



**City Council Meeting Agenda**

**Tuesday, September 12, 2023**

**7:00 p.m. – City Council Regular Meeting**

**EXECUTIVE SESSION – to immediately follow the Regular Meeting (CLOSED TO THE PUBLIC)**

**REVISED 09/07/2023**

*Welcome! The public is strongly encouraged to participate remotely but there is seating at Civic Hall for those who are not able to participate remotely. However, if you are not feeling well, please stay home and take care of yourself.*

*The public is strongly encouraged to relay concerns and comments to the Council in one of three ways:*

- *Email at any time up to **12 p.m. on Monday, September 11th** to [claudia.cisneros@mcminnvilleoregon.gov](mailto:claudia.cisneros@mcminnvilleoregon.gov)*
- *If appearing via telephone only please sign up prior by **12 p.m. on Monday, September 11th** by emailing the City Recorder at [claudia.cisneros@mcminnvilleoregon.gov](mailto:claudia.cisneros@mcminnvilleoregon.gov) as the chat function is not available when calling in zoom;*
- *Join the zoom meeting use the raise hand feature in zoom to request to speak, once your turn is up we will announce your name and unmute your mic. **You will need to provide your First and Last name, Address, and contact information (email or phone) to the City.***

---

*You can live broadcast the City Council Meeting on cable channels Xfinity 11 and 331,  
Frontier 29 or webstream here:*

[mcm11.org/live](http://mcm11.org/live)

**CITY COUNCIL REGULAR MEETING:**

*You may join online via Zoom Meeting:*

<https://mcminnvilleoregon.zoom.us/j/89348718845?pwd=MmpsWm91dXU5VS9xV1hmQTVnWHhCQT09>

Zoom ID: 893 4871 8845

Zoom Password: 699369

*Or you can call in and listen via Zoom: 1-253- 215- 8782*

*ID: 893 4871 8845*

**7:00 PM – REGULAR COUNCIL MEETING – VIA ZOOM AND SEATING AT CIVIC HALL**

1. CALL TO ORDER & ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. PROCLAMATIONS
  - a. LatinX Heritage Month Proclamation.
4. CEREMONIES
  - a. New Police Sergeant Swearing in Ceremony.

**5. INVITATION TO COMMUNITY MEMBERS FOR PUBLIC COMMENT –**

*The Mayor will announce that interested audience members are invited to provide comments. Anyone may speak on any topic other than: a matter in litigation, a quasi-judicial land use matter; or a matter scheduled for public hearing at some future date. The Mayor may limit comments to 3 minutes per person for a total of 30 minutes. The Mayor will read comments emailed to City Recorded and then any citizen participating via Zoom.*

6. ADVICE/ INFORMATION ITEMS

- a. Reports from Councilors on Committee & Board Assignments
  1. September 2023 City Council Committee Assignments Update –Mayor Remy Drabkin.
- b. Department Head Reports
- c. May 2023 Cash and Investment Report (in packet)

7. CONSENT AGENDA

- a. Consider the Minutes of the July 11, 2023, City Council Work Session & Regular Meeting.
- b. Consider the Minutes of the July 19, 2023, City Council Work Session Meeting.
- c. Consider the Minutes of the July 25, 2023, City Council Work Session & Regular Meeting.
- d. Consider the Minutes of the August 08, 2023, City Council Work Session & Regular Meeting.
- e. Consider **Resolution No. 2023-55**: A Resolution approving the award of a Professional Services Contract to Century West Engineering for the Environmental Phase of the Airport Fence & Wind Cone, Project 2023- 11, and acceptance of Federal Aviation Administration Grant funding for this project.

8. ORDINANCE

- a. Consider the first reading with a possible second reading of **Ordinance No. 5138**: An Ordinance Repealing Chapter 9.20.30, Chapter 9.32.20, and Chapter 9.24.20 of the McMinnville Municipal Code and Amending Chapter 9.24.40 of the McMinnville Municipal Code.

9. ADJOURNMENT OF REGULAR MEETING

**CITY COUNCIL EXECUTIVE SESSION- IMMEDIATELY FOLLOWING THE REGULAR MEETING - (NOT OPEN TO THE PUBLIC) (Added on 09.07.2023)**

1. CALL TO ORDER

2. **EXECUTIVE SESSION PURSUANT TO ORS 192.660(2)(e)**: To conduct deliberations with persons designated by the governing body to negotiate real property transactions. **AND Executive Session pursuant to ORS 192.660(2)(f)**: To consider information or records that are exempt by law from public inspection.

3. ADJOURNMENT OF EXECUTIVE SESSION



# PROCLAMATION

## Designation of September 15 – October 15 as Latinx Heritage Month

**WHEREAS**, National Latinx Heritage Month celebrates the Latinx community and highlights its countless achievements; and

**WHEREAS**, the observation began in 1968 as Hispanics Heritage Week under President Lyndon B. Johnson, and was enacted into federal law on August 17, 1988, calling upon the people of the United States to observe this time with ceremonies, activities, and programs; and

**WHEREAS**, many Latinx Americans trace their roots to the cultures of indigenous peoples of the Americas – including the Arawaks, the Aztecs, the Incas, the Maya, and the Tainos, and some trace their roots to ancestors from Spain, Mexico, the Caribbean, Central and South America, and Africa; and

**WHEREAS**, September 15 – October 15 is recognized as National Hispanic Heritage Month, a time to honor and celebrate the invaluable ways Latinxs contribute to McMinnville’s common goals, to celebrate a diverse Latinx culture, and to work toward a stronger and more inclusive society for all; and

**WHEREAS**, the 15<sup>th</sup> of September is significant as a starting date for Latinx Heritage Month because it is the anniversary of independence from Spain for Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. Mexico and Chile celebrate their independence on September 16<sup>th</sup> and 18<sup>th</sup> respectively; and

**WHEREAS**, Latinxs are a significant part of McMinnville’s population and influence the fabric of our community with contributions to McMinnville’s arts, businesses, restaurants, civic leadership, education, and overall culture; and

**NOW, THEREFORE**, I, Remy Drabkin, Mayor of McMinnville, do hereby proclaim the period between September 15 and October 15, 2023 as:

## Latinx Heritage Month

**IN WITNESS WHEREOF**, I have hereunto set my hand, this twelve day of September, in the year two thousand twenty-three.

---

Remy Drabkin, Mayor

To Mayor Drabkin,

We appreciate your response to our Task Force in your past two "Read on Mac" newsletters. We noticed a few potential misconceptions that need addressing concerning our "Safe Zone 4 Kids" initiative and believe it's important to clarify these points. In this letter, we've also attached a comprehensive report that strongly supports our proposal with a solid foundation in data.

You mentioned the community's request for "painting yellow lines around schools to create visual boundaries." It's important to clarify that our Task Force never requested the painting of yellow lines around schools for visual boundaries. The change we have proposed would involve communication and the subsequent enforcement of the adopted ordinance. Our proposal suggests a straightforward addition to our already compliant camping code and ordinance, aiming to prohibit encampments within 1,500 feet of school properties, athletic fields, including daycares, and our public library. This is a simple proposal that has proven highly effective in the multiple cities mentioned in our report that we are sharing with you.

Our extensive report outlines the framework for implementing the "Safe Zone 4 Kids" initiative, a concept that has gained nationwide traction due to the growing recognition of the urgent need for improved safety around schools, athletic fields, and public libraries. Our hope is that McMinnville can also benefit from this initiative. Inside the attached report, you'll discover a list of cities that have recently adjusted their ordinances to align with House Bill 3115 and other relevant state regulations. These changes are backed by legal precedents such as *Martin vs. Boise* and *Blake vs. Grants Pass*. This reinforces the credibility of our data. Furthermore, we've collaborated directly with various mayors, municipalities, councils, and dedicated city attorneys, or their acting legal counsel around the state who have successfully implemented similar changes in their ordinances. Additionally, we conducted on-site visits at schools in many of these cities and observed a lack of yellow lines or signage indicating the regulations.

We extend our gratitude for your dedication by stating you will be enforcing existing regulations to the fullest extent. This dedication was highlighted not once but twice – first in your initial commitment to the Task Force and again in your "Read on Mac" email from the Week of September 4th. All efforts to ensure the safety and well-being of our community are valued, and we share your belief that consistent full enforcement is critical in creating a secure environment.

Our Task Force has consistently aimed to collaborate with the city rather than oppose it. As you mentioned in your recent newsletter, *"In the Chief's words... Enforcement alone will not solve these problems... underscoring the importance of community-wide cooperation in tackling these challenges.* including your call to action, *"What are your ideas for combating issues in our community? Share them with me."* aligns with our commitment to enhancing child safety. Wouldn't it be great if we could work together to explore solutions that will further protect the safety of our children and our community?

We kindly request your consideration of our thoroughly vetted proposal. Given your control over the agenda for City Council meetings, we hope that you will consider this important topic worthy of attention and discussion. We're aware of your ongoing communication with the Superintendent and some members of the school board, who share our concerns as we've already met with them. We provided them with a copy of our well-vetted process, and firmly believe that collaborating as a team would yield significant benefits.

We extend an invitation for you to join our next Task Force meeting. This would provide an opportunity for you to meet with us, engage in discussions about our ideas, and gain insight into the legal framework supporting our initiative. Together, we can work towards safeguarding our children and our community. Our next meeting is scheduled for Tuesday, September 12th, from 3:00-5:00pm, and we sincerely hope you can join us. Additionally, we are eagerly awaiting your response regarding our proposal to create bike lanes on Marsh Lane. Perhaps we can have an in-person discussion about this during the meeting as well.

Together in unity for a safer community,

# McMINNVILLE COMMUNITY TASK FORCE

## PROHIBITION OF CAMPING NEAR OREGON SCHOOLS: SAFE ZONE FOR CHILDREN

Cities Embracing the "Safe Zone 4 Kids" Initiative:

Numerous cities within Oregon have taken proactive measures to safeguard the well-being of children by instituting a "Safe Zone 4 Kids" ordinance. This initiative is a response to the need for safer surroundings for children attending school and adheres to the guidelines set forth by House Bill 3115 and existing state laws. While this list does not encompass all participating cities, it provides a glimpse of the collective effort to create secure spaces for children.

BEND	1,000ft
REDMOND	1,000ft
SISTERS	No camping at school grounds, in residential, public or city areas
PRINEVILLE	1,000ft
PORTLAND	250ft
BEAVERTON	500ft
HILLSBORO	500ft
FOREST GROVE	500ft
TIGARD	500ft
WEST LINN	300ft
TUALATIN	500ft
SHERWOOD	1,000ft
NEWBERG	1,500ft
JEFFERSON	500ft
SALEM	1,000ft - using language like public property, vs schools, working on new ordinance
KEIZER	100ft
STAYTON	In process of adopting Bend's ordinance
ALBANY	In process of adopting Bend's ordinance
CORVALLIS	In process of adopting Bend's ordinance
GRANTS PASS	50ft - currently under injunction but have created a buffer zone of 50ft
EUGENE	1,000ft
ROSEBURG	200ft

OREGON CITIES, NO CAMPING ORDINANCE NEAR SCHOOLS

**BEND 1,000FT**

"Alternate shelter" means an outdoor location that provides access for sleeping and/or camping through the use of a vehicle, a recreational vehicle, a tent, or some other structure which offers some protection from the outdoor elements, provided that any alternate shelter shall not be located: (1) in a manner that will create a physical impediment to emergency or nonemergency ingress, egress or access to public or private property, including but not limited to driveways, sidewalks and entrances or exits from buildings and/or other real property; and/or (2) within 1000 feet of a school or public park~  
**Ord 2023-013 revising DCC re camping on public property.pdf**

**PORTLAND 250FT**

Place restrictions: The code changes specify several places where camping is always prohibited. Restrictions include, but are not limited to, the pedestrian use zone, 250 feet from a school or childcare center, in the public right-of-way along the High Crash Corridor, and City Parks.

**\*\*\*\*\*.portland.gov/wheeler/documents/time-place-manner-brochure/download**

**BEAVERTON 500FT**

Within 500 feet from a lot or parcel containing an elementary school, secondary school or a certified child care center.

**\*\*\*\*\*beaverton.municipal.codes/BC/5.18.050**

**HILLSBORO 500FT**

Prohibit camping within residential zones, 10 feet of business doorways, city parks, property with city buildings, or active city parking lots, 500 feet (about two blocks) of shelters or homelessness services, 500 feet, of K-12 schools, not including daycares or preschools, protected natural areas, 500 feet (about two blocks) of a freeway entrance or exit, or along roads with speed limits of 45 miles per hour or higher, areas under repair or construction, areas currently hosting permitted special events or under temporary use permit, areas without a curb or traffic barrier, within 10 feet any driveway, bridge, culvert, or viaduct.

**\*\*\*\*\*.hillsboro-oregon.gov/Home/Components/News/News/14809/4300**

**\*\*\*\*\*.hillsboro-oregon.gov/services/community-support/homelessness-initiatives/camping-rules**

**FOREST GROVE 500FT**

Prohibit overnight camping on public property in the following areas: 500' from schools, 20' from commercial storefronts, Transit stops, In residential zones, including the public rights-of-way, City buildings and parking lots, Public parks or facilities, Property for the operation and regulatory compliance of water, stormwater, and electrical systems, Natural areas, corridors, and sensitive habitats, Property dedicated, donated, or bequeathed to the City.

**\*\*\*\*\*.forestgrove-or.gov/sites/default/files/fileattachments/community/page/41631/ordinance\_2023-04\_qa\_6152023.pdf**

# McMINNVILLE COMMUNITY TASK FORCE

## TIGARD 500FT

Sensitive lands, such as wetlands, significant habitat areas, and undeveloped park land, city parks, city parking lots, along SW Burnham Street, SW Main Street, SW Commercial Street and SW Tigard Street between SW Main Street and SW Tiedeman Street, within 500 ft. of houseless services, schools, and freeway entrances/exits, within any vision clearance area around intersections.

\*\*\*\*\*[tigard-or.gov/community-support/housing/camping-in-tigard](https://tigard-or.gov/community-support/housing/camping-in-tigard)

## WEST LINN 300FT

West Linn's new rules took effect immediately after the council's vote. Under the new rules, people will only be able to camp on city property between 7 p.m. and 7 a.m. Additionally, they must be at least 300 feet from schools and child care facilities and at least 50 feet from rivers or streams. (10) A campsite may not be located within 300 feet of any school or licensed, certified, or authorized child care center.

\*\*\*\*\*[codepublishing.com/OR/WestLinn/#!/WestLinn05.html#5.115](https://codepublishing.com/OR/WestLinn/#!/WestLinn05.html#5.115)

## TUALATIN 500FT

Within 500 feet of schools, freeway entrances/exits.

\*\*\*\*\*[tualatinoregon.gov/administration/implementing-house-bill-](https://tualatinoregon.gov/administration/implementing-house-bill-3115#:~:text=Camping%20prohibited%20in%3A,schools%2C%20freeway%20entrances%2Fexits)

[3115#:~:text=Camping%20prohibited%20in%3A,schools%2C%20freeway%20entrances%2Fexits](https://tualatinoregon.gov/administration/implementing-house-bill-3115#:~:text=Camping%20prohibited%20in%3A,schools%2C%20freeway%20entrances%2Fexits).

## SHERWOOD 1,000FT

No camping is allowed in any residential zone, within 50 feet of any residential area, or within 50 feet of a residential structure, regardless of zoning. No Camping within 1000 feet of a school. No Camping within Sherwood School District Walk Zones.

\*\*\*\*\*[library.municode.com/or/sherwood/ordinances/code\\_of\\_ordinances?nodeId=1221908](https://library.municode.com/or/sherwood/ordinances/code_of_ordinances?nodeId=1221908)

## NEWBERG 1,500FT

I) City resources may not be used to subsidize the construction or operation of a homeless encampment located within 1500 feet of a Newberg school.

[https://www.newbergoregon.gov/sites/default/files/fileattachments/city\\_manager/page/4552/2022-02\\_initiative\\_petition\\_for\\_charter\\_amendment\\_homeless\\_camps.pdf](https://www.newbergoregon.gov/sites/default/files/fileattachments/city_manager/page/4552/2022-02_initiative_petition_for_charter_amendment_homeless_camps.pdf)

## JEFFERSON 500FT

Public rights-of-way adjacent to, or within five hundred (500) feet of, a lot or parcel containing an elementary school, secondary school, day care facility, child care facility, or facility providing services to homeless persons.

