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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION

CITY OF WOODBURN, an Oregon )  
political subdivision, )  
 ) No.  
Petitioner, )  
 ) **PETITION FOR JUDICIAL REVIEW**  
v. ) **Judicial Review of Agency Orders (ORS**  
 ) **183.480); Order in Other Than Contested**  
STATE OF OREGON, DEPARTMENT ) **Case (ORS 183.484); and in the**  
OF ADMINISTRATIVE SERVICES, an ) **alternative, Compelling Agency Action**  
Oregon state agency, AND THE ) **(ORS 183.490)**  
OREGON STATE TREASURER, )  
 ) **Fee Authority: ORS 21.135**  
Respondents. ) **Not Subject to Mandatory Arbitration**

Petitioner, City of Woodburn (“City” or “Woodburn”), brings this Petition for Judicial Review (“Petition”) pursuant to Oregon Revised Statutes (“ORS”) 183.480, ORS 183.484, and, alternatively, ORS 183.490, to challenge a final order in other than a contested case issued by the Oregon Department of Administrative Services (“DAS” or the “Agency”). Specifically, the City seeks judicial review of DAS’ decision to not include the City’s capital project in its upcoming bond issuance and its decision to not disburse funds pursuant to Senate Bill 5534 (2021) (“SB 5534”). DAS’s decision should be reversed and modified as it is based on an erroneous interpretation of statutory text, exceeds its delegated discretion, and is inconsistent with prior agency determinations. True and correct copies of transcripts to the meetings and communications between the City and DAS are attached as **Exhibit 1**. In support of the Petition, the City alleges as follows:

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PARTIES, JURISDICTION, AND VENUE

1  
2 1.

3 The City of Woodburn is an Oregon political subdivision within Marion County, Oregon.

4 2.

5 DAS is an administrative agency of the State of Oregon. The Director of DAS appointed  
6 by the Governor of Oregon and confirmed by Oregon Senate pursuant to ORS 184.315.

7 3.

8 DAS is delegated, *inter alia*, the responsibility of overseeing statewide financial  
9 administrative systems under ORS 184.305 and distribution of lottery bond proceeds to public  
10 entities under ORS 461.553, subject to superseding or preemptive delegations of authority.

11 4.

12 The Oregon State Treasurer (“Treasurer”) is delegated, *inter alia*, the responsibility of  
13 receiving and having charge of all moneys paid into the State Treasury under ORS 178.050 and  
14 payment of monies from the State Treasury as directed by law.

15 5.

16 On November 10, 2022, Renee A Klein (“Klein”), DAS’s Capital Finance and Planning  
17 Manager of DAS’ Chief Financial Office, communicated to City officials her recommendation  
18 that Woodburn’s proposed community center (the “Project” or “Woodburn Community Center”  
19 described below) not be included in the 2021-2023 lottery bond issuance. On  
20 November 15, 2022, and November 29, 2022, Klein, along with other DAS officials, met with  
21 City officials regarding lottery bond funds issuance pursuant to SB 5534 and ultimately decided  
22 that the Project would not be included in the 2021-23 lottery bond issuance.

23 6.

24 The City is adversely affected and aggrieved by DAS’ November 29, 2022, determination  
25 (“Final Determination”) to not include the Project in the 2021-2023 lotter bond issuance. Namely,  
26 DAS’ determination materially and adversely impacts the City’s ability to obtain additional,

1 necessary funding, and the lack of additional funding materially and adversely affects Project  
2 construction timelines. A representative of the Oregon State Treasurer confirmed the denial.

3 7.

4 This Court has jurisdiction over this Petition pursuant to ORS 183.480, ORS 183.484, and  
5 ORS 183.490. DAS' Final Determination is a final order in other than a contested case. The City  
6 is adversely affected or aggrieved by the Final Determination, as described in Paragraph 6 and  
7 further below. This Petition is timely as DAS' Final Determination, which is reduced to a written  
8 transcript and precludes further consideration by DAS regarding the Project being included in the  
9 2021-23 lottery bond issuance.

10 8.

11 Venue is proper pursuant to ORS 183.484(1) because the City is located in Marion County  
12 and jurisdiction of judicial review of orders other than contested cases is conferred on Marion  
13 County Circuit Court.

14 **BACKGROUND**

15 9.

16 The Project. The City plans to build a multi-cultural, multi-generational, community  
17 center that includes spaces for active and passive recreation activities for Woodburn residents of  
18 all ages and socioeconomic backgrounds. Ultimately delayed due to economic effects of the  
19 Great Recession, the long-awaited plans for the Project were updated and gained support in 2017,  
20 when City officials, with the assistance of state representatives, obtained \$1 million (\$1,000,000)  
21 in 2018 in lottery bond funds ("the 2018 Grant") for the architectural design of the community  
22 center.

23 10.

