include with each reimbursement request a summary describing the work performed for the period seeking reimbursement and work expected for the next period, if any.
- d. **Retainage.** ODOT will withhold five percent (5%) retainage from the amount paid pursuant to each reimbursement request and shall release the cumulative retainage to Recipient upon completion of an on-site review and final Project acceptance by ODOT.
- e. Recipient shall, no later than ninety (90) days after the completion of the Project or Availability Termination Date, whichever occurs earlier, submit a final reimbursement request. Failure to submit the final request for reimbursement within ninety (90) days after could result in non-payment.
- f. Upon ODOT's receipt of the final reimbursement request, ODOT will conduct a final on-site review of the Project. ODOT will withhold payment of the final reimbursement request until both the OCP Program Manager, or designee, have completed the final review and accepted the Project as complete.
- g. ODOT's obligation to disburse Grant Funds to Recipient is subject to the satisfaction, with respect to each disbursement, of each of the following conditions precedent:
 - i. ODOT has received funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to make the disbursement.
 - ii. Recipient is in compliance with the terms of this Agreement.
 - iii. Recipient's representations and warranties set forth in Section 6 are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
- h. Recovery of Grant Funds.
 - i. Recovery of Misexpended Funds or Nonexpended Funds. Any Grant Funds disbursed to Recipient under this Agreement that are either (i) disbursed but unexpended at the end of the Availability Termination Date ("Unexpended Funds") or (ii) expended in violation of one or more of the provisions of this Agreement ("Misexpended Funds") must be returned to ODOT. Recipient shall return all Unexpended Funds to ODOT no later than fifteen (15) days after the Availability Termination Date. Recipient shall return all Misexpended Funds to ODOT promptly after ODOT's written demand and no later than fifteen (15) days after ODOT's written demand.

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- ii. Recovery of Grant Funds upon Termination. If this Agreement is terminated under any of Sections 9(b)(i), 9(b)(ii), 9(b)(iii) or 9(b)(vi), Recipient shall return to ODOT all Grant Funds disbursed to Recipient within 15 days after ODOT's written demand for the same.

i. Reporting

- i. Quarterly reports. Recipient shall submit quarterly progress reports to ODOT using a format that ODOT provides. Recipient must submit the reports to CommunityPaths@odot.state.or.us by the first Wednesday of March, June, September, and December.
- ii. Final Report. Recipient shall submit a final written report (The "Final Report") to CommunityPaths@odot.state.or.us. The Final Report identifies the average number of people walking or biking along the path on an average day (24 hours), including morning peak (6-9 a.m. and afternoon peak (4-7p.m.). Report will be due six (6) months after Project completion.
- iii. Upon request, Recipient must provide ODOT with a copy of all other documents, studies, reports and materials developed during the Project and any other information that may be reasonably requested by ODOT.

6. Representations and Warranties of Recipient. Recipient represents and warrants to ODOT as follows:

- a. **Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement.
- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. **No Solicitation.** Recipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

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- d. **No Debarment.** Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from any federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify ODOT immediately if it is debarred, suspended or otherwise excluded from any federally assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.
- e. **Compliance with Oregon Taxes, Fees and Assessments.** Recipient is, to the best of the undersigned(s) knowledge, and for the useful life of the Project will remain, current on all applicable state and local taxes, fees and assessments.

7. Records Maintenance and Access; Audit.

- a. **Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Recipient shall ensure that each of its subrecipients and subcontractors complies with these requirements. ODOT, the Secretary of State of the State of Oregon (the "Secretary") and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the Grant Funds, or the Project for the purpose of making audits and examinations. In addition, ODOT, the Secretary and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of ODOT and the Secretary to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.
- b. **Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for a period of six (6) years after final payment. If there are unresolved audit questions at the end of the period described in this section, Recipient shall retain the records until the questions are resolved.
- c. **Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by ODOT under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit ODOT to verify how the Grant Funds were expended.

This Section 7 shall survive any expiration or termination of this Agreement.

8. Recipient Subagreements and Procurements

- a. **Subagreements.** Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, "subagreements") for performance of the Project.
 - i. All subagreements must be in writing, executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to

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- the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
- ii. Recipient shall require all of its contractors performing work under this Agreement to name ODOT as a third-party beneficiary of Recipient's subagreement with the Contractor and to name ODOT as an additional or "dual" obligee on contractors' payment and performance bonds.
 - iii. Recipient shall provide ODOT with a copy of any signed subagreement, as well as any other purchasing or contracting documentation, upon ODOT's request at any time. Recipient must report to ODOT any material breach of a term or condition of a subagreement within ten (10) days of Recipient discovering the breach.

b. Subagreement indemnity; insurance.

- i. *Recipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless State of Oregon, the Oregon Transportation Commission and its members, the Department of Transportation, their officers, agents and employees 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 the other party to Recipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that ODOT shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of ODOT, be indemnified by the other party to Recipient's subagreement(s) from and against any and all Claims.*
- ii. Any such indemnification shall also provide that neither Recipient's subrecipient(s), contractor(s) nor subcontractor(s), nor any attorney engaged by Recipient's subrecipient(s), contractor(s) nor subcontractor(s) shall defend any claim in the name of ODOT or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's subrecipient is prohibited from defending the State, or that Recipient's subrecipient is not adequately defending the State's interests, or that an important governmental principle is at issue or that it is in the best interests of the State to do so. The State reserves all rights to pursue claims it may have against Recipient's subrecipient if the State of Oregon elects to assume its own defense.
- iii. If the Project or Project work is on or along a state highway, Recipient shall require its contractor(s) to meet the minimum insurance requirements provided in Exhibit C. Recipient may specify insurance requirements of its contractor(s) above the minimum insurance requirements specified in Exhibit C. Recipient shall verify its contractor(s) meet the insurance requirements in Exhibit C.

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- iv. Recipient shall determine insurance requirements, insurance types and amounts, as deemed appropriate based on the risk of the work outlined within the subagreement. Recipient shall specify insurance requirements and require its contractor(s) to meet the insurance requirements. Recipient shall obtain proof of the required insurance coverages, as applicable, from any contractor providing services related to the subagreement.
 - v. Recipient shall require its contractor(s) to require and verify that all subcontractors carry insurance coverage that the contractor(s) deems appropriate based on the risks of the subcontracted work.
- c. Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code, Oregon Revised Statute (ORS) 279 A, B, and C, and rules, ensuring that:
- i. All applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement; and
 - i. All procurement transactions are conducted in a manner providing full and open competition.
- d. Self-Performing Work.** Recipient must receive prior approval from ODOT for any self-performing work.
- e. Conflicts of Interest.** Recipient's public officials shall comply with Oregon's government ethics laws, ORS 244.010 *et seq.*, as those laws may be subsequently amended.

9. Termination

- a. Mutual Termination.** This Agreement may be terminated by mutual written consent of the Parties.
- b. Termination by ODOT.** ODOT may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by ODOT in such written notice, under any of the following circumstances:
- i. If Recipient fails to perform the Project within the time specified in this Agreement, or any extension of such performance period;
 - ii. If Recipient takes any action pertaining to this Agreement without the approval of ODOT and which under the provisions of this Agreement would have required ODOT's approval;
 - iii. If Recipient fails to perform any of its other obligations under this Agreement, and that failure continues for a period of 10 calendar days after the date ODOT delivers Recipient written notice specifying such failure. ODOT may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action;

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- iv. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement;
 - v. If Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - vi. If the Project would not produce results commensurate with the further expenditure of funds.
 - vii. If the Project is not substantially initiated 180 days from the effective date of the agreement.
- c. Termination by Either Party.** Either Party may terminate this Grant Agreement upon at least ten (10) days' notice to the other Party and failure of the other Party to cure within the period provided in the notice, if the other Party fails to comply with any of the terms of this Grant Agreement.
- d. Rights upon Termination; Remedies.** Any termination of this Grant Agreement shall not prejudice any rights or obligations accrued before termination. The remedies set forth in this Grant Agreement are cumulative and are in addition to any other rights or remedies available at law or in equity.

10. GENERAL PROVISIONS

a. Contribution.

- i. 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 ODOT or Recipient with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
- ii. With respect to a Third Party Claim for which ODOT is jointly liable with Recipient (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such

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- expenses, judgments, fines or settlement amounts. ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.
- iii. With respect to a Third Party Claim for which Recipient is jointly liable with ODOT (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
- b. Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- c. Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- d. Duplicate Payment.** Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- e. No Third-Party Beneficiaries.** ODOT and Recipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.
- f. Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email or mailing the same, postage prepaid, to Recipient Contact or ODOT Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section 10(f). Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against ODOT, such facsimile transmission must be confirmed by telephone notice to ODOT Contact. Any communication by email shall be deemed to be given when the recipient of the

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email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.

- g. Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “Claim”) between ODOT (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. 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.
- h. Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Recipient agrees to comply with the requirements of ORS 366.514, Use of Highway Fund for footpaths and bicycle trails.
- i. Insurance; Workers’ Compensation.** All employers, including Recipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers’ Compensation coverage, unless such employers are exempt under ORS 656.126. Employer’s liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- j. Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of ODOT. Recipient has no right or authority to incur or create any obligation for or legally bind ODOT in any way. ODOT cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an “officer”, “employee”, or “agent” of ODOT, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- k. Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

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- l. Counterparts.** This Agreement may be executed in two or more counterparts, each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

- m. Integration and Waiver.** This Agreement, including all Exhibits, constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. Recipient, by the signature below of its authorized representative, acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

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

Signature Page to Follow

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Electronic Signatures. The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement, Work Orders, and amendments, submitted or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. State reserves the right at any time to require the submission of the hard copy originals of any documents.

CITY OF TUALATIN, by and through its
Governing Body

STATE OF OREGON, by and through its
Department of Transportation

By _____
(Legally designated representative)

By _____
Public Transportation Division Administrator

Name _____
(printed)

Name _____
(printed)

Date _____

Date _____

By _____

APPROVAL RECOMMENDED

Name _____
(printed)

By _____
Oregon Community Paths Program Manager

Date _____

Name _____
(printed)

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

Date _____

By _____
Recipient's Legal Counsel

By _____
State Traffic-Roadway Engineer

Date _____

Date _____

Recipient Contact:
Rich Mueller, Parks Planning & Development
Manager
18880 SW Martinazzi Ave
Tualatin, OR 97062
(503) 691-3064
rmueller@tualatin.gov

APPROVED AS TO LEGAL SUFFICIENCY

By Sam Zeigler via email
Assistant Attorney General (If over \$150,000)

Date 8/4/21

ODOT Contact:
Alan Thompson
555 13th Street NE
Salem, OR 97301-4178
Phone: 503.986.
Alan.L.Thompson@odot.state.or.us

EXHIBIT A

Project Description, Key Milestones, Schedule and Budget

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Project Name: Tualatin River Greenway Trail Extension

A. PROJECT DESCRIPTION

The Project will construct an ADA accessible trail, approximately 0.45 miles in length, and approximately 12 feet wide, extending the existing western spur of the Tualatin River Greenway, just west of the Roamers Rest RV Park, east, under Highway 99, to just east of the Tualatin Riverkeepers office.

Recipient acknowledges that such Project improvements funded under this Agreement may trigger other Recipient responsibilities under the Americans with Disabilities Act. Recipient agrees that it is solely responsible for ensuring Americans with Disabilities Act compliance pursuant to Exhibit B, Recipient Requirements, Section 5.

B. PROJECT KEY MILESTONES AND SCHEDULE

The Project has four (4) Key Milestone(s). Key Milestones are used for evaluating performance on the Project as described in the Agreement. Neither Key Milestone 1, Scoping and planning, nor Key Milestone 4, Project completion, can be changed without an amendment to the Agreement.

If Recipient anticipates either that Key Milestone 1 will require material changes or that Key Milestones 2 through 4 will be delayed by more than ninety (90) days, Recipient shall submit a Request for Change Order, as described in Section 4(c) of the Agreement, to CommunityPaths@odot.state.or.us as soon as Recipient becomes aware of any possible change or delay. Recipient must submit the Request for Change Order before materially changing the project scope (Key Milestone 1) or delaying the Project completion (Key Milestone 4).

Table 1: Key Milestones

Key Milestone	Description	Estimated Due Date
1	Scoping and planning	19 weeks from Agreement Execution
2	Engineering and Design	35 weeks from Agreement Execution
3	Construction	120 weeks from Agreement Execution
4	Project Completion (Project must be completed within 5 years of Agreement execution)	11/19/23

EXHIBIT B**Recipient Requirements**

1. Recipient shall comply with all applicable provisions of ORS 279C.800 to 279C.870 pertaining to prevailing wage rates and including, without limitation, that workers on the Project shall be paid not less than rates in accordance with ORS 279C.838 and 279C.840 pertaining to wage rates and ORS 279C.836 pertaining to having a public works bond filed with the Construction Contractors' Board.
2. Recipient shall notify ODOT's Contact in writing when any contact information changes during the Agreement.
3. Recipient shall, at its own expense, maintain and operate the Project upon completion and throughout the useful life of the Project at a minimum level that is consistent with normal depreciation or service demand or both. The Parties agree that the useful life of the Project is defined as seven (7) years from its completion date (the "Project Useful Life"). Unless otherwise negotiated, and after the Project Useful Life, ODOT will maintain that portion of the project that is within its jurisdiction.
4. Recipient shall maintain 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. If the Project or any portion is destroyed, insurance proceeds will be paid to ODOT, unless Recipient has informed ODOT in writing that the insurance proceeds will be used to rebuild the Project.
5. **Americans with Disabilities Act Compliance**
 - a. **State Highway:** For portions of the Project located on or along the State Highway System or a State-owned facility ("state highway"):
 - i. Recipient shall utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Recipient shall follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
 - iii. At Project completion, Recipient shall send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form and to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>

- iv. Recipient shall promptly notify ODOT of Project completion and allow ODOT to inspect Project sidewalks, curb ramps, and pedestrian-activated signals located on or along a state highway prior to acceptance of Project by Recipient and prior to release of any Recipient contractor.
 - v. Recipient shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Recipient shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, disability organizations, and ODOT at least 10 days prior to the start of construction.
- b. Local Roads:** For portions of the Project located on Recipient roads or facilities that are not on or along a state highway:
- i. Recipient shall ensure that the Project, including all sidewalks, curb ramps, and pedestrian-activated signals, is designed, constructed and maintained in compliance with the ADA.
 - ii. Recipient may follow its own processes or may use ODOT's processes for design, construction, or alteration of Project sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current Curb Ramp Inspection form, available at:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>;

Additional ODOT resources are available at the above-identified link. ODOT has made its forms, processes, and resources available for Recipient's use and convenience.
 - iii. Recipient assumes sole responsibility for ensuring that the Project complies with the ADA, including when Recipient uses ODOT forms and processes. Recipient acknowledges and agrees that ODOT is under no obligation to review or approve Project plans or inspect the completed Project to confirm ADA compliance.
 - iv. Recipient shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs and include accessibility features equal to or better than the features present in the existing pedestrian route. Recipient shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations prior to the start of construction.
- c.** Recipient shall ensure that any portions of the Project under Recipient's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Recipient ensuring that:

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- i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Recipient identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Recipient, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the Project in compliance with the ADA requirements that were in effect at the time the Project was constructed or altered,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
- d. Maintenance obligations in this Section 5 shall survive termination of this Agreement.

6. Work Performed within ODOT's Right of Way

- a. Prior to the commencement of work, Recipient shall obtain, or require its contractor to obtain, permission from the appropriate ODOT District Office to work on or along the state highway. This Agreement does not provide permission to work on or along the state highway.
- b. If the Project includes traffic control devices (see ODOT's Traffic Manual, Chapter 5, for a description of traffic control devices) on or along a state highway, Recipient shall, pursuant to Oregon Administrative Rule (OAR) 734-020-0430, obtain the approval of the State Traffic Engineer prior to design or construction of any traffic control device being installed.
- c. Recipient shall enter into a separate traffic signal agreement with ODOT to cover obligations for any traffic signal being installed on a state highway.
- d. Recipient shall ensure that its electrical inspectors possess a current State Certified Traffic Signal Inspector certificate before the inspectors inspect electrical installations on state highways. The ODOT's District Office shall verify compliance with this requirement before construction. The permit fee should also cover the State electrician's supplemental inspection.

7. General Standards

The Project shall be completed within industry standards and best practices to ensure that the functionality and serviceability of the Program's investment meets the intent of the application and the Program.

8. Land Use Decisions

- a. Recipient shall obtain all permits, "land use decisions" as that term is defined by ORS 197.015(1) (2020), and any other approvals necessary for Recipient to complete the Project by the Project completion deadline identified in Exhibit A (each a "Land Use Decision" and collectively, "Land Use Decisions").

- b. If at any time before the Availability Termination Date identified in Section 1 of this Agreement ODOT concludes, in its sole discretion, that Recipient is unlikely to obtain one or more Land Use Decisions before the Availability Termination Date, ODOT may (i) suspend the further disbursement of Grant Funds upon written notice to Recipient (a “Disbursement Suspension”) and (ii) exercise any of its other rights and remedies under this Agreement, including, without limitation, terminating the Agreement and recovering all Grant Funds previously disbursed to Recipient.
- c. If after a Disbursement Suspension ODOT concludes, in its sole discretion and based upon additional information or events, that Recipient is likely to timely obtain the Land Use Decision or Decisions that triggered the Disbursement Suspension, ODOT will recommence disbursing Grant Funds as otherwise provided in this Agreement.
- d. This Section 8 is in addition to, and not in lieu of, ODOT’s rights and remedies under Section 5.h (“Recovery of Grant Funds”) of this Agreement.

9. Website

Recipient shall provide ODOT a link to any website created about the Project identified in Exhibit A before any costs being considered eligible for reimbursement. Recipient shall notify the ODOT Contact in writing when the link changes during the term of this Grant Agreement.

EXHIBIT C

Subagreement Insurance Requirements

1. GENERAL.

- a. If the Project is on or along a state highway, Recipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, “TAIL” COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to ODOT. Recipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a subagreement when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, “first tier” means a subagreement in which the Recipient is a Party.
- b. The insurance specified below is a minimum requirement that the contractor within the subagreement shall meet. Recipient may determine insurance types and amounts in excess to the minimum requirement as deemed appropriate based on the risks of the work outlined within the subagreement.
- c. Recipient shall require the contractor(s) to require that all of its subcontractors carry insurance coverage that the contractor deems appropriate based on the risks of the subcontracted work. Contractor shall obtain proof of the required insurance coverages, as applicable, from any subcontractor providing Services related to the Contract.

2. TYPES AND AMOUNTS.

a. WORKERS COMPENSATION.

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide **Workers' Compensation Insurance** coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employer's Liability Insurance with limits not less than \$500,000 each accident. **Contractor shall require compliance with these requirements in each of its subcontractor contracts.**

b. COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance shall be issued on an occurrence basis covering bodily injury and property damage and shall include personal and advertising injury liability, products and completed operations, and contractual liability coverage. When work to be performed includes operations or activity within 50 feet of any railroad property, bridge, trestle, track,

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roadbed, tunnel, underpass or crossing, the Contractor shall provide the Contractual Liability – Railroads CG 24 17 endorsement, or equivalent, on the Commercial General Liability policy. Amounts below are a minimum requirement as determined by ODOT:

Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

c. AUTOMOBILE Liability Insurance: Automobile Liability.

Automobile Liability Insurance covering Contractor’s business-related automobile use covering all owned, non-owned, or hired vehicles for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Amount below is a minimum requirement as determined by ODOT:

Coverage shall be written with a combined single limit of not less than \$1,000,000.

d. ADDITIONAL INSURED.

The Commercial General Liability Insurance and Automobile Liability Insurance must include the “**State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees**” as an **endorsed** Additional Insured but only with respect to the contractor’s activities to be performed under the Subcontract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations. Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to the Recipient.

e. “TAIL” COVERAGE.

If any of the required insurance policies is on a “claims made” basis, such as professional liability insurance or pollution liability insurance, the contractor shall maintain either “tail” coverage or continuous “claims made” liability coverage, provided the effective date of the continuous “claims made” coverage is on or before the effective date of the Subcontract, for a minimum of twenty-four (24) months following the later of : (i) the contractor’s completion and Recipient’s acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing twenty-four (24) month requirement, if the contractor elects to maintain “tail” coverage and if the maximum time period “tail” coverage reasonably available in the marketplace is less than the twenty-four (24) month period described above, then the contractor may request and ODOT may grant approval of the maximum “tail “ coverage period reasonably available in the marketplace. If ODOT approval is granted, the contractor shall maintain “tail” coverage for the maximum time period that “tail” coverage is reasonably available in the marketplace.

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f. NOTICE OF CANCELLATION OR CHANGE.

The contractor or its insurer must provide thirty (30) days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

g. CERTIFICATE(S) OF INSURANCE.

Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) **“State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees”** as an endorsed Additional Insured in regards to the Commercial General Liability and Automobile Liability policies and ii) that all liability insurance coverages shall be primary and non-contributory with any other insurance and self-insurance, with exception of Workers' Compensation..

The Recipient shall immediately notify ODOT of any change in insurance coverage.



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Mark Schlagel, P.E., Engineering Associate
Heidi Springer, P.E., City Engineer

DATE: 10/25/2021

SUBJECT:

Consideration of **Resolution No. 5575-21** Awarding a Contract for Engineering Services for the B-Level Water Main Upsize – Ibach to Norwood Reservoirs Project; and Authorizing an Appropriation Transfer in the Water Development Fund for the FY 2021-2022 Budget

RECOMMENDATION:

Staff recommends that the City Council authorize the City Manager to enter into a contract with AKS Engineering & Forestry, LLC for engineering services to 1) determine the preferred alignment; and 2) design approximately 5,700 feet of 18-inch diameter water main to replace an undersized and aging 12-inch diameter cast iron water main in SW Boones Ferry Road and SW Norwood Road.

EXECUTIVE SUMMARY:

Why is this water line project necessary?

Peak summer water demand in the B Level pressure zone has grown to the limit of the existing 12-inch diameter water main's capacity. This deficiency will increase with continued dry summers and additional development in the Basalt Creek area. The updated draft Water Master Plan identifies this capacity deficiency as a high priority capital project that needs to be completed within the next five years. This project will address existing capacity deficiencies, provide additional capacity for development in the Basalt Creek expansion area, and replace an aging line with a more seismically resilient line.

Where is the water main project located?

The existing water main runs down the SW Boones Ferry Road (BFR) right of way (ROW). This project is to replace the line from SW Ibach Street to the driveway access on Norwood Road that serves the two B-Level water storage reservoirs (see Attachment B).

What are the next steps?

A Request for Proposals (RFP) for Engineering Services for the water main design was published in the [Daily Journal of Commerce](#) on August 18th, 2021. Five proposals were submitted in response to the RFP. Staff reviewed the proposals for responsiveness to the selection criteria contained in the RFP and determined AKS Engineering & Forestry, LLC (AKS) to be the most qualified.

Staff will negotiate final scope and fee through two separate primary tasks. Under the first task, AKS will perform alternatives analysis to identify the best route for the new water main. After selecting the preferred routing, AKS and City staff will negotiate a scope and fee for the full design and construction support through project completion.

What is the proposed project schedule?

The project will begin in the fall of 2021, design and permit work will continue through the spring of 2022. Construction is tentatively scheduled to begin in fall of 2022 with projected completion in fall 2023.

FINANCIAL IMPLICATIONS:

This project is funded by the Water Development and Water Operating Funds. The proposed contract is currently estimated not to exceed \$450,000. There are sufficient funds appropriated to complete the design phase of this project. A resolution transfer in the Water Development Fund is needed to transfer \$162,000 of contingency appropriations to the Transfers appropriation to accommodate the transfer of the SDC eligible portion of the project to the Water Operating Fund. The contingency transfer is authorized under ORS 294.463 and is included on the attached resolution.

ATTACHMENTS:

- A. Resolution No. 5575-21
- B. Vicinity Map

RESOLUTION NO. 5575-21

A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES FOR THE B-LEVEL WATER MAIN UPSIZE – IBACH TO NORWOOD PROJECT; AND AUTHORIZING AN APPROPRIATION TRANSFER IN WATER DEVELOPMENT FUND FOR THE FY 2021-2022 BUDGET.

WHEREAS, the City issued a solicitation for engineering services for the B-Level Water Main Upsize – Ibach to Norwood Reservoirs Project, which is System Development Charge eligible and listed in the City's Capital Improvement Project list;

WHEREAS, the City advertised the invitation for request for proposals in the *Daily Journal of Commerce* on August 18, 2021, and the City received five responsive proposals;

WHEREAS, City staff reviewed the responsive proposals and determined AKS Forestry & Engineering, LLC submitted the best responsive proposal;

WHEREAS, City staff recommended the Council award a Professional Services Agreement to AKS Forestry & Engineering, LLC to provide engineering services for the B-Level Water Main Upsize – Ibach to Norwood Reservoirs Project;

WHEREAS, the procurement complied with the City's public contracting requirements;

WHEREAS, budget appropriations transfer is needed from the Water Development Fund, Contingency to the Water Development Fund, Transfers Out to pay for the contract;

WHEREAS, ORS 294.464 authorizes the City to transfer up to 15% of a contingency fund to an appropriation fund without the need for a supplemental budget; and

WHEREAS, the City needs to transfer less than 15% from the Water Development Fund, Contingency to the Water Development Fund, Transfers Out and the funds will be used for the design contract of the B-Level Water Main Upsize – Ibach to Norwood Reservoirs Project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City awards a Professional Services Agreement for engineering services to AKS Forestry & Engineering, LLC for the B-Level Water Main Upsize – Ibach to Norwood Reservoirs Project.

Section 2. The City Manager is authorized to execute a Professional Services Agreement with AKS Forestry & Engineering, LLC not exceeding \$450,000.

Section 3. The City Manager is authorized to execute contract amendments totaling up to 25% of the original contract amount.