[https://library.qcode.us/lib/jefferson\\_or/pub/municipal\\_code/item/title\\_5-chapter\\_5\\_I6-5\\_I6\\_020](https://library.qcode.us/lib/jefferson_or/pub/municipal_code/item/title_5-chapter_5_I6-5_I6_020)



# McMINNVILLE COMMUNITY TASK FORCE

## **KEIZER**                    **In process of adopting Bend's ordinance**

In express recognition of the need for those experiencing homelessness to sleep and rest and if they have no where else to go, camping is not prohibited in public rights-of-way, except in the following right-of-way areas: (1) Vehicular and bicycle-travel lanes and five (5) feet adjacent to such travel lanes. (2) Stormwater facilities. (3) Adjacent to any residential uses. (4) Within 100 feet of any school or daycare facility. (5) Within 100 feet of any church, except for on property that is accommodating camping or camping like activities under ORS 195.520.

**City of Keizer Ordinance: 2023-865\_2023-07-03.pdf**

## **STAYTON**                    **In process of adopting Bend's ordinance**

## **ALBANY**                    **In process of adopting Bend's ordinance**

Outside of camp sites authorized under the ordinance, camping would be prohibited on public or private property. The proposal includes several requirements. For example, individual camps at each permitted site could be no bigger than 12 feet square. Sites would have to be equipped with portable toilets, washing facilities and fire extinguishers. Fires would not be allowed. In addition, camp sites could not be near schools, in flood zones, or within 300 feet of any waterways.

**<https://hh-today.com/council-gets-ordinance-to-allow-camp-sites/>**

## **CORVALLIS**                **200FT**    **In process of adopting Bend's ordinance**

**<https://archives.corvallisoregon.gov/public/0/edoc/3647404/Ordinance%202023-22%20Instituting%20TPM%20Restrictions.pdf>**

## **SISTERS**                    **0 TOLERANCE, NO DISTANCE DUE TO SMALL TOWN**

Camping is prohibited on city property (a) not open to the public, (b) within or upon any alley, right-of-way, parking lot/space, public park, and/or school property.

**<https://www.codepublishing.com/OR/Sisters/#!/Sisters04/Sisters04I0.html#4.I0.030>**

## **PRINEVILLE**            **1,000FT**

On May 23, the Prineville City Council approved sweeping restrictions. They prohibit camping from 7 a.m. to 9 p.m., within 1,000 feet of a school building, blocking a city sidewalk, or within 100 feet of a waterway.

**<https://www.opb.org/article/2023/05/30/central-oregon-cities-rules-homeless-camping/>**



**REDMOND            I,000FT**

Place regulations establish types of public property where camping is not allowed such as school zones, maintained public parks, restricted utility facilities or parking lots, or near existing Safe Parking sites and shelters.

<https://www.redmondoregon.gov/government/departments/community-development/code-compliance-division/camping-code-faqs>

**EUGENE            I,000FT**

Property within 1000 feet of an educational facility. For purposes of this section, “educational facility” means a public library or a building owned, leased or under the control of a public or private school system, college, university, or licensed daycare or preschool.

<https://eugene.municipal.codes/EC/4.815>

**ROSEBURG            200FT**

Camping is prohibited at all times in the following locations:

i. In or adjacent to any Residentially zoned area or any properties legally residentially used regardless of zoning, and anywhere within 200 feet of a school or day care facility.

[https://www.cityofroseburg.org/storage/app/media/City-](https://www.cityofroseburg.org/storage/app/media/City-Ordinances/Repealing%20and%20Replaced%20RMC%207.02.100%20Prohibited%20Camping%20%20May%20I2%202023.pdf)

[Ordinances/Repealing%20and%20Replaced%20RMC%207.02.100%20Prohibited%20Camping%20%20May%20I2%202023.pdf](https://www.cityofroseburg.org/storage/app/media/City-Ordinances/Repealing%20and%20Replaced%20RMC%207.02.100%20Prohibited%20Camping%20%20May%20I2%202023.pdf)

**GRANTS PASS            50ft - currently under injunction but have created a buffer zone of 50ft**

Currently under injunction, so they have created a buffer zone that went into effect 8/28/23:

“To ensure the safety of all Grants Pass District 7 and Three Rivers School District students and staff, the following buffers and rules shall apply to Gilbert Creek Park and Fruitdale Park during the academic school year: Between the hours of 7:00 am – 7:00 pm on weekdays, no portable structure, as defined in GPMC 6.46.04I, may be erected within 50 feet of the outermost exterior of any walking path or trail, whether paved or unpaved, running through Gilbert Creek Park and/or Fruitdale Park, that leads to any Grants Pass District 7 or Three Rivers School District property. The resting hours outlined in the Injunction signed by Judge Mark D. Clarke shall not be affected.”

Email 8/28/23 from Julie Hall, Administration, City of Grants Pass 541-450-6013

## CASE LAW AND LEGISLATIVE HISTORY:

From the League of Oregon Cities:

Following recent federal court decisions, cities and counties must reconsider local ordinances regulating public space and homelessness. In 2021, the Oregon Legislature enacted HB 3115, which created a state statutory standard based on federal court decisions in *Martin v. Boise* and *Blake v. Grants Pass* and directs cities to consider their local ordinances within the context of available local shelter services and public space.

## MARTIN V. BOISE

In the April 2019 *Martin v. Boise* decision, the U.S. Ninth Circuit Court ruled that homeless persons cannot be punished for sleeping outside on public property in the absence of adequate alternatives, unless the law imposes “reasonable time, place and manner” restrictions on the regulated activities in public space. For now, this is the law in Oregon, and as a result, Oregon cities have updated their ordinances following the 2019 *Martin* decision and the August 2020 federal district court in Oregon’s opinion in *Blake v. Grants Pass*.

## BLAKE V. GRANTS PASS

In September 2022, the U.S. Ninth Circuit Court of Appeals affirmed *Blake v. Grants Pass*, a class action matter addressing public camping. The court upheld the U.S. District Court’s prior ruling that persons experiencing homelessness are entitled to take necessary minimal measures to keep themselves warm and dry while sleeping outside. The Ninth Circuit opined that cities violate the Eighth Amendment if they punish a person for the mere act of sleeping outside, or for sleeping in their vehicles at night when there is no other place in the city for them to go.

As a result of this ruling, this decision expands the application of *Martin v. Boise*—the pivotal case impacting cities’ ability to regulate public camping. The court noted that the decision in this case is narrow and that “it is ‘unconstitutional to [punish] simply sleeping somewhere in public if one has nowhere else to do so.’” It goes on to note that class actions in these types of cases are permissible. This opinion, in most respects, affirmed what was already known from both the previous *Martin* and *Blake* cases. However, it failed to provide much anticipated clarification on several issues, such as what constitutes “necessary minimal measures” to keep warm and dry. It is unknown at this time whether the ruling will be appealed.

## **HB 3115 (2021): LOCAL CAMPING ORDINANCES**

HB 3115 is the product of a workgroup involving the League of Oregon Cities (LOC) and the Oregon Law Center (OLC) as well as individual cities and counties. The workgroup spent many hours crafting a concept that recognizes a key principle from the recent *Martin v. Boise* Ninth Circuit Court decision and *Blake v. Grants Pass* federal district court decision.

HB 3115 requires that any city or county law regulating the acts of sitting, lying, sleeping or keeping warm and dry outside on public property must be “objectively reasonable” based on the totality of the circumstances as applied to all stakeholders, including persons experiencing homelessness. What is objectively reasonable may look different in different communities. The bill retains cities’ ability to enact reasonable time, place and manner regulations, aiming to preserve the ability of cities to manage public spaces effectively for the benefit of an entire community.

HB 3115 includes a delayed implementation date of July 1, 2023, to allow local governments time to review and update ordinances and support intentional community conversations. The bill is the product of a workgroup effort between the LOC, the Oregon Law Center (OLC), the Association of Oregon Counties (AOC), as well as individual cities and counties. The workgroup spent many hours last fall crafting a concept to recognize key principles from the *Martin* decision in state law.

## **HB 3124 (2021): RELATING TO HOMELESSNESS**

HB 3124 increases the time that local governments must post notice before removing campsites from 24 to 72 hours. The bill also requires jurisdictions to store unclaimed personal property in a facility located in the same community as the campsite from which it was removed. HB 3124 preserves existing exceptions to the notice requirement when: There are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site; and in the event of an exceptional emergency at an established camping site, including, but not limited to, possible site contamination by hazardous materials, a public health emergency or other immediate danger to human life or safety.

**From:** [Jill Sorensen](#)  
**To:** [Claudia Cisneros](#); [Kellie Menke](#); [zach.geary@mcminnvilleoregon.gov](mailto:zach.geary@mcminnvilleoregon.gov); [Remy Drabkin](#)  
**Subject:** School Safe Zone/Route  
**Date:** Monday, September 11, 2023 12:20:10 PM

---

**This message originated outside of the City of McMinnville.**

---

My name is Jill Sorensen. I have been a resident of McMinnville since 2009. My home and small business are located within ward one. I am not able to attend the 9/12 council meeting because a scheduling conflict with Back to School Night. I am emailing because I want to be on record that I am a firm believer that the City of McMinnville needs to create a Safe Zone/Route around our schools and school sports fields.

My youngest is a student at Patton Middle School. The state of McDaniel Street has gotten completely out of hand. The houseless/campers lining the school grounds is not only a huge safety concern, but also a health concern - aggressive dogs, unsanitary conditions, drug use/paraphernalia, and offensive actions and language. Our kids are also very impressionable at this age and this is NOT an example we need set for them.

Our children should feel safe and comfortable walking to/from school and sporting events. This should be a priority for the City of McMinnville to implement and **ENFORCE**. I know that other cities have recently made similar changes to their camping ordinances. If you can create a safe and camp free area around our Downtown and Alpine District you can surely create a safe space for the children of our community.

I appreciate your time.

Jill Sorensen



Mayor Drabkin and City Council,

My name is Emma Campbell and I live at [REDACTED] in McMinnville. I am a senior at Linfield University and I serve two very important roles at my school as student body president and as the president of my sorority Alpha Phi. Today I am here to discuss safety concerns on behalf of students.

Over the past year, there has been a dramatic increase in safety issues in the McMinnville community that are directly affecting Linfield students.

First, students like to walk to Third Street, during the day or at night. During the weekends students will often walk to the bars on 3rd street. In order to get there they have to walk along Davis Street. Not only does this street not have good lighting but there are also folks who camp underneath the bridge. There are often shopping carts filled with things, trash, and even needles that line the one sidewalk along Davis Street. Walking along this street feels unsafe in a group. But when you are walking alone or even in a pair the feeling of not being safe is far worse. This issue has affected young women and men alike at Linfield University. While walking along this street, students have experienced being followed back to campus, being yelled at, and being forced to walk into the street to avoid threatening behaviors along the single sidewalk of Davis Street.

Second, students like to walk around Linfield's Wellness Trail which is around a grass field on the southern part of campus and connects to Albertsons. Unfortunately, more often than not there are multiple RVs, cars, and tents that are near the trail. There are people who are camping and littering the area with trash making this trail unsafe for students to exercise.

I understand the city council has received a letter asking to ban camping 1,500 feet from school property. I strongly recommend that the council adopt this and help keep our community safe.

I appreciate your time in hearing about safety issues facing Linfield University students. I hope that we can all work together to help make the McMinnville community a safer place to live.

Sincerely,

Emma Campbell  
Linfield Student Body President

Good evening, Mayor Drabkin and City Councilors,

My name is Susan Nelson, and I live at [REDACTED] McMinnville, OR. I am here tonight to address the increase in transient people I see spending time in McMinnville. I'm concerned about many aspects of this, but mostly the risk it poses to the safety of our children.

I'd like to share an experience my daughter had while she was at the McMinnville City Park with my two young grandchildren. They, along with another young family, were at the city park mid-day on a weekday. While watching my grandchildren play, my daughter was startled by a loud noise coming from the public restroom. She quickly turned to see a young man storm out of the public restroom, and aggressively make his way towards her. He walked past her, stopped at the playground, looked at the children playing, and then acted as if he were pulling out a shotgun. He stared at each child before pointing his fake gun and pretending to shoot them. My daughter turned to look at the parents of the other children, and was met with looks of shock and fear. Immediately, everyone grabbed their children and left the park.

This experience is one of many we have had recently while out-an-about in McMinnville. We have spoken with several McMinnville families who are hesitant to take their kids to a city park. We don't feel safe, which is sad because a park is a place where families should be able to relax and have fun. I see people walking down McMinnville streets, who are clearly unwell. Whether it's mental illness, or drugs, or both, it's apparent that these people are in desperate need of help. I'm also concerned about the increase in campers I see parked around the perimeters of our public schools. We do not know who these campers are, which makes it unsettling to know they are within close proximity to our children.

Our children are our greatest assets. Keeping them safe should be our top priority. McMinnville is a great town, full of amazing people. We love our children, and we care deeply for each other. There is no love in standing by while our children's safety is at risk. There is also no love in standing by while our fellow humans are ravaged by addiction, and tormented by mental illness.

Mayor Drabkin and Council members, I implore you to put the safety of our children at the very top of your priority list. Our schools and public parks are places where families should feel safe. I encourage you to support the people and organizations that are working hard in our community to find real solutions to the issues of homelessness, addiction, and mental health crises. I thank you for your time, for the service you give to our community, and for this opportunity to speak with you.



My name is Shannon Brooks and my address is [REDACTED]

I live right next to Thompson Park, my backyard faces the covered table area. I see a lot of activity over there, but not all. We even have a Neighborhood watch group that is very active at the Park and helps to keep it safe and clean. One thing I have noticed is that when the Park Patrol or cleaning crew come out, they very rarely walk the perimeter of the park and look for damage, graffiti, unsafe objects, etc. They empty the garbage, maybe clean the bathroom, and be on their way. I have seen security over there at night, and they mostly just shine their flashlight around the park, but don't actually walk around and look for anything out of place. How are they checking for areas of concern, if they aren't actually checking the area? How is this keeping the parks clean and safe for our children?

I go over there often with my grandson, and have seen graffiti on the tables or play equipment for several weeks, but yet, the surrounding neighbors, who have had their fences graffitied on, are given a 10-day notice to clean up their fences. Is the City not held to the same rule for graffiti at the parks, that the home owners are? What kind of example is the Parks department setting in this kind of situation? What kind of message is that sending to the home owners, who have no control or knowledge that the back of their fence has been graffitied?

...A few weeks ago, during the bad heat wave, I was in my backyard with my grandson. I saw a man, in about his late 40s to 50s, laying on the grass in the direct heat. I asked him several times if he was OK and needed help. After about 5 minutes he answered me and said NO. I gave him a couple water bottles, but did not want to approach him. About an hour later, he had not moved from the spot, so I called the Non-Emergency line to come do a welfare check. After 4 hours, and NO ONE coming to check on him, he got up and was able to walk away, and left the park. I don't know what ever happened to him. But 4 hours in the direct heat, could have really harmed him. Especially if he had some medical conditions. Do you care about ALL citizens, or just some?

We are told to call-in anything we see or hear at the Park, which most of us do, but what good does that do when no one comes out to check anything. Or even check things when they are patrolling the area. We report graffiti, vandalism, and other concerns, but don't get officers out when we call.

*proper feedback*

So when they say, "Call it in", I say MAC City and Parks Dept can and should do better.

Thank you!



September 8, 2023

Re: Public Comment regarding a new recreation center

Dear City Council and McMinnville Water & Light,

Thank you for taking the time to read our comments regarding our hope for you to move forward the discussion with McMinnville Water & Light regarding a future site for a recreation center and pool.

I was born and raised in McMinnville. As a child, I utilized just about every park and recreation service the City of McMinnville could provide. Now 47, I'm watching my children recreate on the same exact fields, in the same gyms and in the same pool with twice as many users and very little upgrades. The time is now to nail down a site for a new recreation center and pool in McMinnville. The potential site on Marsh Lane is very appealing. It's accessible, centrally located and adjacent to Joe Dancer Park. What an opportunity for the city.

I started and run the McMinnville Community Tennis Association, a non-profit that provides youth tennis programming during the summer months. We just completed our 3<sup>rd</sup> summer of programming. I also live in the Cows Street Tennis Courts neighborhood where our programming takes place. The neighborhood has seen its challenges over the last 4 years. Yet, when those courts are filled with McMinnville's youth, the neighborhood feels and looks vibrant, safe and healthy. I can envision the same scenario on Marsh Lane.

The economic, social, health and environmental value of quality parks and recreation services is well researched. Quality parks and recreation are noted as one of the top three reasons that businesses cite in relocation decisions. In countless surveys, parks and recreation services are a major determinant of a community's livability. Communities that participate in sport and recreation develop strong social bonds, are safer places and the people who live in them are generally healthier and happier than places where physical activity isn't a priority.

The time is now to move forward with plans to build a one stop shopping pool and recreation center. Acquiring the Water & Light probably on Marsh Lane is the first step.

Again, thank you for your time and service,

Lisa Macy-Baker



**From:** [Jisun Lee](#)  
**To:** [Claudia Cisneros](#)  
**Cc:** [Jay Nelson](#)  
**Subject:** Written statement for 9/12 Council Meeting  
**Date:** Friday, September 8, 2023 11:30:12 AM

---

**This message originated outside of the City of McMinnville.**

---

Hi Ms. Cisneros,


I'd like to submit a written statement for the city council meeting that will be held on 9/12.