24 Following the 2018 Grant, the City and state representatives, again, sought and obtained  
25 legislatively allocated funds in the amount of \$15 million (\$15,000,000) in 2021, reflected in the  
26 text of SB 5534 (2021), for the construction of the Woodburn Community Center. The

1 \$15 million (\$15,000,000) legislatively allocated in SB 5534 (2021) is material and necessary in  
2 order to complete the project in conjunction to additional funding through the issuance of local  
3 general obligation local bonds. Assuming DAS includes the Project in the 2021-23 lottery bond  
4 issuance and disperses the legislatively allocated funds from such cycle (“2021 Funds”), the  
5 Project is presently set to be constructed in 2024. The present estimated cost of the Project is  
6 \$48 million (\$48,000,000). Though initially, the City requested the full cost of the Project, district  
7 representatives were able to obtain legislative approval for \$15 million (\$15,000,000) of the total  
8 cost in order to move the construction of the Project forward.

9 11.

10 The SB 5534 funds are material necessary in order to advance the construction and obtain  
11 additional funding to complete the Project. The SB 5534 funds are to be dedicated to completing  
12 the design and engineering plans for the community center, begin the initial stages of  
13 construction, and support fundraising efforts by showing State commitment for the project.

14 12.

15 The 2018 Grant. Consistent with SD 5534 (2021), the 2018 grant of \$1 million  
16 (\$1,000,000) to the City was issued pursuant to SB 5530 (2017)<sup>1</sup> provides:

17 (1) For the biennium beginning July 1, 2017, at the request of the Oregon  
18 Department of Administrative Services, after the department consults with the City  
19 of Woodburn, the State Treasurer is authorized to issue lottery bonds pursuant to  
20 ORS 286A.560 to 286A.585 in an amount that produces \$1 million (\$1,000,000)  
21 in net proceeds and interest earnings for the purposes described in subsection (2)  
22 of this section, plus an additional amount estimated by the State Treasurer to be  
23 necessary to pay bond-related costs.

24 (2) Net proceeds of lottery bonds issued under this section in an amount sufficient  
25 to provide \$1 million (\$1,000,000) in net proceeds and interest earnings must be  
26

<sup>1</sup> Codified at 2017 Oregon Laws, Chapter 748, Section 20.

1 transferred to the department for deposit in the ODAS Economic Development  
2 Distributions Fund established under ORS 461.553 for distribution to the City of  
3 Woodburn to develop a community center in Woodburn.

4 13.

5 SB 5534 (2021). Section 25 of SB 5534 (2021)<sup>2</sup> parallels the above 2018 grant and  
6 provides:

7 (1) For the biennium beginning July 1, 2021, at the request of the Oregon  
8 Department of Administrative Services, after the department consults with the City  
9 of Woodburn, the State Treasurer is authorized to issue lottery bonds pursuant to  
10 ORS 286A.560 to 286A.585 in an amount that produces \$15 million  
11 (\$15,000,000) in net proceeds for the purposes described in subsection (2) of this  
12 section, plus an additional amount estimated by the State Treasurer to be necessary  
13 to pay bond-related costs.

14 (2) Net proceeds of lottery bonds issued under this section must be transferred to  
15 the department for deposit in the ODAS Economic Development Distributions  
16 Fund established under ORS 461.553 for distribution to the City of Woodburn for  
17 the construction of a community center in Woodburn.

18 14.

19 ORS 461.553. Both the 2018 Grant and 2021 Funds “must be transferred to [DAS] for  
20 deposit in the ODAS Economic Development Distributions Fund (“EDD Fund”) under  
21 ORS 461.553.” ORS 461.553, in relevant part, provides that the EDD Fund “is established in the  
22 State Treasury, separate and distinct from the General Fund. Interest earned on the money in the  
23 [EDD Fund] shall be credited to the fund. The fund consists of lottery bond proceeds  
24 appropriated to [DAS] for further distribution to public or private entities that do not receive  
25 appropriations directly from the Legislative Assembly and interest credited to the fund.”

26 \_\_\_\_\_  
<sup>2</sup> Codified at 2021 Oregon Laws, Chapter 682, Section 25.

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15.

DAS' Final Determination. In response to the City's request for disbursed funds pursuant to SB 5534, DAS, through its Capital Finance and Planning Manager, Klein, initially communicated DAS was not including the City's Project in the 2021-23 bond issuance. Klein referenced ORS 286A.200 as authority in interpreting the text of SB 5534 to deny the funding for construction of a community center in Woodburn.

16.

On November 15, 2022, City officials and district representatives met with Klein regarding the lottery revenue funds disbursement. Though DAS gave various rationales for the denial of disbursements, Klein explained DAS' perspective was that because the text of SB 5534 allocated funds for the "construction of a community center in Woodburn," the lack of present additional funding served as sufficient reason to override the legislative mandate to issue bonds and obtain \$15 million (\$15,000,000) to fund the construction of the community center.