Section 4. The City Manager is authorized and instructed to adjust the Water Development Fund's budget to reflect a contingency transfer, as follows:

Water Development Fund, Transfers Out: \$162,000

Water Development Fund, Contingency: \$(162,000)

Section 5. This resolution is effective upon adoption.

Adopted by the City Council this ____ day of _____, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

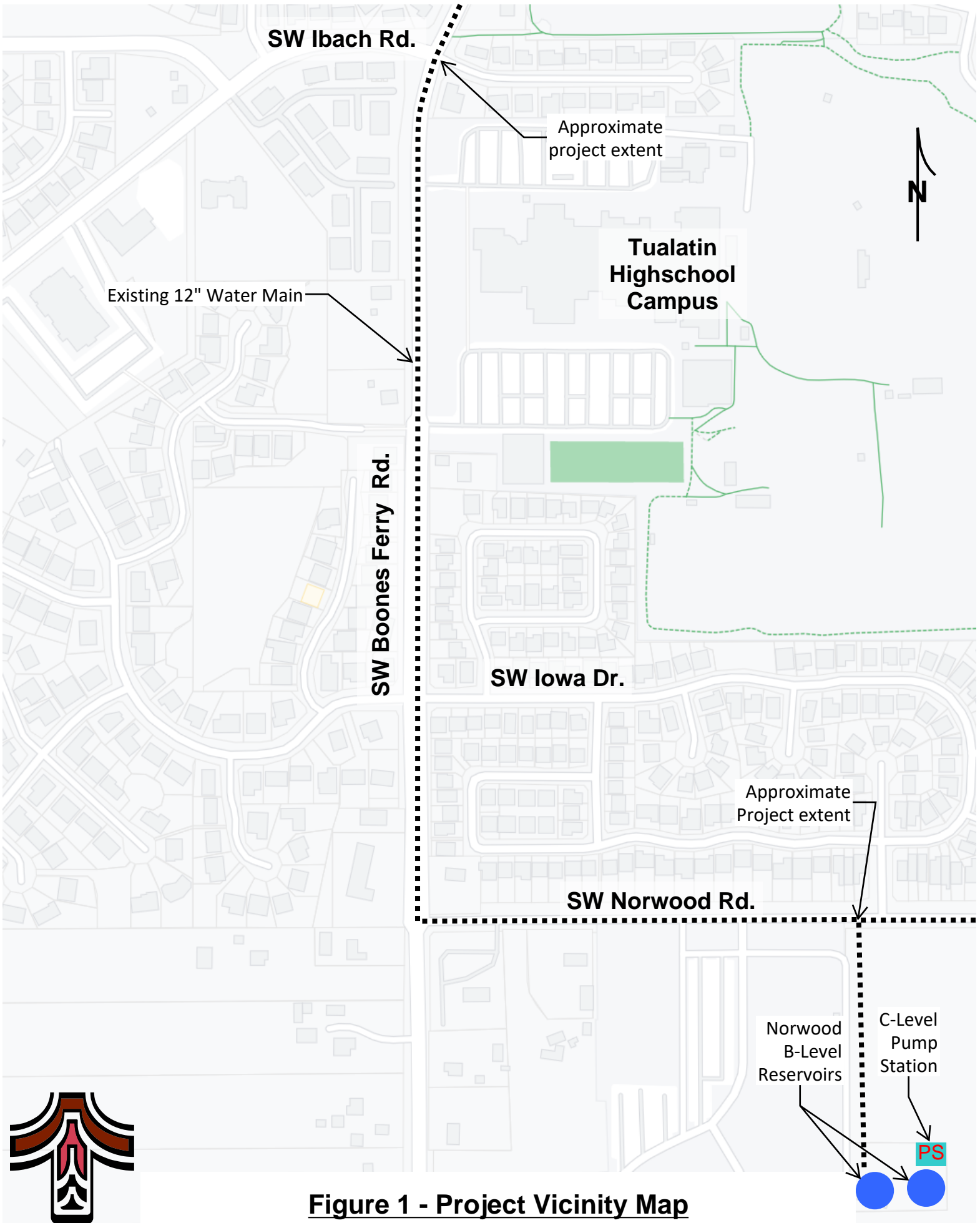


Figure 1 - Project Vicinity Map





City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Don Hudson, Assistant City Manager/Finance Director
DATE: October 25, 2021

SUBJECT:

Consideration of Resolution No. 5576-21 to Annually Adopt the City of Tualatin Investment Policy

RECOMMENDATION:

Staff recommends that the City Council adopt the Investment Policy.

EXECUTIVE SUMMARY:

Oregon Revised Statutes (ORS) 294.135(1)(a) requires local governments investing in securities with maturities longer than 18 months to annually adopt their investment policies. The City previously submitted the City of Tualatin Investment Policy to the Oregon Short Term Fund Board for review and comment, as required by law. The City Council adopted the current policy on November 9, 2020. The policy is being presented for re-adoption to the City Council with the following changes:

- ✓ Combine US Agency Primary and US Agency Secondary categories into one single category – US Agency Obligations. This follows state statute. The Policy language and diversification table will be updated accordingly.
- ✓ Municipal Debt – update language to include short-term minimum ratings requirement.
- ✓ Banker’s Acceptance – update in diversification table to reflect “rated in the highest category” which would be A1 or better (currently in table as A1+)

These changes are being recommended by Government Portfolio Advisors (GPA), the City’s investment advisor, and staff concurs with the recommendations.

Attached are the pages of the policy that are being changed. No other changes are being proposed.

OUTCOMES OF DECISION:

Adoption of the City’s investment portfolio under State Statute.

ALTERNATIVES TO RECOMMENDATION:

Reject changes and re-adopt current investment policy language.

ATTACHMENTS:

- Resolution No. 5576-21
- Exhibit A, Investment Policy

- Exhibit B, Proposed Changes to Policy

RESOLUTION NO. 5576-21

A RESOLUTION ADOPTING THE CITY OF TUALATIN INVESTMENT POLICY

WHEREAS, Oregon Revised Statutes (ORS) 294.135(1)(a) requires local governments investing in securities with maturities longer than 18 months to annually adopt their investment policies;

WHEREAS, the City invests in securities with maturities longer than 18 months;

WHEREAS, the City previously submitted the City of Tualatin Investment Policy to the Oregon Short Term Fund Board for review and comment;

WHEREAS, the City Council previously adopted the City of Tualatin Investment Policy on November 9, 2020; and

WHEREAS, the City wishes to annually adopt the City of Tualatin Investment Policy in compliance with ORS 294.135(1)(a).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The Council adopts the City of Tualatin Investment Policy, which is attached as Exhibit A and incorporated by reference.

Section 2. This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 25th day of October, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

BY _____
City Attorney

ATTEST:

BY _____
City Recorder

**EXHIBIT A
RESOLUTION NO. 5576-21**

CITY OF TUALATIN



City of Tualatin

INVESTMENT POLICY 2021

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1. INTRODUCTION

The purpose of this Investment Policy is to establish the investment objectives, delegation of authority, standards of prudence, eligible investments and transactions, internal controls, reporting requirements, and safekeeping and custodial procedures necessary for the prudent management and investment of the funds of the City of Tualatin.

2. GOVERNING AUTHORITY

The investment program shall be operated in conformance with federal, state, and other legal requirements. Specifically, this investment policy is written in conformance with ORS 294.035; 294.040; 294.052; 294.135; 294.145 and 294.810. All funds within the scope of this policy are subject to regulations established by the state of Oregon. Any revisions or extensions of these sections of the ORS shall be assumed to be part of this Investment Policy immediately upon being enacted.

This Policy has been adopted by Resolution #5576-21 by the City Council of Tualatin, Oregon on October 25, 2021.

3. SCOPE

This policy applies to activities of the City with regards to investing the financial assets of all funds except for funds held in trust for the Pension Portfolio and deferred compensation funds for the employees of the City which have separate rules. Other than bond proceeds or other unusual situations, the total of all funds ranges from \$40,000,000 to \$90,000,000. This policy provides direction for the following fund types:

1. General Fund
2. Special Revenue Funds
3. Capital Projects Funds
4. Debt Service Funds
5. Enterprise Funds
6. Internal Service Funds
7. Trust and Agency Funds
8. Other Funds

4. OBJECTIVES

The City's principal investment objectives in order of priority are:

4.1 Safety:

- Preservation of capital and protection of investment principal.
- Diversification to avoid incurring unreasonable risks regarding specific security types or individual financial institutions.

4.2 Liquidity:

- Maintenance of sufficient liquidity to meet operating requirements that are reasonably anticipated.

4.3 Yield – Return:

- Attainment of a market value rate of return throughout budgetary and economic cycles.

5. STANDARDS OF CARE

5.1 Delegation of Authority

- a. **Governing Body:** The ultimate fiduciary responsibility and authority for the investment of City funds resides with the City Council. The City hereby designates the Finance Director as the Investment Officer for the City's funds. The Finance Director shall invest City funds in accordance with ORS Chapter 294, Public Financial Administration, and with this Investment Policy. This Policy shall constitute a "written order" from City Council per ORS 294.035.
- b. **Investment Advisor:** Subject to required procurement procedures, the City may engage the support services of outside professionals in regard to its financial program, so long as it can be demonstrated or anticipated that these services produce a net financial advantage or necessary financial protection of the City's resources. External investment advisors shall be subject to Oregon Revised Statutes and the provisions of this Investment Policy. The Advisor shall provide non-discretionary advisory services, which require prior approval from the Finance Director on all transactions.

In order to optimize total return through active portfolio management, resources shall be allocated to the cash management program. This commitment of resources shall include financial and staffing considerations.

5.2 Prudence:

The standard of prudence to be used, by the Finance Director, in the context of managing the overall portfolio is the prudent person rule which states:

"Investments will be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

The City's Finance Director (ORS 294.004 (2)) and staff acting in accordance with this Investment Policy, written procedures, and Oregon Revised Statutes 294.035 and 294.040 and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price change or other loss, provided deviations from expectations are reported and appropriate action is taken to control adverse developments within a timely fashion as defined in this policy.

5.3 Ethics:

Officers and employees involved in the investment process shall refrain from personal activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. Disclosure shall be made to the governing body. They shall further disclose any personal investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the City. Officers and employees shall, at all times, comply with the State of Oregon Government Standards and Practices code of ethics set forth in ORS Chapter 244.

6. AUTHORIZED FINANCIAL INSTITUTIONS

The City shall maintain a list of all authorized financial institutions and dealers that are approved for investment purposes. Any firm is eligible to make an application to the Finance Director and upon due consideration and approval, will be added to the list. Additions and deletions to the list will be made at the City's discretion. There should be in place, proof as to all the necessary credentials and licenses held by employees of the brokers/dealers who will have contact with the City of Tualatin as specified by but not necessarily limited to the Financial Industry Regulatory Authority (FINRA), Securities and Exchange Commission (SEC), etc.

6.1 Broker/Dealers:

The Investment Officer shall determine which broker/dealer firms and registered representatives are authorized for the purposes of investing funds within the scope of this investment policy. A list will be maintained of approved broker/dealer firms and affiliated registered representatives. The following minimum criteria must be met prior to authorizing investment transactions. The Investment Officer may impose more stringent criteria.

- a. Broker/Dealer firms must meet the following minimum criteria:
 - i. Be registered with the Securities and Exchange Commission (SEC);
 - ii. Be registered with the Financial Industry Regulatory Authority (FINRA).
 - iii. Provide most recent audited financials.
 - iv. Provide FINRA Focus Report filings.
- b. Approved broker/dealer employees who execute transactions with the City must meet the following minimum criteria:
 - i. Be a registered representative with the Financial Industry Regulatory Authority (FINRA);
 - ii. Be licensed by the state of Oregon;
 - iii. Provide certification (in writing) of having read; understood; and agreed to comply with the most current version of this investment policy.
- c. If the City's investment advisor is contracted to provide securities transactions on behalf of the City, the advisor's broker/dealer list must be provided to the Investment Officer for approval. The Investment Officer can assign the responsibility of

broker/dealer due diligence process to the Advisor, and all licensing information on the counterparties will be maintained by the Advisor and available upon request.

The advisor broker/dealer review should include:

- i. FINRA Certification check
- ii. Firm Profile
- iii. Firm History
- iv. Firm Operations
- v. Disclosures of Arbitration Awards, Disciplinary and Regulatory Events
- vi. State Registration Verification
- vii. Financial review of acceptable FINRA capital requirements or letter of credit for clearing settlements.

The advisors must provide the City with any changes to the list prior to transacting on behalf of the City.

6.2 Financial Bank Institutions:

All financial banks that provide bank deposits, certificates of deposits or any other deposit of the bank to the City must either be fully covered by the FDIC or the bank must be a participant of the Public Funds Collateralization Program (PFCP) program. ORS Chapter 295 governs the collateralization of Oregon public funds and provides the statutory requirements for the Public Funds Collateralization Program. Bank depositories are required to pledge collateral against any public funds deposits in excess of deposit insurance amounts. This provides additional protection for public funds in the event of a bank loss. ORS Chapter 295 sets the specific value of the collateral, as well as the types of collateral that are acceptable. ORS Chapter 295 creates a shared liability structure for participating bank depositories, better protecting public funds though still not guaranteeing that all funds are 100% protected.

6.3 Investment Advisors:

An Investment Advisor may be utilized to manage funds and will be selected through a competitive RFP process. The Advisor must meet the following criteria:

- a. The investment advisor firm must be registered with the Securities and Exchange Commission (SEC) or licensed by the state of Oregon; (Note: Investment advisor firms with assets under management > \$100 million must be registered with the SEC, otherwise the firm must be licensed by the state of Oregon);
- b. All investment advisor firm representatives conducting investment transactions on behalf of City must be registered representatives with FINRA;
- c. All investment advisor firm representatives conducting investment transactions on behalf of City must be licensed by the state of Oregon;
- d. Contract terms will include that the Investment advisor will comply with the City's Investment Policy.

A periodic (at least annual) review of all authorized investment advisors under contract will be conducted by the Finance director to determine their continued eligibility within the portfolio guidelines. The Investment Advisor must notify the City immediately if any of the following issues arise while serving under a City Contract:

- a. Pending investigations by securities regulators.
- b. Significant changes in net capital.
- c. Pending customer arbitration cases.
- d. Regulatory enforcement actions.

6.4 Competitive Transactions:

The Finance Director will obtain telephone, faxed or emailed quotes before purchasing or selling an investment. The Finance Director will select the quote which best satisfies the investment objectives of the investment portfolio within the parameters of this policy. The Finance Director and/or the Investment Advisor will maintain a written record of each bidding process including the name and prices offered by each participating financial institution.

In the instance of a security for which there is no readily available competitive bid or offering on the same specific issue, the Investment Officer shall document quotations for comparable or alternative securities.

The City's investment advisor that is providing investment management services must provide documentation of competitive pricing execution on each transaction. The investment advisor will retain documentation and provide upon request.

7. SAFEKEEPING AND CUSTODY

7.1 Safekeeping of Securities and Funds:

Securities will be held by an independent third-party safekeeping institution selected by the City in the City's segregated account. Upon request, the safekeeping institution shall make available a copy of its Statement on Standards for Attestation Engagements (SSAE) No. 16.

All trades of marketable securities will be executed on a delivery vs payment (DVP) basis to ensure that securities are deposited in the City of Tualatin's safekeeping institution prior to the release of funds. The City will have online access through the safekeeping bank for verification of the account holdings and transactions.

7.2 Bank Deposits and Certificates of Deposit:

The City may hold bank deposits or certificates of deposits at banks qualified under ORS 295.

7.3 Accounting Method:

The City shall comply with all required legal provisions and Generally Accepted Accounting Principles (GAAP). The accounting principles are those contained in the pronouncements of authoritative bodies including but not necessarily limited to, the Governmental Accounting Standards Board (GASB); the American Institute of Certified Public Accountants (AICPA); and the Financial Accounting Standards Board (FASB).

7.4 Internal Controls:

The Finance Director shall maintain a system of written internal controls which shall address the following areas of concern:

- Compliance with investment policy constraints and requirements
- Clear delegation of authority
- Segregation of duties and separation of responsibilities for trade execution, accounting, and record keeping
- Written confirmation of transactions and funds transfers
- Timely reconciliation of custodial reports
- Appropriate security for online transactions and access to bank accounts and bank data
- Custodial safekeeping
- Control of collusion
- Review, maintenance and monitoring of security procedures both manual and automated
- Dual authorizations of wire and automated clearing house (ACH) transfers
- Avoidance of physical delivery of securities wherever possible and address control requirements for physical delivery where necessary

An external auditor shall provide an annual independent audit to assure compliance with Oregon state law and City of Tualatin policies and procedures.

8. AUTHORIZED AND SUITABLE INVESTMENTS

8.1 Authorized Investments:

All investments of the City shall be made in accordance with Oregon Revised Statutes: ORS 294.035 (Investment of surplus funds of political subdivisions; approved investments), ORS 294.040 (Restriction on investments under ORS 294.035), ORS 294.135 (Investment maturity dates), ORS 294.145 (Prohibited conduct for Finance Director including not committing to invest funds or sell securities more than 14 business days prior to the anticipated date of settlement), ORS 294.805 to 294.895 (Local Government Investment Pool). Any revisions or extensions of these sections of the ORS must be amended to this policy in order to be allowable.

If additional types of securities are considered for investment, per Oregon state statute they will not be eligible for investment until this Policy has been amended and the amended version adopted by City Council.

8.2 Suitable Investments:

The City is empowered to invest in the following types of securities:

US Treasury Obligations: U.S. Treasury and other government obligations that carry the full faith and credit guarantee of the United States for the timely payment of principal and interest [ORS Section 294.035(3)(a)].

US Agency Obligations: Senior debenture obligations of US federal agencies and instrumentalities or U.S. government sponsored enterprises (GSE) whose payment is guaranteed by the United States [ORS Section 294.035(3)(a)].

Municipal Debt: Lawfully issued debt obligations of the States of Oregon, California, Idaho and Washington and political subdivisions of those states if the obligations have a long-term rating on the settlement date of AA- or better by S&P or Aa3 or better by Moody's or equivalent rating by any nationally recognized statistical rating organization, or are rated on the settlement date in the highest category for short-term municipal debt by a nationally recognized statistical rating organization [ORS Section 294.035(3)(c)].

Corporate Indebtedness: Corporate indebtedness subject to a valid registration statement on file with the Securities and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities Act of 1933, as amended. Corporate indebtedness must be rated on the settlement date AA- or better by S&P or Aa3 or better by Moody's or equivalent rating by any nationally recognized statistical rating organization [ORS Section 294.035(3)(i)].

Commercial Paper: Corporate indebtedness subject to a valid registration statement on file with the Securities and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities Act of 1933, as amended. Commercial Paper must be rated A1 by Standard and Poor's or P1 by Moody's or equivalent rating by any nationally recognized statistical rating organization. Issuer constraints for commercial paper combined with corporate notes will be limited by statute to 5% of market value per issuer [ORS Section 294.035(3)(i)].

Certificates of Deposit: Certificates of deposit in insured institutions as defined in ORS 706.008, in credit unions as defined in ORS Section 723.006 or in federal credit unions, if the institution or credit union maintains a head office or a branch in this state [ORS Section 294.035(3)(d)].

Bank Time Deposit/Savings Accounts: Time deposit open accounts or savings accounts in insured institutions as defined in ORS Section 706.008, in credit unions as defined in ORS Section 723.006 or in federal credit unions, if the institution or credit union maintains a head office or a branch in this state [ORS Section 294.035(3)(d)].

Bankers' Acceptance: Banker's acceptances, if the banker's acceptances are: (i) Guaranteed by, and carried on the books of, a qualified financial institution*; (ii) Eligible for discount by the Federal Reserve System; and (iii) Issued by a qualified financial institution whose short-term letter of credit rating is rated in the highest category by one or more nationally recognized statistical rating organizations [ORS Section 294.035(3)(h)].

Local Government Investment Pool: State Treasurer's local short-term investment fund up to the statutory limit per ORS Section 294.810.

*For the purposes of this paragraph, "qualified financial institution" means: (i) A financial institution that is located and licensed to do banking business in the State of Oregon; or (ii) A financial institution that is wholly owned by a financial holding company or a bank holding company that owns a financial institution that is located and licensed to do banking business in the State of Oregon [ORS Section 294.035(3)(h)].

8.3 Collateralization:

Time deposit open accounts, Certificates of Deposit and savings accounts shall be collateralized through the collateral pool for any excess over the amount insured by an agency of the United States government in accordance with ORS 295.015 and ORS 295.018.

9. INVESTMENT PARAMETERS

9.1 Diversification:

The City will diversify the investment portfolio to avoid incurring unreasonable risks, both credit and interest rate risk, inherent in over investing in specific instruments, individual financial institutions or maturities.

Credit risk: is the risk that a security or a portfolio will lose some or all of its value due to a real or perceived change in the ability of the issuer to repay its debt.

Liquidity risk: is the risk that an investment may not be easily marketable or redeemable.

Interest rate risk: longer term investments have the potential to achieve higher returns but are also likely to exhibit higher market value price volatility due to the changes in the general level of interest rates.

Diversification Constraints on Total Holdings – Liquidity and Core Funds

Issue Type	Maximum % Holdings	Maximum % per Issuer	Ratings S&P, Moody's, or Equivalent NRSRO
US Treasury Obligations	100%	None	N/A
US Agency Obligations	100%	35%	N/A
Municipal Debt (OR, CA, ID, WA)	25%	5%	AA- / Aa3 Short Term*
Corporate Notes	35%**	5%***	AA- / Aa3
Commercial Paper			A1 / P1
Bank Time Deposits/Savings Accounts	25%	10%	Oregon Public Depository
Certificates of Deposit	10%	5%	Oregon Public Depository
Banker's Acceptance	25%	5%	A1 / P1
Oregon Short Term Fund	Maximum allowed per ORS 294.810	None	N/A

*Short Term Ratings: Moody's - P1/MIG1/VMIG1, S&P - A-1/SP-1, Fitch - F1

**35% maximum combined corporate and commercial paper per ORS.

***Issuer constraints apply to the combined issues in corporate and commercial paper holdings.

9.2 Investment Maturity:

The City will not directly invest in securities with a stated maturity of more than 5.25 years from the date of purchase.

- The maximum weighted maturity of the total portfolio shall not exceed two (2) years. This maximum is established to limit the portfolio to excessive price change exposure.
- Liquidity funds will be held in the State Pool, Bank Deposits or in money market instruments maturing six months and shorter. The liquidity portfolio shall, at a minimum, represent six month budgeted outflows.
- Core funds will be defined as the funds in excess of liquidity requirements. The investments in this portion of the portfolio will have maturities between 1 day and 5.25 years and will be only invested based on the diversification parameters listed in 9.1 of this policy.
- Total Portfolio Maturity Constraints:

Maturity Constraints	Minimum % of Total Portfolio
Under 30 days	10%
Under 1 year	25%
Under 5.25 years	100%

Maturity Constraints	Maximum of Total Portfolio in Years
Weighted Average Maturity	2.00

Security Structure Constraint	Maximum % of Total Portfolio
Callable Agency Securities	25%

9.3 Prohibited Investments:

- The City shall not invest in "144A" private placement securities, this includes commercial paper privately placed under section 4(a)(2) of the Securities Act of 1933
- The City shall not lend securities nor directly participate in a securities lending or reverse repurchase program.
- The City shall not purchase mortgage backed securities.
- The City will not purchase, per ORS 294.040, any bonds of issuers listed in ORS 294.035(3)(a) to (c) that have a prior default history.
- No commitments to buy or sell securities may be made more than 14 days prior to the anticipated settlement date, or receive a fee other than interest for future deliveries.

10. INVESTMENT OF PROCEEDS FROM DEBT ISSUANCE

Investments of bond proceeds are restricted further and will not include corporate bonds in the dedicated bond proceed portfolio. All other allowable investments including: US Treasury, US Agency and Commercial Paper may be utilized. The investments will be made in a manner to match cash flow expectations based on managed disbursement schedules.

Liquidity for bond proceeds will be managed through the OSTF Pool or Bank deposit balances.

Funds from bond proceeds and amounts held in a bond payment reserve or proceeds fund may be invested pursuant to ORS 294.052. Investments of bond proceeds are typically not invested for resale and maturity matched with expected outflows.

Information will be maintained for arbitrage rebate calculations.

11. INVESTMENT OF RESERVE OR CAPITAL IMPROVEMENTS

Pursuant to ORS 294.135(1)(b), reserve or capital Improvement project monies may be invested in securities exceeding 5.25 years when the funds in question are being accumulated for an anticipated use that will occur more than 18 months after the funds are invested, then, upon the approval of the governing body of the county, municipality, school district or other political subdivision, the maturity of the investment or investments made with the funds may occur when the funds are expected to be used.

12. POLICY COMPLIANCE AND PERFORMANCE STANDARDS

12.1 Compliance Measurement and Procedures:

- a. Compliance Report: A compliance report documenting the portfolio versus the investment policy shall be maintained quarterly.
- b. Compliance Measurement: Guideline measurements will use market value of investments.
- c. Compliance Procedures:
 - i. If the portfolio falls outside of compliance with adopted investment policy guidelines or is being managed inconsistently with this policy, the Investment Officer shall bring the portfolio back into compliance in a prudent manner and as soon as prudently feasible.
 - ii. Violations of portfolio guidelines as a result of transactions; actions to bring the portfolio back into compliance and; reasoning for actions taken to bring the portfolio back into compliance shall be documented and reported to the City Council.
 - iii. Due to fluctuations in the aggregate surplus funds balance, maximum percentages for a particular issuer or investment type may be exceeded at a point in time. Securities need not be liquidated to realign the portfolio; however, consideration should be given to this matter when future purchases are made to ensure that appropriate diversification is maintained.
 - iv. As determined on any date that the security is held within the portfolio. If the credit rating of a security is subsequently downgraded below the minimum rating level for a new investment of that security, the Finance Director shall evaluate the downgrade on a case-by-case basis in order to determine if the security should be held or sold. The Finance Director will apply the general objectives of Safety, Liquidity, Yield and

Legality to make the decision. *If the City has hired the services of an Investor Advisor, the Finance Director will act on the recommendation of the Advisor.*

12.2 Performance Measurement:

- a. The City yields will be compared to the OST Pool rates.
- b. The portfolio will be invested into a predetermined structure that will be measured against a selected benchmark portfolio. The structure will be based upon a chosen minimum and maximum effective duration and will have the objective to achieve market rates of returns over long investment horizons. The purpose of the benchmark is to appropriately manage the risk in the portfolio given interest rate cycles. The core portfolio is expected to provide similar returns to the benchmark over interest rate cycles, but may underperform or out perform in certain periods. The portfolio will be positioned to first protect principal and then achieve market rates of return. The benchmark used will be a 0-3 year or 0-5 year standard market index and comparisons will be calculated monthly and reported quarterly.
- c. When comparing the performance of the City's portfolio, all fees and expenses involved with managing the portfolio shall be included in the computation of the portfolio's rate of return.
- d. The mark to market pricing will be calculated monthly and be provided in a monthly report.