We are a long term swim team family; our oldest child just started her freshman year at McMinnville High School and has been on the swim team ever since we moved to McMinnville in 2016. Her younger sister joined a few years later.

The value that the swim team and, more indirectly, the aquatic center has brought to our lives is hard to measure. They have found a safe, positive, inclusive environment in the swim team that has helped them connect with their peers, experience team sports, and feel like they are part of our larger community.

We have been keenly aware that the aquatic center is aging. The locker rooms and lanes are crowded during their practices. Storage seems difficult, and swim team meets are crowded. We have been required to be flexible around practice times in ways that have been a hardship for our family because there hasn't always been enough time to accommodate all of the different community needs that the aquatic center fulfills. We wish there was more space so that our younger children could have more consistent swim lessons.

We understand that the question of how to maintain the aquatic center and balance its needs with the rest of the city's needs must be a complex one. We would like to add our voice to advocate for prioritizing the aquatic center as much as possible. It gives the families in this city and its surrounding areas experiences and access to sports and community that should be recognized as indispensable. My children spend upwards of 20-30 combined hours in and out of the aquatic center. Please ensure that it is a safe, functional, welcoming space for us and McMinnville's future families.

Jisun Lee & Jay Nelson  


**From:** [Sandra Stokes](#)  
**To:** [Claudia Cisneros](#)  
**Subject:** McMinnville Needs a new Aquatic Center  
**Date:** Monday, September 11, 2023 9:16:32 AM

---

**This message originated outside of the City of McMinnville.**

---

Hello:

Our town has been delaying the inevitable for too long and now is the time for McMinnville to build its new aquatic center.

As a senior citizen and a devoted Grandmother, I enjoy keeping my body active and strong by using the pool and keeping my spirit strong by watching my granddaughter swim with her team!

Our community is large enough to support a new aquatic center. I have been in smaller communities within Oregon that were inspired to make big decisions a reality.

We know it is a waste of money to continue to repair our present aquatic center, so let's make the decision move forward McMinnville, let's bust a move now!

Sandi Stokes

**From:** [Andrew Jones](#)  
**To:** [Claudia Cisneros](#)  
**Subject:** McMinnville City Council Meeting 9/12 Public Comment  
**Date:** Monday, September 11, 2023 9:49:25 AM  
**Attachments:** [We sent you safe versions of your files.msg](#)  
[Public Comment of Andrew Jones - McMinnville City Council Meeting 9.12.23.pdf](#)

---

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

---

**This message originated outside of the City of McMinnville.**

---

Hi Claudia,

I would like to be added to the public commenters for tomorrow's meeting. Please see attached my accompanying written comment.

Thank you!  
Andrew

*Andrew Jones*  
President, McMinnville Swim Club



## Public Comment of Andrew Jones, President of McMinnville Swim Club

McMinnville City Council Meeting, September 12, 2023

---

Thank you Mayor Drabkin and Councilors for the opportunity to provide comment.

- I am the president of the McMinnville Swim Club. We currently have over 140 swimmers, with a waiting list that often exceeds 20 kids! MSC has been around for nearly 70 years and is a part of a rich tradition of swimming in McMinnville. Just about everyone I meet of a certain ago who grew up in McMinnville speaks fondly about swimming in the outdoor pool in Upper City Park.
- The community's love of swimming brought about by those sunny days splashing in the outdoor pool led to the building of the Aquatic Center, which was (and remains, even with its wrinkles) one of the best facilities in the state.
- The long tradition of aquatics in McMinnville now is our responsibility. We cannot let it die out while waiting for the right time to act.
- McMinnville is changing in many ways, but one thing that we need to keep is a public facility that serves as a place for kids to play, where they can spend a few dollars and go splash in the sun like their parents and grandparents did!
- Since the beginning of the MacPac process some four years ago, there has been lot of excitement and engagement with our membership. That excitement is still there, but every year we spend watching the leaks in the Aquatic Center roof, with only more discussions, we risk losing credibility. So I would like to encourage you to move forward with urgency in your efforts to finalize a site for the new recreation facility, and begin building.
- I also encourage you to reach out to me or our head coach Murilo Martins ( [REDACTED] ) when you are considering "right-sizing" the facility. We are happy to share the wants and needs of a swim club in the future of aquatics in McMinnville. The Swim Club will be an enthusiastic and vocal supporter of a facility that continues the tradition of swimming in McMinnville!

Andrew Jones – [REDACTED]

**From:** [Dianne Haugeberg](#)  
**To:** [Claudia Cisneros](#)  
**Subject:** Work session letter in support  
**Date:** Monday, September 11, 2023 10:06:22 AM  
**Attachments:** [We sent you safe versions of your files.msg](#)  
[City Council letter Shea 2023.pdf](#)

---

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

---

**This message originated outside of the City of McMinnville.**

---

Hi Claudia,

I prepared a letter in support of a new recreational center for the City Council. I haven't ever submitted a letter before – is the process for me to email it to you? If there is a different process, please let me know!

Thank you,  
Dianne

***Dianne L. Haugeberg***

*LL.M. in Federal Taxation*

HAUGEBERG, RUETER, GOWELL, FREDRICKS & HIGGINS, P.C.  
620 North East Fifth Street | P.O. Box 480 | McMinnville, Oregon 97128  
Telephone (503) 472-5141 | Fax (503) 472-4713  
[dlhaugeberg@hrglawyers.com](mailto:dlhaugeberg@hrglawyers.com) | [www.hrglawyers.com](http://www.hrglawyers.com)

***CONFIDENTIALITY NOTICE:*** This transmission (and/or documents accompanying it) may contain confidential information belonging to the sender which is protected by the attorney-client privilege. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please notify me immediately.

**SHEA**  
**Brian Shea and Dianne Haugeberg Shea**  
[REDACTED]  
**McMinnville, OR 97128**

McMinnville City Council  
230 NE Second Street  
McMinnville, OR 97128

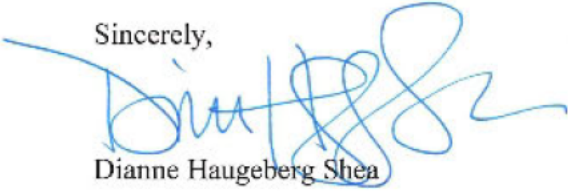
Re: Recreational Center

Dear Mayor and City Councilors:

I want to express my appreciation for your continued vision and work toward a new recreational center for McMinnville. Our family spends a considerable amount of time at the aquatic center so this letter is in support of the new aquatic center.

Our community has a long-standing history of a robust aquatic program for both youth and adults and for both competition and recreation. My hope is that you will continue to focus on a new aquatic center that supports multi-generational use both for our current residents but also for generations to come. Our community continues to grow and a new aquatic center should be designed with forethought for the future growth of McMinnville. A design that maintains the current usage and services would not take advantage of this opportunity to create a legacy recreational center. I support the City Council in its efforts to design and build a recreational center and aquatic center that will serve our community for decades to come.

Sincerely,

  
Dianne Haugeberg Shea



**From:** [Leah McGlade](#)  
**To:** [Claudia Cisneros](#)  
**Subject:** Letter in Support for New Community Pool  
**Date:** Monday, September 11, 2023 11:42:18 AM  
**Attachments:** [We sent you safe versions of your files.msg](#)  
[Letter in Support for New Community Pool.docx](#)

---

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

---


**This message originated outside of the City of McMinnville.**

---

Hello Claudia-

Happy Monday! Please include the attached letter of my support for a new community pool. Please let me know if you have any questions.

Thank you!

Cheers,  
Leah McGlade  
Cépage Direct to Consumer Strategies  
Managing Partner  


Dear Councillors-

I am writing to support building a community recreational facility that will house a new pool for the residents of McMinnville and surrounding towns. A community pool is vital to residents of ALL ages – from babies just learning to love the water, toddlers and young children taking lessons, 4<sup>th</sup> graders attending survival swim class, to Grandmothers and Grandfathers keeping themselves healthy with senior water exercise. As a parent of an elementary school child who races with the MSC Mako team and will hopefully continue for seven more years, I strongly feel that the town should invest in a new pool. The MSC Mako Team hosts two 3-day swim meets annually, bringing in teams from all over Oregon; the families staying in McMinnville to attend the meets for the weekend are spending money in our town supporting local restaurants, lodging, and retail shops.

On a personal note, I see what the senior water exercise did for my 74-year-old mother. When we were new to McMinnville, she wanted to get in better shape, and through her visits to the pool, she lost weight and made many wonderful friends. After a recent bout with cancer, she returned to the pool after her chemo treatments to help restore her strength. As for my daughter Olivia, the pool is everything for her, not only as a member of the Mako team. After being diagnosed with Transient Synovitis at age 8, she needed a way to bring strength back to her hip. Once her Pediatric Rheumatologist cleared her, she swam at least three times per week to rehabilitate her hip. She needs the pool to keep her hip feeling great, and because this is so important to her health and well-being, I would consider moving out of McMinnville if we didn't have a pool in our community.

I always stand strongly for what I believe in, and would be happy to volunteer my time towards whatever is needed to support the effort to build a new pool – whatever it takes, a community pool means that much to my family and me. I appreciate your consideration.

Sincerely,

Leah McGlade



**From:** [Amy Miles](#)  
**To:** [Claudia Cisneros](#)  
**Subject:** FW: Form submission from: Contact the City of McMinnville  
**Date:** Tuesday, September 12, 2023 8:43:51 AM

---

Hi Claudia,

Someone submitted written testimony for the upcoming council meeting via form submission.  
Thanks!

Amy

---

**From:** McMinnville Oregon <mcminnville-or@municodeweb.com>  
**Sent:** Tuesday, September 12, 2023 8:38 AM  
**To:** [REDACTED]  
**Subject:** Form submission from: Contact the City of McMinnville

**This message originated outside of the City of McMinnville.**

---

Submitted on Tuesday, September 12, 2023 - 8:38am

Submitted by anonymous user: [50.53.252.128](#)

Submitted values are:

Attention Department Planning Commission

First Name Sinell

Last Name Harney

Phone number [REDACTED]

Email [REDACTED]

Question/Comment

My name is Sinell Harney and I am a current resident of McMinnville and have 3 kids that all participate in the Makos swim club. I am also a pediatric physical therapist working in McMinnville and have a son with a disability.

I would like to submit written testimony for the 9/12/23 City Council Meeting regarding the acquisition of part of the Water and Light property for the possible new combined recreational facility that will house McMinnville's new pool.

I encourage the City Council to move swiftly, as our current pool is failing beyond repair. I am concerned that our current pool is eventually not going to be safe to use, and our community will be left with no options but to wait 1-2 years while a new pool is being constructed and/or re-modelled. Having access to a pool is vital to the health and wellbeing of our entire community. A pool is often the most accessible way that older adults, people with orthopedic impairments, and children with

disabilities can exercise.

Please consider moving forward with the next steps in the land acquisition.

Thank you for your time.

Sinell Harney, PT, DPT, MHA

The results of this submission may be viewed at:

<https://www.mcminnvilleoregon.gov/node/7/submission/53149>

CITY OF MCMINNVILLE - CASH AND INVESTMENT BY FUND  
May 2023

FUND #	FUND NAME	GENERAL OPERATING		TOTAL
		CASH IN BANK	INVESTMENT	
01	General	\$2,242,036.25	\$6,448,725.17	\$8,690,761.42
05	Grants & Special Assessment	\$77.46	\$7,093,057.52	\$7,093,134.98
07	Transient Lodging Tax	\$690.79	\$10,000.00	\$10,690.79
08	Affordable Housing	\$393.05	\$1,592,000.00	\$1,592,393.05
10	Telecommunications	\$969.21	\$1,030.00	\$1,999.21
15	Emergency Communications	\$435.47	\$152,094.81	\$152,530.28
20	Street (State Tax)	\$0.72	\$2,325,894.43	\$2,325,895.15
25	Airport Maintenance	\$73.77	\$846,749.03	\$846,822.80
45	Transportation	\$606.22	\$4,067,494.92	\$4,068,101.14
50	Park Development	\$781.03	\$2,297,441.49	\$2,298,222.52
58	Urban Renewal	\$665.43	\$103,792.31	\$104,457.74
59	Urban Renewal Debt Service	\$9.09	\$953,889.11	\$953,898.20
60	Debt Service	\$181.34	\$215,236.78	\$215,418.12
70	Building	\$605.77	\$1,998,240.37	\$1,998,846.14
75	Wastewater Services	\$448.08	\$2,507,935.95	\$2,508,384.03
77	Wastewater Capital	\$525.22	\$45,083,103.65	\$45,083,628.87
80	Information Systems & Services	\$273.80	\$197,742.38	\$198,016.18
85	Insurance Reserve	\$832.48	\$312,290.54	\$313,123.02
CITY TOTALS		2,249,605.18	76,206,718.46	78,456,323.64

MATURITY DATE	INSTITUTION	TYPE OF INVESTMENT	INTEREST RATE	CASH VALUE
N/A	Key Bank of Oregon	Checking & Repurchase Sweep Account	0.80%	\$ 2,249,605.18
N/A	Key Bank of Oregon	Money Market Savings Account	0.40%	\$ 19,992,110.28
N/A	State of Oregon	Local Government Investment Pool (LGIP)	3.88%	\$ 55,221,604.91
N/A	State of Oregon	Urban Renewal Loan Proceeds (LGIP)	3.88%	\$ 109,386.38
N/A	MassMutual Financial Group	Group Annuity	3.00%	\$ 883,616.89
				<u>\$ 78,456,323.64</u>
				\$ -

CITY OF MCMINNVILLE  
MINUTES OF CITY COUNCIL WORK SESSION  
Held via Zoom Video Conference and at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Tuesday, July 11, 2023 at 6:00 p.m.

Presiding: Remy Drabkin, Mayor

Recording Secretary: Claudia Cisneros

Councilors:	<u>Present</u>	<u>Absent</u>
	Chris Chenoweth	Adam Garvin, Council President
	Kellie Menke	Zack Geary
	Jessica Payne	
	Sal Peralta	

Also present were City Recorder Claudia Cisneros, City Manager Jeff Towery, Community Development Director Heather Richards, Parks & Recreation Director Susan Muir (via Zoom), Public Works Director Anne Pagano (via Zoom), and members of the News Media – Kyle Dauterman, McMinnville Community Media and Scott Unger, *News-Register (via zoom)*.

1. CALL TO ORDER: Mayor Drabkin called the meeting to order at 6:01 p.m.

2. GROWING MCMINNVILLE MINDFULLY UPDATE

Community Development Director Richards introduced the topic and shared a PowerPoint presentation and introduced Beth Goodman from Eco Northwest the consultant for this project. Stated this is a project statutorily mandated to the City and needs to be adopted at the end of December this year. Will be reviewing the draft results of the Housing Needs Analysis (HNA), Economic Opportunities Analysis (EOA), and Public Lands Needs Analysis, and then discuss the next steps. Stated this is a State Mandate based on the House Bill (HB) 2003. Provided some background and history information on this project. The council directed staff to evaluate the 2013 remand of the 2003 MGMU instead of doing a new Urban Growth Boundary (UGB) amendment. Went through the process and submitted the UGB amendment to the state. The state approved it on April 9, 2021, and there were no appeals for that. Discussed the different steps taken to update the HNA/EOA and Urbanization Study and the different components of the housing needs analysis. Discussed the different steps taken to update the buildable land inventory. Ms. Richards talked about the values that shape

the housing strategies as it's what led to some of the decisions made when talking about housing capacity. Shared the different value statements and the meaning behind each one. She shared data from 2016 regarding the existing housing conditions, 58% of housing units are owner-occupied and looked at cost-burdened or severely cost-burdened households in McMinnville. 2021 census data shows 26.5% of McMinnville households are severely cost-burdened, putting McMinnville in a new category of housing distress statewide. Shared data for housing building permits through the decades. The results show the need for 202 gross acres of housing land over the next 20 years.

There was discussion about subsidizing and talked about adding condemnation in the community. Beth Goodmen stated she hasn't seen condemnation used in a big way in other cities.

There was discussion about the outcomes if the city doesn't meet the State mandates. Ms. Richards stated it's better to look at what we want to do with our community rather than think about the state mandates. She explained what the sequential UGB process looks like.

Ms. Richards talked about the Economic Opportunity Analysis (EOA) and the five main steps that need to be followed, those steps can be done in any order, provided the McMinnville history of it, and the five different components of the economic opportunity analysis. Shared data for buildable land inventory and employment capacity. Shared the results of land need for employment as well as public land needs for parks, schools, private schools, etc. She shared how the city will meet the housing needs and the timeline for each need. Outlined the next steps for the land needs analysis along with the dates for each of the steps.