17.

On November 29, 2022, Klein, Oregon State Treasury Director of Debt Management Jacqueline Knights ("Knights"), along with other DAS officials, again, met with City officials to discuss the lottery revenue funds for the Project. Ultimately, Klein and Knights explained that the Project would not be included in the upcoming issuance of bonds and funds were not going to be disbursed because additional funding had not been secured and the \$15 million (\$15,000,000) allocated by SB 5534 was set to be used for design and planning, according to DAS.

18.

During the course of meetings and communications between the City and DAS, the primary reasoning for denying the disbursement of funds was that the total cost for the Project was greater than the 2021 Funds, additional funding was not yet obtained, the text of SB 5534 stated that the 2021 Funds were to be used for the "construction of the community center," and the 2021 Funds "must be expended for a capital construction project that produces an asset."

1 Additionally, Klein explained that DAS needed to ensure funds would comply with both state and  
2 federal legal requirements, including requirements of the Internal Revenue Service (“IRS”) and  
3 that the funds would be used for an authorized purpose. In pointing to IRS requirements without  
4 expressly citing, Klein further claimed that funds needed to be spent within three (3) years and  
5 that because Klein was not certain that the 2021 Funds would result in constructing the  
6 community center, the request for disbursement of funds was denied.

7 19.

8 In explaining the above reasoning and statutory interpretation, Klein cited to  
9 ORS 286A.200 (1)(b)-(d), SB 5534 (2021), and ORS 286A.025.

10 20.

11 ORS 286A.200 provides that DAS:  
12 **may [with respect to lottery bonds] administer bond programs and the transfer or**  
13 **disbursement of bond proceeds through intergovernmental agreements or**  
14 **grant or loan agreements containing terms and conditions** the department  
15 determines are *necessary or advisable to* \* \* \* (b) Protect the State of Oregon  
16 from liability due to the failure of grantees or borrowers to comply with legal  
17 requirements related to the bonds, including requirements under the Internal  
18 Revenue Code; (c) Ensure that bond proceeds are used for authorized or intended  
19 purposes; (d) Ensure that adequate funds will be available for repayment of the  
20 bonds.”

21 ORS 286A.200(1)(b)-(d) (*emphasis added*).

22 21.

23 ORS 286A.025, in relevant part and as referenced by Klein, provides the “State Treasurer  
24 may, at the request of a related agency issue bonds when a law of the State of Oregon authorizes  
25 bonds to be issued.” ORS 286A.025(1)(a).

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22.

Neither Klein, Knights, nor any other DAS official explained exceptions or the process for a two-year extension under 26 C.F.R. § 1.148-2 (e)(2)(ii) to the three-year period Klein referenced without explanation. Likewise, no DAS official provided discrete, consistent, and reviewable criteria for determinations regarding funding of capital projects under ORS 461.553 or SB 5534 (2021). Following November 29, 2022, meeting, DAS officials indicated that denial of disbursement of funds for the Project was its final determination with respect to the City's request for funding.

**First Claim of Relief**

**(Injunctive Relief – No Probable Cause)**

23.

The City re-alleges and incorporates paragraphs 1-22, above.

24.

DAS's and the State Treasurer's issuance of bonds and disbursements of lottery bond funds pursuant to SB 5534 (2021) should be restrained because DAS is proceeding without probable cause within the meaning of ORS 183.480(3) by refusing to include the Project in the upcoming bond issuance and refusing to disburse funds allocated in SB 5534 (2021).

25.

DAS's Final Determination was not based on an objectively reasonable basis as it was outside of the legislature's delegation of authority to DAS.

**Second Claim of Relief**

**(Injunctive Relief – Irreparable Harm)**

26.

The City re-alleges and incorporates paragraphs 1-25, above.

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27.

The City will suffer substantial and irreparable harm if interlocutory relief is not granted as the funding described above is material and necessary to the City's fundraising efforts to completing the Project. Without the 2021 Funds, the City's Project will be materially and adversely affected not only in additional funding being precluded but also materially and adversely affecting Project planning and construction timelines. Further, SB 5534 only authorizes the issuance of bonds until the close of the biennial period – June 30, 2023.

**Third Claim of Relief**  
**(Judicial Review Under ORS 183.484)**

28.

The City re-alleges and incorporates paragraphs 1-27, above.

29.

DAS' Final Determination is based on an erroneously interpretation of the law. A correct reading of DAS' delegated authority with respect to administering the EDD Fund proscribes DAS denying the City's request for 2021 SB 5534 funds. Namely, ORS 286A.200 does not authorize DAS to deny funds based on its stated reasons as outlined above.

30.

Alternatively, DAS' Final Determination is outside the range of discretion delegated to the agency by law and is inconsistent with prior agency practice. Namely, in addition to lack of delegated discretion, DAS has arbitrarily and capriciously distinguished the statutory text in the Oregon Law authorizing the 2018 Grant and the Oregon Law that is SB 5534.