13. REPORTING REQUIREMENTS

The Finance Director will retain and provide quarterly investment reports to the City Council in a similar manner as outlined in ORS 208.090. The reports also will be available upon request. Securities holdings and cash balances held in the investment portfolio will be provided on the reports.

The minimum quarterly reporting requirements for total portfolio are as follows:

- Earnings Yield
- Holdings Report (including mark to market)
- Transactions Report
- Weighted Average Maturity or Duration
- Compliance Report

14. INVESTMENT POLICY ADOPTION

This Investment Policy shall be adopted by City Council annually in accordance with ORS 294.135(a). Any significant changes to the policy must be reviewed by the Oregon Short Term-Fund Board prior to submitting to City Council for adoption.

15. GLOSSARY

Accrued Interest: The interest accumulated on a security since the issue date or since the last coupon payment. The buyer of the security pays the market price plus accrued interest.

Agency Securities: See “Federal Agency Securities.”

Bankers’ Acceptance (BA’s): A draft or bill of exchange drawn upon and accepted by a bank. Frequently used to finance shipping of international goods. Used as a short-term credit instrument, bankers’ acceptances are traded at a discount from face value as a month market instrument in the secondary market on the basis of the credit quality of the guaranteeing bank.

Basis Point: A basis point is a unit of measure used in finance to describe the percentage change in the value or rate of a financial instrument. One basis point is equivalent to 0.01% (1/100th of a percent) or 0.0001 in decimal form. In most cases, it refers to changes in interest rates and bond yields.

Benchmark: A market index used as a comparative basis for measuring the performance of an investment portfolio. A performance benchmark should represent a close correlation to investment guidelines, risk tolerance and duration of the actual portfolio’s investments.

Bond: An interest-bearing security issued by a corporation, government, governmental agency, or other body. It is a form of debt with an interest rate, maturity, and face value, and it is usually secured by specific assets. Most bonds have a maturity of greater than one year and in general, pay interest semiannually.

Broker/Dealer: A person or firm transacting securities business with customers. A “broker” acts as an agent between buyers and sellers, and receives a commission for these services. A “dealer” buys and sells financial assets from its own portfolio. A dealer takes risk by owning an inventory of securities, whereas a broker merely matches up buyers and sellers.

Call: An option to buy a specific asset at a certain price within a certain period of time.

Callable: A bond or preferred stock that may be redeemed by the issuer before maturity for a call price specified at the time of issuance.

Call Date: The date before maturity on which a bond may be redeemed at the option of the issuer.

Certificate of Deposit (CD): Bank obligation issued by a financial institution generally offering a fixed rate of return (coupon) for a specified period of time (maturity).

Collateral: Securities or other property that a borrower pledges as security for the repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

Commercial Paper: Short-term, unsecured, negotiable promissory notes issued by a company or financial institution. Issued at a discount and matures at par or face value. Usually a maximum maturity of 270 days, and given a short-term debt rating by one or more NRSROs.

Core Fund: Core funds are defined as operating fund balance which exceeds the City’s daily liquidity needs. Core funds are invested out the yield curve to diversify maturity structure in the

overall portfolio. Having longer term investments in a portfolio will stabilize the overall portfolio interest earnings over interest rate cycles.

Corporate Note: A debt instrument issued by a corporation with a maturity of greater than one year and less than ten years.

Coupon Rate: The annual rate of interest that the issuer of a bond promises to pay to the holder of the bond.

Current Maturity: The amount of time left until an obligation matures. For example, a one-year bill issued nine months ago has a current maturity of three months.

Current Yield: The coupon payments on a security as a percentage of the security's market price. In many instances the price should be gross of accrued interest, particularly on instruments where no coupon is left to be paid until maturity.

CUSIP: A CUSIP number identifies securities. CUSIP stands for Committee on Uniform Security Identification Procedures, which was established under the auspices of the American Bankers Association to develop a uniform method of identifying municipal, U.S. government, and corporate securities.

Delivery Versus Payment (DVP): Settlement procedure in which securities are delivered versus payment of cash, but only after cash has been received. Most security transactions, including those through the Fed Securities Wire system and DTC, are done DVP as a protection for both the buyer and seller of securities.

Depository Trust Company (DTC): A firm through which members can use a computer to arrange for securities to be delivered to other members without physical delivery of certificates. A member of the Federal Reserve System and owned mostly by the New York Stock Exchange, the Depository Trust Company uses computerized debit and credit entries. Most corporate securities, commercial paper, CDs and BAs clear through DTC.

Discount Notes: Short term debt obligations issued by Federal Agencies at a discount. Discount notes mature at par and can range in maturity from overnight to one year. Discount Notes typically have very large primary (new issue) and secondary markets.

Federal Agency Security: A debt instrument issued by one of the federal agencies. Federal agencies are considered second in credit quality and liquidity only to U.S. Treasuries.

Federal Agency: Government sponsored/owned entity created by the U.S. Congress, generally for the purpose of acting as a financial intermediary by borrowing in the marketplace and directing proceeds to specific areas of the economy considered to otherwise have restricted access to credit markets.

Federal Farm Credit Bank (FFCB): A Government Sponsored Enterprise (GSE) system that is a network of cooperatively owned lending institutions that provide credit services to farmers, agricultural cooperatives and rural utilities. The FFCBs act as financial intermediaries that borrow money in the capital markets and use the proceeds to make loans and provide other assistance to farmers and farm-affiliated businesses. FFCB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance

to the U.S. Financial system and agricultural industry. Also issues notes under its “designated note” program.

Federal Home Loan Bank System (FHLB). A Government Sponsored Enterprise (GSE) system, consisting of wholesale banks (currently twelve district banks) owned by their member banks, which provides correspondent banking services and credit to various financial institutions, financed by the issuance of securities. The principal purpose of the FHLB is to add liquidity to the mortgage markets. Although FHLB does not directly fund mortgages, it provides a stable supply of credit to thrift institutions that make new mortgage loans. FHLB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes and callable agency securities. Also issues notes under its “global note” and “TAP” programs.

Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac"). One of the large Federal Agencies. A government sponsored public corporation (GSE) that provides stability and assistance to the secondary market for home mortgages by purchasing first mortgages and participation interests financed by the sale of debt and guaranteed mortgage backed securities. FHLMC debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities and MBS. Also issues notes under its “reference note” program.

Federal National Mortgage Association (FNMA or "Fannie Mae"). One of the large Federal Agencies. A government sponsored public corporation (GSE) that provides liquidity to the residential mortgage market by purchasing mortgage loans from lenders, financed by the issuance of debt securities and MBS (pools of mortgages packaged together as a security). FNMA debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities and MBS. Also issues notes under its “benchmark note” program.

Federal Reserve Bank. One of the 12 distinct banks of the Federal Reserve System.

Federal Reserve System (the Fed). The independent central bank system of the United States that establishes and conducts the nation's monetary policy. This is accomplished in three major ways: (1) raising or lowering bank reserve requirements, (2) raising or lowering the target Fed Funds Rate and Discount Rate, and (3) in open market operations by buying and selling government securities. The Federal Reserve System is made up of twelve Federal Reserve District Banks, their branches, and many national and state banks throughout the nation. It is headed by the seven member Board of Governors known as the “Federal Reserve Board” and headed by its Chairman.

General Obligation Bonds (GOs): Bonds secured by the pledge of the municipal issuer's full faith and credit, which usually includes unlimited taxing power.

Government Bonds: Securities issued by the federal government; they are obligations of the U.S. Treasury. Also known as “governmentals.”

Government Sponsored Enterprise (GSE): Privately owned entity subject to federal regulation and supervision, created by the U.S. Congress to reduce the cost of capital for certain borrowing

sectors of the economy such as students, farmers, and homeowners. GSEs carry the implicit backing of the U.S. Government, but they are not direct obligations of the U.S. Government. For this reason, these securities will offer a yield premium over Treasuries. Some consider GSEs to be stealth recipients of corporate welfare. Examples of GSEs include: FHLB, FHLMC, FNMA and FFCB.

Interest: Compensation paid or to be paid for the use of money. The rate of interest is generally expressed as an annual percentage.

Interest Rate: The interest payable each year on borrowed funds, expressed as a percentage of the principal.

Investment Advisor: A company that provides professional advice managing portfolios, investment recommendations and/or research in exchange for a management fee.

Investment Portfolio: A collection of securities held by a bank, individual, institution, or government agency for investment purposes.

Investment Securities: Securities purchased for an investment portfolio, as opposed to those purchased for resale to customers.

Liquidity: The ease at which a security can be bought or sold (converted to cash) in the market. A large number of buyers and sellers and a high volume of trading activity are important components of liquidity.

Liquidity Component: A percentage of the total portfolio that is dedicated to providing liquidity needs for the City.

Mark to Market: Adjustment of an account or portfolio to reflect actual market price rather than book price, purchase price or some other valuation.

Municipals: Securities, usually bonds, issued by a state or its agencies. The interest on “munis” is usually exempt from federal income taxes and state and local income taxes in the state of issuance. Municipal securities may or may not be backed by the issuing agency’s taxation powers.

NRSRO: A “Nationally Recognized Statistical Rating Organization.” A designated rating organization that the SEC has deemed a strong national presence in the U.S. NRSROs provide credit ratings on corporate and bank debt issues. Only ratings of a NRSRO may be used for the regulatory purposes of rating such as Moody’s, S&P, Fitch and Duff & Phelps.

Par Value: The value of a security expressed as a specific dollar amount marked on the face of the security, or the amount of money due at maturity. Par value should not be confused with market value.

Prudent Person Standard: Standard that requires that when investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee will act with care, skill, prudence, and diligence under the circumstances the prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the entity.

Rate of Return: Amount of income received from an investment, expressed as a percentage of the amount invested.

State of Oregon Local Government Investment Pool (OSTF – Oregon Short Term Fund): The OSTF is organized pursuant to ORS 294.805 through 294.895. Participation in the Pool will not exceed the maximum limit annually set by ORS 294.810.

Total Return: Investment performance measured over a period of time that includes coupon interest, interest on interest, and both realized and unrealized gains or losses. Total return includes, therefore, any market value appreciation/depreciation on investments held at period end.

Treasury Bill (T-Bill): An obligation of the U.S. government with a maturity of one year or less. T-bills bear no interest but are sold at a discount.

Treasury Bonds and Notes: Obligations of the U.S. government that bear interest. Notes have maturities of one to ten years; bonds have longer maturities.

Yield: The annual rate of return on an investment, expressed as a percentage of the investment. Income yield is obtained by dividing the current dollar income by the current market price for the security. Net yield, or yield to maturity, is the current income yield minus any premium above par or plus any discount from par in the purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

Yield to Maturity: The average annual yield on a security, assuming it is held to maturity; equals to the rate at which all principal and interest payments would be discounted to produce a present value equal to the purchase price of the bond.

CITY OF TUALATIN



INVESTMENT POLICY 20210

8.2 Suitable Investments:

The City is empowered to invest in the following types of securities:

US Treasury Obligations: U.S. Treasury and other government obligations that carry the full faith and credit guarantee of the United States for the timely payment of principal and interest [ORS Section 294.035(3)(a)].

US ^[WM2]Agency Obligations – Primary: Senior debenture obligations of US federal agencies and instrumentalities or U.S. government sponsored enterprises (GSE) whose payment is guaranteed by the United States [ORS Section 294.035(3)(a)], ~~that have actively traded markets and provide a higher level of liquidity. These include: Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), Federal Home Loan Banks (FHLB), and the Federal Farm Credit Bureau (FFCB).~~

~~**US Agency Obligations – Secondary:** Other US government sponsored enterprises that are less marketable are considered secondary GSEs. They include, but are not limited to: Private Export Funding Corporation (PEFCO), Tennessee Valley Authority (TVA), Financing Corporation (FICO) and Federal Agricultural Mortgage Corporation, (Farmer Mac). Specific issues must be rated by S&P or Moody's or any nationally recognized statistical rating organization.~~

Municipal ^[WM3]Debt: Lawfully issued debt obligations of the States of Oregon, California, Idaho and Washington and political subdivisions of those states if the obligations have a long-term rating on the settlement date of AA- or better by S&P or Aa3 or better by Moody's or equivalent rating by any nationally recognized statistical rating organization, or are rated on the settlement date in the highest category for short-term municipal debt by a nationally recognized statistical rating organization [ORS Section 294.035(3)(c)].

Corporate Indebtedness: Corporate indebtedness subject to a valid registration statement on file with the Securities and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities Act of 1933, as amended. Corporate indebtedness must be rated on the settlement date AA- or better by S&P or Aa3 or better by Moody's or equivalent rating by any nationally recognized statistical rating organization [ORS Section 294.035(3)(i)].

Commercial Paper: Corporate indebtedness subject to a valid registration statement on file with the Securities and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities Act of 1933, as amended. Commercial Paper must be rated A1 by Standard and Poor's or P1 by Moody's or equivalent rating by any nationally recognized statistical rating organization. Issuer constraints for commercial paper combined with corporate notes will be limited by statute to 5% of market value per issuer [ORS Section 294.035(3)(i)].

Certificates of Deposit: Certificates of deposit in insured institutions as defined in ORS 706.008, in credit unions as defined in ORS Section 723.006 or in federal credit unions, if the institution or credit union maintains a head office or a branch in this state [ORS Section 294.035(3)(d)].

Bank Time Deposit/Savings Accounts: Time deposit open accounts or savings accounts in insured institutions as defined in ORS Section 706.008, in credit unions as defined in ORS Section 723.006 or in federal credit unions, if the institution or credit union maintains a head office or a branch in this state [ORS Section 294.035(3)(d)].

Bankers' Acceptance: Banker's acceptances, if the banker's acceptances are: (i) Guaranteed by, and carried on the books of, a qualified financial institution*; (ii) Eligible for discount by the Federal Reserve System; and (iii) Issued by a qualified financial institution whose short-term letter of credit rating is rated in the highest category by one or more nationally recognized statistical rating organizations [\[ORS Section 294.035\(3\)\(h\)\]](#).

Local Government Investment Pool: State Treasurer's local short-term investment fund up to the statutory limit per ORS Section 294.810.

*For the purposes of this paragraph, "qualified financial institution" means: (i) A financial institution that is located and licensed to do banking business in the State of Oregon; or (ii) A financial institution that is wholly owned by a financial holding company or a bank holding company that owns a financial institution that is located and licensed to do banking business in the State of Oregon [ORS Section 294.035(3)(h)].

8.3 Collateralization:

Time deposit open accounts, Certificates of Deposit and savings accounts shall be collateralized through the collateral pool for any excess over the amount insured by an agency of the United States government in accordance with ORS 295.015 and ORS 295.018.

9. INVESTMENT PARAMETERS

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Interest rate risk: longer term investments have the potential to achieve higher returns but are also likely to exhibit higher market value price volatility due to the changes in the general level of interest rates.

Diversification [WMM4] Constraints on Total Holdings – Liquidity and Core Funds

Issue Type	Maximum % Holdings	Maximum % per Issuer	Ratings S&P, Moody's, or Equivalent NRSRO
US Treasury Obligations	100%	None	N/A
US Agency Obligations	100%	35%	N/A
Municipal Debt (OR, CA, ID, WA)	25%	5%	AA- / Aa3 Short Term*
Corporate Notes	35%**	5%***	AA- / Aa3
Commercial Paper			A1 / P1
Bank Time Deposits/Savings Accounts	25%	10%	Oregon Public Depository
Certificates of Deposit	10%	5%	Oregon Public Depository
Banker's Acceptance	25%	5%	A1 / P1
Oregon Short Term Fund	Maximum allowed per ORS 294.810	None	N/A

*Short Term Ratings: Moody's - P1/MIG1/VMIG1, S&P - A-1/SP-1, Fitch - F1

**35% maximum combined corporate and commercial paper per ORS.

***Issuer constraints apply to the combined issues in corporate and commercial paper holdings.

9.2 Investment Maturity:

The City will not directly invest in securities with a stated maturity of more than 5.25 years from the date of purchase.

- The maximum weighted maturity of the total portfolio shall not exceed two (2) years. This maximum is established to limit the portfolio to excessive price change exposure.



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Ross Hoover, Parks and Recreation Director
Rich Mueller, Parks Planning and Development Manager

DATE: October 25, 2021

SUBJECT:

Consideration of **Resolution No. 5577-21** Authorizing the City Manager to Enter into an Agreement With Washington County for a Distribution from the Major Streets Transportation Improvement Program Opportunity Fund; and Appropriating Specific Purpose Revenues in the City's General Fund during the FY 2021-2022 Budget.

RECOMMENDATION

Staff recommends Council approval of Resolution No 5577-21.

EXECUTIVE SUMMARY:

The City will receive Oregon Department of Transportation (ODOT), Oregon Community Paths Program (OCP) grant funds to design and build a section of the Tualatin River Greenway Trail. This trail section runs from Hazelbrook Road, under Highway 99W through Roamers Rest RV Park, and connects to the existing trail at River Ridge Apartments. The .45 mile regional trail section is a critical active transportation link for safety, accessibility, connectivity, and equity.

Staff requested Major Street Transportation Improvement Program (MSTIP) Opportunity Funds in November 2020 as the required 30% state grant match. The Washington County Coordinating Committee considered and approved Tualatin's MSTIP Opportunity Fund request on December 14, 2020 as matching funds for the ODOT Oregon Community Paths Program grant application.

FINANCIAL IMPLICATIONS:

Grant funds for the trail design and construction in the amount of \$1,508,427. ODOT Oregon Community Paths Program to provide \$1,055,898.90, and a 30% (\$452,528) match from Washington County Major Streets Transportation Improvement Program Opportunity Fund. We expect use approximately \$65,000 in Park System Development Charge funds.

ATTACHMENTS:

Resolution No. 5577-21

Exhibit 1 – Agreement between Washington County and the City of Tualatin for a Distribution from the Major Streets Transportation Improvement Program (MSTIP) 3E Opportunity Fund

RESOLUTION NO. 5577-21

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH WASHINGTON COUNTY FOR A DISTRIBUTION FROM THE MAJOR STREETS TRANSPORTATION IMPROVEMENT PROGRAM OPPORTUNITY FUND; AND APPROPRIATING SPECIFIC PURPOSE REVENUES IN THE CITY'S GENERAL FUND DURING THE FY 2021-2022 BUDGET.

WHEREAS, Washington County approved the request by the City for a \$452,528 distribution for the Major Streets Transportation Improvement Program Opportunity Fund;

WHEREAS, under ORS 294.338(2), during the year the Council may authorize the acceptance of specific purpose revenues and the associated appropriations through a specific purpose revenue budget adjustment resolution;

WHEREAS, the City will receive \$452,528 in specific purpose revenues from Washington County to be used for remote offering of the Major Streets Transportation Improvement Program Opportunity Fund; and

WHEREAS, the City of Tualatin desires to enter into this agreement to fund the Tualatin River Greenway Trail.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager is authorized to enter into an agreement with the Washington County, which is attached as Exhibit 1, for the Major Streets Transportation Improvement Program Opportunity Fund.

Section 2. The City Manager is authorized and instructed to adjust the General Fund's budget to reflect receipt of the specific purpose revenue and the associated appropriation:

General Fund Revenues: \$452,530

General Fund Expenditures, Parks and Recreation: \$452,530

Section 3. This resolution is effective upon adoption.

Adopted by the City Council this ____ day of _____, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

APPROVED AS TO FORM

BY _____
City Attorney

AGREEMENT BETWEEN Washington County and the City of Tualatin

FOR A DISTRIBUTION FROM THE MAJOR STREETS TRANSPORTATION IMPROVEMENT PROGRAM (MSTIP) 3E OPPORTUNITY FUND

THIS AGREEMENT is entered into between Washington County, a political subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as "COUNTY"; and the City of Tualatin, a municipal corporation, acting by and through its City Council, hereinafter referred to as "CITY".

RECITALS

1. COUNTY approved the MSTIP 3e program in October 2016 that contained a \$7,500,000 Opportunity Fund component hereinafter referred to as "FUND".
2. CITY requested a \$452,528 distribution from the FUND as a match for an Oregon Communities Path Program grant, hereinafter referred to as "GRANT", to fund the Tualatin River Greenway Trail project (PROJECT).
3. The FUND distribution requested by CITY was approved by the Washington County Coordinating Committee in December 2020. The approval was contingent on the CITY receiving approval for the GRANT.
4. CITY was awarded the GRANT by the Oregon Transportation Commission on May 13, 2021.
5. CITY will enter into a separate agreement with the Oregon Department of Transportation (ODOT) for the administration of the PROJECT.
6. ORS 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has the authority to perform.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth below, the parties hereto agree as follows:

1. COUNTY OBLIGATIONS

- 1.1 COUNTY shall distribute \$152,528 from the FUND within sixty (60) calendar days of receipt of an invoice from CITY to be used as match for planning, design and Right Of Way acquisition.

- 1.2 COUNTY shall distribute \$300,000 from the FUND to be used as match for construction of the PROJECT within sixty (60) calendar days of receipt of an invoice from CITY and upon completion of 100% Plans, Specifications and Estimate (PS&E).

2. CITY OBLIGATIONS

- 2.1 CITY shall invoice COUNTY for the \$152,528 distribution from the FUND within thirty (30) calendar days of the execution of this AGREEMENT.
- 2.2 CITY shall invoice COUNTY for the \$300,000 distribution from the FUND to be used as match for construction of the PROJECT upon completion of 100% Plans, Specifications and Estimate (PSE).
- 2.3 CITY shall be responsible for any costs over the \$452,528 provided from the MSTIP Opportunity Fund. City shall return any funds not spent as part of the Tualatin River Greenway Trail project.

3. FINANCIAL OBLIGATIONS

- 3.1 COUNTY and CITY will each bear the cost of performance of their respective obligations under this AGREEMENT.

4. GENERAL PROVISIONS

4.1 LAWS OF OREGON

The parties shall comply with all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon. All relevant provisions required by ORS Chapter 279A and 279C to be included in public contracts are incorporated and made a part of this Agreement as if fully set forth herein.

4.2 DEFAULT

Time is of the essence in the performance of the Agreement. Either party shall be deemed to be in default if it fails to comply with any provisions of this Agreement. The non-defaulting party shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect.

4.3 INDEMNIFICATION

This Agreement is for the benefit of the parties only. Each party agrees to indemnify and hold harmless the other party, and its officers, employees, and agents, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or arising out of services performed, the omissions of services or in any way resulting from the negligent or wrongful acts or omissions of the indemnifying party and its officers, employees and agents. To the extent applicable, the above indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). In addition, each party shall be solely responsible for any contract claims, delay damages or similar items arising from or caused by the action or inaction of the party under this agreement.

4.4 MODIFICATION OF AGREEMENT

No waiver, consent, modification or change of terms of this Agreement shall be binding unless in writing and signed by both parties.

4.5 DISPUTE RESOLUTION

The parties shall attempt to informally resolve any dispute concerning any party's performance or decisions under this Agreement, or regarding the terms, conditions or meaning of this Agreement. A neutral third party may be used if the parties agree to facilitate these negotiations. In the event of an impasse in the resolution of any dispute, the issue shall be submitted to the governing bodies of both parties for a recommendation or resolution.

4.6 REMEDIES

Subject to the provisions in paragraph 4.5, any party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement. All legal actions shall be initiated in Washington County Circuit Court. The parties, by signature of their authorized representatives below, consent to the personal jurisdiction of that court.

4.7 EXCUSED PERFORMANCE

In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delay or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires,

casualties, acts of God, governmental restrictions imposed on or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control to the party to be excused.

4.8 SEVERABILITY

If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.

4.9 INTEGRATION

This Agreement is the entire agreement of the parties on its subject and supersedes any prior discussions or agreements regarding the same subject.

5. TERM OF AGREEMENT

5.1 This Agreement becomes effective on the last date signed below and shall terminate five (5) years from the effective date except as provided in Paragraph 5.2 below.

5.2 This Agreement may be amended or extended for periods of up to one (1) year by mutual consent of the parties. It may be canceled or terminated for any reason by either party. Termination or cancellation shall be effective thirty (30) days after written notice to the other party, or at such time as the parties may otherwise agree. The parties shall, in good faith, agree to such reasonable provisions for winding up the Agreement as necessary.

DATED this _____ day of _____ 2021.