3. ADJOURNMENT: Mayor Drabkin adjourned the Work Session at 7:02 p.m.

---

Claudia Cisneros, City Recorder



CITY OF McMinnville  
MINUTES OF CITY COUNCIL MEETING  
Held via Zoom Video Conference and at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Tuesday, July 11, 2023 at 7:00 p.m.

Presiding: Remy Drabkin, Mayor

Recording Secretary: Claudia Cisneros

Councilors: 

<u>Present</u>	<u>Absent</u>
Chris Chenoweth	Adam Garvin, Council President
Zack Geary	
Kellie Menke	
Jessica Payne	
Sal Peralta	

Also present were City Recorder Claudia Cisneros, City Manager Jeff Towery, Interim City Attorney Walt Gowell, Fire Chief Rich Leipfert Community Development Director Heather Richards, Public Works Director Anne Pagano (via Zoom), and members of the News Media – Kyle Dauterman, McMinnville Community Media and Scott Unger, *News-Register (via zoom)*.

1. CALL TO ORDER: Mayor Drabkin called the meeting to order at 7:05 p.m. and welcomed all in attendance.

2. PLEDGE OF ALLEGIANCE

Councilor Peralta led the pledge of allegiance.

3. INVITATION TO COMMUNITY MEMBERS FOR PUBLIC COMMENT: Mayor Drabkin invited the public to comment.

There were no public comments.

4. PRESENTATION

History Books Presentation from MW&L Commissioner Ed Gormley.

Commissioner Gormley presented the Mayor and Council with copies of the History of MW&L books.

5. ADVICE/ INFORMATION ITEMS

5.a. Reports from Councilors on Committee & Board Assignments

Councilor Geary DEIAC will meet tomorrow, MURAC met and talked about electric vehicle charging infrastructures. Was not able to attend the Community Task Force meeting but will catch up and provide an update at the next meeting.

Councilor Chenoweth MELVC will meet tomorrow, and Parkway Committee will meet next week.

Councilor Peralta the Historic Landmark Committee has met twice, met about an application to the Mini Super Hidalgo and the second related to steps on a residential property that may come before Council at some point. The Council of Governments met and passed the budget for this fiscal year and did receive the 5 million dollars from the legislative for planning and development.

Councilor Payne had nothing to report.

Councilor Menke stated has been working on a subcommittee of the Affordable Housing Committee to work on public and private partnerships. Still working on the construction excise tax. YCAP passed its budget at the last meeting.

Mayor Drabkin reported at the last Affordable Housing Committee has expressed her intent to resign as chair. It has turned practices into policies, created expedited processes to bring affordable housing, expanded its infrastructures, and expanded the scope of the committee. Has been an honor to serve on the committee. Will be reshuffling some committee assignments.

5.b. Department Head Reports

City Manager Jeff Towery had nothing to report.

Interim City Attorney Walt Gowell has had a busy month but nothing special to report.

Community Development Director Heather Richards vacancy on the planning commission in Ward 1, receiving applications through July 31, 2023, contact her if anyone is interested.

Fire Chief Rich Leipfert stated the McMinnville Fire District just passed its budget and taxing authority for the year. Will have the air show at the end

of September and as the date gets closer will send invitations to participate in the events.

City Recorder Claudia Cisneros had nothing to report.

Public Works Director Anne Pagano had nothing to report.

5. CONSENT AGENDA

a. Consider **Resolution 2023-42**: A Resolution authorizing the City Manager to enter into a contract with Haworth, Inc. for the procurement, construction and installation of the Orchard Ave Storm Main Replacement, Project 2023-5.

*Councilor Chenoweth MOVED to adopt the consent agenda as presented; SECONDED by Councilor Menke. Motion PASSED unanimously 5-0.*

The Council took a short break to meet in Executive Session.

7. CITY COUNCIL EXECUTIVE SESSION – (NOT OPEN TO THE PUBLIC)

7.a. Executive Session pursuant to ORS 192.660(2)(e): To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

The Council reconvened from Executive Session at 8:00 pm.

8. RESOLUTIONS

8.a. Consider **Resolution 2023-43**: A Resolution approving and authorizing the execution of a Purchase and Sale Agreement or certain real property located within the City.

Mr. Towery stated with the consensus of the Council, for the last couple of months the City staff have been negotiating to buy the former RB rubber property now owned by Northwest Rubber in the Alpine District. The resolution also contemplates contracting for additional environmental work to assess the property and come up with recommendations in remediation plans for a future public meeting.

Mr. Gowell stated the agreement contains a substantial number of terms and conditions similar to real estate transactions of this scope. The

proposed sale price at 4.25 million, the sale is to take place on or before October 31, 2023 subject to numerous conditions.

Mr. Towery stated for the record Council received a hard copy of Resolution No. 2023-43 and the purchase and sale agreement and the City Recorder will amend the electronic packet to include it for the record.

*Councilor Geary MOVED to approve Resolution No. 2023-43, Approving and authorizing the execution of a Purchase and Sale Agreement or certain real property located within the City; SECONDED by Councilor Chenoweth. Motion PASSED 5-0.*

- 8.b. Consider **Resolution 2023-44**: A Resolution Approving an Intergovernmental Agreement Between the City of McMinnville, Oregon, and McMinnville Fire District and For Temporary Fire and Emergency Response Services for a Specified Term.

Mr. Leipfert stated this is the agreement that was just passed by the Fire District this is the contract was worked out between the City and District Attorneys and Fire District. This agreement would allow the City to provide services for the next six months and was budgeted in the adopted City Budget.

City Recorder stated for the record that two copies of the agreement were placed on the Dias one being a redline version and one a clean version provided by Interim City Attorney Walt Gowell and is aware of the date issue to be corrected to state 2024 instead of 2034 in the Resolution.

Mr. Gowell stated the agreement calls for a follow-up IGA to be worked on and finalized between the district and City relating to the transfer of assets.

*Councilor Peralta MOVED to approve Resolution No. 2023-44 as amended, Approving an Intergovernmental Agreement Between the City of McMinnville, Oregon, and McMinnville Fire District and For Temporary Fire and Emergency Response Services for a Specified Term; SECONDED by Councilor Menke. Motion PASSED 5-0.*

9. ADJOURNMENT: Mayor Drabkin adjourned the meeting at 8:12 p.m.

---

Claudia Cisneros, City Recorder

MINUTES OF CITY COUNCIL WORK SESSION  
Held via Zoom Video Conference and at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Wednesday, July 19, 2023 at 6:00 p.m.

Presiding: Adam Garvin, Council President

Recording Secretary: Claudia Cisneros

Councilors:	<u>Present</u>	<u>Absent</u>
	Chris Chenoweth	Remy Drabkin, Mayor
	Kellie Menke	Zack Geary
	Jessica Payne	
	Sal Peralta	

Also present were City Manager Jeff Towery (via Zoom), City Recorder Claudia Cisneros, Municipal Court Judge Arnold Poole, Finance Director Jennifer Cuellar, Municipal Court Supervisor Jason Carbajal, Human Resources Manager Vicki Hedges (via Zoom), Library Director Jenny Berg (via Zoom), and members of the News Media – Jerry Eichten McMinnville Community Media, and Scott Unger, *News-Register* (via Zoom).

1. CALL TO ORDER: Council President Garvin called the meeting to order at 6:00 p.m.
2. MUNICIPAL COURT JUDGE UPDATE

Honorable Judge Arnold Poole presented and started with the 1971 City Charter regarding the Municipal Judge's duties and talked about the cases the Municipal Court handles. Shared the unique role of being the probation officer for misdemeanor municipal court cases. He talked about the experience of doing video-only municipal court and the failure to appear rate was at 80%. Discussed what has changed since his time as Municipal Court Judge. Changes included the process of not doing video-only appearances and changing back to personal appearances. The rate of failure to appear has dropped to about 20%. Has developed a new community service system and reestablished the work crew program. Talked about the revamp process they have with arraignments at the jail. Have developed relationships with Provoking Hope and Mental Health to have representatives attend the Wednesday court days, which has been helpful. Developed the Bench Parole Probation program and explained the program. Shared some success and failure stories the court has encountered. He talked about the training and conferences the municipal court has taken.

Judge Poole talked about the two major challenges the court is facing. The first one is the bottlenecking of the City Prosecutor. The city prosecutor is stretched in her time they will be hiring a law clerk to help her and hoping to have them by mid-August. The second bottleneck is the Judge is spread thin. To fix some of these issues they are making some of the processes more efficient. Like having the rights printed and placed on sandwich boards in the hallway before entering court. One neat thing that this City does is offer a traffic school called U-Turn 180 for those who qualify. Those who complete the class will have their traffic ticket dismissed those who don't then it's a conviction. Mr. Poole provided a chart to the Council he created comparing cities in surrounding areas with similar sizing and their municipal court functions. He talked about his vision for the future and one of those is having upgraded software systems. Talked about Tyler software that the state uses and the big difference of using Tyler software from his experience Judging in Albany and Toledo.

There was a discussion regarding the cost comparison for Tyler vs. Cassel. Also talked about the cost of hiring another full-time employee.

Mr. Poole is recommending working within the budget to expand Court time and have two days a week of court instead of one. Would also like to have written local procedures and a better online presence of the code. Talked about the backlog of not having trials more regularly as well as the issues with fast and speedy trials. Would also like to establish a mental health court. Talked about Albany's mental health court and the process. Would also like to establish a Veteran Court. For the 2024/2025 budget would like to see two days a week for court, having software updated to Tyler technology, and exploring new ideas to find ways to deal with challenges and advocate for tools.

There was discussion about staffing capacities within the Municipal Court Department and workloads. There was a discussion about mental health services within the community and Mr. Poole shared a program he has implemented which offers people a day off their sentence for every day they involve themselves with services for mental health.

There was discussion about the backlog of drug and alcohol assessments as there is only one person in the County who provides those. There was discussion about enforcing failures to appear and Mr. Poole mentioned doing that would cause a double in workload. They further discussed the hurdles of the work crew program.

Ms. Cuellar talked about the two projects funded by American Rescue Plan Act (ARPA) funds for the Municipal Court and talked about the staffing impacts in the municipal court.

There was consensus from the Council to explore the option of exploring having two days a week of municipal court, and the cost differences for upgrading to Tyler technologies.

3. ADJOURNMENT: Council President Garvin adjourned the Work Session at 7:57 p.m.

---

Claudia Cisneros, City Recorder

DRAFT

CITY OF McMinnville  
MINUTES OF CITY COUNCIL WORK SESSION  
Held via Zoom Video Conference and at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Tuesday, July 25, 2023 at 6:00 p.m.

Presiding: Remy Drabkin, Mayor

Recording Secretary: Claudia Cisneros

Councilors:	<u>Present</u>	<u>Absent</u>
	Adam Garvin, Council President (via Zoom)	Jessica Payne
	Chris Chenoweth	
	Zack Geary	
	Kellie Menke	
	Sal Peralta	

Also present were City Manager Jeff Towery, City Recorder Claudia Cisneros, Parks & Recreation Manager Susan Muir, Finance Director Jennifer Cuellar, Library Director Jenny Berg (via Zoom), and members of the *News Media – Phil Guzzo, McMinnville Community Media and Scott Unger, News-Register (via Zoom)*.

1. CALL TO ORDER: Mayor Drabkin called the meeting to order at 6:00 p.m.

2. NEXT STEPS ON LIBRARY AND RECREATION FACILITIES PLANNING:

Parks & Recreation Director Susan Muir introduced the topic and shared a PowerPoint. Stated the last time talked about this project was February of 2022. Said will talk about what has happened in the last eighteen months and the next steps. Provided a project timeline of the project. After the results of the recreation building feasibility study, the Council directed staff to plan to replace the Aquatic Center and Community Center with one new building, update the Senior Center, and bring the Library into the conversation. In 2021 THE Community Advisory Committee (MACPAC) was formed and provided their recommendation to the Council in 2022. She talked about the City Finances in 2022, the planning project was placed on hold and the money reserved for this project got shifted over to the fire district conversation.

Ms. Muir shared some of the opportunities and challenges facing this project. Provided property/location updates including some of the



MACPAC recommendations for location. Described the three partnership agencies for the possible location which included Linfield, MW&L, and MSD, and the status of those partnership locations. Went through other updates and next steps including the four components of engaging architects/consultants. From the February 2022 conversation talked about bringing green buildings to the conversation and how much to invest and what the trade-offs would be and will be looking at that as part of this project. Also keeping the equity and inclusion lens component and the work that MACPAC did and conversations about outdoor amenities.

There was discussion about delaying the maintenance of existing buildings. As well as re-evaluating adding Upper City Park and the armory as potential sites.

Ms. Muir talked about the financial sub-committee analysis and talking about not worrying about the capital dollars but the operational dollars.

Mr. Towery talked about the possibilities of capital bonds and reviewing the systems development charge methodology and having different options open.

There was discussion about waiting to see the data for dollars and sense before moving forward with this project.

3. ADJOURNMENT: Mayor Drabkin adjourned the Work Session at 6:42 p.m.

---

Claudia Cisneros, City Recorder

CITY OF McMinnville  
MINUTES OF CITY COUNCIL MEETING  
Held via Zoom Video Conference and at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Tuesday, July 25, 2023 at 7:00 p.m.

Presiding: Remy Drabkin, Mayor

Recording Secretary: Claudia Cisneros

Councilors:	<u>Present</u>	<u>Absent</u>
	Adam Garvin, Council President (via Zoom)	Jessica Payne
	Chris Chenoweth	
	Zack Geary	
	Kellie Menke	
	Sal Peralta	

Also present were City Recorder Claudia Cisneros, City Manager Jeff Towery, Interim City Attorney Walt Gowell, Finance Director Jennifer Cuellar, Community Development Director Heather Richards, Parks & Recreation Manager Susan Muir, Library Director Jenny Berg (via Zoom), and members of the *News Media – Phil Guzzo, McMinnville Community Media and Scott Unger, News-Register (via Zoom)*.

1. CALL TO ORDER: Mayor Drabkin called the meeting to order at 7:00 p.m. and welcomed all in attendance.

2. PLEDGE OF ALLEGIANCE

Councilor Chris Chenoweth led the pledge of allegiance.

3. INVITATION TO COMMUNITY MEMBERS FOR PUBLIC COMMENT: Mayor Drabkin invited the public to comment.

City Recorder Claudia Cisneros stated Kim Morris on behalf of the McMinnville Community Task Force submitted a public comment letter to Council. Ms. Cisneros will enter the letter into the record on the amended agenda packet tomorrow. There were no further public comments.

4. CONSENT AGENDA

a. Consider the request from Green Grove Cellars, LLC dba: La Randonnée Wines for Winery Primary Location, OLCC Liquor License located at 475 NE 17th Street.

b. Consider the Minutes of the April 18, 2023, Special Called City Council Meeting.

c. Consider the Minutes of the April 19, 2023, Special Called City Council Meeting.

d. Consider the Minutes of the May 5, 2023, Special Called City Council Meeting.

e. Consider the Minutes of the May 8, 2023, Special Called City Council Meeting.

f. Consider **Resolution No. 2023-48**: A Resolution awarding the contract for the Landscape Maintenance Project, Project 2023-8.

*Councilor Menke MOVED to adopt the consent agenda as presented; SECONDED by Councilor Geary. Motion PASSED unanimously 5-0.*

5. RESOLUTIONS

5.a. Consider **Resolution 2023-46**: A Resolution authorizing city staff to apply for a Transportation Growth Management grant to help fund updating the McMinnville Transportation System Plan.

Community Development Director Heather Richards stated they've been updating the transportation system plan on the growth management work plan for Planning. Said they applied for the biennium's transportation growth management program for grant funds. Asking to submit a grant application for \$225,000 with a match from the city at 50%, anticipate the cost for the plan to be about \$450,000 with an added \$25,000 for in-kind staffing. Will be doing a much more in-depth look at vehicular transportation projects to support growth planning and in-depth evaluation analysis and planning for other modal infrastructure systems.

*Councilor Geary MOVED to approve Resolution No. 2023-46, Authorizing city staff to apply for a Transportation Growth Management grant to help fund updating the McMinnville Transportation System Plan; SECONDED by Councilor Peralta. Motion PASSED 5-0.*

5.b. Consider **Resolution 2023-47**: A Resolution authorizing city staff to apply for a Department of Land Conservation and Development Technical Assistance grant to help fund state-mandated housing growth planning.

Ms. Richards stated this is another grant to help with the current work plan for housing planning. By mandate from the state, the city needs to do a housing production strategy and submit it to the State by December 31, 2024. Entering a work task program with the State to work on the land use efficiencies by the end of 2024 and the UGB amendment by the end of 2025.

*Councilor Peralta MOVED to approve Resolution No. 2023-47, Authorizing city staff to apply for a Department of Land Conservation and Development Technical Assistance grant to help fund state-mandated housing growth planning; SECONDED by Councilor Menke. Motion PASSED 5-0.*

6. ADVICE/ INFORMATION ITEMS

6.a. Reports from Councilors on Committee & Board Assignments

Councilor Geary had nothing to report.