31.

Accordingly, DAS' Final Determination should be reversed and modified to mandate the City's project to be included in the pending bond issue and the funds allocated be disbursed pursuant to the text of SB 5534.

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**Fourth Claim of Relief**

**(Judicial Review Under ORS 183.490)**

32.

The City re-alleges and incorporates paragraphs 1-31, above.

33.

Alternatively, to the extent this Court determines DAS has not issued a final order defined under ORS 183.310, DAS should be ordered to make a final order with respect to the City's request for 2021 Funds as DAS has unlawfully refused to act, render a final order, or unreasonably delayed in rendering a final order.

**Fifth Claim of Relief**

**(Attorney Fees)**

34.

DAS has acted without a reasonable basis in law and the petitioner is entitled to recover their reasonable attorney fees and costs pursuant to ORS 183.497.

WHEREFORE, the City prays for an order and judgment of this Court as follows:

- a. An injunction restraining and enjoining DAS and the Oregon Treasurer from issuing bonds without inclusion of the City's Project and refusing to disburse the requested 2021 Funds, on the ground that DAS lacks probable cause to do so without including the City's allocated funds;
- b. An injunction restraining and enjoining DAS and the Oregon Treasurer from issuing bonds without inclusion of the City's Project and refusing to disburse the requested 2021 Funds, on the ground that such actions would cause the City substantial and irreparable harm;

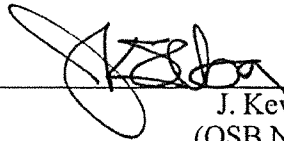
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- c. An order reversing and modifying DAS' Final Determination on the ground that DAS erroneously interpreted Oregon statutory law, exceeded its delegated authority, and/or arbitrarily and capriciously distinguished similar requests for funding;
- d. An order requiring DAS to issue a final order defined under ORS 183.310, if this Court determines DAS has not yet rendered a final order; and
- e. A judgment against DAS for the City's reasonable attorney fees incurred in this matter, together with their costs and disbursements herein.

DATED this 9<sup>th</sup> day of January, 2023.

GARRETT HEMANN ROBERTSON P.C.



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November 15, 2022  
Meeting with DAS Re. Community Center Lottery Revenue Funds  
Via Zoom

Present: Representative Alonso Leon, Senate President Chief of Staff Taylor, Alonso Leon Chief of Staff Emery, Mayor Swenson, Mayor Elect Lonergan, City Council President Carney, City Administrator Derickson, Assistant City Administrator Row, City Attorney Shields, Economic Development Director Johnk, Community Services Director Cuomo, Executive Legal Assistant Bravo

**Bob Shields:** Bob Shields, Woodburn City Attorney.

**Frank Lonergan:** Frank Lonergan, Mayor Elect.

**Mayor Eric Swenson:** Eric Swenson, Outgoing Mayor.

**Jamie Johnk:** Jamie Johnk, Economic Development Director.

**Brenda Bravo:** Brenda Bravo, Executive Legal Assistant.

**Robert Carney:** Robert Carney, I'm the council president in Woodburn.

**Jim Row:** Jim Row, Assistant City Administrator.

**Jesse Cuomo:** Jesse Cuomo, Community Services Director.

**Scott Derickson:** And that's us, that's everybody in the room on our end.

**Representative Teresa Alonso Leon:** Great, we have Emery who is my chief of staff and myself and—hi Lisa.

**Lisa Taylor:** Hi, so sorry.

**Representative Teresa Alonso Leon:** No worries, we're just doing introductions you came in at the perfect time. Lisa why don't you introduce yourself and then we'll have Renee.

November 15, 2022  
Meeting with DAS Re. Community Center Lottery Revenue Funds  
Via Zoom  
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**Lisa Taylor:** Great, my name is Lisa Taylor I'm the chief of staff to Senator Courtney.

**Renee Klein:** And I'm Renee Klein, I'm the DAS Capital Finance and Planning Unit Manager in the office, the Chief Financial Office.

**Representative Teresa Alonso Leon:** Great, thank you. I believe we're all here. I did let the Speaker know this morning, that we are having this meeting and he is very enthusiastically wanting to know what conversation and what direction we head once we finish this meeting. So Scott why don't you just kind of give us a summary of you know based on that email you received from DAS in respect to the community center project, this is a project that is very dear to my heart and very important for our community and we fought really hard, both the Speaker and back when he was in the Ways and Means Committee and Senator Courtney, all of us felt this project was really important for Woodburn and we all advocated and worked hard to ensure that we had \$15 million to have as seed money to create this project. Scott why don't you start us off.