CITY OF TUALATIN, OREGON

WASHINGTON COUNTY, OREGON

Sherilyn Lombos
CITY MANAGER

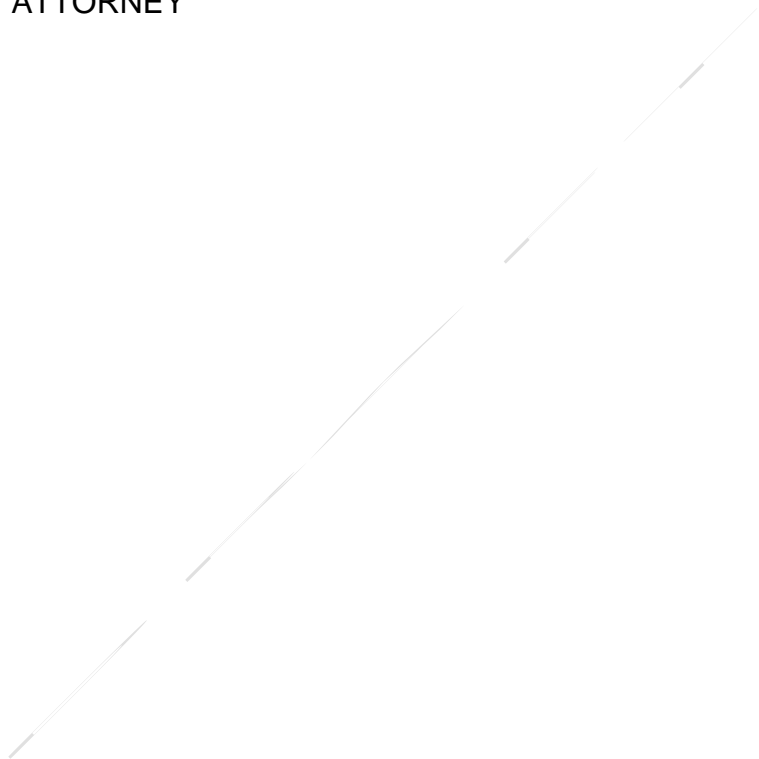
Ruth Osuna
DEPUTY COUNTY ADMINISTRATOR

ATTEST:

CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY





City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Bates Russell, Information and Maintenance Services Director
Frank Butler, Network Administrator

DATE: October 25, 2021

SUBJECT:

Consideration of **Resolution No. 5578-21** Authorizing the City Manager to Execute a Grant Agreement for Two State Homeland Security Grant Program Grants; and Appropriating Special Purpose Revenues in the City's General Fund During the Fiscal Year 2021-22 budget

RECOMMENDATION:

Staff recommends approval of Resolution 5578-21.

EXECUTIVE SUMMARY:

In the Spring of 2021, the City applied for, and received, two grants from Oregon military department office of emergency management homeland security grant program state homeland security program totaling \$16,000.00. These grants will fund the purchase of a cyber-intrusion detection and notification system as well as an exercise to test the cyber security capabilities of the City of Tualatin.

The City needs to authorize the acceptance of the unbudgeted grant through a Council action. During the year the Council may authorize the acceptance of special purpose revenues, such as this, and the associated appropriations through a special purpose revenue budget adjustment resolution.

OUTCOMES OF DECISION:

Approval of Resolution No. 5578-21 authorizes the City Manager to accept the grant funding, mid budget cycle, and places it into the City's General Fund to be used for the purchase of a cyber-intrusion detection and notification system as well as an exercise to test the cyber security capabilities of the City of Tualatin.

FINANCIAL IMPLICATIONS:

This State Homeland Security grant will fully fund the purchase for 1 year. If the tool proves useful, the City may continue the utilization tool, funding it through the City's budget process.

ATTACHMENTS:

Resolution No. 5578-21

RESOLUTION NO. 5578-21

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE GRANT AGREEMENTS FOR TWO STATE HOMELAND SECURITY GRANT PROGRAM GRANTS; AND APPROPRIATING SPECIAL PURPOSE REVENUES IN THE CITY'S GENERAL FUND DURING THE FY 2021-22 BUDGET.

WHEREAS, the State of Oregon, acting by and through the Oregon Military Department, Office of Emergency Management, is an intergovernmental entity formed under ORS 190;

WHEREAS, ORS 190 authorizes the City and the Oregon Military Department, Office of Emergency Management, to enter into intergovernmental agreements;

WHEREAS, under ORS 294.338(2), during the year the Council may authorize the acceptance of special purpose revenues and the associated appropriations through a special purpose revenue budget adjustment resolution; and

WHEREAS, the City received a \$6,000 grant and a \$10,000 in special purpose revenues from the State Homeland Security Grant Program for technology security modifications and a security test exercise.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager is authorized to execute two grant agreements with the Oregon Military Department, Office of Emergency Management, Homeland Security Grant Program, which are attached as Exhibits 1 and 2 and incorporated by reference. The City Manager is authorized to make administrative modifications to the agreements to fully implement their intent.

Section 2. The City Manager is authorized and instructed to adjust the General Fund's budget to reflect receipt of the special purpose revenue and the associated appropriation:

General Fund Revenues: \$16,000.00

General Fund Expenditures, Information Services: \$16,000.00

Section 3. This resolution is effective upon adoption.

Adopted by the City Council this 25th day of October, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

EXHIBIT 1
RESOLUTION NO. 5578-21
OREGON MILITARY DEPARTMENT OFFICE OF
EMERGENCY MANAGEMENT HOMELAND SECURITY
GRANT PROGRAM STATE HOMELAND SECURITY
PROGRAM
CFDA # 97.067
City of Tualatin
\$10,000
Grant No: 21-245

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through the Oregon Military Department, Office of Emergency Management, hereinafter referred to as “OEM,” and **City of Tualatin**, hereinafter referred to as “Subrecipient,” and collectively referred to as the “Parties.”

1. **Effective Date.** This Agreement shall become effective on the date this Agreement is fully executed and approved as required by applicable law. Reimbursements will be made for Project Costs incurred beginning on **October 1, 2021**, and ending, unless otherwise terminated or extended, on **September 30, 2023** (the “Grant Award Period”). No Grant Funds are available for expenditures after the Grant Award Period. OEM’s obligation to disburse Grant Funds under this Agreement is subject to Sections 6 and 10 of this Agreement.
2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

Exhibit A: **Project Description and Budget**
Exhibit B: **Federal Requirements and Certifications**
Exhibit C: **Subagreement Insurance Requirements**
Exhibit D: **Information required by 2 CFR 200.332(a)**

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit B; this Agreement without Exhibits; Exhibit A; Exhibit C.

3. **Grant Funds.** In accordance with the terms and conditions of this Agreement, OEM shall provide Subrecipient an amount not to exceed **\$10,000** in Grant Funds for eligible costs described in Section 6 hereof. Grant Funds for this Program will be from the Fiscal Year 2021 State Homeland Security Program (SHSP) grant.
4. **Project.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by OEM by amendment pursuant to Section 11.d hereof.
5. **Reports.** Failure of Subrecipient to submit the required program, financial, or audit reports, or to resolve program, financial, or audit issues may result in the suspension of grant payments, termination of this Agreement, or both.

a. Performance Reports.

- i. Subrecipient agrees to submit performance reports, using a form provided by OEM, on its progress in meeting each of the agreed upon milestones. The narrative reports will address specific information regarding the activities carried out under the FY 2021 State Homeland Security Program.
- ii. Reports are due to OEM on or before the 15th day of the month following each subsequent calendar quarter (ending on March 31, June 30, September 30, and December 31).
- iii. Subrecipient may request from OEM prior written approval to extend a performance report requirement past its due date. OEM, in its sole discretion, may approve or reject the request.

b. Financial Reimbursement Reports.

- i. To receive reimbursement, Subrecipient must submit a signed Request for Reimbursement (RFR), using a form provided by OEM that includes supporting documentation for all grant expenditures. RFRs may be submitted monthly but no less frequently than quarterly during the term of this Agreement. At a minimum, RFRs must be submitted on or before 15 days following each subsequent calendar quarter (ending on March 31, June 30, September 30, and December 31), and a final RFR must be submitted no later than 30 days following the end of the grant period.
- ii. Reimbursements for expenses will be withheld if performance reports are not submitted by the specified dates or are incomplete.
- iii. Reimbursement rates for travel expenses shall not exceed those allowed by the State of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expenses or authorized rates incurred.
- iv. Reimbursements will only be made for actual expenses incurred during the Grant Award Period. Subrecipient agrees that no grant may be used for expenses incurred before or after the Grant Award Period.

6. Disbursement and Recovery of Grant Funds.

- a. **Disbursement Generally.** OEM shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements shall be made by OEM upon approval by OEM of an RFR. Eligible costs are the reasonable and necessary costs incurred by Subrecipient for the Project, in accordance with the State Homeland Security Program guidance and application materials, including without limitation the United States Department of Homeland Security Notice of Funding Opportunity (NOFO), that are not excluded from reimbursement by OEM, either by this Agreement or by exclusion as a result of financial review or audit. The guidance, application materials and NOFO are available at <http://www.oregon.gov/oem/emresources/Grants/Pages/HSGP.aspx>.
- b. **Conditions Precedent to Disbursement.** OEM's obligation to disburse Grant Funds to Subrecipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- i. OEM has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to make the disbursement.
- ii. Subrecipient is in compliance with the terms of this Agreement including, without limitation, Exhibit B and the requirements incorporated by reference in Exhibit B.
- iii. Subrecipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
- iv. Subrecipient has provided to OEM a RFR in accordance with Section 5.b of this Agreement.

c. Recovery of Grant Funds. Any funds disbursed to Subrecipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement ("Unexpended Funds") must be returned to OEM. Subrecipient shall return all Misexpended Funds to OEM promptly after OEM's written demand and no later than 15 days after OEM's written demand.

7. Representations and Warranties of Subrecipient. Subrecipient represents and warrants to OEM as follows:

a. Organization and Authority. Subrecipient is a political subdivision of the State of Oregon and is eligible to receive the Grant Funds. Subrecipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subrecipient of this Agreement (1) have been duly authorized by all necessary action of Subrecipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement.

b. Binding Obligation. This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

c. No Solicitation. Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

d. NIMS Compliance. By accepting FY 2021 funds, Subrecipient certifies that it has met National Incident Management System (NIMS) compliance activities outlined in the Oregon NIMS Requirements located through OEM at http://www.oregon.gov/oem/emresources/Plans_Assessments/Pages/NIMS.aspx.

The warranties set forth in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. Records Maintenance and Access; Audit.

- a. Records, Access to Records and Facilities.** Subrecipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Subrecipient acknowledges and agrees, and Subrecipient will require its contractors, subcontractors, sub-recipients (collectively hereafter “contractors”), successors, transferees, and assignees to acknowledge and agree, to provide OEM, Oregon Secretary of State (Secretary), Office of Inspector General (OIG), Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), or any of their authorized representatives, access to records, accounts, documents, information, facilities, and staff. Subrecipient and its contractors must cooperate with any compliance review or complaint investigation by any of the above listed agencies, providing them access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary. The right of access is not limited to the required retention period but shall last as long as the records are retained.
- b. Retention of Records.** Subrecipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for until the latest of (a) six years following termination, completion or expiration of this Agreement, (b) upon resolution of any litigation or other disputes related to this Agreement, or (c) as required by 2 CFR 200.333. It is the responsibility of Subrecipient to obtain a copy of 2 CFR Part 200, and to apprise itself of all rules and regulations set forth.
- c. Audits.**

 - i. If Subrecipient expends \$750,000 or more in Federal funds (from all sources) in its fiscal year, Subrecipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR 200 Subpart F. Copies of all audits must be submitted to OEM within 30 days of completion. If Subrecipient expends less than \$750,000 in its fiscal year in Federal funds, Subrecipient is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials as provided in Section 8.a. herein.
 - ii. Audit costs for audits not required in accordance with 2 CFR 200 Subpart F are unallowable. If Subrecipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the grant.
 - iii. Subrecipient shall save, protect and hold harmless the OEM from the cost of any audits or special investigations performed by the Secretary or any federal agency with respect to the funds expended under this Agreement. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subrecipient and the State of Oregon.

9. Subrecipient Procurements; Property and Equipment Management and Records; Subcontractor Indemnity and Insurance

- a. Subagreements.** Subrecipient may enter into agreements (hereafter “subagreements”) for performance of the Project. Subrecipient shall use its own procurement procedures and regulations, provided that the procurement conforms to applicable Federal and State law (including without limitation ORS chapters 279A, 279B, 279C, and that for contracts for more

than \$150,000, the contract shall address administrative, contractual or legal remedies for violation or breach of contract terms and provide for sanctions and penalties as appropriate, and for contracts for more than \$10,000 address termination for cause or for convenience including the manner in which termination will be effected and the basis for settlement).

- i. Subrecipient shall provide to OEM copies of all Requests for Proposals or other solicitations for procurements anticipated to be for \$100,000 or more and to provide to OEM, upon request by OEM, such documents for procurements for less than \$100,000. Subrecipient shall include with its RFR a list of all procurements issued during the period covered by the report.
 - ii. All subagreements, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner that encourages fair and open competition to the maximum practical extent possible. All sole-source procurements in excess of \$100,000 must receive prior written approval from OEM in addition to any other approvals required by law applicable to Subrecipient. Justification for sole-source procurement in excess of \$100,000 should include a description of the program and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
 - iii. Subrecipient shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to OEM.
 - iv. Subrecipient agrees that, to the extent it uses contractors, such contractors shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.
- b. Purchases and Management of Property and Equipment; Records.** Subrecipient agrees to comply with all applicable federal requirements referenced in Exhibit B, Section II.C.1 to this Agreement and procedures for managing and maintaining records of all purchases of property and equipment will, at a minimum, meet the following requirements:
- i. All property and equipment purchased under this agreement, whether by Subrecipient or a contractor, will be conducted in a manner providing full and open competition and in accordance with all applicable procurement requirements, including without limitation ORS chapters 279A, 279B, 279C, and purchases shall be recorded and maintained in Subrecipient's property or equipment inventory system.
 - ii. Subrecipient's property and equipment records shall include: a description of the property or equipment; the manufacturer's serial number, model number, or other identification number; the source of the property or equipment, including the Catalog of Federal Domestic Assistance (CFDA) number; name of person or entity holding title to the property or equipment; the acquisition date; cost and percentage of Federal participation in the cost; the location, use and condition of the property or equipment; and any ultimate disposition data including the date of disposal and sale price of the property or equipment.
 - iii. A physical inventory of the property and equipment must be taken and the results reconciled with the property and equipment records at least once every two years.
 - iv. Subrecipient must develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property and equipment. Subrecipient shall investigate any loss, damage, or theft and shall provide the results of the investigation to OEM upon request.

- v. Subrecipient must develop, or require its contractors to develop, adequate maintenance procedures to keep the property and equipment in good condition.
 - vi. If Subrecipient is authorized to sell the property or equipment, proper sales procedures must be established to ensure the highest possible return.
 - vii. Subrecipient agrees to comply with 2 CFR 200.313 pertaining to use and disposal of equipment purchased with Grant Funds, including when original or replacement equipment acquired with Grant Funds is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency.
 - viii. Subrecipient shall require its contractors to use property and equipment management requirements that meet or exceed the requirements provided herein applicable to all property and equipment purchased with Grant Funds.
 - ix. Subrecipient shall, and shall require its contractors to, retain the records described in this Section 9.b. for a period of six years from the date of the disposition or replacement or transfer at the discretion of OEM. Title to all property and equipment purchased with Grant Funds shall vest in Subrecipient if Subrecipient provides written certification to OEM that it will use the property and equipment for purposes consistent with the State Homeland Security Program.
- c. **Subagreement indemnity; insurance.** Subrecipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless OEM and its officers, employees and agents 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 the other party to Subrecipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that OEM shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of OEM, be indemnified by the other party to Subrecipient's subagreement(s) from and against any and all Claims.

Any such indemnification shall also provide that neither Subrecipient's contractor(s) nor any attorney engaged by Subrecipient's contractor(s) shall defend any claim in the name of OEM or any agency of the State of Oregon (collectively "State"), nor purport to act as legal representative of the State or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Subrecipient's contractor is prohibited from defending State or that Subrecipient's contractor is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Subrecipient's contractor if State elects to assume its own defense.

Subrecipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

10. Termination

- a. **Termination by OEM.** OEM may terminate this Agreement effective upon delivery of written notice of termination to Subrecipient, or at such later date as may be established by OEM in such written notice, if:
 - i. Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. OEM fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
 - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - iv. The Project would not produce results commensurate with the further expenditure of funds; or
 - v. Subrecipient takes any action pertaining to this Agreement without the approval of OEM and which under the provisions of this Agreement would have required the approval of OEM.
 - vi. OEM determines there is a material misrepresentation, error or inaccuracy in Subrecipient's application.
- b. **Termination by Subrecipient.** Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to OEM, or at such later date as may be established by Subrecipient in such written notice, if:
 - i. The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
 - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days notice to the other Party and failure of the other Party to cure within the ten days, if the other Party fails to comply with any of the terms of this Agreement.
- d. **Settlement upon Termination.** Immediately upon termination under Sections 10.a.i, v., or vi, no Grant Funds shall be disbursed by OEM and Subrecipient shall return to OEM Grant Funds previously disbursed to Subrecipient by OEM in accordance with Section 6.c and the terminating party may pursue additional remedies in law or equity. Termination of this Agreement does not relieve Subrecipient of any other term of this Agreement that may survive termination, including without limitation Sections 11.a and c.

11. GENERAL PROVISIONS

- a. **Contribution.** To the extent authorized by law, Subrecipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OEM and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Subrecipient, or its employees, agents or contractors. This Section shall survive expiration or termination of this Agreement.
- b. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or

arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each party shall bear its own costs incurred under this Section 11.b.

- c. **Responsibility for Grant Funds.** Subrecipient, pursuant to this Agreement with OEM, shall assume sole liability for its breach of the conditions of this Agreement, and shall, upon its breach of conditions that causes or requires OEM to return funds to DHS or FEMA, hold harmless and indemnify OEM for an amount equal to the funds received under this Agreement; or if legal limitations apply to the Subrecipient's indemnification ability, the indemnification amount shall be the maximum amount of funds available to Subrecipient for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- d. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- e. **Duplicate Payment.** Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- f. **No Third Party Beneficiaries.** OEM and Subrecipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Subrecipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to Subrecipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

- g. **Notices.** Except as otherwise expressly provided in this Section, any communications between the parties hereto or notice to be given hereunder shall be given in writing by personal delivery, facsimile, email or mailing the same by registered or certified mail, postage prepaid to Subrecipient or OEM at the appropriate address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and sent by registered or certified mail shall be deemed delivered upon receipt or refusal of receipt. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed Notices under this Section unless receipt by the other party is expressly acknowledged in writing by the receiving party.
- h. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by, construed in accordance with, and enforced under the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between OEM (or any other agency or department of the State of Oregon) and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a

waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of the Circuit Court of Marion County in the State of Oregon, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

- i. Compliance with Law.** Subrecipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B.
- j. Insurance; Workers' Compensation.** All employers, including Subrecipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Subrecipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- k. Independent Contractor.** Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of OEM. Subrecipient has no right or authority to incur or create any obligation for or legally bind OEM in any way. Subrecipient acknowledges and agrees that Subrecipient is not an "officer", "employee", or "agent" of OEM, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- l. Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- m. Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- n. Integration and Waiver.** This Agreement, including all Exhibits and referenced documents, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Subrecipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

THE PARTIES, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

SIGNATURE PAGE TO FOLLOW

City of Tualatin

By _____

Name _____
(printed)

Date _____

APPROVED AS TO LEGAL SUFFICIENCY
(If required for Subrecipient)

By _____
Subrecipient's Legal Counsel

Date _____

Subrecipient Program Contact:

Bates Russell
Information and Maintenance Services Dir,
City of Tualatin
18880 SW Martinazzi Ave. Tualatin, OR 97062
503-691-3086
brussell@tualatin.gov

Subrecipient Fiscal Contact:

Don Hudson
Finance Director
City of Tualatin
18880 SW Martinazzi Ave. Tualatin, OR 97062
503-691-3050
dhudson@tualatin.gov

STATE OF OREGON, acting by and through its Oregon
Military Department, Office of Emergency Management

By _____

Name _____
(printed)

Operations and Preparedness Section Manager, OEM

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By Samuel B. Zeigler via email
Senior Assistant Attorney General

Date: 9/23/21

OEM Program Contact:

Kevin Jeffries
Grants Coordinator
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
Phone: 503-378-3661
Email: kevin.jeffries@state.or.us

OEM Fiscal Contact:

Natalie Day
Senior Grants Accountant
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
503-378-3931
natalie.day@state.or.us

EXHIBIT A

Project Description and Budget

I. Project Description

City of Tualatin: This project will fund the purchase of a cyber intrusion detection and notification system.

II. Budget

Grant Funds: \$10,000

Total Budget: \$10,000

Equipment \$10,000

Total (Grant) \$10,000

EXHIBIT B

Federal Requirements and Certifications

I. General.

Subrecipient agrees to comply with all federal requirements applicable to this Agreement. Those federal requirements include, without limitation, financial management and procurement requirements; requirements for maintaining accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP); and all other financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR), Department of Homeland Security (DHS) program legislation, and DHS/Federal Emergency Management Agency (FEMA) program regulations and requirements. References below to “recipient” include Subrecipient.

1 - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a, recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, (codified as amended at 15 U.S.C. section 2225.)

2 - Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

3 - Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. section 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. section 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942. Article XXXVI - Reporting of Matters Related to Recipient Integrity and Performance If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

4 - Lobbying Prohibitions

Recipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

5 - False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. sections 3729- 3733, which prohibit the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. sections 3801-3812, which details the administrative remedies for false claims and statements made.)

6 - Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

7 - Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

8 - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its subrecipients is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. section 200.313.

9 - Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at C.F.R. Part 17 and 44 C.F.R. Part 19.

10 – Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

11 - Reporting Subawards and Executive Compensation

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

12 - Use of DHS Seal, Logo and Flags

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

13 - Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C section 2409,

II Other Applicable Federal Regulations

1 - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients must comply with Title VI of the *Civil Rights Act of 1964*, (42 U.S.C. section 2000d *et seq.*) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people/limited> and additional resources on <http://www.lep.gov>.

2- Universal Identifier and System of Award Management

Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

3 - Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. sections 12101- 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

4 - SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

5 - Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, Pub. L. 93-112 (1973), (codified as amended at 29 U.S.C. section 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

6 - National Environmental Policy Act

Recipients must comply with the requirements of the *National Environmental Policy Act of 1969 (NEPA)*, Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. section 4321 *et seq.*) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

7 - Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

8 - USA PATRIOT Act of 2001

Recipients must comply with requirements of Section 817 of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001* (USA PATRIOT Act), Pub. L. No. 107-56, which amends 18 U.S.C. sections 175-175c.

9 - Age Discrimination Act of 1975

Recipients must comply with the requirements of the *Age Discrimination Act of 1975*, Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, section 6101 *et seq.*), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

10 - Civil Rights Act of 1964 - Title VI

Recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964* (codified as amended at 42 U.S.C. section 2000d *et seq.*), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

11 - RESERVED

12 - Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

13 - Trafficking Victims Protection Act of 2000 (TVPA)

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. section 7104. The award term is located at 2 C.F.R. section 175.15, the full text of which is incorporated here by reference.

14- Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@fema.dhs.gov if you have any questions.

15 - Non-Supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

16 - Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the *Drug-Free Workplace Act of 1988* (41 U.S.C. sections 8101-8106).

16 - Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

17 - Environmental Planning and Historic Preservation (EHP) Review

DHS/FEMA funded activities that may require an EHP review are subject to the FEMA Environmental Planning and Historic Preservation (EHP) review process. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state, and local laws. DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/ FEMA grant funds, through its EHP Review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and, any other applicable laws and Executive Orders. To access the FEMA EHP screening form and instructions, go to the DHS/FEMA website at: <https://www.fema.gov/media-library/assets/documents/90195>. In order to initiate EHP review of your project(s), you must complete all relevant sections of this form and submit it to the Grant Programs Directorate (GPD) along with all other pertinent project information. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP laws, executive order, regulations, and

policies. If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered, applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

18 - Best Practices for Collection and Use of Personally Identifiable Information

Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and Privacy Template at https://www.dhs.gov/sites/default/files/publications/privacy_pia_template_2017.pdf as useful resources respectively.

19 - Civil Rights Act of 1968

Recipients must comply with Title VIII of the *Civil Rights Act of 1968*, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 *et seq.*), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

20- Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

21 - Activities Conducted Abroad

Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

22- Energy Policy and Conservation Act

Recipients must comply with the requirements of the *Energy Policy and Conservation Act*, Pub. L. 94- 163 (1975) (codified as amended at 42 U.S.C. section 6201 *et seq.*), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

23 - Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the *Resource Conservation and Recovery Act*, 42 U.S.C. section 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

EXHIBIT C

Subagreement Insurance Requirements

GENERAL.

Subrecipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences; and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OEM. Subrecipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Subrecipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Subrecipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subrecipient permit work under a subagreement when Subrecipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which Subrecipient is a Party.

TYPES AND AMOUNTS.

i. WORKERS COMPENSATION. Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers' liability insurance with coverage limits of not less than \$500,000 must be included.

ii. COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to OEM. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

Not less than \$1,000,000 per occurrence, (for all claimants for claims arising out of a single accident or occurrence) and an annual aggregate limit of not less than \$2,000,000.

iii. AUTOMOBILE Liability Insurance: Automobile Liability.

Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

Not less than \$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence) and an annual aggregate limit of not less than \$2,000,000.

ADDITIONAL INSURED. The Commercial General Liability Insurance and Automobile Liability insurance must include OEM, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the subagreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the subagreement, for a minimum of 24 months following the later of : (i) the contractor's completion and Subrecipient's acceptance of all Services required under the subagreement or, (ii) the expiration of all warranty periods provided under the subagreement. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and OEM may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If OEM approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE. The contractor or its insurer must provide 30 days' written notice to Subrecipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. Subrecipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the subagreement. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage. **INSURANCE REQUIREMENT REVIEW.** Subrecipient agrees to periodic review of insurance requirements by OEM under this Agreement and to provide updated requirements as mutually agreed upon by OEM and Subrecipient.

OEM ACCEPTANCE. All insurance providers are subject to OEM acceptance. If requested by OEM, Subrecipient shall provide complete copies of its contractors' insurance policies, endorsements, self-insurance documents and related insurance documents to OEM's representatives responsible for verification of the insurance coverages required under this Exhibit C.