Councilor Chenoweth said the Parkway committee has not met, MEVLC met and working through priorities for the next year.

Councilor Peralta had nothing to report.

Councilor Menke stated AHC will meet tomorrow at 10am. Will be talking about Fox Ridge Road on August 3<sup>rd</sup> and will report on YCAP at the next Council meeting.

Council President Garvin stated YCOM and Airport Commission have not met. There will be some sky jumpers at the airport today, tomorrow, and Thursday from 9 a.m. – 3 p.m. The Fire District is working on the Fire Chief recruitment process.

Mayor Drabkin looking forward to visits from the Congressional Delegation, Congresswoman Salinas will be visiting McMinnville twice over the next month. Reminded Council about the MW&L Watershed tour on August 9<sup>th</sup>.

6.b. Department Head Reports

City Manager Jeff Towery will be on personal leave the week before Labor Day.

Interim City Attorney Walt Gowell had nothing to report.

Community Development Director Heather Richards updated the City Council on the Third Street Improvement Project. The contract will be presented to Council at the August 8<sup>th</sup> meeting.

Finance Director Jennifer Cuellar had nothing to report.

City Recorder Claudia Cisneros reminded Council about Tuesday, August 1<sup>st</sup> National Night Out at 5:00pm at Discovery Meadows Community Park.

7. ADJOURNMENT: Mayor Drabkin adjourned the meeting at 7:27 p.m.

---

Claudia Cisneros, City Recorder

CITY OF McMinnville  
MINUTES OF CITY COUNCIL WORK SESSION  
Held via Zoom Video Conference and at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Tuesday, August 08, 2023 at 6:00 p.m.

Presiding: Remy Drabkin, Mayor

Recording Secretary: Claudia Cisneros

Councilors:	<u>Present</u>	<u>Absent</u>
	Adam Garvin, Council President	Zack Geary
	Chris Chenoweth	Sal Peralta
	Kellie Menke	
	Jessica Payne	

Also present were City Recorder Claudia Cisneros, City Manager Jeff Towery (via Zoom), Interim City Attorney Walt Gowell, Project Engineer Chip Ulstead, Leland Koester Wastewater Services Manager, Public Works Director Anne Pagano (via Zoom), Finance Director Jennifer Cuellar, City Engineer James Lofton (via Zoom), and members of the News Media – Jerry Eichten, McMinnville Community Media and Scott Unger, *News-Register (via zoom)*.

1. CALL TO ORDER: Mayor Drabkin called the meeting to order at 6:01 p.m.

2. STORMWATER UTILITY ANALYSIS:

Public Works Director Anne Pagano introduced the team members of the project and shared a PowerPoint presentation. Stated they are looking at forming a new stormwater utility separate from the wastewater utility that's already in place. The two studies currently underway are the Stormwater Utility Analysis and the Wastewater Master Plan. Talked about the regulatory requirement of the mercury total maximum daily load (TMDL) the plan was approved by DEQ in 2022 and has a five-year implementation and went through the implementation steps. Another regulatory requirement coming soon might be the Municipal Separate Storm Sewer System (MS4) Permit and explained the requirements and steps of the requirement. She explained what a stormwater utility analysis is. Currently working on the technical analysis and policy decision for the wastewater master plan. Described the public engagement/outreach plan for both stormwater and wastewater projects.

Deb Gallardi from Gallardi Rothstein Group covered the four elements of setting up a stormwater utility. The four components are:

1. Legal: (adopting fees by resolution)
  - a. Local code changes
2. Financial Planning: (estimating the near-term and long-term revenue requirements)
  - a. Identify revenue requirements and funding level
3. Rate Settings: (determining what's an equitable and defensible rate structure)
  - a. Select rate structure & calculate rates
4. Administration: (support system requiring changes to billing system)
  - a. Develop support systems (billing, accounting, customer service)

Ms. Gallardi showed a range of stormwater fees in other cities and the rates charged if they have an MS4 permitting system. Council President Garvin asked how many of the cities were managing the MS4 permitting system as well as what the triggering components DEQ uses to determine an MS4 requirement. Ms. Pagano stated that information will be brought back to the Council. City Engineer James Lofton provided some additional content about MS4 population requirements.

Ms. Gallardi stated will be looking at all the revenue requirements to support the utility which will include the operation, maintenance, administrative costs, and the capital improvement plan. Provided the different funding progressions. Talked about the different determining revenue requirements.

There was discussion about the partnership with MW&L to help develop and implement the stormwater utility fee.

Ms. Gallardi talked about rate structure development and talked about the implementation process for the plan. Ms. Pagano ended the presentation by providing the next steps for this project.

There was discussion and concern about adding another fee/charge to the community, talked about finding grants to support this project.

3. ADJOURNMENT: Mayor Drabkin adjourned the Work Session at 6:53 p.m.

---

Claudia Cisneros, City Recorder

CITY OF McMinnville  
MINUTES OF CITY COUNCIL MEETING  
Held via Zoom Video Conference and at the Kent L. Taylor Civic Hall on Gormley Plaza  
McMinnville, Oregon

Tuesday, August 08, 2023 at 7:00 p.m.

Presiding: Remy Drabkin, Mayor

Recording Secretary: Claudia Cisneros

Councilors:	<u>Present</u>	<u>Absent</u>
	Adam Garvin, Council President	Zack Geary
	Chris Chenoweth	Sal Peralta
	Kellie Menke	
	Jessica Payne	

Also present were City Recorder Claudia Cisneros, City Manager Jeff Towery (via Zoom), Interim City Attorney Walt Gowell, Leland Koester Wastewater Services Manager, Project Manager Jeff Gooden, Special Projects Manager Jody Christensen, Public Works Director Anne Pagano (via Zoom), Finance Director Jennifer Cuellar, City Engineer James Lofton (via Zoom), and members of the News Media – Jerry Eichten, McMinnville Community Media and Scott Unger, *News-Register* (via zoom).

1. CALL TO ORDER: Mayor Drabkin called the meeting to order at 7:00 p.m. and welcomed all in attendance.

2. PLEDGE OF ALLEGIANCE

Councilor Payne and his son led the pledge of allegiance.

3. PROCLAMATION

3.a. Lemonade Day Proclamation

Mayor Drabkin read the proclamation declaring August 19, 2023, as Lemonade Day.

4. INVITATION TO COMMUNITY MEMBERS FOR PUBLIC COMMENT: Mayor Drabkin invited the public to comment.

Heather Miller, a McMinnville community member mentioned it's National Farmers Market week and have several things planned at the Downtown Farmers Market including a vendor raffle. Will also have free giveaways for the kids, will have a photo booth, and thank you cards to



write to Farmers. Provided a brief history of the Farmer's Market. Invite all to celebrate this and every week at the Farmers Market. Thanked the City and First Baptist Church for the space as well as the McMinnville Downtown Association (MDA) staff.

Kimberly Lattig, a McMinnville community member read a statement about an incident that occurred on Thursday, July 20<sup>th</sup>, 2023 at Joe Dance Park involving children and an individual. Her statement was entered into the record.

5.

#### CONSENT AGENDA

a. Consider the request from Ocelli Cellars LLC dba: Ocelli Cellars for Winery 2nd Location, OLCC Liquor License located at 801 SW Baker Street.

b. Consider the request from Patton Valley LLC dba: Patton Valley Wines for Winery 2nd Location, OLCC Liquor License located at 801 SW Baker Street.

c. Consider the request from Stickmen McMinnville LLC dba: Stickmen Brewing Company for Commercial Full on-premises, OLCC Liquor License located at 1031 NE Lafayette Ave.

d. Consider **Resolution No. 2023-45**: A Resolution approving code compliance liens on properties to recover unpaid civil penalty citations.

e. Consider **Resolution No. 2023-49**: A Resolution authorizing the City Manager to enter into a contract with Solid Waste Systems (SWS) for \$569,836.55 for the purchase of a Sewer Equipment Co. of America (SECA) ECO-900 Combination Cleaner Vacuum Truck for the City's Wastewater Services Conveyance System through Sourcewell, an Interstate Cooperative Purchasing Program.

f. Consider **Resolution No. 2023-50**: A Resolution awarding the Professional Services Contract for the 30% design of the Third Street Improvement Project, Project # 2023-4.

g. Consider **Resolution No. 2023-51**: A Resolution approving the acceptance of an FAA and Oregon Department of Aviation (COAR) Grants for the Airport Master Plan Update, Project 2022 – 10.

h. Consider **Resolution No. 2023-52**: A Resolution of the City of McMinnville Approving the Second Amendment to Personal Services Contract with Erskine Law Practice LLC to Provide City Prosecutorial Services.

*Councilor Menke MOVED to adopt the consent agenda as amended (removing item f.); SECONDED by Councilor Chenoweth. Motion PASSED unanimously 4-0.*

5. ITEMS REMOVED FROM THE CONSENT AGENDA

- 5.f. Consider **Resolution No. 2023-50**: A Resolution awarding the Professional Services Contract for the 30% design of the Third Street Improvement Project, Project # 2023-4.

Public Works Director Anne Pagano introduced Project Manager Jeff Gooden and Special Projects Manager Jody Christensen. Moving into the design phase of the Third Street Improvement project and the resolution approves the design contract and approval of additional funding to cover design fees. Went through the request for proposal process and received three proposals. The proposals were reviewed by the selection committee and BKF Engineers was chosen. The cost provided by BKF is \$896, 174.17 the adopted fiscal year 2024 budget included \$600,000 in ARPA allocated funds and \$185,000 in Urban Renewal funds so requesting the remainder of \$111,174.17 additional funds. The 30% design is scheduled to be reached in about one year or August of 2024.

*Councilor Chenoweth MOVED to approve Resolution No. 2023-50; Awarding the Professional Services Contract for the 30% design of the Third Street Improvement Project, Project # 2023-4; SECONDED by Councilor Menke. Motion PASSED unanimously 4-0.*

6. ORDINANCES

- 6.a. Consider the first reading with a possible second reading of **Ordinance No. 5137**: An Ordinance Amending Titles 2.50, Code Compliance, and 8.10, Public Nuisances, of the McMinnville Municipal Code.

Mayor Drabkin asked if any Councilor needed to declare any conflict of interest or recuse themselves. There was none.

No Councilor present requested that the Ordinance be read in full.

Interim City Attorney Walt Gowell read by title only Ordinance No. 5137.

Ms. Richards introduced Lead Code Compliance Officer Nic Miles, stated the code amendments before Council tonight do two things: one the proposed amendments of Chapter 2.50 allows the Code Compliance

program to go into a more expedited administrative process of compliance for habitual property nuisances. The Chapter 8.10 amendments are housekeeping amendments in the nuisance chapter.

*Councilor Menke MOVED to pass Ordinance No. 5137 to a second reading; SECONDED by Council President Garvin. Motion PASSED 4-0 by the following vote:*

*Aye – Councilors Chenoweth, Garvin, Menke, and Payne  
Nay – None*

Interim City Attorney Walt Gowell read by title only for a second time Ordinance No. 5137.

There was discussion about graffiti and the graffiti removal program Mr. Miles has launched. There was discussion about the noise code.

*Council President Garvin MOVED to adopt Ordinance No. 5137, Amending Titles 2.50, Code Compliance, and 8.10, Public Nuisances, of the McMinnville Municipal Code; SECONDED by Councilor Menke. Motion PASSED 4-0 by the following vote:*

*Aye – Councilors Chenoweth, Garvin, Menke, and Payne  
Nay – None*

7. ADVICE/ INFORMATION ITEMS

7.a. Reports from Councilors on Committee & Board Assignments

Councilor Menke said she is the chair of the Affordable Housing Committee, and went through the goal list. Katie Curry and Carrie Martin provided reports on affordability models. YCAP is hoping to take over the turnkey project on September 1<sup>st</sup>.

Councilor Payne stated the Local Public Safety Coordinating Council will meet on August 30<sup>th</sup> and the Landscape Review meeting was canceled.

Councilor Chenoweth reported in the polling process in determining the goals and objectives for the MEVLC and Parkway Committee has not met.

Council President Garvin said there was no YCOM meeting next meeting will be in September. No Airport Commission meeting and Visit McMinnville will meet next week.

Mayor Drabkin tomorrow will be hosting the Watershed Tour and hosting 27 participants. Congresswoman Salinas will be doing a very brief business tour on August 22, 2023. Will start the planning for the short session

7.b.

Department Head Reports

City Manager Jeff Towery had nothing to report.

Community Development Director Heather Richards had nothing to report.

Public Works Director Anne Pagano had nothing to report.

Interim City Attorney Walt Gowell had nothing to report.

Finance Director Jennifer Cuellar

1. Comcast Cable Franchise Renewal Update (Staff Report in packet)  
Provided an update about the Comcast cable renewal process. Special Legal Counsel Nancy Werner stated doesn't see any stumbling blocks and does feel like will reach an agreement with Comcast.

Council provided general direction to staff to continue with contract negotiations and not to table this for five years.

City Recorder Claudia Cisneros stated the August 28<sup>th</sup> at 7pm will have a Joint meeting w/MSD Board at the School Board District Office and on August 29<sup>th</sup> Joint meeting w/MW&L at 9am via Zoom only.

8.

ADJOURNMENT: Mayor Drabkin adjourned the meeting at 7:52 p.m.

---

Claudia Cisneros, City Recorder

# STAFF REPORT

**DATE:** August 18, 2023  
**TO:** Jeff Towery, City Manager  
**FROM:** Willy Williamson, Airport Administrator  
**SUBJECT:** McMinnville Municipal Airport – Environmental Phase of the Airport Fence and Wind Cone Project Award and Grant Acceptance

---

## **Report in Brief:**

1. This action is for the consideration of a resolution to award a contract for the Environmental Phase of the McMinnville Municipal Airport Fence and Wind Cone, Project No. 2023-11.
2. This action is for the consideration to accept Federal Aviation Administration (FAA) Grant Offers for the Environmental Phase of the McMinnville Municipal Airport Fence and Wind Cone Project No. 2023-11. **The City of McMinnville (Sponsor) must accept the FAA Grant Offer on or before September 13, 2023 to retain funding.**

## **Background:**

The City of McMinnville (Sponsor) owns and operates the McMinnville Municipal Airport. The Federal Aviation Administration (FAA) provides grant funding for airport improvements and airport infrastructure maintenance and improvements. The present fencing along the north side of the airport is not to standard and in many areas there is no fence at all. This presents a safety hazard because unaware pedestrians access the airport and walk and bicycle on the runways and taxiways. Additionally, there is a concern of security for aircraft and other equipment located on the airport.

In 2021 the Airport Commission, Fixed Base Operators, and other airport tenants requested fencing be included on the Airport Capital Improvement Plan (ACIP). This was due to the increase in pedestrian traffic on the active runways and taxiways, which is creating safety hazards.

In 2022 the FAA approved the ACIP and plan to provide grants to support this project.

Century West Engineering is presently the Airport's consultant for projects of this nature. Additionally, Century West Engineering is accepted by the FAA to perform these projects that are grant funded.

## **Discussion:**

Due to the safety concerns related to this project it is in the best interest of the City of McMinnville to accomplish this fencing project. The Environmental Phase would occur this year and the actual Design

and Construction Phase would occur next year. The Design and Construction Phase is listed in the FAA Approved ACIP and will be accomplished under new contracts and grants.

The Environmental Phase of the Airport Fence and Wind Cone project will cost \$99,937.

The FAA has approved and forwarded a Grant Offer for 92,643, approximately 90% of the project cost.

The FAA requires acceptance of Grant Assurances, which have been in place and accepted by the City of McMinnville for all previous FAA grants.

It is beneficial for the City of McMinnville to accomplish this project for the reasons stated above, and to improve risk considerations. Furthermore, it is financially beneficial for the City of McMinnville to accept the FAA Grant offer.

**Attachments:**

1. Resolution 2023- 55
2. Century West Engineering Contract
3. Airport Capital Improvement Plan (CIP-BIL) Spreadsheet
4. Environmental for Airport Fence and Wind Cone Federal Aviation Administration Grant Agreement

**Fiscal Impact:**

The estimated total cost of the Environmental Phase of the Airport Fence and Wind Cone Project will be approximately \$99,937. The estimated City cost share is \$7,294, which will come from the Airport Fund.

The grants are reimbursements are issued upon submission of actual costs by the City. This is typically done every month.

**Recommendation:**

Staff recommends:

1. City Council adopt the attached resolution approving the award of the Environmental Phase of the Airport Fence & Wind Cone Project contract to Century West Engineering, Project No. 2023-11.
2. City Council adopt the attached resolution approving the acceptance of the FAA Grant offer to reimburse costs of the Environmental Phase of the Airport Fence and Wind Cone Project.