**Scott Derickson:** Well thank you, first I'd just like to say Representative that your efforts here in our community on this project are greatly appreciated. Clearly this project has potential because of the efforts of yourself, our community leadership here, President Courtney, and the involvement of Governor-elect Kotek, and advocating for this has not gone unnoticed here in Woodburn.

Just in summary, when the opportunity to submit this, I think it was in April, the spring of 2021, the City had was in a process of the first grant, which was a planning document that was funded through lottery bonds, lottery bonded project that was a capitalized project funded by the state, this was phase two if you will. The idea, the application submitted to the legislature was that, of the \$15 million request—we actually requested \$48 million, which would have funded the completion of final design and construction documents and then contributed towards the construction of the project. The legislature funded \$15 million of that with about one and a half million dollars dedicated towards completing the design and engineering work with the remaining portion going to construction that would happen in conjunction with the bond that's

going to be on the ballot in November of 2024. And so that was the project that was submitted, that was the project that was approved, and it's one that the City has built its planning work around in terms of moving the this project forward with our timeline, with our bond date, with engineering design and architectural work, and with the community involvement. The idea that somehow there's concerns around capitalization and the completion of funding was quite a surprise to us given that the project was submitted in a way that completed the project ready for bonding and that there's already been determinations made around capitalizations of the project based on the first project and clearly design documents are a capital asset—both determined by DAS and in IRS Code and other places. We do this a lot in Woodburn, so this clearly is going to set the project back. I don't quite understand the decision making process. I've read the citations and the statutes that were submitted to us, they feel arbitrary to me. I don't quite understand the criteria that was applied and I think it's really worth reconsidering given the involvement of the leadership of the state, that legislature approved the project, consistent with the efforts that we've been moving forward with. I think that the project should move forward. Currently this funding was approved based on the description that we have, the legislative intent was to fund a third of the project, it was never intended to fund the entire project or the legislature would have given us the full amount. So this is of a top priority for the community and I appreciate again Representative your efforts to help us resolve this and move forward so quickly. And if it's ok with you Representative, we have other community leaders here that could maybe speak to the— if it's ok with you I might open the floor to anybody else who wants to add anything on our end.

**Representative Teresa Alonso Leon:** Yes, thank you Scott. I do want to make sure that we acknowledge that Mayor Eric Swenson and community leader Anthony Veliz—

**Scott Derickson:** Yes.

**Representative Teresa Alonso Leon:** They were pivotal in working directly with me to ensure that this project continued to be on the top of my list and advocate it and met with Senator Courtney and Speaker Kotek and other leaders to ensure that we received this funding, so I do want to make sure that we acknowledge both of them as we proceed with this meeting. I'm

November 15, 2022

Meeting with DAS Re. Community Center Lottery Revenue Funds

Via Zoom

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happy to have others in the room speak, just introduce yourself again so that Renee and Lisa know who is speaking and I'll give you the floor.

**Mayor Eric Swenson:** So I'll start and then pass to our Council President and our soon to be Mayor. I think that this—and if Anthony Veliz were here he'd tell you that this has been a project that the community has wanted for more than two decades, that the city council for a decade or more has been focused on, the staff has been planning with. The first million that we received from the legislature we used that very wisely our assistant city administrator organized with a company that designed this project, we have lots of community input a very strong group of people that Jim led through to design entire project from the color of the walls to where's the mural going, where are the bathroom, where are the community rooms, and that the that with the input of our State Representative ensured that there would be space there for county and state government agencies to be part of here in the Woodburn community. And that of course the larger attempt when Teresa spoke to me first about like the rationale behind this, our Economic Development Jamie Johnk articulated very well that this is a project that's about community wellness and economic development and the funds coming out of the entire pandemic we're about how can we help communities that were most affected by the pandemic, economically and through wellness and of course Woodburn should be on the top of the list and in our mind not at the bottom of the list getting axed at this point. A community center here that would allow people to get services, to be active, and that would draw people to downtown Woodburn and apart from that the regional benefit that this would be a center that people would be coming from all our surrounding areas here that don't have those resources, that Woodburn then could offer makes sense through state funding so it's not the state just funding one city it's an entire region that would be able to benefit from the whole North Marion region. There are many of us who are passionate about this project and also wanting it see move forward expeditiously.