Exhibit D

Information required by 2 CFR 200.332(a)

1. Federal Award Identification:
 - (i) Sub-recipient name (which must match registered name in DUNS): City of Tualatin
 - (ii) Sub-recipient's Unique Entity Identifier (UEI) or DUNS number: 055396253
 - (iii) Federal Award Identification Number (FAIN): EMW-2020-SS-00073
 - (iv) Federal Award Date: September 1, 2021
 - (v) Sub-award Period of Performance Start and End Date: From October 1, 2021, to September 30, 2023
 - (vi) Sub-award Budget Period Start and End Date: From October 1, 2021, to September 30, 2023
 - (vii) Amount of Federal Funds Obligated by this Agreement: \$10,000
 - (viii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this agreement *: \$16,000
 - (ix) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: \$16,000
 - (x) Federal award project description: State Homeland Security Program Grant plays an important role in the implementation of the National Preparedness System by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation.
 - (xi)
 - (a) Name of Federal awarding agency: U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA)
 - (b) Name of Pass-through entity: Oregon Military Department, Office of Emergency Management
 - (c) Contact information for awarding official: Andrew Phelps, Director – Oregon Office of Emergency Management, PO Box 14370, Salem, OR 97309-5062
 - (xii) Assistance Listings Number and Title: 97.067 Homeland Security Grant Program
Amount: \$8,402,500
 - (xiii) Is Award R&D? No
 - (xiv) Indirect cost rate for the Federal award: 9.5%
2. Subrecipient's indirect cost rate: 0%

*The Total amount of Federal Funds Obligated to the Subrecipient by the pass-through entity is the Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity during the current fiscal year.

EXHIBIT 2
RESOLUTION NO. 5578-21
OREGON MILITARY DEPARTMENT OFFICE OF
EMERGENCY MANAGEMENT HOMELAND SECURITY
GRANT PROGRAM STATE HOMELAND SECURITY
PROGRAM
CFDA # 97.067
City of Tualatin
\$6,000
Grant No: 21-244

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through the Oregon Military Department, Office of Emergency Management, hereinafter referred to as “OEM,” and **City of Tualatin**, hereinafter referred to as “Subrecipient,” and collectively referred to as the “Parties.”

1. **Effective Date.** This Agreement shall become effective on the date this Agreement is fully executed and approved as required by applicable law. Reimbursements will be made for Project Costs incurred beginning on **October 1, 2021**, and ending, unless otherwise terminated or extended, on **September 30, 2023** (the “Grant Award Period”). No Grant Funds are available for expenditures after the Grant Award Period. OEM’s obligation to disburse Grant Funds under this Agreement is subject to Sections 6 and 10 of this Agreement.
2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

Exhibit A: **Project Description and Budget**

Exhibit B: **Federal Requirements and Certifications**

Exhibit C: **Subagreement Insurance Requirements**

Exhibit D: **Information required by 2 CFR 200.332(a)**

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit B; this Agreement without Exhibits; Exhibit A; Exhibit C.

3. **Grant Funds.** In accordance with the terms and conditions of this Agreement, OEM shall provide Subrecipient an amount not to exceed **\$6,000** in Grant Funds for eligible costs described in Section 6 hereof. Grant Funds for this Program will be from the Fiscal Year 2021 State Homeland Security Program (SHSP) grant.
4. **Project.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by OEM by amendment pursuant to Section 11.d hereof.
5. **Reports.** Failure of Subrecipient to submit the required program, financial, or audit reports, or to resolve program, financial, or audit issues may result in the suspension of grant payments, termination of this Agreement, or both.

a. Performance Reports.

- i. Subrecipient agrees to submit performance reports, using a form provided by OEM, on its progress in meeting each of the agreed upon milestones. The narrative reports will address specific information regarding the activities carried out under the FY 2021 State Homeland Security Program.
- ii. Reports are due to OEM on or before the 15th day of the month following each subsequent calendar quarter (ending on March 31, June 30, September 30, and December 31).
- iii. Subrecipient may request from OEM prior written approval to extend a performance report requirement past its due date. OEM, in its sole discretion, may approve or reject the request.

b. Financial Reimbursement Reports.

- i. To receive reimbursement, Subrecipient must submit a signed Request for Reimbursement (RFR), using a form provided by OEM that includes supporting documentation for all grant expenditures. RFRs may be submitted monthly but no less frequently than quarterly during the term of this Agreement. At a minimum, RFRs must be submitted on or before 15 days following each subsequent calendar quarter (ending on March 31, June 30, September 30, and December 31), and a final RFR must be submitted no later than 30 days following the end of the grant period.
- ii. Reimbursements for expenses will be withheld if performance reports are not submitted by the specified dates or are incomplete.
- iii. Reimbursement rates for travel expenses shall not exceed those allowed by the State of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expenses or authorized rates incurred.
- iv. Reimbursements will only be made for actual expenses incurred during the Grant Award Period. Subrecipient agrees that no grant may be used for expenses incurred before or after the Grant Award Period.

6. Disbursement and Recovery of Grant Funds.

- a. **Disbursement Generally.** OEM shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements shall be made by OEM upon approval by OEM of an RFR. Eligible costs are the reasonable and necessary costs incurred by Subrecipient for the Project, in accordance with the State Homeland Security Program guidance and application materials, including without limitation the United States Department of Homeland Security Notice of Funding Opportunity (NOFO), that are not excluded from reimbursement by OEM, either by this Agreement or by exclusion as a result of financial review or audit. The guidance, application materials and NOFO are available at <http://www.oregon.gov/oem/emresources/Grants/Pages/HSGP.aspx>.
- b. **Conditions Precedent to Disbursement.** OEM's obligation to disburse Grant Funds to Subrecipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- i. OEM has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to make the disbursement.
- ii. Subrecipient is in compliance with the terms of this Agreement including, without limitation, Exhibit B and the requirements incorporated by reference in Exhibit B.
- iii. Subrecipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
- iv. Subrecipient has provided to OEM a RFR in accordance with Section 5.b of this Agreement.

c. Recovery of Grant Funds. Any funds disbursed to Subrecipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement ("Unexpended Funds") must be returned to OEM. Subrecipient shall return all Misexpended Funds to OEM promptly after OEM's written demand and no later than 15 days after OEM's written demand.

7. Representations and Warranties of Subrecipient. Subrecipient represents and warrants to OEM as follows:

a. Organization and Authority. Subrecipient is a political subdivision of the State of Oregon and is eligible to receive the Grant Funds. Subrecipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subrecipient of this Agreement (1) have been duly authorized by all necessary action of Subrecipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement.

b. Binding Obligation. This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

c. No Solicitation. Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

d. NIMS Compliance. By accepting FY 2021 funds, Subrecipient certifies that it has met National Incident Management System (NIMS) compliance activities outlined in the Oregon NIMS Requirements located through OEM at http://www.oregon.gov/oem/emresources/Plans_Assessments/Pages/NIMS.aspx.

The warranties set forth in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. Records Maintenance and Access; Audit.

- a. Records, Access to Records and Facilities.** Subrecipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Subrecipient acknowledges and agrees, and Subrecipient will require its contractors, subcontractors, sub-recipients (collectively hereafter “contractors”), successors, transferees, and assignees to acknowledge and agree, to provide OEM, Oregon Secretary of State (Secretary), Office of Inspector General (OIG), Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), or any of their authorized representatives, access to records, accounts, documents, information, facilities, and staff. Subrecipient and its contractors must cooperate with any compliance review or complaint investigation by any of the above listed agencies, providing them access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary. The right of access is not limited to the required retention period but shall last as long as the records are retained.
- b. Retention of Records.** Subrecipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for until the latest of (a) six years following termination, completion or expiration of this Agreement, (b) upon resolution of any litigation or other disputes related to this Agreement, or (c) as required by 2 CFR 200.333. It is the responsibility of Subrecipient to obtain a copy of 2 CFR Part 200, and to apprise itself of all rules and regulations set forth.
- c. Audits.**

 - i. If Subrecipient expends \$750,000 or more in Federal funds (from all sources) in its fiscal year, Subrecipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR 200 Subpart F. Copies of all audits must be submitted to OEM within 30 days of completion. If Subrecipient expends less than \$750,000 in its fiscal year in Federal funds, Subrecipient is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials as provided in Section 8.a. herein.
 - ii. Audit costs for audits not required in accordance with 2 CFR 200 Subpart F are unallowable. If Subrecipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the grant.
 - iii. Subrecipient shall save, protect and hold harmless the OEM from the cost of any audits or special investigations performed by the Secretary or any federal agency with respect to the funds expended under this Agreement. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subrecipient and the State of Oregon.

9. Subrecipient Procurements; Property and Equipment Management and Records; Subcontractor Indemnity and Insurance

- a. Subagreements.** Subrecipient may enter into agreements (hereafter “subagreements”) for performance of the Project. Subrecipient shall use its own procurement procedures and regulations, provided that the procurement conforms to applicable Federal and State law (including without limitation ORS chapters 279A, 279B, 279C, and that for contracts for more

than \$150,000, the contract shall address administrative, contractual or legal remedies for violation or breach of contract terms and provide for sanctions and penalties as appropriate, and for contracts for more than \$10,000 address termination for cause or for convenience including the manner in which termination will be effected and the basis for settlement).

- i. Subrecipient shall provide to OEM copies of all Requests for Proposals or other solicitations for procurements anticipated to be for \$100,000 or more and to provide to OEM, upon request by OEM, such documents for procurements for less than \$100,000. Subrecipient shall include with its RFR a list of all procurements issued during the period covered by the report.
 - ii. All subagreements, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner that encourages fair and open competition to the maximum practical extent possible. All sole-source procurements in excess of \$100,000 must receive prior written approval from OEM in addition to any other approvals required by law applicable to Subrecipient. Justification for sole-source procurement in excess of \$100,000 should include a description of the program and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
 - iii. Subrecipient shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to OEM.
 - iv. Subrecipient agrees that, to the extent it uses contractors, such contractors shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.
- b. Purchases and Management of Property and Equipment; Records.** Subrecipient agrees to comply with all applicable federal requirements referenced in Exhibit B, Section II.C.1 to this Agreement and procedures for managing and maintaining records of all purchases of property and equipment will, at a minimum, meet the following requirements:
- i. All property and equipment purchased under this agreement, whether by Subrecipient or a contractor, will be conducted in a manner providing full and open competition and in accordance with all applicable procurement requirements, including without limitation ORS chapters 279A, 279B, 279C, and purchases shall be recorded and maintained in Subrecipient's property or equipment inventory system.
 - ii. Subrecipient's property and equipment records shall include: a description of the property or equipment; the manufacturer's serial number, model number, or other identification number; the source of the property or equipment, including the Catalog of Federal Domestic Assistance (CFDA) number; name of person or entity holding title to the property or equipment; the acquisition date; cost and percentage of Federal participation in the cost; the location, use and condition of the property or equipment; and any ultimate disposition data including the date of disposal and sale price of the property or equipment.
 - iii. A physical inventory of the property and equipment must be taken and the results reconciled with the property and equipment records at least once every two years.
 - iv. Subrecipient must develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property and equipment. Subrecipient shall investigate any loss, damage, or theft and shall provide the results of the investigation to OEM upon request.

- v. Subrecipient must develop, or require its contractors to develop, adequate maintenance procedures to keep the property and equipment in good condition.
 - vi. If Subrecipient is authorized to sell the property or equipment, proper sales procedures must be established to ensure the highest possible return.
 - vii. Subrecipient agrees to comply with 2 CFR 200.313 pertaining to use and disposal of equipment purchased with Grant Funds, including when original or replacement equipment acquired with Grant Funds is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency.
 - viii. Subrecipient shall require its contractors to use property and equipment management requirements that meet or exceed the requirements provided herein applicable to all property and equipment purchased with Grant Funds.
 - ix. Subrecipient shall, and shall require its contractors to, retain the records described in this Section 9.b. for a period of six years from the date of the disposition or replacement or transfer at the discretion of OEM. Title to all property and equipment purchased with Grant Funds shall vest in Subrecipient if Subrecipient provides written certification to OEM that it will use the property and equipment for purposes consistent with the State Homeland Security Program.
- c. **Subagreement indemnity; insurance.** Subrecipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless OEM and its officers, employees and agents 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 the other party to Subrecipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that OEM shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of OEM, be indemnified by the other party to Subrecipient's subagreement(s) from and against any and all Claims.

Any such indemnification shall also provide that neither Subrecipient's contractor(s) nor any attorney engaged by Subrecipient's contractor(s) shall defend any claim in the name of OEM or any agency of the State of Oregon (collectively "State"), nor purport to act as legal representative of the State or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Subrecipient's contractor is prohibited from defending State or that Subrecipient's contractor is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Subrecipient's contractor if State elects to assume its own defense.

Subrecipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

10. Termination

- a. **Termination by OEM.** OEM may terminate this Agreement effective upon delivery of written notice of termination to Subrecipient, or at such later date as may be established by OEM in such written notice, if:
 - i. Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. OEM fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
 - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - iv. The Project would not produce results commensurate with the further expenditure of funds; or
 - v. Subrecipient takes any action pertaining to this Agreement without the approval of OEM and which under the provisions of this Agreement would have required the approval of OEM.
 - vi. OEM determines there is a material misrepresentation, error or inaccuracy in Subrecipient's application.
- b. **Termination by Subrecipient.** Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to OEM, or at such later date as may be established by Subrecipient in such written notice, if:
 - i. The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
 - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days notice to the other Party and failure of the other Party to cure within the ten days, if the other Party fails to comply with any of the terms of this Agreement.
- d. **Settlement upon Termination.** Immediately upon termination under Sections 10.a.i, v., or vi, no Grant Funds shall be disbursed by OEM and Subrecipient shall return to OEM Grant Funds previously disbursed to Subrecipient by OEM in accordance with Section 6.c and the terminating party may pursue additional remedies in law or equity. Termination of this Agreement does not relieve Subrecipient of any other term of this Agreement that may survive termination, including without limitation Sections 11.a and c.

11. GENERAL PROVISIONS

- a. **Contribution.** To the extent authorized by law, Subrecipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OEM and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Subrecipient, or its employees, agents or contractors. This Section shall survive expiration or termination of this Agreement.
- b. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or

arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each party shall bear its own costs incurred under this Section 11.b.

- c. **Responsibility for Grant Funds.** Subrecipient, pursuant to this Agreement with OEM, shall assume sole liability for its breach of the conditions of this Agreement, and shall, upon its breach of conditions that causes or requires OEM to return funds to DHS or FEMA, hold harmless and indemnify OEM for an amount equal to the funds received under this Agreement; or if legal limitations apply to the Subrecipient's indemnification ability, the indemnification amount shall be the maximum amount of funds available to Subrecipient for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- d. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- e. **Duplicate Payment.** Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- f. **No Third Party Beneficiaries.** OEM and Subrecipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Subrecipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to Subrecipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

- g. **Notices.** Except as otherwise expressly provided in this Section, any communications between the parties hereto or notice to be given hereunder shall be given in writing by personal delivery, facsimile, email or mailing the same by registered or certified mail, postage prepaid to Subrecipient or OEM at the appropriate address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and sent by registered or certified mail shall be deemed delivered upon receipt or refusal of receipt. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed Notices under this Section unless receipt by the other party is expressly acknowledged in writing by the receiving party.
- h. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by, construed in accordance with, and enforced under the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between OEM (or any other agency or department of the State of Oregon) and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a

waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of the Circuit Court of Marion County in the State of Oregon, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

- i. Compliance with Law.** Subrecipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B.
- j. Insurance; Workers' Compensation.** All employers, including Subrecipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Subrecipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- k. Independent Contractor.** Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of OEM. Subrecipient has no right or authority to incur or create any obligation for or legally bind OEM in any way. Subrecipient acknowledges and agrees that Subrecipient is not an "officer", "employee", or "agent" of OEM, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- l. Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- m. Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- n. Integration and Waiver.** This Agreement, including all Exhibits and referenced documents, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Subrecipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

THE PARTIES, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

SIGNATURE PAGE TO FOLLOW

City of Tualatin

By _____

Name _____
(printed)

Date _____

APPROVED AS TO LEGAL SUFFICIENCY
(If required for Subrecipient)

By _____
Subrecipient's Legal Counsel

Date _____

Subrecipient Program Contact:

Bates Russell
Information and Maintenance Services Dir,
City of Tualatin
18880 SW Martinazzi Ave. Tualatin, OR 97062
503-691-3086
brussell@tualatin.gov

Subrecipient Fiscal Contact:

Don Hudson
Finance Director
City of Tualatin
18880 SW Martinazzi Ave. Tualatin, OR 97062
503-691-3050
dhudson@tualatin.gov

STATE OF OREGON, acting by and through its Oregon
Military Department, Office of Emergency Management

By _____

Name _____
(printed)
Operations and Preparedness Section Manager, OEM

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By Samuel B. Zeigler via email
Senior Assistant Attorney General

Date: 9/23/21

OEM Program Contact:

Kevin Jeffries
Grants Coordinator
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
Phone: 503-378-3661
Email: kevin.jeffries@state.or.us

OEM Fiscal Contact:

Natalie Day
Senior Grants Accountant
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
503-378-3931
natalie.day@state.or.us

EXHIBIT A

Project Description and Budget

I. Project Description

Washington County: This project will fund an exercise to test the cyber security capabilities of Washington County.

II. Budget

Grant Funds:	\$6,000
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Total Budget:	\$6,000
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Exercise	\$6,000
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Total (Grant)	\$6,000
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EXHIBIT B

Federal Requirements and Certifications

I. General.

Subrecipient agrees to comply with all federal requirements applicable to this Agreement. Those federal requirements include, without limitation, financial management and procurement requirements; requirements for maintaining accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP); and all other financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR), Department of Homeland Security (DHS) program legislation, and DHS/Federal Emergency Management Agency (FEMA) program regulations and requirements. References below to “recipient” include Subrecipient.

1 - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a, recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, (codified as amended at 15 U.S.C. section 2225.)

2 - Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

3 - Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. section 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. section 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942. Article XXXVI - Reporting of Matters Related to Recipient Integrity and Performance If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

4 - Lobbying Prohibitions

Recipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

5 - False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. sections 3729- 3733, which prohibit the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. sections 3801-3812, which details the administrative remedies for false claims and statements made.)

6 - Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

7 - Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

8 - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its subrecipients is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. section 200.313.

9 - Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at C.F.R. Part 17 and 44 C.F.R. Part 19.

10 – Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

11 - Reporting Subawards and Executive Compensation

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

12 - Use of DHS Seal, Logo and Flags

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

13 - Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C section 2409,

II Other Applicable Federal Regulations

1 - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients must comply with Title VI of the *Civil Rights Act of 1964*, (42 U.S.C. section 2000d *et seq.*) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people/limited> and additional resources on <http://www.lep.gov>.

2- Universal Identifier and System of Award Management

Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

3 - Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. sections 12101- 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

4 - SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

5 - Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, Pub. L. 93-112 (1973), (codified as amended at 29 U.S.C. section 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

6 - National Environmental Policy Act

Recipients must comply with the requirements of the *National Environmental Policy Act of 1969 (NEPA)*, Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. section 4321 *et seq.*) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

7 - Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

8 - USA PATRIOT Act of 2001

Recipients must comply with requirements of Section 817 of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001* (USA PATRIOT Act), Pub. L. No. 107-56, which amends 18 U.S.C. sections 175-175c.

9 - Age Discrimination Act of 1975

Recipients must comply with the requirements of the *Age Discrimination Act of 1975*, Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, section 6101 *et seq.*), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

10 - Civil Rights Act of 1964 - Title VI

Recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964* (codified as amended at 42 U.S.C. section 2000d *et seq.*), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

11 - RESERVED

12 - Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

13 - Trafficking Victims Protection Act of 2000 (TVPA)

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. section 7104. The award term is located at 2 C.F.R. section 175.15, the full text of which is incorporated here by reference.

14- Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@fema.dhs.gov if you have any questions.

15 - Non-Supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

16 - Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the *Drug-Free Workplace Act of 1988* (41 U.S.C. sections 8101-8106).

16 - Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

17 - Environmental Planning and Historic Preservation (EHP) Review

DHS/FEMA funded activities that may require an EHP review are subject to the FEMA Environmental Planning and Historic Preservation (EHP) review process. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state, and local laws. DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/ FEMA grant funds, through its EHP Review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and, any other applicable laws and Executive Orders. To access the FEMA EHP screening form and instructions, go to the DHS/FEMA website at: <https://www.fema.gov/media-library/assets/documents/90195>. In order to initiate EHP review of your project(s), you must complete all relevant sections of this form and submit it to the Grant Programs Directorate (GPD) along with all other pertinent project information. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP laws, executive order, regulations, and

policies. If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered, applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

18 - Best Practices for Collection and Use of Personally Identifiable Information

Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and Privacy Template at https://www.dhs.gov/sites/default/files/publications/privacy_pia_template_2017.pdf as useful resources respectively.

19 - Civil Rights Act of 1968

Recipients must comply with Title VIII of the *Civil Rights Act of 1968*, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 *et seq.*), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

20- Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

21 - Activities Conducted Abroad

Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

22- Energy Policy and Conservation Act

Recipients must comply with the requirements of the *Energy Policy and Conservation Act*, Pub. L. 94- 163 (1975) (codified as amended at 42 U.S.C. section 6201 *et seq.*), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

23 - Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the *Resource Conservation and Recovery Act*, 42 U.S.C. section 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

EXHIBIT C

Subagreement Insurance Requirements

GENERAL.

Subrecipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences; and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OEM. Subrecipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Subrecipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Subrecipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subrecipient permit work under a subagreement when Subrecipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which Subrecipient is a Party.

TYPES AND AMOUNTS.

i. WORKERS COMPENSATION. Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers' liability insurance with coverage limits of not less than \$500,000 must be included.

ii. COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to OEM. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

Not less than \$1,000,000 per occurrence, (for all claimants for claims arising out of a single accident or occurrence) and an annual aggregate limit of not less than \$2,000,000.

iii. AUTOMOBILE Liability Insurance: Automobile Liability.

Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

Not less than \$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence) and an annual aggregate limit of not less than \$2,000,000.

ADDITIONAL INSURED. The Commercial General Liability Insurance and Automobile Liability insurance must include OEM, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the subagreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the subagreement, for a minimum of 24 months following the later of : (i) the contractor's completion and Subrecipient's acceptance of all Services required under the subagreement or, (ii) the expiration of all warranty periods provided under the subagreement. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and OEM may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If OEM approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE. The contractor or its insurer must provide 30 days' written notice to Subrecipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. Subrecipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the subagreement. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage. **INSURANCE REQUIREMENT REVIEW.** Subrecipient agrees to periodic review of insurance requirements by OEM under this Agreement and to provide updated requirements as mutually agreed upon by OEM and Subrecipient.

OEM ACCEPTANCE. All insurance providers are subject to OEM acceptance. If requested by OEM, Subrecipient shall provide complete copies of its contractors' insurance policies, endorsements, self-insurance documents and related insurance documents to OEM's representatives responsible for verification of the insurance coverages required under this Exhibit C.

Exhibit D

Information required by 2 CFR 200.332(a)

1. Federal Award Identification:
 - (i) Sub-recipient name (which must match registered name in DUNS): City of Tualatin
 - (ii) Sub-recipient's Unique Entity Identifier (UEI) or DUNS number: 055396253
 - (iii) Federal Award Identification Number (FAIN): EMW-2020-SS-00073
 - (iv) Federal Award Date: September 1, 2021
 - (v) Sub-award Period of Performance Start and End Date: From October 1, 2021, to September 30, 2023
 - (vi) Sub-award Budget Period State and End Date: From October 1, 2021, to September 30, 2023
 - (vii) Amount of Federal Funds Obligated by this Agreement: \$6,000
 - (viii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this agreement *: \$16,000
 - (ix) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: \$16,000
 - (x) Federal award project description: State Homeland Security Program Grant plays an important role in the implementation of the National Preparedness System by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation.
 - (xi)
 - (a) Name of Federal awarding agency: U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA)
 - (b) Name of Pass-through entity: Oregon Military Department, Office of Emergency Management
 - (c) Contact information for awarding official: Andrew Phelps, Director – Oregon Office of Emergency Management, PO Box 14370, Salem, OR 97309-5062
 - (xii) Assistance Listings Number and Title: 97.067 Homeland Security Grant Program
Amount: \$8,402,500
 - (xiii) Is Award R&D? No
 - (xiv) Indirect cost rate for the Federal award: 9.5%
2. Subrecipient's indirect cost rate: 0%

*The Total amount of Federal Funds Obligated to the Subrecipient by the pass-through entity is the Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity during the current fiscal year.



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Jonathan Taylor, Economic Development Manager
Don Hudson, Assistant City Manager/Finance Director
Sean Brady, City Attorney

DATE: October 25, 2021

SUBJECT:

Consideration of Resolution 5579-21 authorizing the City Manager to execute an Intergovernmental Agreement with the Tualatin Development Commission.

RECOMMENDATION:

Staff recommends the Council approve the IGA.

EXECUTIVE SUMMARY:

On August 30, 2021, the City of Tualatin approved the Tualatin Development Commission's Southwest and Basalt Creek Development Area Plan and the 11th Amendment to the Leveton Tax Increment Plan.

The Southwest and Basalt Creek Development Area Plan identified \$53,000,000 worth of projects source and identified from existing City of Tualatin capital project plans. These projects include transportation, water and sewer, greenfield and site development, and administration of these projects. The 11th Amendment to Leveton Tax Increment Plan added 7.66 acres to the existing Leveton District and included the Herman Road Extension Project. This project is a multi-year effort by the City of Tualatin to widen the remaining section of Herman Road.

The City of Tualatin Public Works and Community Development Departments have the necessary resources and staff to provide the administration and the implementation of urban renewal identified projects, along with the necessary knowledge regarding these projects. As a result, the Tualatin Development Commission has requested to utilize Tualatin City services and administrative staff support for the day-to-day administration and implementation of the urban renewal capital projects. The payment for services will be based on the cost-allocation model as identified in the intergovernmental agreement Section 3.

The proposed intergovernmental agreement is termed for five years that will end in 2025, with an automatic renewal unless otherwise stipulated or amended.