## **RESOLUTION NO. 2023 – 55**

A Resolution approving the award of a Professional Services Contract to Century West Engineering for the Environmental Phase of the Airport Fence & Wind Cone, Project 2023-11, and acceptance of Federal Aviation Administration Grant funding for this project.

### **RECITALS:**

**Whereas,** The Airport Capital Improvement Plan includes the Environmental Phase of the Airport Fence & Wind Cone project, to be accomplished at this time, and

**Whereas,** The approved Airport Budget provides funding for the Environmental Phase of the Airport Fence & Wind Cone project, and

**Whereas,** The City of McMinnville has retained Century West Engineering for project management at the Airport, and

**Whereas,** Century West Engineering meets all the requirements to manage the Environmental Phase of the Airport Fence & Wind Cone project, and

**Whereas,** The estimate for the Environmental Phase of the Airport Fence & Wind Cone project scope of work is \$102,937, which includes \$3,000 for City Staff time, and

**Whereas,** The contract with Century West Engineering to manage and perform the duties associated with this project is \$99,937, and

**Whereas,** The Airport has applied for Federal Aviation Administration grant funding, and

**Whereas,** The FAA has approved Grant Funding for approximately 90% (\$92,643) of the Airport Fence & Wind Cone project, and

**Whereas,** The Federal Aviation Administration has approved Grant Funds to the City of McMinnville reimbursing approximately 90% (\$92,643) of the estimated project costs, and

**Whereas,** The Federal Aviation Administration has provided a Grant offer for the Environmental Phase of the Airport Fence & Wind Cone project in the amount of \$92,643,

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MCMINNVILLE, OREGON, as follows:**

1. The entry into a Professional Services Contract with Century West Engineering for the Environmental Phase of the Airport Fence and Wind Cone project, in the amount of up to \$99,937 is hereby approved.
2. The City Manager is hereby authorized and directed to execute the contract with Century West Engineering attached hereto as Exhibit A.
3. The City of McMinnville hereby accepts the Federal Aviation Administration Grant totaling \$92,643 for reimbursement of the Environmental Phase of the Airport Fence and Wind Cone project costs.

4. The City Manager is hereby authorized and directed to accept and execute the Federal Aviation Administration Grant Agreement attached hereto as Exhibit B.
5. This resolution shall take effect immediately upon passage and shall continue in full force and effect until revoked or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the **12<sup>th</sup> day of September, 2023** by the following votes:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Approved this 12<sup>th</sup> day of September 2023.

\_\_\_\_\_  
MAYOR

Approved as to form:

Attest:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Recorder



**CITY OF McMinnville**  
**PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (“Agreement”) for the McMinnville Municipal Airport Fencing and Wind Cone Environmental Services Project (“Project”) is made and entered into on this 8<sup>th</sup> day of August, 2023 (“Effective Date”) by and between the **City of McMinnville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and **Century West Engineering, Corporation** an Oregon corporation (hereinafter referred to as “Consultant”).

**RECITALS**

WHEREAS, the City requires services which Consultant is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Consultant represents that Consultant is qualified to perform the services described herein on the basis of specialized experience and technical expertise; and

WHEREAS, Consultant is prepared to provide such services as the City does hereinafter require.

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

**AGREEMENT**

**Section 1. Scope of Work**

Consultant shall diligently perform the environmental services according to the requirements identified in the Scope of Work for the Project, attached hereto as **Exhibit A** and incorporated by reference herein (the “Services”).

**Section 2. Term**

The term of this Agreement shall be from the Effective Date until all Services required to be performed hereunder are completed and accepted, or no later than March 1, 2024, whichever occurs first, unless earlier terminated in accordance herewith or an extension of time is agreed to, in writing, by the City.

**Section 3. Consultant’s Services**

3.1. All written documents prepared by Consultant in conjunction with the Services shall bear the signature, name, or logo of, or otherwise be identified as coming from, Consultant’s authorized Project Manager.

3.2. Consultant will not be deemed to be in default by reason of delays in performance due to circumstances beyond Consultant's reasonable control, including but not limited to strikes, lockouts, severe acts of nature, or other unavoidable delays or acts of third parties not under Consultant's direction and control ("Force Majeure"). In the case of the happening of any Force Majeure event, the time for completion of the Services will be extended accordingly and proportionately by the City, in writing. Lack of labor, supplies, materials, or the cost of any of the foregoing shall not be deemed a Force Majeure event.

3.3. The existence of this Agreement between the City and Consultant shall not be construed as the City's promise or assurance that Consultant will be retained for future services beyond the Scope of Work described herein.

3.4. Consultant shall maintain the confidentiality of any confidential information that is exempt from disclosure under state or federal law to which Consultant may have access by reason of this Agreement. Consultant warrants that Consultant's employees assigned to the Services provided in this Agreement shall be clearly instructed to maintain this confidentiality. All agreements with respect to confidentiality shall survive the termination or expiration of this Agreement.

#### **Section 4. Compensation**

4.1. Except as otherwise set forth in this **Section 4**, the City agrees to pay Consultant a not-to-exceed amount of Ninety nine thousand and nine-hundred and thirty-seven DOLLARS (\$99,937) for performance of the Services ("Compensation Amount"). Any compensation in excess of the Compensation Amount will require an express written Addendum to be executed between the City and Consultant.

4.2. During the course of Consultant's performance, if the City, through its Project Manager, specifically requests Consultant to provide additional services that are beyond the Scope of Work described on **Exhibit A**, Consultant shall provide such additional services and bill the City at the hourly rates outlined on Consultant's Rate Schedule, as set forth in **Exhibit B**. Any Additional work beyond the Scope of Work, or any compensation above the amount shown in **Subsection** Error! Reference source not found., requires a written Addendum executed in compliance with the provisions of **Section 17**.

4.3. Except for amounts withheld by the City pursuant to this Agreement, Consultant will be paid for Services for which an itemized invoice is received by the City within thirty (30) days of receipt, unless the City disputes such invoice. In that instance, the undisputed portion of the invoice will be paid by the City within the above timeframe. The City will set forth its reasons for the disputed claim amount and make good faith efforts to resolve the invoice dispute with Consultant as promptly as is reasonably possible.

4.4. The City will be responsible for the direct payment of required fees payable to governmental agencies, including but not limited to plan checking, land use, zoning, permitting, and all other similar fees resulting from this Project, that are not specifically covered by **Exhibit A**.

4.5. Consultant's Compensation Amount and Rate Schedule are all inclusive and include, but are not limited to, all work-related costs, expenses, salaries or wages, plus fringe benefits and contributions, including payroll taxes, workers compensation insurance, liability insurance, profit, pension benefits and similar contributions and benefits, technology and/or software charges, licensing, trademark, and/or copyright costs, office expenses, travel expenses, mileage, and all other indirect and overhead charges.

## **Section 5. City's Rights and Responsibilities**

5.1. The City will designate a Project Manager to facilitate day-to-day communication between Consultant and the City, including timely receipt and processing of invoices, requests for information, and general coordination of City staff to support the Project.

5.2. Award of this contract is subject to budget appropriation. Funds are approved for Fiscal Year 2023-24. If not completed within this fiscal year, funds may not be appropriated for the next fiscal year. The City also reserves the right to terminate this contract early, as described in **Section 15**.

## **Section 6. City's Project Manager**

The City's Project Manager is Willy Williamson, Airport Administrator. The City shall give Consultant prompt written notice of any re-designation of its Project Manager.

## **Section 7. Consultant's Project Manager**

Consultant's Project Manager is Bryan Condon. In the event that Consultant's designated Project Manager is changed, Consultant shall give the City prompt written notification of such re-designation. Recognizing the need for consistency and knowledge in the administration of the Project, Consultant's Project Manager will not be changed without the written consent of the City, which consent shall not be unreasonably withheld. In the event the City receives any communication from Consultant that is not from Consultant's designated Project Manager, the City may request verification by Consultant's Project Manager, which verification must be promptly furnished.

## **Section 8. Project Information**

Except for confidential information designated by the City as information not to be shared, Consultant agrees to share Project information with, and to fully cooperate with, those corporations, firms, contractors, public utilities, governmental entities, and persons involved in or associated with the Project. No information, news, or press releases related to the Project, whether made to representatives of newspapers, magazines, or television and radio stations, shall be made without the written authorization of the City's Project Manager.

## **Section 9. Duty to Inform**

If at any time during the performance of this Agreement or any future phase of this Agreement for which Consultant has been retained, Consultant becomes aware of actual or potential problems, faults, or defects in the Project or Scope of Work, or any portion thereof; or of any nonconformance with federal, state, or local laws, rules, or regulations; or if Consultant has any objection to any decision or order made by the City with respect to such laws, rules, or regulations, Consultant shall give prompt written notice thereof to the City's Project Manager. Any delay or failure on the part of the City to provide a written response to Consultant shall neither constitute agreement with nor acquiescence to Consultant's statement or claim, nor constitute a waiver of any of the City's rights.

## **Section 10. Subcontractors and Assignments**

10.1. Consultant shall not assign any of Consultant's rights acquired hereunder without obtaining prior written approval from the City, which approval may be granted or denied in the City's sole discretion. Some Services may be performed by persons other than Consultant, provided Consultant advises the City of the names of such subcontractors and the work which they intend to perform, and the City specifically agrees in writing to such subcontracting. *The City hereby agrees that Consultant will contract with Environmental Science Associates to provide its wetland delineation services, and Archeological Investigations Services Northwest (AINW) to provide its archeological and historical investigation services which are critical parts of this Agreement.* Consultant acknowledges such work will be provided to the City pursuant to a subcontract(s) between Consultant and subcontractor(s) and no privity of contract exists between the City and the subcontractor(s). Unless otherwise specifically provided by this Agreement, the City incurs no liability to third persons for payment of any compensation provided herein to Consultant. Any attempted assignment of this Agreement without the written consent of the City shall be void. Except as otherwise specifically agreed, all costs for work performed by others on behalf of Consultant shall not be subject to additional reimbursement by the City.

10.2. The City shall have the right to enter into other agreements for the Project, to be coordinated with this Agreement. Consultant shall cooperate with the City and other firms, engineers or subcontractors on the Project so that all portions of the Project may be completed in the least possible time and within normal working hours. Consultant shall furnish other engineers, subcontractors and affected public utilities, whose designs are fitted into Consultant's design, detail drawings giving full information so that conflicts can be avoided.

10.3. Consultant shall include this Agreement by reference in any subcontract and require subcontractors to perform in strict compliance with this Agreement.

## **Section 11. Consultant Is Independent Contractor**

11.1. Consultant is an independent contractor for all purposes and shall be entitled to no compensation other than the Compensation Amount provided for under **Section 4** of this Agreement. Consultant will be solely responsible for determining the manner and means of accomplishing the end result of Consultant's Services. The City does not have the right to control or interfere with the manner or method of accomplishing said Services.

The City, however, will have the right to specify and control the results of Consultant's Services so such Services meet the requirements of the Project.

11.2. Consultant may use services be performed on the Project by persons or firms other than Consultant, through a subcontract with Consultant. Consultant acknowledges that if such services are provided to the City pursuant to a subcontract(s) between Consultant and those who provide such services, Consultant may not utilize any subcontractor(s), or in any way assign its responsibility under this Agreement, without first obtaining the express written consent of the City, which consent may be given or denied in the City's sole discretion. In all cases, processing and payment of billings from subcontractors is solely the responsibility of Consultant.

11.3. Consultant shall be responsible for, and defend, indemnify, and hold the City harmless against, any liability, cost, or damage arising out of Consultant's use of such subcontractor(s) and subcontractor's negligent acts, errors, or omissions. Unless otherwise agreed to, in writing, by the City, Consultant shall require that all of Consultant's subcontractors also comply with, and be subject to, the provisions of this **Section 11** and meet the same insurance requirements of Consultant under this Agreement.

## **Section 12. Consultant Responsibilities**

12.1. Consultant must make prompt payment for any claims for labor, materials, or services furnished to Consultant by any person in connection with this Agreement as such claims become due. Consultant shall not permit any liens or claims to be filed or prosecuted against the City on account of any labor or material furnished to or on behalf of Consultant. If Consultant fails, neglects, or refuses to make prompt payment of any such claim, the City may, but shall not be obligated to, pay such claim to the person furnishing the labor, materials, or services and offset the amount of the payment against funds due or to become due to Consultant under this Agreement. The City may also recover any such amounts directly from Consultant.

12.2. Consultant must comply with all applicable Oregon and federal wage and hour laws, including BOLI wage requirements, if applicable. Consultant shall make all required workers compensation and medical care payments on time. Consultant shall be fully responsible for payment of all employee withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA), and Medicaid. Consultant shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions, and all other charges on account of any employees. Consultant shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. All costs incident to the hiring of assistants or employees shall be Consultant's responsibility. Consultant shall defend, indemnify, and hold the City harmless from claims for payment of all such expenses.

12.3. No person shall be discriminated against by Consultant or any subcontractor in the performance of this Agreement on the basis of sex, gender, race, color, creed, religion, marital status, age, disability, sexual orientation, gender identity, or national origin. Any violation of this provision shall be grounds for cancellation, termination, or suspension of the Agreement, in whole or in part, by the City.

## **Section 13. Indemnity**

13.1. Indemnification. Consultant acknowledges responsibility for liability arising out of the performance of this Agreement, and shall defend, indemnify, and hold the City harmless from any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from Consultant's negligent acts, omissions, errors, or willful or reckless misconduct pursuant to this Agreement, or from Consultant's failure to perform its responsibilities as set forth in this Agreement. The review, approval, or acceptance by the City, its Project Manager, or any City employee of documents or other work performed, prepared, or submitted by Consultant shall not be considered a negligent act, error, omission, or willful misconduct on the part of the City, and none of the foregoing shall relieve Consultant of its responsibility to perform in full conformity with the City's requirements, as set forth in this Agreement, and to indemnify the City as provided above and to reimburse the City for any and all costs and damages suffered by the City as a result of Consultant's negligent performance of this Agreement, failure of performance hereunder, violation of state or federal laws, or failure to adhere to the standards of performance and care described in **Subsection 13.2**. Consultant shall defend the City (using legal counsel reasonably acceptable to the City) against any claim that alleges negligent acts, omissions, errors, or willful or reckless misconduct by Consultant. As used herein, the term "Consultant" applies to Consultant and its own agents, employees, and suppliers, and to all of Consultant's subcontractors, including their agents, employees, and suppliers.

13.2. Standard of Care. In the performance of the Services, Consultant agrees to use at least that degree of care and skill exercised under similar circumstances by reputable members of Consultant's profession practicing in the Portland metropolitan area. Consultant will re-perform any Services not meeting this standard without additional compensation. Consultant's re-performance of any Services, even if done at the City's request, shall not be considered as a limitation or waiver by the City of any other remedies or claims it may have arising out of Consultant's failure to perform in accordance with the applicable standard of care of this Agreement and within the prescribed timeframe.

## **Section 14. Insurance**

14.1. Insurance Requirements. Consultant shall maintain insurance coverage acceptable to the City in full force and effect throughout the term of this Agreement. Such insurance shall cover all risks arising directly or indirectly out of Consultant's activities or work hereunder. Any and all agents, contractors, or subcontractors with which Consultant contracts to work on the Services must have insurance that conforms to the insurance requirements in this Agreement. Additionally, if a subcontractor is an engineer, architect, or other professional, Consultant must require the subcontractor to carry Professional Errors and Omissions insurance and must provide to the City proof of such coverage. The amount of insurance carried is in no way a limitation on Consultant's liability hereunder. The policy or policies maintained by Consultant shall provide at least the following minimum limits and coverages at all times during performance under this Agreement:

14.1.1. Commercial General Liability Insurance. Consultant and all subcontractors shall obtain, at each of their own expense, and keep in effect during the term of this Agreement, comprehensive Commercial General Liability Insurance covering Bodily Injury and Property Damage, written on an “occurrence” form policy. This coverage shall include broad form Contractual Liability insurance for the indemnities provided under this Agreement and shall be for the following minimum insurance coverage amounts: The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$3,000,000** general aggregate and shall include Products-Completed Operations Aggregate in the minimum amount of **\$2,000,000** per occurrence, Fire Damage (any one fire) in the minimum amount of **\$50,000**, and Medical Expense (any one person) in the minimum amount of **\$10,000**. All of the foregoing coverages must be carried and maintained at all times during this Agreement.

14.1.2. Professional Errors and Omissions Coverage. Consultant agrees to carry Professional Errors and Omissions Liability insurance on a policy form appropriate to the professionals providing the Services hereunder with a limit of no less than **\$2,000,000** per claim. Consultant shall maintain this insurance for damages alleged to be as a result of errors, omissions, or negligent acts of Consultant. Such policy shall have a retroactive date effective before the commencement of any work by Consultant on the Services covered by this Agreement, and coverage will remain in force for a period of at least three (3) years after termination of this Agreement.