**Jamie Johnk:** So I can kind of give a little background because I worked with Representative Alonso Leon.

**Jesse Cuomo:** Give your name.

**Jamie Johnk:** Oh I'm sorry, Jamie Johnk I'm the Economic Development Director and I worked closely with Representative Alonso Leon on the application and the narrative and the criteria that was required to submit for this particular project. We worked on it diligently, we have a very very short time line to get all the numbers together, but again the investment of that first million dollars really allowed the city to do some of that initial estimating and design work to get a pretty good budget figure that we were able to submit and put together a pretty strategic plan on how we planed on moving forward which we shared not only with Representative Alonso Leon but also with the Governor's office through the Regional Solutions Team. This project really like the Mayor just said, didn't just represent the City of Woodburn this represents the rural communities in our area, the diversity and the makeup of this unique area where resources are hard to come by. So where this is a true benefit and blessing for the City of Woodburn to receive this \$15 million and be able to move this project forward, but it also benefits those individuals and those residents outside of Woodburn proper in order to serve their needs as well, so we do invite people from the outside area to come and swim in our pool and participate in our fields, and be a part of our community. And I think our outlying—I don't think I know our outlying communities rely on Woodburn for those services. So when of course I learned like everyone else learned that these funds may not be coming to us it was a shock because it's not only as the Mayor said, hit shock for Woodburn it's also for the Gervais, Hubbard, Mt. Angel, and all these other wonderful rural diverse communities in the area. So it's kind of a tough one when rural communities just have a tendency to be overlooked in the bigger picture, so that's a really tough one for us to take.

**Scott Derickson:** Jamie since you crafted the grant application can you talk about the project funding and how and what the legislative allocation of this project is.

**Jamie Johnk:** Of course when were first put the application together, first we were going for broke and we said we'll take the full 47 million for the total overall project. However, realistically we asked, we knew that Representative Alonso Leon was going for it but she was able to get us a third of the project with the clear understanding that a third of the project is not a community center build. So we have been able to use the preliminary design and budget



estimates with that first million dollars, however, we also indicated that with the \$15 million we would finish the design to permit ready plans and then work on getting the bond measure put on the ballot to go to the people to vote on in November and that's how the remaining two thirds of the project would be funded was through per a bond measure as well as some other nonprofit agencies who have expressed an interest helping to fund this and again it's the makeup of our community and the rural nature and the diversity in this community which makes organizations like Meyer Memorial Trust or Family Foundation or and all these other groups or a community foundation really stand up and take interest in our community because they're investing in the people and diversity and the rural nature of our communities and our region not just the people at this table, they are investing in the communities.

**Jim Row:** This is Jim Row Assistant City Administrator, I just wanted to make a couple of real brief points that have kind of been covered a little bit but I really want to emphasize them. Some of the things that we are hearing from DAS regarding their the determination that they're making that the project is not ready for funding. They're citing legislative intent was one of the things that they considered and I think that we've adequately explained what the legislative intent was with this particular project. The City requested the full amount required to complete the project of \$47 million there were meetings with our local elected leaders and community leaders Representative Alonso Leon, with Senate President Courtney, and Speaker Kotek where the project was discussed there was support from legislative leadership and the decision was made to award partial funding for the project and I don't know how we can more clearly clarify what the legislative intent was, they knew what the project was, they knew what the total cost was, and they made the decision to award partial funding as seed money for the City to go out and develop the rest. The \$15 million allocation from the legislature is a key part of our strategy to pass a bond measure and if that funding is not awarded it will be significantly more difficult for the City to fund the rest of that project. I also want to point out you know it's been said but the development of design documents are capitalized, they're required to be capitalized, they're an essential part of the capital asset cost. The full \$15 million will only be spent when that bond measure passes. We have to get the project to a bond ready state, so there will be some money spent early on but the vast majority of the \$15 million award will not be spent until the bond

measure passes and the project is fully funded. So there is some security about the use of those funds.

**Representative Teresa Alonso Leon:** Anybody else? Ok, then we'll have Renee kind of give us an overview on the statutes that were emailed to the City and have her explain essentially why they think that they're not able to provide funding for the City and then we'll open up to Lisa and members in this meeting to ask questions. Go ahead Renee.

**Renee Klein:** Thank you, I guess I first would like to say that I don't want to down play, I completely understand the importance of this project to the community and I think the conversation that happened via email it has nothing to do with whether or not this should be funded in the long term but it's more about is it ready for funding now. So as part of any project that we look at, we reach out to every grantee before we issue lottery bonds to ask if they are ready for the funding. And in some cases if they say no, and it's exactly because they have a lot of other funding they need to get ready before they can have the lottery bond to move their project forward. So what we're looking at is what is the time frame of the project and how much of the funding is available and I am not saying that every penny has to be available. I believe that the last estimate that we received from the City was that it would be about \$58 million dollars for this project and my understanding is that beyond the \$15 million and the lottery bond revenue there is very little that has been secured beyond that \$15 million and that a majority of the funding as you even mentioned during this meeting today will be on the ballot for bond measure in 2024, so in two years from now. So what we're really looking at is do we think that an asset—and we were looking at legislative intent we went right to the bill that authorize this funding and specifically said that the funding was for the construction of a community center. So we are looking at we only have 15 million out of 58 million needed is there actually going to—do we believe reasonable that a community center will be built? And again, I hope the community center will be built, I hope the voters will pass the bond. But at this point and time there's just a lot of unknowns. So now we're issuing \$15 million of bonds, you only have 2.4 really slated to be spent for those planning documents and then the rest would be spent unless the bond measure passes in 2024, and when we ask what would happen if the bond doesn't pass in 2024, the