OUTCOMES OF DECISION:

The City of Tualatin will enter into a five year intergovernmental agreement with the Tualatin Development Commission.

ALTERNATIVES TO RECOMMENDATION:

None.

FINANCIAL IMPLICATIONS:

The City of Tualatin will receive annual payments for services rendered by the City of Tualatin on behalf of the Tualatin Development Commission.

ATTACHMENTS:

- Resolution 5579-21 and Ex. 1 - 2021 Intergovernmental Agreement

RESOLUTION NO. 5579-21

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENT AGREEMENT WITH THE CITY OF TUALATIN FOR ADMINISTRATIVE SERVICES; AND ADOPTING THE CITY OF TUALATIN PUBLIC CONTRACTING RULES.

WHEREAS, the City is an Oregon municipal corporation organized under the laws of the State of Oregon.

WHEREAS, The Tualatin Development Commission is the Urban Renewal Agency of the City of Tualatin, a public body, corporate and politic, duly activated by the City, exercising its powers to engage in urban renewal activity as authorized by ORS Chapter 457.

WHEREAS, the TDC has developed certain Urban Renewal Plans (the Plans), as defined by ORS 457.010(16), which have been approved by the City, pursuant to ORS 457.095, and has engaged in, and will be engaging in, redevelopment activities to effectuate these plans.

WHEREAS, the City has experience in the provision of the administrative services for local governments and in planning and constructing public improvements;

WHEREAS, the City desires, pursuant to ORS 457.320, to assist the TDC in the planning and carrying out of the Plans by providing all administrative and development services necessary and proper for carrying out the TDC's functions and the Plans.

WHEREAS, ORS 190.010 and ORS 457.320 authorize the City and the TDC to enter into an intergovernmental Agreement whereby the City provides administrative and development services to the TDC.

WHEREAS, the Parties previously entered into a similar Agreement or Agreements for services and the Parties wish for this Agreement to supersede any and all prior understandings and Agreements, whether written or oral, between the Parties with respect to such subject matter.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager is authorized to execute the intergovernmental agreement with the City of Tualatin, which is attached as Exhibit 1, to provide administrative services.

Section 2. The City Manager is delegated the authority to manage and implement the IGA.

Section 3. Any and all prior IGAs with the TDC regarding the subject matter of the attached IGA are rescinded in their entirety.

Section 4. This resolution is effective upon adoption.

Adopted by the City Council this 25th day of October, 2021.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

EXHIBIT 1
RESOLUTION NO. 5579-21

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF TUALATIN AND TUALATIN DEVELOPMENT
COMMISSION FOR THE PROVISION OF ADMINISTRATIVE AND DEVELOPMENT
SERVICES

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made this ____ day of _____, 2021, between the City of Tualatin (“City”) and the Tualatin Development Commission, and the Urban Renewal Agency for the City of Tualatin (“TDC”), and which together shall be referred to as the “Parties.” This Agreement is entered into pursuant to ORS 190.010 to 190.110.

RECITALS

- A. The City is an Oregon municipal corporation organized under the laws of the State of Oregon.
- B. The TDC is a public body, corporate and politic, duly activated by the City, exercising its powers to engage in urban renewal activity as authorized by ORS Chapter 457.
- C. The TDC has developed certain Urban Renewal Plans (the Plans), as defined by ORS 457.010(16), which have been approved by the City, pursuant to ORS 457.095, and has engaged in, and will be engaging in, redevelopment activities to effectuate these plans.
- D. The City has experience in the provision of the administrative services for local governments and in planning and constructing public improvements.
- E. The City desires, pursuant to ORS 457.320, to assist the TDC in the planning and carrying out of the Plans by providing all administrative and development services necessary and proper for carrying out the TDC's functions and the Plans.
- F. ORS 190.010 and ORS 457.320 authorize the City and the TDC, to enter into an intergovernmental Agreement whereby the City provides administrative and development services to the TDC.
- G. The Parties previously entered into a similar Agreement or Agreements for services and the Parties wish for this Agreement to supersede any and all prior understandings and Agreements, whether written or oral, between the Parties with respect to such subject matter.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Term and Termination. This Agreement is effective upon the date of the last signature hereon, and continues in full force and effect until July 1, 2025, unless

EXHIBIT 1
RESOLUTION NO. 5579-21

sooner terminated as provided herein. This Agreement automatically renews for additional terms of five (5) years each. This Agreement may be terminated at any time by either party by giving the other party not less than thirty (30) days' prior written notice of the intent to terminate this Agreement.

Section 2. Duties of the City. The City will provide administrative and development services to the TDC to allow the TDC undertake urban renewal activity as set forth in the adopted urban renewal plans, including, but not limited to: staff support for public meetings, including preparation of meeting notices, agendas and minutes; budget preparation and oversight; contract procurement and administration; real estate procurement and management; legal services, engineering, project management services, planning services, and other services related to project development. In so doing, the City will provide such services in compliance with the laws of the State of Oregon, and in accordance with the Plans and this Agreement.

Section 3. Consideration. The TDC will reimburse the City for all reasonable costs incurred by the City in providing administrative and development services pursuant to this Agreement. The City will provide to the TDC, on an annual basis, a statement of expenditures anticipated to be incurred by the City in providing administrative and development services pursuant to this Agreement. Personnel costs will be determined according to the City's cost allocation plan, annual budget, or such other documentation deemed acceptable to the TDC. The TDC will pay the anticipated costs based on a monthly basis (each month the TDC will pay to the City 1/12 of the total anticipated costs).

Section 4. Indemnification. City agrees to hold the TDC harmless from all claims, suits, or actions whatsoever which arise out of, or result from acts of the City, its officers, employees, and agents in providing the services pursuant to this Agreement.

Section 5. Insurance. Each party must maintain in force, at its own expense, worker's compensation insurance for all covered workers of that party in compliance with ORS 656.017, and general liability insurance in amounts not less than the amounts provided under the Oregon Tort Claims Act.

Section 6. Amendments. This Agreement may be altered, modified, supplemented, or amended by the written Agreement of the Parties. Any such alteration, modification, supplementation, or amendment is effective only in the specific instance and for the specific purpose given.

Section 7. Waiver. No waiver, consent, modification or change of terms of this Agreement will bind the Parties unless in writing and signed by both Parties and all necessary City approvals have been obtained.

Section 8. Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the

EXHIBIT 1
RESOLUTION NO. 5579-21

Parties must be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

Section 9. Entire Agreement. This Agreement sets forth the entire understanding between the Parties with respect to the subject matter contained in this Agreement.

Section 10. Rescission of Prior Agreements. This Agreement supersedes any and all prior understandings and Agreements, whether written or oral, between the Parties with respect to the subject matter of this Agreement. All prior agreements, whether written or oral, between the Parties with respect to the subject matter of this Agreement are rescinded in their entirety.

CITY OF TUALATIN

TUALATIN DEVELOPMENT COMMISSION

BY _____
SHERILYN LOMBOS Date
City Manager

BY _____
SHERILYN LOMBOS Date
TDC Administrator

APPROVED AS TO FORM

BY _____
City Attorney



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Bill Steele, Chief of Police
DATE: October 15, 2021

SUBJECT:

Consideration of **Resolution No. 5580-21** Accepting Department of Justice's Office of Community Oriented Policing Services Grant Funds; and Appropriating Specific Purpose Revenue in the City's General Fund during FY2021-2022 Budget

RECOMMENDATION:

Staff recommends approval of the resolution to allow the City Manager, or her designee, to execute a grant agreement with the Department of Justice.

EXECUTIVE SUMMARY:

In June of 2021, the Tualatin Police Department, in partnership with the cities of Tigard, Sherwood, and King City, prepared a grant application to the United States Department of Justice for grant funds to create a Crisis Intervention Team that would embed mental and behavioral services with law enforcement. The City's grant application was approved and we have been awarded \$231,917 to pay for the costs associated with a contracted mental health clinician, through the Washington County Mental Health Response Team program. The grant will also provide funds for overtime costs for officers from Tualatin and Sherwood to attend advanced crisis intervention training.

The grant will be managed by the City of Tualatin, with sub-recipient agreements with Washington County, the City of Tigard, and the City of Sherwood.

FINANCIAL IMPLICATIONS:

The City will receive \$231,917.00 for the cities of Tualatin, Tigard, and Sherwood to fund a contracted mental health clinician and overtime expenses related to advanced crisis intervention training.

ATTACHMENTS:

-Resolution 5580-21

RESOLUTION NO. 5580-21

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT AGREEMENT WITH THE UNITED STATES DEPARTMENT OF JUSTICE FOR A CRISIS INTERVENTION TEAM; AND APPROPRIATING SPECIFIC PURPOSE REVENUES IN THE CITY'S GENERAL FUND DURING THE FY 2021-2022 BUDGET.

WHEREAS, the United States Department of Justice awarded the City of Tualatin, \$231,917.00 in grant funds for a Crisis Intervention Team;

WHEREAS, under ORS 294.338(2), during the year the Council may authorize the acceptance of specific purpose revenues and the associated appropriations through a specific purpose revenue budget adjustment resolution;

WHEREAS, the City will receive \$231,917.00 in specific purpose revenues from the Department of Justice to be used for the creation of a Crisis Intervention Team; and

WHEREAS, the City of Tualatin desires to participate in this grant program to provide a safe community.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager, or designee, is authorized to execute the grant agreement with the Department of Justice for a Crisis Intervention Team, and make amendments, as needed. The City Manager, or designee, is further authorized to create and implement programmatic policies as needed or required to implement the intent of the grant agreement.

Section 2. The City Manager, or designee, is authorized and instructed to adjust the General Fund's budget to reflect receipt of the specific purpose revenue and the associated appropriation:

General Fund Revenues: \$231,920

General Fund Expenditures, Police: \$231,920

Section 3. This resolution is effective upon adoption.

Adopted by the City Council this ____ day of _____, 2021.

CITY OF TUALATIN, OREGON

BY _____

Mayor

APPROVED AS TO FORM

ATTEST:

BY _____

City Attorney

BY _____

City Recorder

Juanita Pohl Center Advisory Committee

2020-21 Annual Report



Committee Members

- **Susan Noack, Chair**
- **Amanda Ballard**
- **Bob Grable**
- **Thea Wood**



Committee Role

- **Dedicated to Programs & Services**
- **Influence Policies, Programs and Services Offered at the Center**
- **Support Efforts to Successfully Continue to Increase Attendance & Participation**



Increase Participation/Utilization

Virtual Programs

- Fitness & Wellness
- Educational/Enrichment
- Social
- Arts & Culture
- Evidence-Based



Partnerships

- AARP
- Alzheimer Association
- Cascadia VIEWS
- Farmington Square Tualatin
- Meals on Wheels People
- New Horizons Big Band
- NRPA
- The Community at Marquis
- Washington County



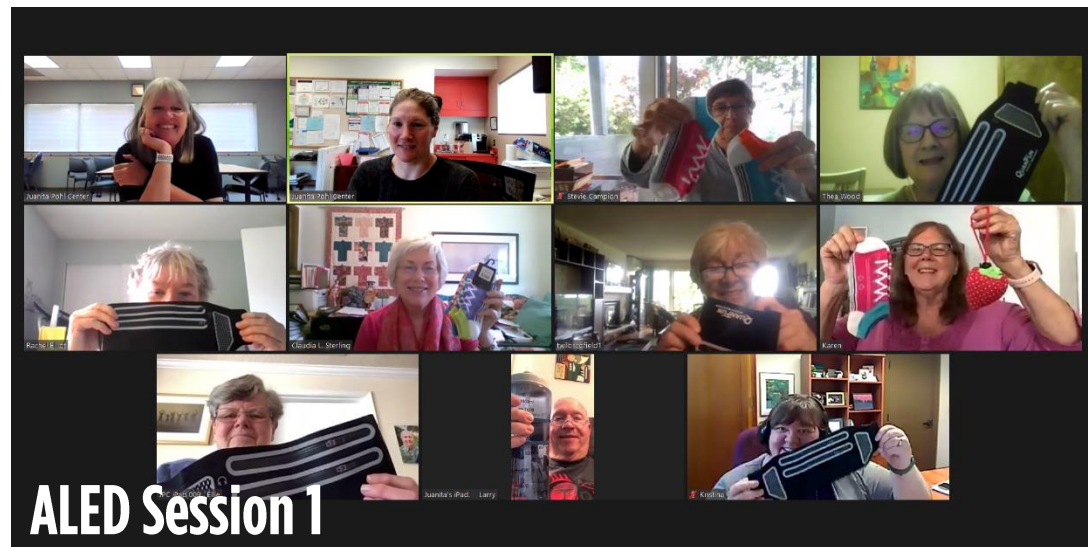
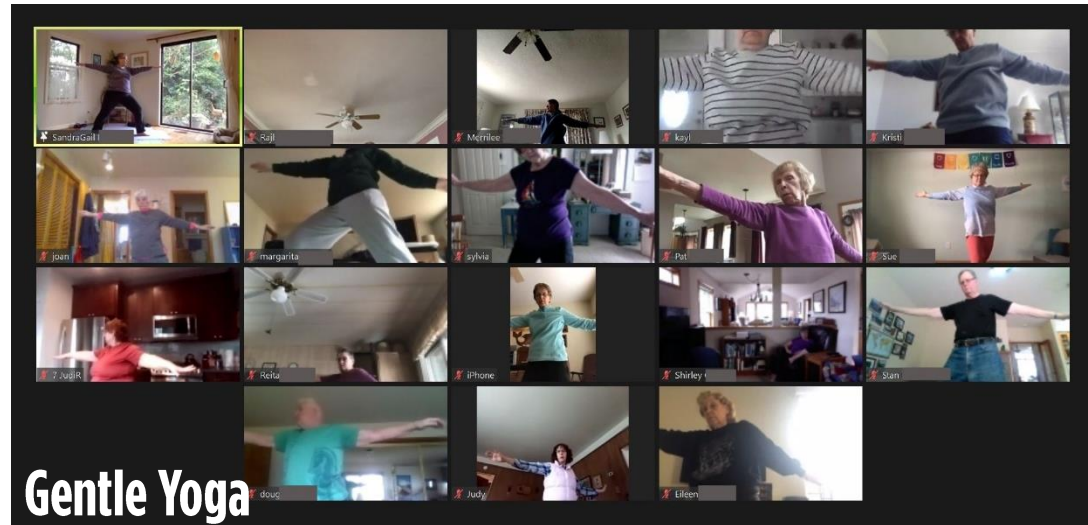
Benefits

- **Improve Health & Promote Healthy Lifestyles**
- **Life-Long Learning & Enrichment Opportunities**
- **Increase Quality of Life**
- **Social & Intellectual Engagement & Interaction**



Active Older Adults During COVID-19

- Served over 3,100 active older adults through the Virtual Fitness Program, sponsored in-part by Washington County
- Virtual Enrichment Programs (informational & educational webinars, evidence-based classes) served over 1,400 older adults
 - Received \$11,000 grant from NRPA to offer remote Active Living Every Day (ALED)



Active Older Adults During COVID-19



Building Use During COVID-19

- **COVID-19 Vaccine Clinic**
 - **March 14 & April 11, 2021**
 - **500 doses administered**



- **Cooling Center**
 - **June 26-28 & August 11-14, 2021**
 - **46 people served**

Action Plan for 2021-22

- Continue to Support & Grow Active Aging Programs and Services; Continue to Increase Virtual Programming Portfolio
- Continue to Increase Diversity, Visibility & Awareness
- Increase Partnerships with National Organizations & Local Community Groups



Questions/Comments?





City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Mike McCarthy, Program Manager
Maddie Cheek, Management Analyst I

DATE: 10/25/2021

SUBJECT:

Update on Tualatin Moving Forward 2022 Neighborhood Traffic Safety Projects

EXECUTIVE SUMMARY:

Between April 1st and June 30th, the City issued a public call for transportation project suggestions as part of the third year of the Neighborhood Traffic Safety Program as part of the Tualatin Moving Forward bond program. We received 106 new project suggestions. After considering which suggestions the program could realistically address, the program team consolidated the list to 68 discrete suggestions around the city for consideration.

The Neighborhood Traffic Safety Program is funded by \$2.26 million from the Tualatin Moving Forward bond. Each year, the program builds five to six smaller projects to address traffic safety issues identified by the public. The typical cost for each project is \$100,000 or less.

After reviewing all project requests, the Bond program team rated the projects using the following criteria:

1. *Geographic diversity and equity:* Is the requested project in a neighborhood where we have not spent much transportation funding? Is the proposed project in a neighborhood in which a higher proportion of residents are low-income and/or people of color?
2. *Solution-oriented:* Is there a safety problem, and will the proposed project solve this problem?
3. *Project cost:* Is the anticipated project cost less than approximately \$100,000?

Staff will present the process for identifying projects this year from the public call for projects, present the proposed round of projects for construction in summer 2022, and ask for Council direction to move forward with planning and design.

All of the remaining bond-funded projects will be finished over the next two years. The whole community can continue following our progress along the way at www.tualatinmovingforward.com.

ATTACHMENTS:

-PowerPoint Presentation



Tualatin Moving Forward

2022 Neighborhood Traffic Safety Projects

City Council | October 25, 2021

NEIGHBORHOOD TRAFFIC SAFETY PROGRAM



Bond-funded program for addressing safety at locations identified by the community



Projects can be implemented quickly, but spread out over the life of the program



Address areas throughout the City

Suggest a Project / Sugerir un Proyecto 

PROJECT PRIORITIZATION CRITERIA:



GEOGRAPHIC DIVERSITY AND EQUITY

The Program should fund projects throughout the entire community, especially areas that have been underserved relative to needs.



SOLUTION-ORIENTED

Is there a safety problem, and will the proposed project solve this problem?



BUDGET-APPROVED

Is the potential solution within the budget allowance for this program?



New Neighborhood Projects

Call for Project Suggestions

- Equity-focused outreach
- Considered carryover suggestions from 2020
- Spread the word through City's social media and newsletter

¿Tiene problemas con el tráfico vial?

¿Qué cambios mejorarán la seguridad y reducirán el número de automovilistas que manejan a exceso de velocidad?



Pacificar el tráfico



Seguridad para ciclistas



Cruces peatonales seguros

Comparte su sugerencias

antes del 30 de junio



<https://www.tualatinmovingforward.com/suggest-a-project/>

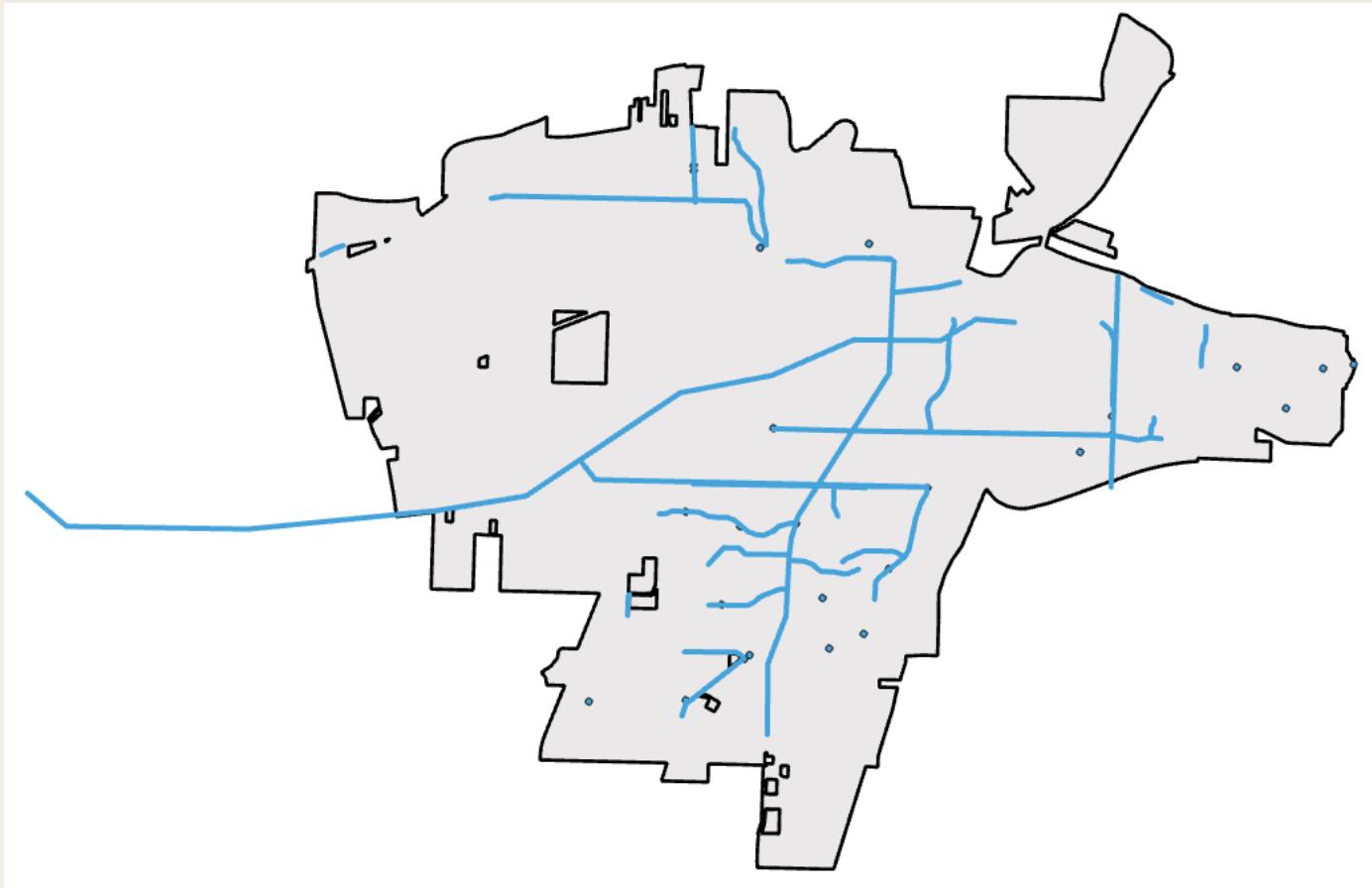
Para más información

Llame a Adrian Esteban
al (503) 404-3880

Para preguntas o para recibir actualizaciones del proyecto mande un correo electrónico a tmf@tualatin.gov

New Neighborhood Projects

SUGGESTIONS CONSIDERED FOR FUNDING



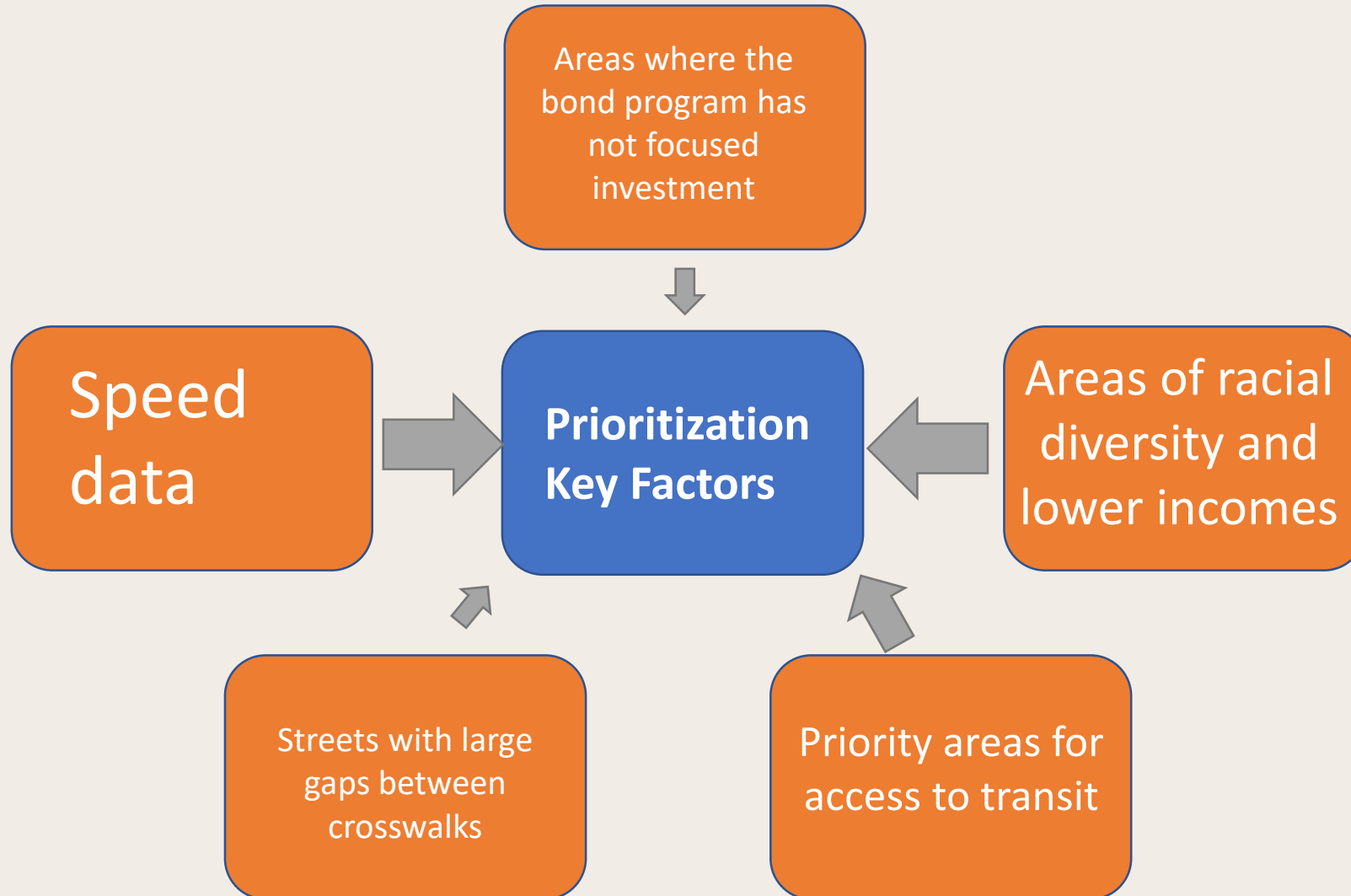
106 suggestions, including **16** carryovers from last year's process, met criteria

38 suggestions were outside scope of this program

- Too big – deferred
- Already addressed by other bond projects
- Better suited to minor operations and maintenance work
- Outside Tualatin's jurisdiction

Resulting in **68** suggestions for evaluation, at **36** locations.