14.1.3. Business Automobile Liability Insurance. If Consultant or any subcontractors will be using a motor vehicle in the performance of the Services herein, Consultant shall provide the City a certificate indicating that Consultant and its subcontractors have business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than **\$2,000,000**.

14.1.4. Workers Compensation Insurance. Consultant, its subcontractors, and all employers providing work, labor, or materials under this Agreement that are subject employers under the Oregon Workers Compensation Law shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers under ORS 656.126. Out-of-state employers must provide Oregon workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Consultants who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer’s Liability Insurance with coverage limits of not less than **\$500,000** each accident.

14.1.5. Insurance Carrier Rating. Coverages provided by Consultant and its subcontractors must be underwritten by an insurance company deemed acceptable by the City, with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

14.1.6. Additional Insured and Termination Endorsements. The City will be named as an additional insured with respect to Consultant's liabilities hereunder in insurance coverages. Additional Insured coverage under Consultant's Commercial General Liability, Automobile Liability, and Excess Liability Policies, as applicable, will be provided by endorsement. Additional insured coverage shall be for both ongoing operations via ISO Form CG 2010 or its equivalent, and products and completed operations via ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO Form CG 2404 or its equivalent shall be provided. The following is included as additional insured: "The City of McMinnville, its elected and appointed officials, officers, agents, employees, and volunteers." An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days' written notification of any termination or major modification of the insurance policies required hereunder. Consultant must be an additional insured on the insurance policies obtained by its subcontractors performing work on the Services contemplated under this Agreement.

14.1.7. Certificates of Insurance. As evidence of the insurance coverage required by this Agreement, Consultant shall furnish a Certificate of Insurance to the City. This Agreement shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Consultant agrees that it will not terminate or change its coverage during the term of this Agreement without giving the City at least thirty (30) days' prior advance notice and Consultant will obtain an endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

14.2. Primary Coverage. The coverage provided by these policies shall be primary, and any other insurance carried by the City is excess. Consultant shall be responsible for any deductible amounts payable under all policies of insurance. If insurance policies are "Claims Made" policies, Consultant will be required to maintain such policies in full force and effect throughout any warranty period.

## **Section 15. Early Termination; Default**

15.1. This Agreement may be terminated prior to the expiration of the agreed upon terms:

15.1.1. By mutual written consent of the parties;

15.1.2. By the City, for any reason, and within its sole discretion, effective upon delivery of written notice to Consultant by mail or in person; or

15.1.3. By Consultant, effective upon seven (7) days' prior written notice in the event of substantial failure by the City to perform in accordance with the terms through no fault of Consultant, where such default is not cured within the seven (7) day period by the City. Withholding of disputed payment is not a default by the City.



15.2. If the City terminates this Agreement, in whole or in part, due to default or failure of Consultant to perform Services in accordance with the Agreement, the City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, both at law and in equity, for breach of contract, Consultant shall be liable for all costs and damages incurred by the City as a result of the default by Consultant, including, but not limited to all costs incurred by the City in procuring services from others as needed to complete this Agreement. This Agreement shall be in full force to the extent not terminated by written notice from the City to Consultant. In the event of a default, the City will provide Consultant with written notice of the default and a period of ten (10) days to cure the default. If Consultant notifies the City that it wishes to cure the default but cannot, in good faith, do so within the ten (10) day cure period provided, then the City may elect, in its sole discretion, to extend the cure period to an agreed upon time period, or the City may elect to terminate this Agreement and seek remedies for the default, as provided above.

15.3. If the City terminates this Agreement for its own convenience not due to any default by Consultant, payment of Consultant shall be prorated to, and include the day of, termination and shall be in full satisfaction of all claims by Consultant against the City under this Agreement.

15.4. Termination under any provision of this Section shall not affect any right, obligation, or liability of Consultant or the City that accrued prior to such termination. Consultant shall surrender to the City items of work or portions thereof, referred to in **Section 19**, for which Consultant has received payment or the City has made payment.

## **Section 16. Suspension of Services**

The City may suspend, delay, or interrupt all or any part of the Services for such time as the City deems appropriate for its own convenience by giving written notice thereof to Consultant. An adjustment in the time of performance or method of compensation shall be allowed as a result of such delay or suspension unless the reason for the delay is within Consultant's control. The City shall not be responsible for Services performed by any subcontractors after notice of suspension is given by the City to Consultant. Should the City suspend, delay, or interrupt the Services and the suspension is not within Consultant's control, then the City shall extend the time of completion by the length of the delay.

## **Section 17. Modification/Addendum**

Any modification of the provisions of this Agreement shall not be enforceable unless reduced to writing and signed by both the City and Consultant. A modification is a written document, contemporaneously executed by the City and Consultant, which increases or decreases the cost to the City over the agreed Compensation Amount in **Section 4** of this Agreement, or changes or modifies the Scope of Work or the time for performance. No modification shall be binding or effective until executed, in writing, by both Consultant and the City. In the event Consultant receives any communication of whatsoever nature from the City, which communication Consultant contends gives rise to any modification of this Agreement, Consultant shall, within five (5) days after receipt, make a written request for modification to the City's Project Manager in the form of an Addendum. Consultant's failure to submit such written request for modification in the form of an Addendum shall be the basis for refusal by the City to treat said communication as a basis for modification or to allow such modification.

In connection with any modification to this Agreement affecting any change in price, Consultant shall submit a complete breakdown of labor, material, equipment, and other costs. If Consultant incurs additional costs or devotes additional time on Project tasks, the City shall be responsible for payment of only those additional costs for which it has agreed to pay under a signed Addendum. To be enforceable, the Addendum must describe with particularity the nature of the change, any delay in time the Addendum will cause, or any increase or decrease in the Compensation Amount. The Addendum must be signed and dated by both Consultant and the City before the Addendum may be implemented.

### **Section 18. Access to Records**

The City shall have access, upon request, to such books, documents, receipts, papers, and records of Consultant as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts during the term of this Agreement and for a period of four (4) years after termination of the Agreement, unless the City specifically requests an extension. This clause shall survive the expiration, completion, or termination of this Agreement.

### **Section 19. Property of the City**

19.1. All documents, reports, and research gathered or prepared by Consultant under this Agreement, including but not limited to spreadsheets, charts, graphs, drawings, modeling, maps, data generation, papers, diaries, and inspection reports, shall be the exclusive property of the City and shall be delivered to the City prior to final payment. Any statutory or common law rights to such property held by Consultant as creator of such work shall be conveyed to the City upon request without additional compensation.

19.2. Consultant shall not be held liable for any damage, loss, increased expenses, or otherwise, caused by or attributed to the reuse by the City or its designees of all work performed by Consultant pursuant to this Agreement without the express written permission of Consultant.

### **Section 20. Notices**

Any notice required or permitted under this Agreement shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City:                      City of McMinnville  
   Attn: Willy Williamson, Airport Administrator  
   230 NE Second Street  
   McMinnville, OR 97128

To Consultant:            Century West Engineering, Corporation  
   Attn: Bryan Condon  
   5500 Meadows Road, Suite 250  
   Lake Oswego, OR 97035

## Section 21. Miscellaneous Provisions

21.1. Integration. This Agreement, including all exhibits attached hereto, contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these documents, the provisions of this Agreement shall control.

21.2. Legal Effect and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Agreement may be enforced by an action at law or in equity.

21.3. No Assignment. Consultant may not assign this Agreement, nor delegate the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

21.4. Adherence to Law. In the performance of this Agreement, Consultant shall adhere to all applicable federal, state, and local laws (including the McMinnville Code and Public Works Standards), including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers compensation, and minimum and prevailing wage requirements. Any certificates, licenses, or permits that Consultant is required by law to obtain or maintain in order to perform the Services described on **Exhibit A**, shall be obtained and maintained throughout the term of this Agreement.

21.5. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws. All contractual provisions required by ORS Chapters 279A, 279B, 279C, and related Oregon Administrative Rules to be included in public agreements are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein.

21.6. Jurisdiction. Venue for any dispute will be in Yamhill County Circuit Court.

21.7. Legal Action/Attorney Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. If the City is required to seek legal assistance to enforce any term of this Agreement, such fees shall include all of the above fees, whether or not a proceeding is initiated. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review.

21.8. Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions of this Agreement shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

21.9. Severability. If any provision of this Agreement is found to be void or unenforceable to any extent, it is the intent of the parties that the rest of the Agreement shall remain in full force and effect, to the greatest extent allowed by law.

21.10. Modification. This Agreement may not be modified except by written instrument executed by Consultant and the City.

21.11. Time of the Essence. Time is expressly made of the essence in the performance of this Agreement.

21.12. Calculation of Time. Except where the reference is to business days, all periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday observed by the City, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday. Where the reference is to business days, periods of time referred to herein shall exclude Saturdays, Sundays, and legal holidays observed by the City. Whenever a time period is set forth in days in this Agreement, the first day from which the designated period of time begins to run shall not be included.

21.13. Headings. Any titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

21.14. Number, Gender and Captions. In construing this Agreement, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Agreement.

21.15. Veteran's Preference. In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

21.16. Good Faith and Reasonableness. The parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of where this Agreement gives the City "sole discretion" or the City is allowed to make a decision in its "sole judgment."

21.17. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

21.18. Interpretation. As a further condition of this Agreement, the City and Consultant acknowledge that this Agreement shall be deemed and construed to have been prepared mutually by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the Agreement, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including attorney fees and costs, whether incurred in a court of law or otherwise.

21.19. Entire Agreement. This Agreement and all documents attached to this Agreement represent the entire agreement between the parties.

21.20. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original Agreement but all of which together shall constitute one and the same instrument.

21.21. Authority. Each party signing on behalf of Consultant and the City hereby warrants actual authority to bind their respective party.

The Consultant and the City hereby agree to all provisions of this Agreement.

**CONSULTANT:**

**CITY:**

CENTURY WEST ENGINEERING CORP.

CITY OF McMinnville

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: Jeff Towery

As Its: \_\_\_\_\_

As Its: City Manager

Employer I.D. No. \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Walt Gowell, City Attorney  
City of McMinnville, Oregon



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Airports Division  
Northwest Mountain Region  
Oregon, Washington

Seattle Airports District  
Office:  
2200 S 216th St  
Des Moines, WA 98198

July 20, 2023

Mr. Jeff Towery  
City Manager  
City of McMinnville  
230 NE Second St  
McMinnville, OR 97128

Dear Mr. Towery:

The Grant Offer for the Bipartisan Infrastructure Law (BIL) - Airport Infrastructure Grant (AIG) Project No. 3-41-0036-023-2023 at McMinnville Municipal Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully

**You may not make any modification to the text, terms or conditions of the grant offer.**

***Steps You Must Take to Enter Into Agreement.***

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **August 15, 2023**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

**Payment.** Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

**Project Timing.** The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution

date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in “inactive” status if you do not make draws on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

**Reporting.** Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
  1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
  2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit FAA Form 5100-140, Performance Report within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit FAA Form 5370-1, Construction Progress and Inspection Report, within 30 days of the end of each Federal fiscal quarter.

**Audit Requirements.** As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

**Closeout.** Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

**FAA Contact Information.** Adam Merrill, (206) 231-4107, [adam.w.merrill@faa.gov](mailto:adam.w.merrill@faa.gov) is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,



Warren D. Ferrell  
Manager



U.S. Department  
of Transportation  
Federal Aviation  
Administration

## FY 2023 AIRPORT INFRASTRUCTURE GRANT

### GRANT AGREEMENT

#### Part I - Offer

---

Federal Award Offer Date	July 20, 2023
Airport/Planning Area	McMinnville Municipal Airport, Oregon
Airport Infrastructure Grant Number	3-41-0036-023-2023 (Contract Number: DOT-FA23NM-0106)
Unique Entity Identifier	L4TTZMFBD3H7

---

TO: City of McMinnville  
(herein called the "Sponsor")

---

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

**WHEREAS**, the Sponsor has submitted to the FAA a Project Application dated June 2, 2023, for a grant of Federal funds for a project at or associated with the McMinnville Municipal Airport, which is included as part of this Grant Agreement; and

**WHEREAS**, the FAA has approved a project for the McMinnville Municipal Airport (herein called the "Project") consisting of the following:

Conduct Airport Related Environmental Study;  
which is more fully described in the Project Application.

**NOW THEREFORE**, Pursuant to and for the purpose of carrying out the Infrastructure Investment and Jobs Act (Public Law 117-58) of 2021 referred to as the Bipartisan Infrastructure Law (BIL); and the representations contained in the Project Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances attached hereto; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;



**THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) % of the allowable costs incurred accomplishing the Project as the United States share of the Project.**

**Assistance Listings Number (Formerly CFDA Number): 20.106**

**This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

### **CONDITIONS**

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$92,643.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$ 92,643 for planning

\$ 0 airport development or noise program implementation; and,

\$ 0 for land acquisition.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:

- a. Period of Performance:

1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. (2 Code of Federal Regulations (CFR) § 200.1).

- b. Budget Period:

1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the Period of Performance provided in Paragraph 2(a)(1). Pursuant to 2 CFR § 200.403(h), a sponsor may charge to the Grant only allowable costs incurred up to the end of the Budget Period. Eligible project-related costs incurred on or after November 15, 2021 that comply with all Federal funding procurement requirements and FAA standards are allowable costs.
2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any

funds carried forward or other revisions pursuant to 2 CFR § 200.308.

c. Close Out and Termination

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the Period of Performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the period of performance end date with the information available at the end of 120 days. (2 CFR § 200.344).
2. The FAA may terminate this Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary, and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
5. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, BIL (Public Law 117-58), the regulations, and the Secretary of Transportation's ("Secretary's") policies and procedures. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.
6. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
7. **Offer Expiration Date.** This offer will expire, and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before August 15, 2023, or such subsequent date as may be prescribed in writing by the FAA.
8. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement,

order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

9. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.
10. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**
  - a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
  - b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.
11. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
12. **Informal Letter Amendment of BIL Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.  
  
The FAA can, subject to the availability of Federal funds, also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.  
  
The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.  
  
An informal letter amendment has the same force and effect as a formal grant amendment.
13. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.

14. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
15. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.
16. **Build America, Buy American.** The sponsor must comply with the requirements under the Build America, Buy America Act (Public Law 117-58).
17. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant Offer:
  - a. May not be increased for a planning project;
  - b. May be increased by not more than 15 percent for development projects if funds are available;
  - c. May be increased by not more than the greater of the following for a land project, if funds are available:
    1. 15 percent; or
    2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in BIL (Public Law 117-58), or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

18. **Audits for Sponsors.**

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$750,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

19. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:
  - a. Verify the non-Federal entity is eligible to participate in this Federal program by:

1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or
  2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
  3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions with their contractors and sub-contractors.
  - c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debars a contractor, person, or entity.

20. **Ban on Texting While Driving.**

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
  1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
  2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
    - i. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
    - ii. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

21. **Trafficking in Persons.**

- a. *Posting of contact information.*
  1. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.
- b. *Provisions applicable to a recipient that is a private entity.*
  1. You as the recipient, your employees, subrecipients under this Grant, and subrecipients' employees may not:

- i. Engage in severe forms of trafficking in persons during the period of time that the Grant and applicable conditions are in effect;
    - ii. Procure a commercial sex act during the period of time that the Grant and applicable conditions are in effect; or
    - iii. Use forced labor in the performance of the Grant or any subgrants under this Grant.
  - 2. We as the Federal awarding agency, may unilaterally terminate this Grant, without penalty, if you or a subrecipient that is a private entity –
    - i. Is determined to have violated a prohibition in paragraph (a) of this Grant Condition; or
    - ii. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated a prohibition in paragraph (a) of this Grant Condition through conduct that is either –
      - a) Associated with performance under this Grant; or
      - b) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.
- c. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this Grant, without penalty, if a subrecipient that is a private entity –
  - 1. Is determined to have violated an applicable prohibition in paragraph (a) of this Grant Condition; or
  - 2. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated an applicable prohibition in paragraph (a) of this Grant Condition through conduct that is either –
    - i. Associated with performance under this Grant; or
    - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.
- d. *Provisions applicable to any recipient.*
  - 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (a) of this Grant Condition.
  - 2. Our right to terminate unilaterally that is described in paragraph (a) or (b) of this Grant Condition:

- i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended [22 U.S.C. § 7104(g)], and
    - ii. Is in addition to all other remedies for noncompliance that are available to us under this Grant.
  - 3. You must include the requirements of paragraph (a) of this Grant Condition in any subgrant you make to a private entity.
- e. *Definitions.* For purposes of this Grant Condition:
  - 1. "Employee" means either:
    - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this Grant; or
    - ii. Another person engaged in the performance of the project or program under this Grant and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  - 2. "Force labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
  - 3. "Private entity":
    - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR § 175.25.
    - ii. Includes:
      - a) A nonprofit organization, including any nonprofit institute of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR § 175.25(b).
      - b) A for-profit organization.
  - 4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).
- 22. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated May 2, 2011, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.
- 23. **Employee Protection from Reprisal.**
  - a. Prohibition of Reprisals
    - 1. In accordance with 41 U.S.C. § 4712, an employee of a Sponsor, grantee, subgrantee, contractor, or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body

described in sub-paragraph (a)(2) below, information that the employee reasonably believes is evidence of:

- i. Gross mismanagement of a Federal grant;
  - ii. Gross waste of Federal funds;
  - iii. An abuse of authority relating to implementation or use of Federal funds;
  - iv. A substantial and specific danger to public health or safety; or
  - v. A violation of law, rule, or regulation related to a Federal grant.
2. Persons and bodies covered. The persons and bodies to which a disclosure by an employee is covered are as follows:
    - i. A member of Congress or a representative of a committee of Congress;
    - ii. An Inspector General;
    - iii. The Government Accountability Office;
    - iv. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
    - v. A court or grand jury;
    - vi. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or
    - vii. An authorized official of the Department of Justice or other law enforcement agency.
- b. Investigation of Complaints.
    1. Submission of Complaint. A person who believes that they have been subjected to a reprisal prohibited by paragraph (a) of this Condition may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
    2. Time Limitation for Submittal of a Complaint. A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
    3. Required Actions of the Inspector General. Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).
  - c. Remedy and Enforcement Authority.
    1. Assumption of Rights to Civil Remedy. Upon receipt of an explanation of a decision not to conduct or continue an investigation by the OIG, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c)(2).
24. **Prohibited Telecommunications.** Sponsor agrees to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)] and 2 CFR § 200.216.