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response was we put it back on the ballot in 2025. We didn't continue the line of questioning but it felt like without the bond passing at the city level, there likely wasn't gonna be an ability to get that 38 million or so that was allotted to the bond measure. So then we start—as part of our due diligence, we work within the IRS rules related to bonding these projects. So we have to start looking at the timing of the sale. When will the funds be spent? I'm sure as many of you are aware if we earn too much interest on bond funds then we have to pay the federal government for that through the arbitrage rebate program. So we are really looking at—our goal is always to have things spent within a 36 months' time frame from the issuance date. And we also look at the fiscal responsibility. If we start paying debt service 6 months after the issuance—so how our goal is always to get those funds utilized as soon as possible because we're paying for them as soon as they're issued. So that is really where we are looking it's not anything to do with the legitimacy of the project at all. It's just is this the right time or is it is it more proper to come back and ask for reauthorization for a sale during '23-25, when you are a little bit closer to that bond measure or even the bond measure has gone through it's passed you have that funding secure and then the lottery revenue bond program comes in with 15 million of funding. And I just also want you to note that that does happen we reauthorize projects we work with LFO and the legislature to reauthorize projects if you [unintelligible 21:10] again. I can't say there is a guarantee because obviously it will go up against the list of projects that are coming up but I do think there's a lot of there is often times projects being reauthorized once if it's a little bit, a little bit higher on the list to being approved again but I'm honest there is some risks there coming back for reauthorization. But I think where I am at is and where my team that reviewed the documents is, we're just not comfortable that this \$15 million investment is going to result with a community center and if you—if the money spent on the planning and the bond doesn't pass, which again I hope it doesn't happen, hope it passes, but if the bond doesn't pass then we kind of have to scramble to try to spend \$15 million on a project in a shorter timeframe than what we are normally allow because the bond would have been issued two years prior.

**Jim Row:** So Renee I gotta say, Jim Row again, the language describing the project that's in the bill to construct the community center, the reason that language is in the bill is because we requested full funding for the project. So legislative leadership decided to pare down the funding

allocation the language of the description of the project didn't change so that's why it's like seven words in the bill that you're citing. I think you're making a decision that you're not confident that the City is going to be able to develop the funding required to complete the project and I'm curious why you feel like you have that level of discretionary authority that override a legislative decision because they clearly felt comfortable with that allocation.

**Renee Klein:** I don't I don't think I would say overriding a legislative decision. I'm looking at it from a fiscal fiscal perspective and I want to make sure that the lottery revenue bond program is successful and that we are issuing funds that will ultimately result in in the project approved by the legislature. And part of that—I mean the money is in the bill and staff's responsibility to issue these grant funds, so we have to do our due diligence, make sure that we are you know that the money is being used for the purpose specified and that's what this process is.

**Jim Row:** Can you cite the section of the statute that where you're interpreting that the money will not be used for the purpose authorized.

**Renee Klein:** From the bond bill?

**Jim Row:** Yeah, you said ORS 286A.200 and I guess I'm curious what part of that statute you're referencing that leads you to the conclusion that the funding will not be used for its authorized purpose or in a manner that's inconsistent with the IRS guidelines.

**Renee Klein:** I'm sorry so I'm—the section of the statute that indicates is Senate Bill is 5534 section 25 sub 2 [unintelligible 24:33] distribution to the City of Woodburn for construction of the community center in Woodburn.

**Jim Row:** What I'm referring to is when I asked you what criteria you were citing when you made the decision that the project was not ready for funding, you sent me ORS 286A.200 which describes DAS's responsibilities when it comes to administering the lottery bond program. So I

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guess what I'm asking you is, what specifically in that section of statute has led you to the decision that you're making today?

**Renee Klein:** I think I would, I mean—So I was looking at 286A.200 sub 1C ensure that bond proceeds are used for authorized or intended purposes. And then I also want to ensure that we're in compliance with state and federal law as well as internal revenue code, which are sections B and E.

**Jim Row:** So can you tell me how this project is inconsistent with either of those sections?

**Renee Klein:** No because the projects—I mean to be 100 percent certain after the fact we would need to look you know—I'm sorry I'm not explaining myself very well. We have to look forward and we're looking forward at details that we have available about the project in total in total sum in terms of the finances. Looking at that we don't feel reasonably certain that there's enough funding in place from other sources which as mentioned earlier two thirds of the funding is coming from other sources to feel reasonably confident that a community center will be constructed—

**Scott Derickson:** Renee this is Scott Derickson and I think this is an important, oh I'm sorry this is important for us to uh, I'm sorry these zoom calls are difficult I didn't mean to cut you off please—

**Representative Teresa Alonso Leon:** Scott let Renee finish her thought and then I think I missed Lisa, I think she raised her hand so I'd like for her to also respond and then we'll go back to your question Scott.