New Neighborhood Projects

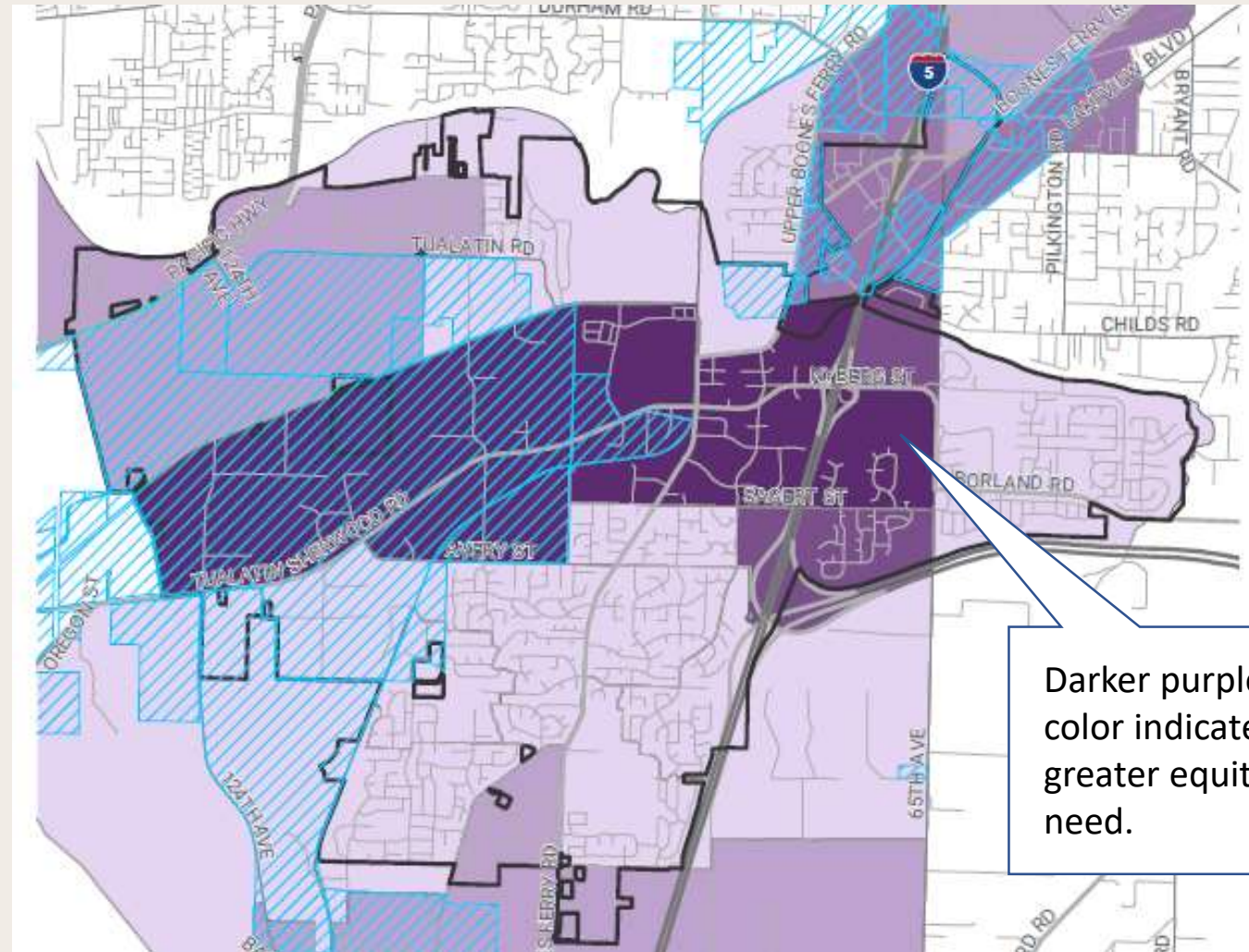


New Neighborhood Projects

Resource:

2020 Equity Index Map

Where are Tualatin's populations of color and with lower incomes?

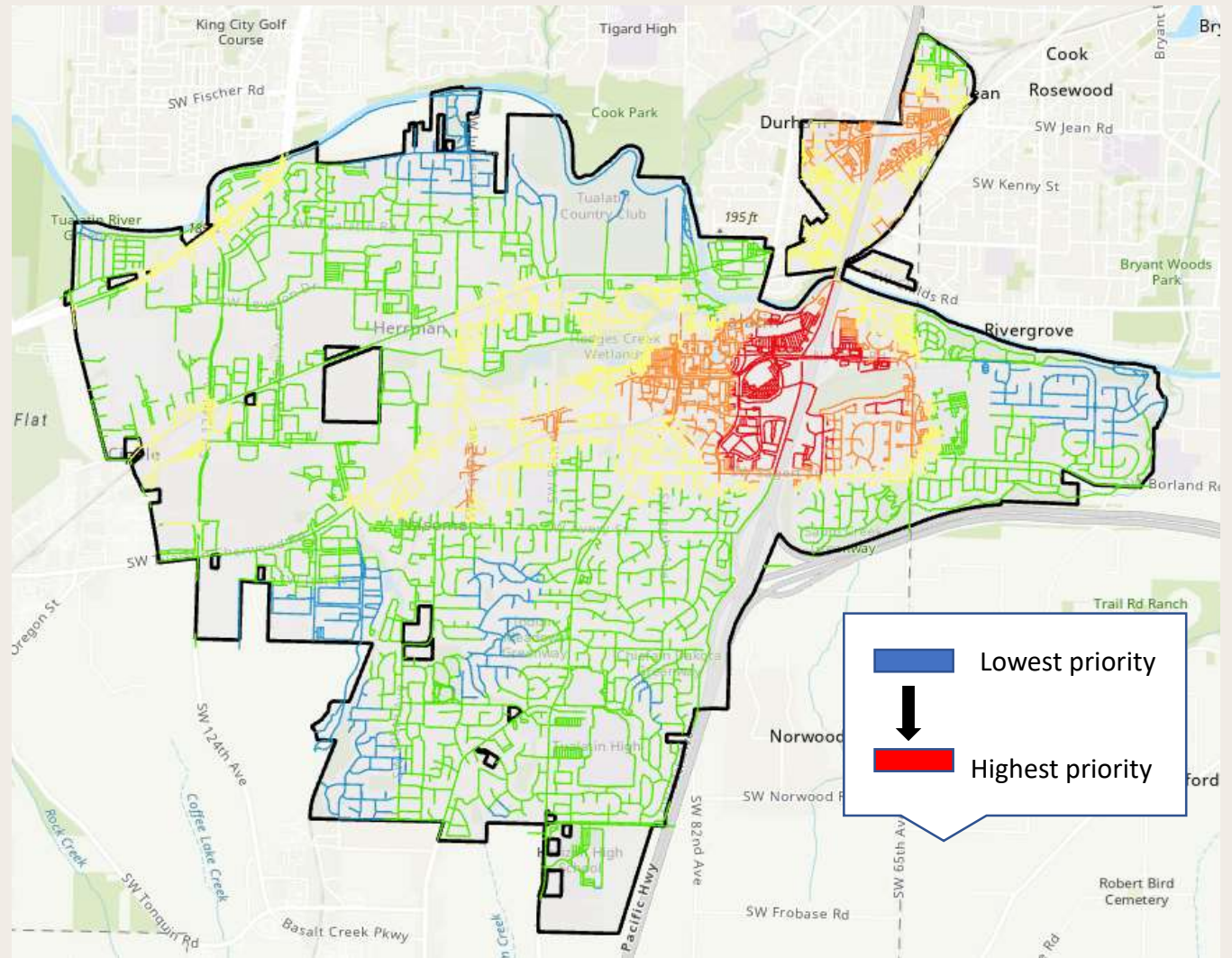


New Neighborhood Projects

Resource:

2020 Pedestrian Access to Transit Score

Where are the most important locations for improving pedestrian access to transit?



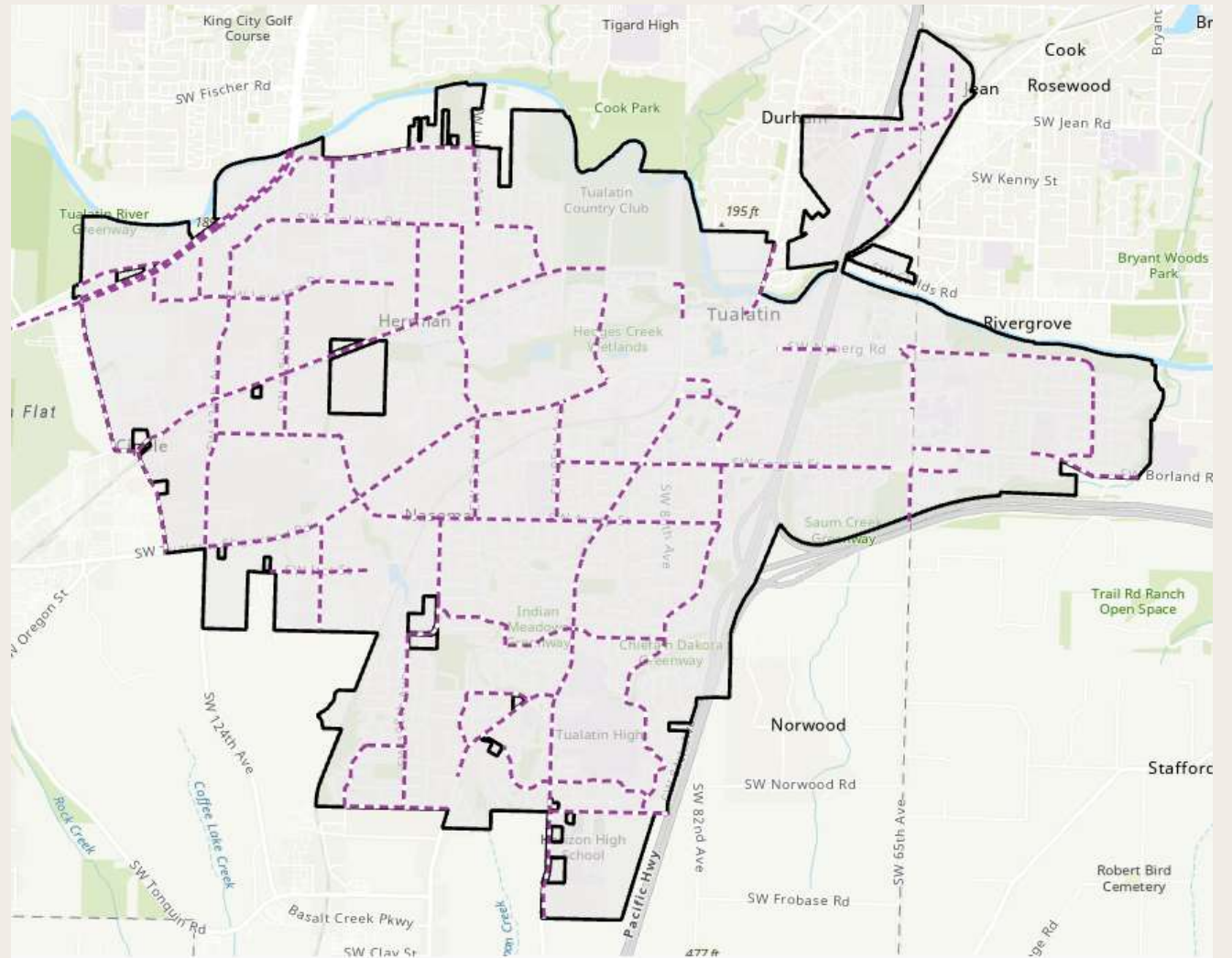
New Neighborhood Projects



Resource:

Crosswalk Gaps Map

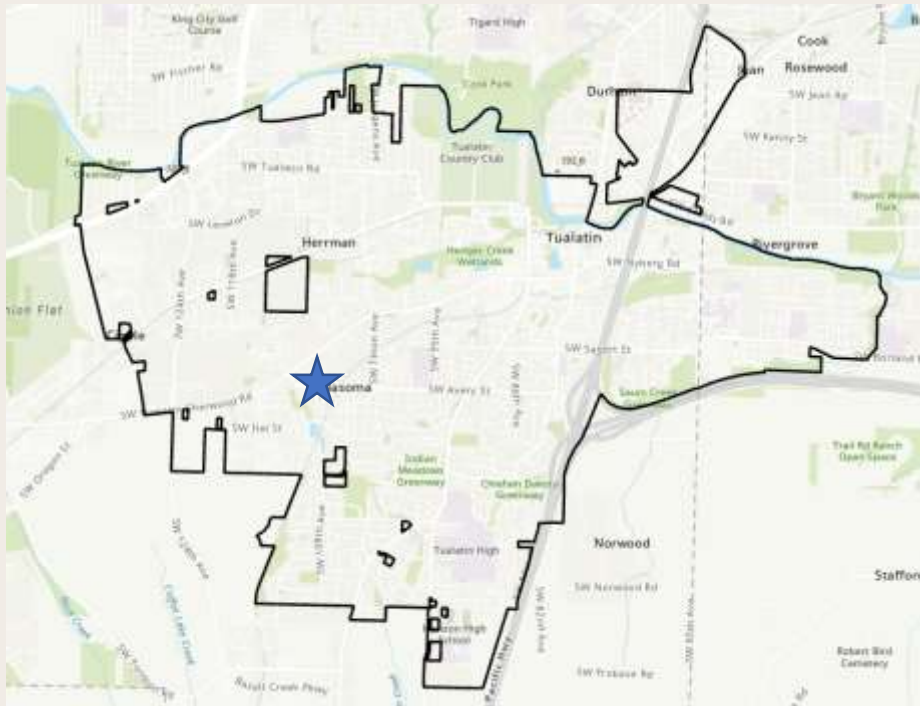
Where are the places where people have a hard time crossing the street?



New Neighborhood Projects

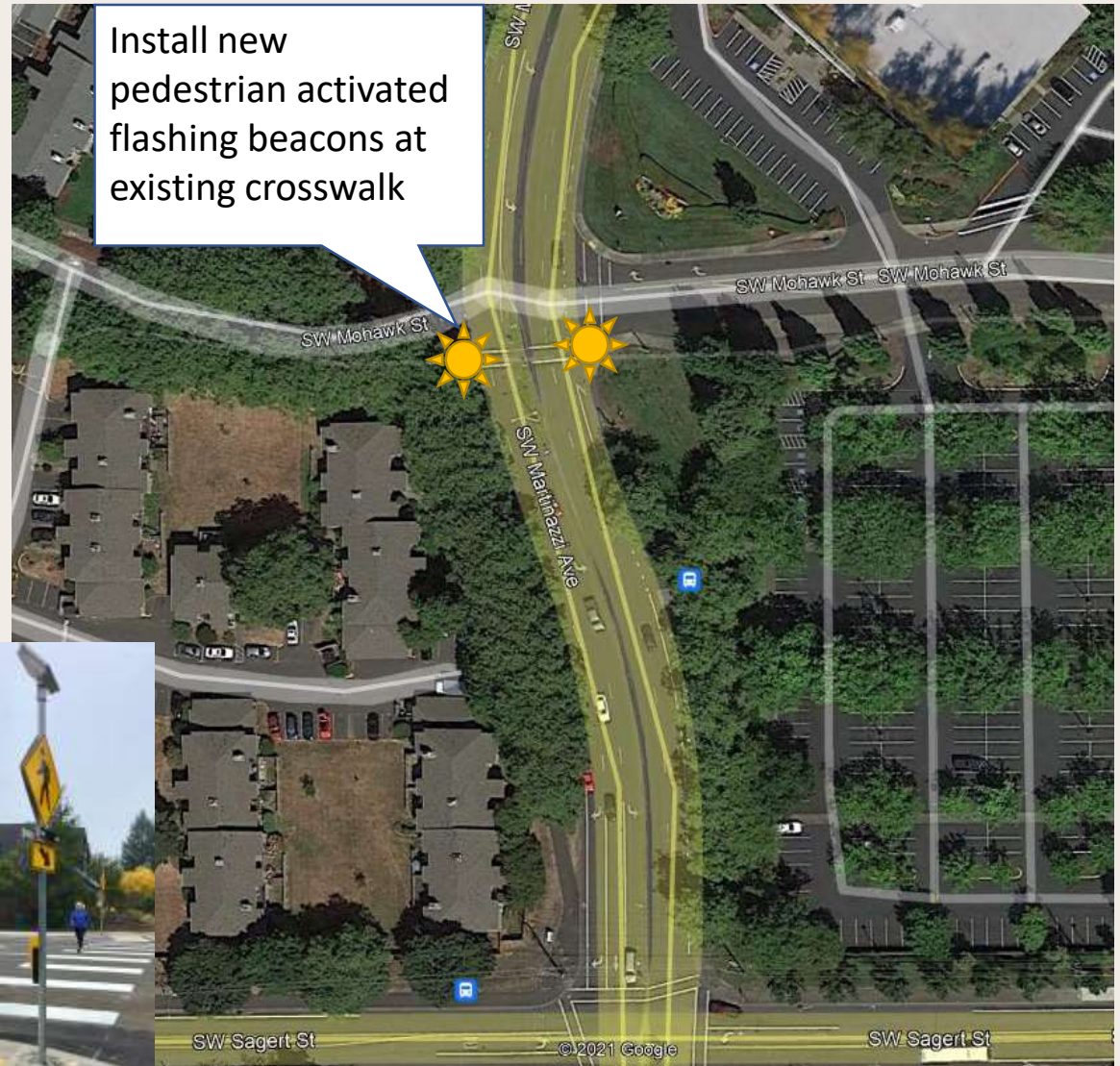
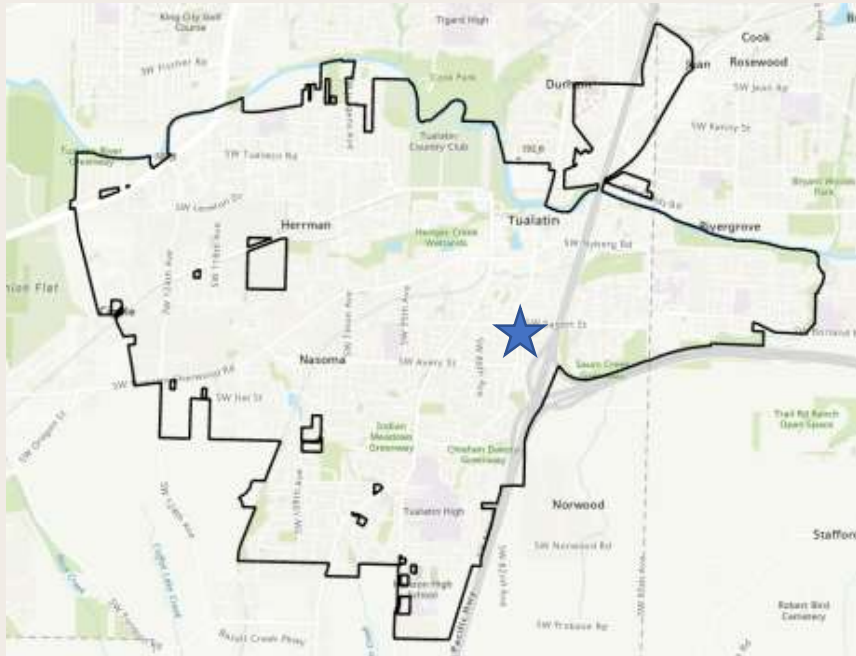


Project: Avery Street at Tualatin Sherwood Road



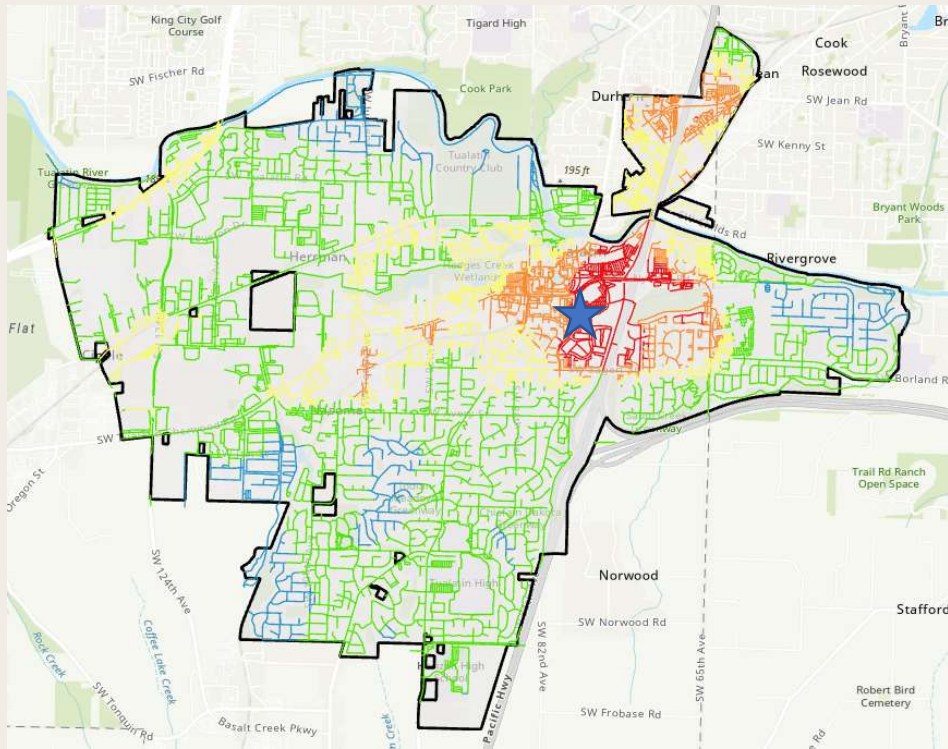
New Neighborhood Projects

Project: Martinazzi Avenue at Mohawk Street



New Neighborhood Projects

Project: Martinazzi Avenue at Fred Meyer Driveway



Upgrade corners

New Neighborhood Projects

Project: Sagert Street Bridge Walkway



New Neighborhood Projects



Project Location	Project Type	Estimated Cost
Avery St at Tualatin Sherwood Rd	300-foot sidewalk infill	\$100,000
Martinazzi Ave at Mohawk St	Add a new set of pedestrian activated flashing beacons to the existing crosswalk across Martinazzi	\$100,000
67th / 68th Ave Loop at Stoneridge	Improve roadway safety. Possible projects include adding / improving streetlights, replacing sidewalk panels, and adding parking bays	\$150,000
Martinazzi Ave at Fred Meyer driveway	ADA ramp and sidewalk access improvements at a bus stop	\$60,000
Sagert St Bridge Walkway	Install protected shared use walk/ bike facility on the bridge	\$70,000

2022 NTSP Project budget:

\$480,000

New Neighborhood Projects



Next Steps

- Public engagement and engineering on 5 funded projects
- Identify suggestions that can be addressed through maintenance projects
- Identify suggestions that could be addressed in a future Transportation System Plan process



QUESTIONS, COMMENTS, SUGGESTIONS?





City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Don Hudson, Assistant City Manager/Finance Director
DATE: October 25, 2021

SUBJECT:
Quarterly Financial Report, 1st Quarter of FY 2021/2022

EXECUTIVE SUMMARY:

In this installment of the quarterly financial report, staff will provide Council with an update on ARPA funding, utility assistance programs, utility bill delinquencies, revenues and expenditures to date, and the quarterly investment report.