## SPECIAL CONDITIONS



25. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.
26. **Grant Approval Based Upon Certification.** The FAA and the Sponsor agree that the FAA approval of this grant is based on the Sponsor's certification to carry out the project in accordance **with** policies, standards, and specifications approved by the FAA. The Sponsor Certifications received from the Sponsor for the work included in this grant are hereby incorporated into this grant agreement. The Sponsor understands that:
  - a. The Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to any AIP standards or to notify the FAA of any limitations to competition within the project;
  - b. The FAA's acceptance of a Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements;

If the FAA determines that the Sponsor has not complied with their certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under AIP.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>1</sup>

**UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION**



*(Signature)*

Warren Ferrell

*Warren D. Ferrell*

Manager, Seattle Airports District Office

*Manager, Seattle Airports District Office*

---

<sup>1</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

**Part II - Acceptance**

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>2</sup>

Dated \_\_\_\_\_

City of McMinnville

\_\_\_\_\_  
*(Name of Sponsor)*

\_\_\_\_\_  
*(Signature of Sponsor's Authorized Official)*

**By:**

\_\_\_\_\_  
*(Typed Name of Sponsor's Authorized Official)*

**Title:**

\_\_\_\_\_  
*(Title of Sponsor's Authorized Official)*

\_\_\_\_\_  
<sup>2</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

**CERTIFICATE OF SPONSOR’S ATTORNEY**

I, \_\_\_\_\_, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Oregon. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor’s official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; the Infrastructure Investment and Jobs Act (Public Law 117-58) of 2021 referred to as the Bipartisan Infrastructure Law (BIL), Division J, Title VIII; and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>3</sup>

Dated at \_\_\_\_\_

**By:** \_\_\_\_\_  
*(Signature of Sponsor’s Attorney)*

\_\_\_\_\_

<sup>3</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

## **ASSURANCES**

### **AIRPORT SPONSORS**

---

#### **A. General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Public Law 117-58, Division J, Title VIII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

#### **B. Duration and Applicability.**

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the

duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

**C. Sponsor Certification.**

The sponsor hereby assures and certifies, with respect to this grant that:

**1. General Federal Requirements**

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

**FEDERAL LEGISLATION**

---

- a. 49, U.S.C. subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.<sup>1, 2</sup>
- f. National Historic Preservation Act of 1966 – Section 106 - 54 U.S.C. § 306108.1.<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. § 312501, et seq.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended - 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended - 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.<sup>1</sup>
- l. 49 U.S.C. § 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended - 42 U.S.C. § 4151, et seq.<sup>1</sup>
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 - 42 U.S.C. § 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act - 18 U.S.C. § 874.<sup>1</sup>
- v. National Environmental Policy Act of 1969 - 42 U.S.C. § 4321, et seq.<sup>1</sup>

- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 - 31 U.S.C. § 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).
- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

#### **EXECUTIVE ORDERS**

---

- a. Executive Order 11246 – Equal Employment Opportunity<sup>1</sup>
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

#### **FEDERAL REGULATIONS**

---

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. <sup>4,5</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.

- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.<sup>1</sup>
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.<sup>1</sup>
- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).<sup>1</sup>
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.<sup>1, 2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.<sup>1</sup>
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

---

***FOOTNOTES TO ASSURANCE (C)(1)***

<sup>1</sup> These laws do not apply to airport planning sponsors.

<sup>2</sup> These laws do not apply to private sponsors.

<sup>3</sup> 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

<sup>4</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.



<sup>5</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

## **SPECIFIC ASSURANCES**

---

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

### **2. Responsibility and Authority of the Sponsor.**

#### **a. Public Agency Sponsor:**

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

#### **b. Private Sponsor:**

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

### **3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

### **4. Good Title.**

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

### **5. Preserving Rights and Powers.**

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such

performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of

residential real property adjacent to or near the airport must comply with the requirements of 49 U.S.C. § 47107(s) and the sponsor assurances.

**6. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

**7. Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

**8. Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

**9. Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

**10. Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

**11. Pavement Preventive Maintenance.**

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

**12. Terminal Development Prerequisites.**

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security

equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

**13. Accounting System, Audit, and Record Keeping Requirements.**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

**14. Minimum Wage Rates.**

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

**15. Veteran's Preference.**

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

**16. Conformity to Plans and Specifications.**

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

**17. Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

**18. Planning Projects.**

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

**19. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere

with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:

1. Operating the airport's aeronautical facilities whenever required;
  2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  3. Promptly notifying aviators of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

#### **20. Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

#### **21. Compatible Land Use.**

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

#### **22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:

1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
  - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
  - e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
  - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
  - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
  - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
  - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

### **23. Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the

providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

#### **24. Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

#### **25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
  1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all



revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
  3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

## **26. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:

1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

#### **27. Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

#### **28. Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

#### **29. Airport Layout Plan.**

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
  1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;

3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
  1. eliminate such adverse effect in a manner approved by the Secretary; or
  2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

### **30. Civil Rights.**

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability

1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The (**City of McMinnville**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award."

e. Required Contract Provisions.

1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement

subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.

2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
  - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

### **31. Disposal of Land.**

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
  1. Reinvestment in an approved noise compatibility project;
  2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);

3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. § 47114, 47115, or 47117, or under Public Law 117-58, Division J, Title VIII; or
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
  1. Reinvestment in an approved noise compatibility project;
  2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
  3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117, or under Public Law 117-58, Division J, Title VIII; or
  4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

**32. Engineering and Design Services.**

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., or Public Law 117-58, Division J, Title VIII it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

**33. Foreign Market Restrictions.**

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

**34. Policies, Standards, and Specifications.**

It will carry out any project funded under an Airport Infrastructure Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIG projects as of June 2, 2023.

**35. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

**36. Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

**37. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin, sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of

49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

### **38. Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

### **39. Competitive Access.**

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
  1. Describes the requests;
  2. Provides an explanation as to why the requests could not be accommodated; and
  3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



## ASSURANCES PLANNING AGENCY SPONSORS

---

### A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

### B. Duration and Applicability.

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect during the life of the project.

### C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

#### 1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

### FEDERAL LEGISLATION

---

- a. 49, U.S.C., subtitle VII, as amended.
- b. Federal Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- c. Hatch Act – 5 U.S.C. § 1501, et seq.<sup>1</sup>
- d. Rehabilitation Act of 1973 – 29 U.S.C. § 794
- e. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- f. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- g. Age Discrimination Act of 1975 - 42 U.S.C. § 6101, et seq.
- h. Single Audit Act of 1984 - 31 U.S.C. § 7501, et seq.<sup>1</sup>
- i. Drug-Free Workplace Act of 1988 - 41 U.S.C. § 8101 through 8105.

- j. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Public Law 110-252).
- k. Build America, Buy America Act, P.L. 117-58, Title IX.

#### **EXECUTIVE ORDERS**

---

- a. Executive Order 12372 - Intergovernmental Review of Federal Programs
- b. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- c. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- d. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- e. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- f. Executive Order 14008 - Tackling the Climate Crisis at Home and Abroad

#### **FEDERAL REGULATIONS**

---

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.<sup>3,4</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 49 CFR Part 20 – New Restrictions on Lobbying.
- i. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964.
- j. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- k. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- l. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- m. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)

## FOOTNOTES TO ASSURANCE C.1.

---

- <sup>1</sup> These laws do not apply to private sponsors.
- <sup>2</sup> 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- <sup>3</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- <sup>4</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

## SPECIFIC ASSURANCES

---

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

### **2. Responsibility and Authority of the Sponsor.**

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

### **3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States.

### **4. Preserving Rights and Powers**

It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary

### **5. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies in the planning area.

### **6. Accounting System, Audit, and Record Keeping Requirements**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the

recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

## **7. Planning Projects**

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the Sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the Sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not mean constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

## **8. Reports and Inspections.**

It will submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request.

## **9. Civil Rights.**

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4; creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with

Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
  1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
  2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
  3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language.

It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

“The **(City of McMinnville)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be

discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.”

- e. Required Contract Provisions.
  - 1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
  - 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
  - 3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
  - 4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
    - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
    - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
  - f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
  - g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

#### **10. Engineering and Design Services.**

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services,

preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

**11. Foreign Market Restrictions.**

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

**12. Policies, Standards, and Specifications.**

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary.

**13. Disadvantaged Business Enterprises.**

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).



**City of McMinnville**  
**Police Department**  
121 SW Adams Street  
McMinnville, OR 97128  
(503) 434-7307

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

# STAFF REPORT

**DATE:** August 31, 2023  
**TO:** Mayor and City Councilors  
**FROM:** Matt Scales, Police Chief  
**SUBJECT:** Consideration of McMinnville City Ordinance No. 5138

---

## **Report in Brief:**

During the last 6 months there has been discussion with respect to McMinnville Municipal Code (MMC) sections that on the surface appeared to be unconstitutional. Within the last couple of months, interim City Attorney Walt Gowell and I met to discuss several sections of the municipal code, and identified three municipal codes which are very likely unconstitutional and unenforceable in whole or in part under current binding law. Also, we identified McMinnville Municipal Code, 9.24.040 relating to public indecency, as needing an amendment to be enforceable as written. The proposed amendment removes outdated language and tracks with existing Oregon statutory public indecency categories set out in ORS 163.465.

## **Background:**

Within the last couple of months, interim City Attorney Walt Gowell and I met to discuss several portions of the municipal code, and identified three municipal codes which were unconstitutional and unenforceable in whole or in part under current binding law. Lastly one McMinnville Municipal Code, 9.24.040, was identified as needing to be amended. The proposed amendment removes outdated language to track with existing law public indecency categories set out in ORS 163.465.

The following McMinnville Municipal Code (MMC) is recommended to be repealed as unconstitutional and thus unenforceable.

### **9.20.030      Soliciting drinks.**

No female person shall frequent, loiter, or be employed in a tavern, bar, nightclub or cocktail lounge for the purpose of soliciting a male person to purchase drinks. No proprietor of such an establishment shall allow the presence in the establishment of a person who violates the provisions of this section. This section does not apply to female persons regularly employed as barmaids or waitresses while on duty. (Ord. 3623 §57, 1972).



This so-called “B Girl” Ordinance is likely a reflection of similar municipal ordinances which historically sought to inhibit prostitution and the inducement of alcohol intoxication at establishments formerly referred to as Speak Easies. The limitation of the restriction on solicitation to female persons has been held to violate the federal 14th Amendment guarantee of Equal Protection. The advent of liquor liability statutes has largely replaced these types of ordinances in recent years.

**9.24.020 Accosting for deviate purposes.**

No person shall, while in public place, invite or request another person to engage in deviate sexual intercourse. (Ord. 3623 §21, 1972).

This ordinance focuses on the public solicitation of “deviate” intercourse (impliedly) by homosexual, lesbian or other persons, and is likely unconstitutional as being void for vagueness and violative of the Equal Protection Clause of the Federal 14th Amendment. The actual activity in public, is already incorporated into the amended Public Indecency ordinance below. In addition, the former Oregon Revised Statute version of this type of anti-solicitation code was ruled unconstitutional by the Oregon State Court of Appeals in 1981 by the case **State v. Tusek**. That case ruled that the state law targeted protected free speech by making illegal the public solicitation of what are lawful private acts, thus infringing on free speech rights of Oregonians.

**9.32.020 Begging.**

No person shall accost another in a public place for the purpose of soliciting alms. This section shall not apply to persons granted permits in accordance with city ordinances relating to the regulation and licensing of solicitors and peddlers. (Ord. 3623 §11, 1972).

Courts have repeatedly defended panhandling as a First Amendment right, as long as it doesn't turn overly aggressive or interfere with traffic. Panhandling Ordinances have been held unconstitutional where they conflict with fundamental rights including free speech rights. The Supreme Court has also made clear that poverty, standing alone, is not a suspect classification. Harris v. McRae, 448 U.S. 297, 323, 100 S.Ct. 2671, 65 L.Ed.2d 784 (1980). However, a classification based on poverty or wealth can become a suspect classification, subject to more rigid scrutiny than other classifications, when such classification interferes with a fundamental constitutional right. The ordinance above purports to ban aggressive public solicitation, but fails to tie the restriction to any specified public safety purpose or other criteria as to what it means to “accost”. This ordinance in its current form arguably makes the annual activities of the Salvation Army's Christmas bell ringers illegal. While the ordinance can, in theory, be made to withstand constitutional scrutiny, other public laws governing safety or public thoroughfares are more commonly used to curtail unsafe solicitation.

The following McMinnville Municipal Code (MMC) is recommended to be amended removing outdated language and adding language present in state law.

**9.24.040 Public Indecency**

No person shall, while in or in view of a public place, perform:

- A. Act of sexual intercourse;
- B. An act of deviate intercourse (recommended for deletion)
- B. An act of masturbation (recommended for inclusion) or oral or anal sexual intercourse;
- C. An act of exposing his or her genitals with the intent of arousing the sexual desire of themselves or another person.

The proposed amended language removes language which is vague, and almost certainly violates the Equal Protection Clause of the 14th Amendment. The amendment also incorporates the prohibition of public masturbation which is currently a part of ORS 163.465 and can be added to the McMinnville Ordinance.

**Question:**

Does the City Council wish to consider adoption of Ordinance No. 5138 repealing Chapter 9.20.30 Chapter 9.32.20 and Chapter the MMC 9.24.40 and amending Chapter 9.24.40 of the McMinnville Municipal Code.

**Attachments:**

Proposed ordinance No.5138

**Recommendation:**

The interim City Attorney and I recommend review and Council consideration of Ordinance #5138.

**ORDINANCE NO. 5138**

**AN ORDINANCE REPEALING CHAPTER 9.20.30, CHAPTER 9.32.20, AND CHAPTER 9.24.20 OF THE MCMINNVILLE MUNICIPAL CODE AND AMENDING CHAPTER 9.24.40 OF THE MCMINNVILLE MUNICIPAL CODE.**

**RECITALS:**

**WHEREAS**, the Police Chief has referred three existing Municipal Code Sections most recently re-adopted in 1972 to the Interim City Attorney for review as to their constitutionality pursuant to existing law; and

**WHEREAS**, The Interim City Attorney has reviewed the constitutionality of such three existing Municipal Code provisions and found each, in his opinion to be unconstitutional and unenforceable in whole or in part under current binding law; and

**WHEREAS**, the City Council desires to amend the McMinnville Municipal Code to repeal in their entirety or amend each of such specified unconstitutional Municipal Code sections.

**NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF CARLTON ORDAINS AS FOLLOWS:**

**Section 1.** McMinnville Municipal Code Chapters 9.20.30, 9.24.020, and 9.32.20 are hereby repealed in their entirety.

**Section 2.** Chapter 9.24.20 of the McMinnville Municipal Code is hereby amended to read as follows:

**“9.24.040 Public Indecency**

No person shall, while in or in view of a public place, perform:

- A. Act of sexual intercourse;
- B. An act of masturbation or oral or anal sexual intercourse;
- C. An act of exposing his or her genitals with the intent of arousing the sexual desire of themselves or another person.”

**Section 3.** This Ordinance will take effect 30 days after passage by the City Council.

Passed by the McMinnville City Council this 12<sup>th</sup> day of September, 2023 by the following votes:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

Approved as to form:

Attest:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Recorder