ATTACHMENTS:



Tualatin City Council Investment Report

07/01/2021 - 09/30/2021

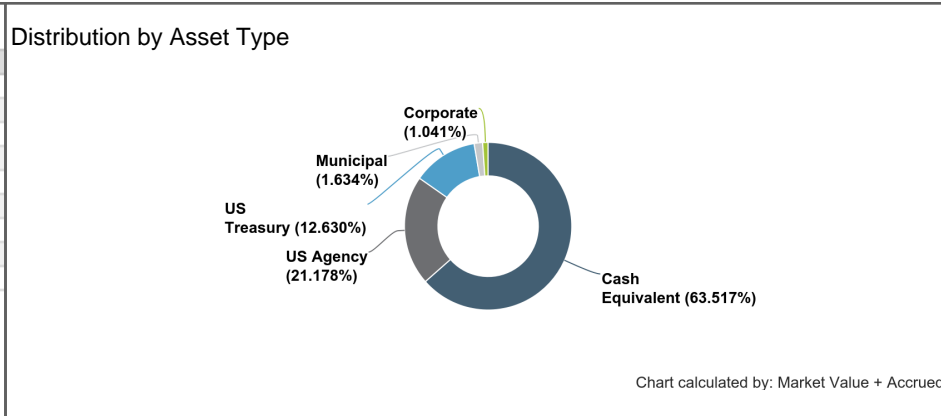
[Return to Table of Contents](#)

TUAL_Total Portfolio (176858)

Dated: 10/08/2021

Portfolio Characteristics	
	<i>Portfolio</i>
Par Amount	77,260,540.78
Book Value	77,340,536.27
Market Value	77,584,210.74
Accrued Balance	89,215.81
Market Value + Accrued	77,673,426.55
Net Unrealized Gain/Loss	243,674.47
Yield at Cost	0.788
Effective Duration	0.641
Maturity in Years	0.650

Footnote: 1



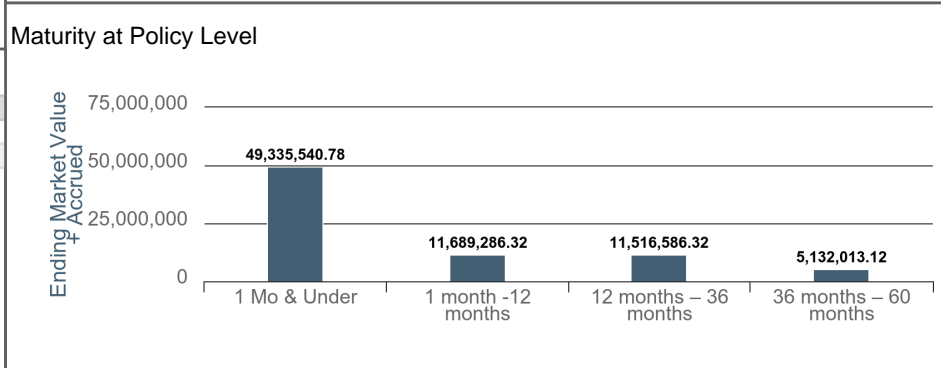
Asset Allocation at Policy Level

GPA Asset Class	Ending Market Value + Accrued	% of Ending Market Value + Accrued
Bank Deposit	248,851.73	0.320%
Corporate	808,626.29	1.041%
FFCB	4,221,672.86	5.435%
FHLB	7,006,925.22	9.021%
FHLMC	3,986,071.55	5.132%
FNMA	1,235,360.32	1.590%
Municipal	1,269,045.04	1.634%
Pooled Funds	49,086,689.05	63.196%
US Treasury	9,810,184.50	12.630%
Total	77,673,426.55	100.000%

Footnotes: 2,3,4

Compliance Overview

Status	Compliant
As of	09/30/2021



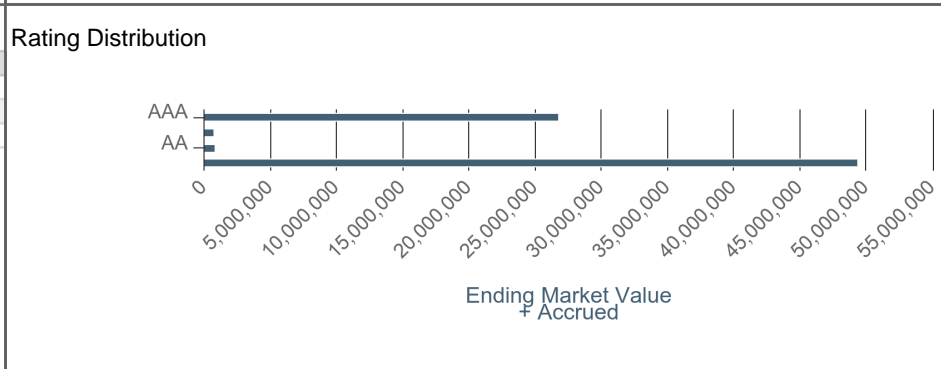
Activity Summary

	<i>Portfolio</i>
Beginning Book Value	76,663,565.67
Purchases	5,650,006.76
Sales	-3,044,611.60
Net Amortization/Accretion Income	-13,424.56
Change In Cash	0.00
Net Realized Gain/Loss	0.00
Ending Book Value	77,340,536.27

Footnote: 4

Reconciliation Status

Custody Reconciliation Status	Reconciled
Custody Last Reconciled For	10/07/2021
Trading System Last Reconciled For	10/05/2021



Earnings Summary

	<i>Portfolio</i>
Net Amortization/Accretion Income	-13,424.56
Interest Earned	169,261.45
Net Realized Gain/Loss	0.00
Earned Income	155,836.90
Book Yield	0.788

Footnotes: 4,5

1: * Weighted by: Market Value + Accrued. 2: * Grouped by: GPA Asset Class. 3: * Groups Sorted by: GPA Asset Class. 4: * Weighted by: Ending Market Value + Accrued. 5: * Formula Column: Earned Income = [Interest Earned]+[Net Amortization/Accretion Income]+[Net Realized Gain/Loss].

Q1 FY22

— ■ —
FINANCIAL RESULTS

**CITY COUNCIL
MEETING**

OCTOBER 25, 2021

TONIGHT'S AGENDA

- FISCAL YEAR 2021-22 BUDGET TO ACTUAL
- INVESTMENT REPORT
- ARPA FUNDS UPDATE
- UTILITY BILL DISCUSSION
 - UTILITY BILL ASSISTANCE
 - LATE FEES AND WATER SHUT-OFFS

FISCAL YEAR 2021-22 BUDGET TO ACTUAL

Fund	Fiscal Year 2020-2021			Fiscal Year 2021-2022		
	Budget	Actual	% of Budget	Budget	Actual	% of Budget
General Fund						
Revenues	\$ 23,871,125	\$ 2,424,702	10.16%	\$ 24,574,500	\$ 2,579,493	10.50%
Expenditures	\$ 24,342,535	\$ 5,579,762	22.92%	\$ 25,860,315	\$ 5,676,274	21.95%
Building Fund						
Revenues	\$ 1,087,645	\$ 188,475	17.33%	\$ 1,083,990	\$ 196,625	18.14%
Expenditures	\$ 1,642,210	\$ 343,004	20.89%	\$ 1,613,380	\$ 345,075	21.39%
Road Utility Fee Fund						
Revenues	\$ 2,100,355	\$ 411,264	19.58%	\$ 2,169,715	\$ 427,099	19.68%
Expenditures	\$ 2,060,085	\$ 362,231	17.58%	\$ 2,305,780	\$ 310,354	13.46%
Road Operating Fund						
Revenues	\$ 3,550,205	\$ 521,677	14.69%	\$ 3,812,095	\$ 1,363,177	35.76%
Expenditures	\$ 4,193,490	\$ 442,250	10.55%	\$ 3,999,350	\$ 636,198	15.91%



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FISCAL YEAR 2021-22 BUDGET TO ACTUAL

Fund	Fiscal Year 2020-2021			Fiscal Year 2021-2022		
	Budget	Actual	% of Budget	Budget	Actual	% of Budget
Core Area Parking Fund						
Revenues	\$ 62,000	\$ 647	1.04%	\$ 62,000	\$ 26,437	42.64%
Expenditures	\$ 60,560	\$ 12,583	20.78%	\$ 53,590	\$ 11,567	21.58%
Water Operating Fund						
Revenues	\$ 6,544,960	\$ 2,819,129	43.07%	\$ 7,726,270	\$ 3,108,770	40.24%
Expenditures	\$ 8,867,820	\$ 1,321,945	14.91%	\$ 8,377,755	\$ 1,369,264	16.34%
Sewer Operating Fund						
Revenues	\$ 9,499,460	\$ 2,197,987	23.14%	\$ 9,886,385	\$ 2,442,216	24.70%
Expenditures	\$ 9,615,535	\$ 1,626,144	16.91%	\$ 9,861,930	\$ 1,651,763	16.75%
Stormwater Operating Fund						
Revenues	\$ 3,494,180	\$ 879,360	25.17%	\$ 3,561,380	\$ 1,224,678	34.39%
Expenditures	\$ 3,172,515	\$ 444,892	14.02%	\$ 3,572,880	\$ 550,601	15.41%



FISCAL YEAR 2021-22 BUDGET TO ACTUAL

Fund	Fiscal Year 2020-2021			Fiscal Year 2021-2022		
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QUARTER END INVESTMENT REPORT



Tualatin City Council Investment Report

07/01/2021 - 09/30/2021

[Return to Table of Contents](#)

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Dated: 10/08/2021

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Market Value	77,584,210.74
Accrued Balance	89,215.81
Market Value + Accrued	77,673,426.55
Net Unrealized Gain/Loss	243,674.47
Yield at Cost	0.788
Effective Duration	0.641
Maturity in Years	0.650

Distribution by Asset Type



Chart calculated by: Market Value + Accrued

Asset Allocation at Policy Level

GPA Asset Class	Ending Market Value + Accrued	% of Ending Market Value + Accrued
Bank Deposit	248,851.73	0.320%
Corporate	808,626.29	1.041%
FFCB	4,221,872.86	5.435%
FHLD	7,006,926.22	9.021%
FHLMC	3,986,071.55	5.132%
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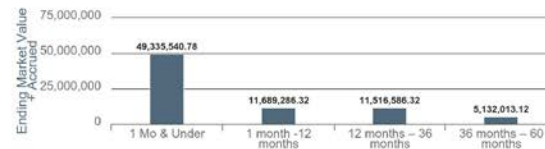
Footnotes: 2,3,4

Footnote: 1

Compliance Overview

Status	Compliant
As of	09/30/2021

Maturity at Policy Level



Activity Summary

	Portfolio
Beginning Book Value	76,663,565.67
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Footnote: 4

Reconciliation Status

Custody Reconciliation Status	Reconciled
Custody Last Reconciled For	10/07/2021
Trading System Last Reconciled For	10/05/2021

Rating Distribution



Earnings Summary

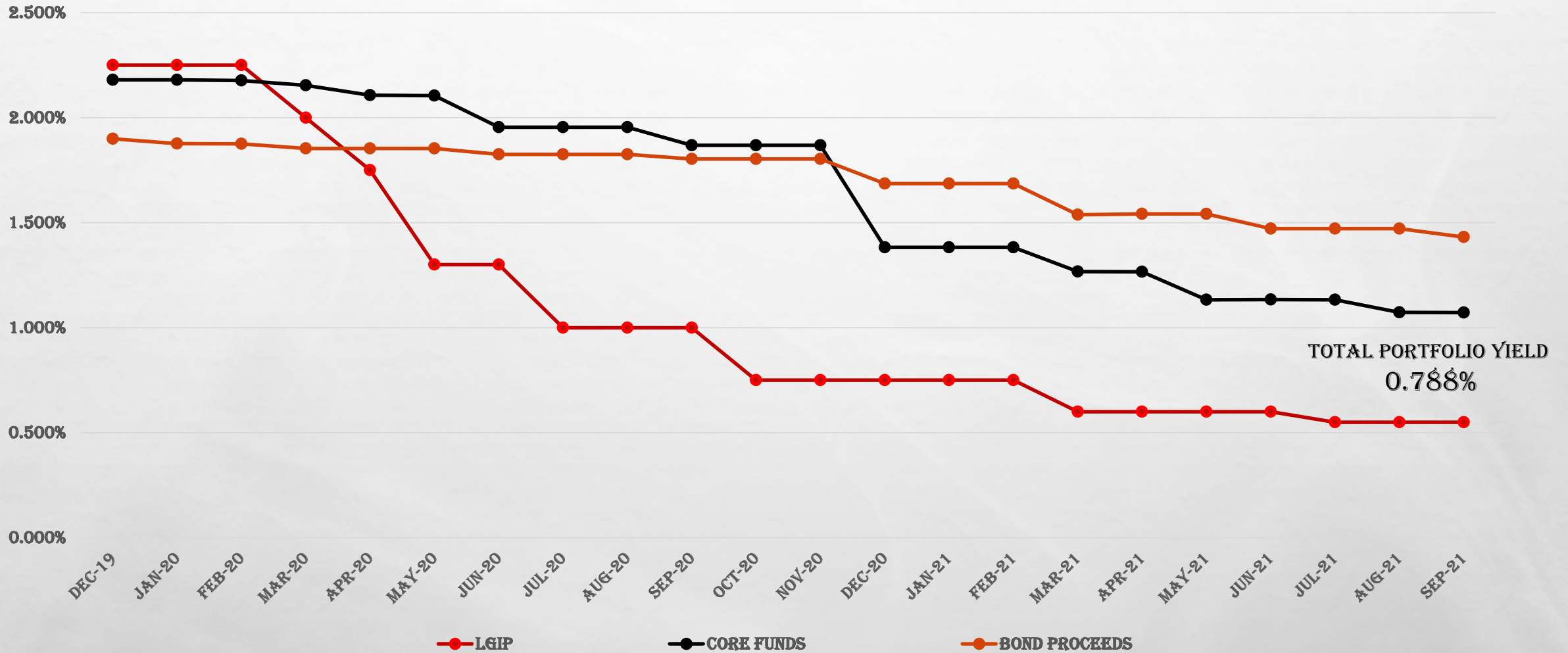
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Footnotes: 4,5

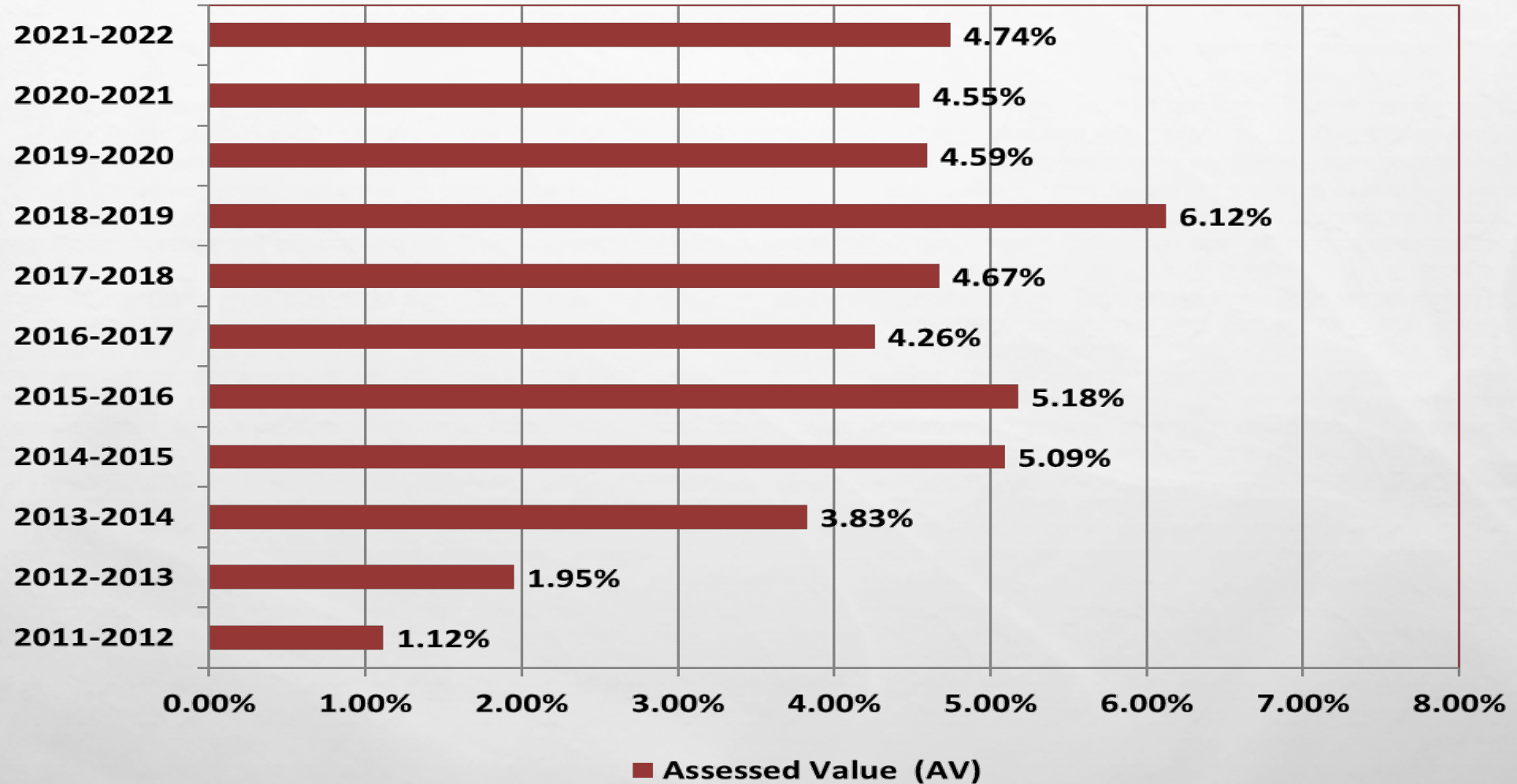
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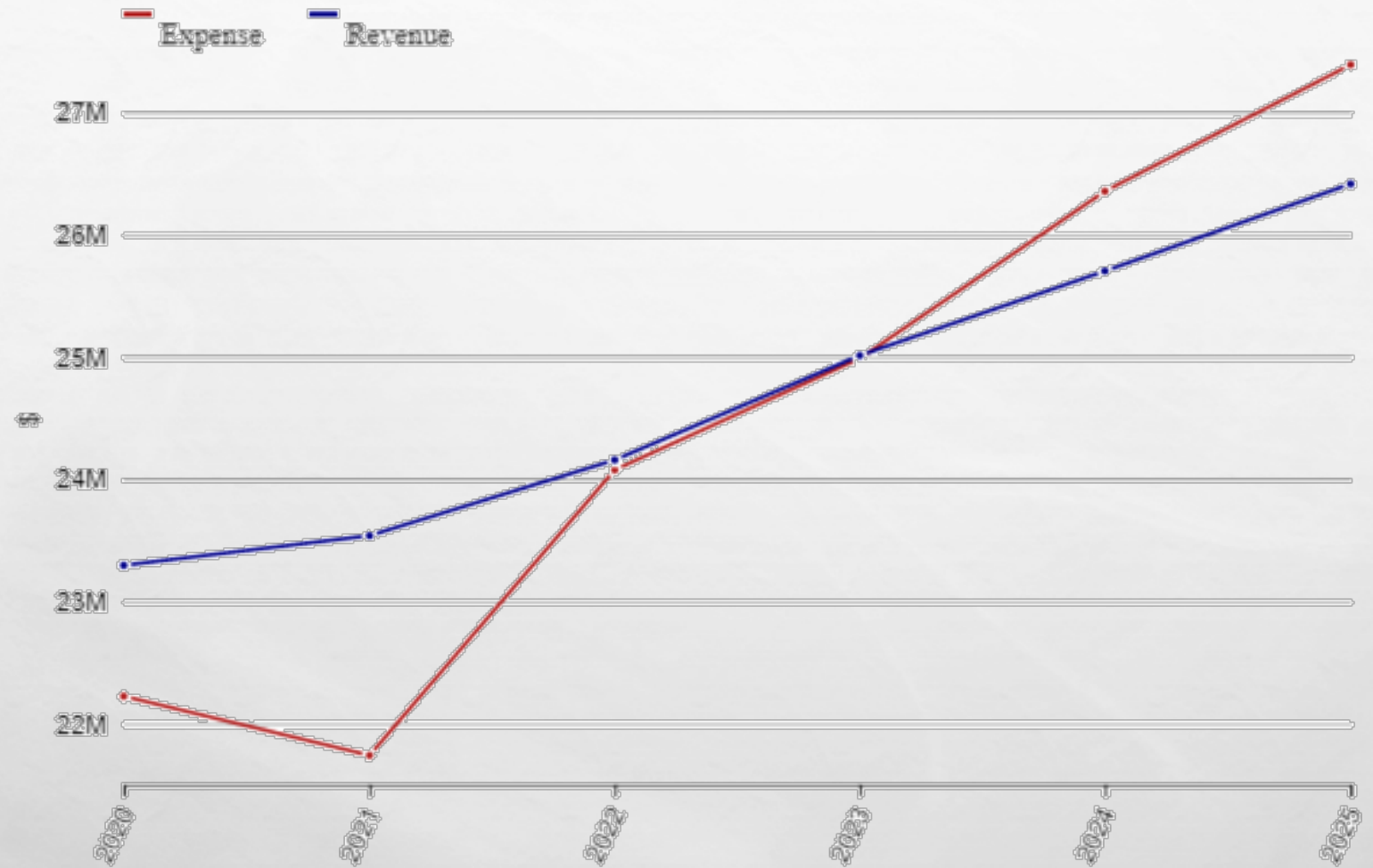
INVESTMENT PORTFOLIO PERFORMANCE



PROPERTY TAXES - FY 2011/12 - FY2021/22



FISCAL HEALTH MODEL UPDATE



GFOA'S TRIPLE CROWN

RECOGNIZES GOVERNMENTS WHO HAVE RECEIVED
GFOA'S:

- 1) CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN
FINANCIAL REPORTING
- 2) POPULAR ANNUAL FINANCIAL REPORTING AWARD
- 3) DISTINGUISHED BUDGET PRESENTATION AWARD



GUIDING PRINCIPLES

- ALIGN WITH COUNCIL VISION AND PRIORITIES
- ONE-TIME PROGRAMS AND PROJECTS
 - AVOID ESTABLISHING NEW PROGRAMS WITHOUT ON-GOING FUNDING
- LEVERAGE MULTIPLE FUNDING SOURCES
- BE INNOVATIVE, PROACTIVE, AND STRATEGIC
- SEEK PARTNERSHIPS AND COLLABORATIVE SOLUTIONS
- COORDINATE WITH LOCAL PARTNERS



INVESTMENT AREAS

- **INFRASTRUCTURE**
 - WATER INFRASTRUCTURE TO SUPPORT AFFORDABLE HOUSING
 - IMPROVEMENTS TO OUTDOOR SPACES
- **SUPPORT COMMUNITY BASED ORGANIZATIONS/NON-PROFITS**
- **ASSISTANCE TO HOUSEHOLDS**
 - FOOD, RENT OR UTILITY ASSISTANCE – GAPS IN STATE PROGRAM
- **SMALL BUSINESS/IMPACTED INDUSTRIES**
- **REVENUE REPLACEMENT**
- **COORDINATE WITH LOCAL PARTNERS**



INVESTMENT AREAS - INFRASTRUCTURE



- **WATER INFRASTRUCTURE TO SUPPORT AFFORDABLE HOUSING**
 - IF LAND USE DECISION IS SUCCESSFUL, CITY COULD CONTRIBUTE FUNDS TO CONSTRUCT EXTENSION OF WATER LINE NEEDED FOR AFFORDABLE HOUSING PROJECT
- **IMPROVEMENTS TO OUTDOOR SPACES**
 - **STONERIDGE PARK RENOVATION**
 - FILL GAP AFTER OTHER FUNDING SOURCES RECEIVED

INVESTMENT AREAS - OTHERS



- **COORDINATE WITH LOCAL PARTNERS**
 - ECONOMIC DEVELOPMENT PROPOSALS
 - COUNTYWIDE COMMUNITY ENGAGEMENT – EQUITY LENS
- **ASSISTANCE TO HOUSEHOLDS**
 - FOOD, RENT OR UTILITY ASSISTANCE – GAPS IN STATE/LOCAL PROGRAMS

UTILITY BILLING ASSISTANCE

- **LOW INCOME HOUSEHOLD WATER ASSISTANCE PROGRAM (LIHWAP)**
 - **ARPA FUNDS DIRECTLY ALLOCATED TO STATE**
 - **LOCALLY ALLOCATED TO COMMUNITY ACTION OF WASHINGTON COUNTY**
- **OREGON EMERGENCY RENTAL ASSISTANCE PROGRAM**
- **WASHINGTON COUNTY PROGRAM**
 - **CLEAN WATER SERVICES, IN PARTNERSHIP WITH WATER PROVIDERS**



TUALATIN DELINQUENT ACCOUNTS

- SUSPENDED LATE FEES AND SHUT-OFFS FOR NON-PAYMENT IN APRIL 2020
- LOCAL UTILITY PROVIDERS HAVE RESUMED SHUT-OFFS
 - HILLSBORO – OCTOBER 2021
 - TVWD – JUNE 2021
 - TIGARD – APRIL 2021
 - SHERWOOD – FEBRUARY 2021
 - FOREST GROVE – LATE 2020
 - WILSONVILLE – AUGUST 2020
 - BEAVERTON AND CORNELIUS – STILL DEFERRING

DELINQUENT ACCOUNTS –WHAT HAVE WE DONE

- MONTHLY BILLS INCLUDE PAST DUE BALANCES
- DELINQUENT NOTICES SENT MONTHLY WITH FOLLOWING LANGUAGE:

DELINQUENT NOTICE

Our records indicate that payment for the balance owing has not been received. If you have recently made your payment, please disregard this notice.

The City of Tualatin understands the hardship residents and local businesses are facing right now as a result of the COVID-19 pandemic. In response to this, the City has temporarily suspended all nonpayment disconnections and late fees, until further notice. To bring your account current, we ask that you utilize one of the following payment methods:

Pay online at <https://tualatin.merchanttransact.com/>.

A payment drop box is available 24-hours a day and is conveniently located as you drive through the City Offices/Library parking lot.

Mail check to City of Tualatin, 18880 SW Martinazzi Avenue, Tualatin, OR 97062.

If you have questions or would like to arrange a payment plan, please email billing@tualatin.gov or call 503.691.3056.

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DELINQUENT ACCOUNTS –WHAT’S NEXT?

- STAFF HAS DISCUSSED RESUMING SHUT-OFFS FOR DELINQUENT ACCOUNTS
- PROPOSAL IS TO DO EXTENSIVE OUTREACH
 - INFORMATION ON WEBSITE
 - INFORMATION ON AND IN MONTHLY BILLS
 - SOCIAL MEDIA
 - GOAL OF COMMUNICATION WITH DELINQUENT CUSTOMERS
- PROPOSE BEGINNING SHUT-OFFS IN FEBRUARY

DELINQUENT ACCOUNTS –WHAT’S NEXT?

- IS THE CITY COUNCIL SUPPORTIVE OF STAFF’S RECOMMENDATION?
- DOES THE CITY COUNCIL HAVE ANY CONCERNS STAFF SHOULD ADDRESS?



City of Tualatin

CITY OF TUALATIN Staff Report

TO: Honorable Mayor and Members of the City Council
THROUGH: Sherilyn Lombos, City Manager
FROM: Nicole Morris, Deputy City Recorder
DATE: 10/25/21

SUBJECT:

Consideration of Recommendations from the Council Committee on Advisory Appointments

RECOMMENDATION:

Staff recommends the City Council approve the recommendations from the Council Committee on Advisory Appointments (CCAA)

EXECUTIVE SUMMARY:

The CCAA met and interviewed community members interested in participating on City advisory committees. The Committee recommends appointment of the following individuals:

Individuals	Board	Term
Marcus Young	Tualatin Library Advisory Committee	Reappointment Term Expiring 10/31/24
Nicholas Schiller	Tualatin Library Advisory Committee	Reappointment Term Expiring 10/31/24
Katherine Kang	Tualatin Library Advisory Committee	Student Term Expiring 10/31/22
Ashley Payne	Tualatin Library Advisory Committee	New Partial Term Expiring 10/31/23