**Scott Derickson:** Excellent, thank you.

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**Renee Klein:** I guess I just wanted to reiterate again but due to the timing, the length of the project, and other variables other financing variables are not known at this time that it might be better to push the issuance out on this particular project to the next biennium.

**Lisa Taylor:** I just wanted to clarify a couple things and then kind of just restate. Renee did you say DAS likes to issue the bonds or see the bonds spent within 36 months of issuing, is that what I heard?

**Renee Klein:** Yes, and that is a little bit tighter than—so the IRS requires that 85 percent be spent within 36 months of. We ask grantees to get us a spending plan that shows us 100 percent knowing that often times things don't go to schedule, so it means that normally we see that target of 85 percent.

**Lisa Taylor:** Mm hm. And do we have that plan assuming the bond passes in '24?

**Renee Klein:** The City did give us a plan where they plan to spend all 15 million within six months. There's 2.4 million during the first several months and then the money spent—there is no expenditure until after assuming the bond passes in 2024. I think there's maybe is a little bit of expenditure around that time.

**Lisa Taylor:** Ok sorry, so we wouldn't be meeting the 85 percent within the 36 months?

**Renee Klein:** present spending plan that that there is a long period of time between our planning and the bond.

**Lisa Taylor:** Yes. Ok so I understand that DAS, that's not ideal for DAS, that there's such a long gap but they would assuming the bond passes be meeting that threshold? And it's really the fact that DAS doesn't like just holding that money for that amount of time?

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**Renee Klein:** It's not necessarily holding the money it's the lack of certainty with the other funding.

**Lisa Taylor:** OK. With the bond. Ok, thank you for that clarification. Ok and is there a way so if the bond doesn't pass in '24 and they're not gonna make that 36 month deadline, is there a way for the money to come back in or once it's out is it just kind of out?

**Renee Klein:** No, we would be holding the funds and reimbursing as requests are made. At that point we would need to try and find a different project to allocate the funds to and then the issuance is already 18 months old so we need to find a pretty much shovel ready to pass this funds on to that has been legislatively approved.

**Jim Row:** Hey Renee, if the money ends up not being spent are the proceeds the remaining proceeds used just to help retire the bonds?

**Renee Klein:** Uh not necessarily no, we may use some of the proceeds towards debt service for all approved projects but that's likely be more than be a debt service at that point and time, so we would have to consider a lot of factors during that point and time. Usually we try to move the bonds to another approved project if they're ready to move on their project.

**Lisa Taylor:** But those bonds could go to any bonds right so the City of Woodburn [inaudible 30:51].

**Renee Klein:** If there was an approved, a legislatively approved project likely that would be the case but we would need to obviously work with our bond counsel and Legislative Fiscal Office to make sure that we're we're working we're moving them in the right right spot.

**Representative Teresa Alonso Leon:** So just um, Lisa thank you for that question, that was one of my questions, if the bond if we don't for some reason we don't get the funding in the bond and we need to now move the 15 million to another project, will then the legislature need to

request for that funding to be moved to another project formally or will that money be available to move to another project without going through the legislative process?

**Renee Klein:** It really kind of depends on timing if we're just a head of a sale and we know the lists projects that are already approved we might be able to use the money in places in issuance for a project that has been legislatively approved. If we just done an issuance and we don't have any legislatively approved projects that haven't been funded then yes we would have to wait until another legislative session where a bill would be considered and an additional project would be available for funding.

**Representative Teresa Alonso Leon:** Lisa do you have more questions before I turn it back over to Scott.

**Lisa Taylor:** Yeah, So do we not have precedent like this in some other cases? I mean I feel like we must be approving projects that are connected to bonds for houses and fire stations and things, what happens there?

**Renee Klein:** So, a lot of the times the enti—I think the timing from this one is just a little bit off. So like for example we have a project right now that is approved, it's supposed to be sold for another city in 2023 they tried for a bond last year and one this year, both failed. And so they contacted us and said we don't have our match please take us off the list. So normally, it feels like most the other projects is like the [unintelligible 33:21] before we do the issuance, cause we usually do the lottery issuances at the end of the biennium. So there's kind of a time frame where communities can get those bonds on to their ballots and we know is that match available. Or the bond measure match is a smaller portion of it and they have a backup plan the community has a backup plan if it doesn't go through. In this case it's over 60 percent of the project funds from a bond measure that is almost two years away from now.



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**Jim Row:** Renee I got one more question. When does the state need to know the exact amount that they're trying to raise from the bond sale, essentially when does this decision what's the fish or cut bait timeline for making this decision?

**Renee Klein:** Sure, so it'd probably be some time in I would say February or March, I believe we are issuing lottery funds sometime in April next year, so there's still some time that you are able to identify some other funding sources.

**Jamie Johnk:** So can I ask—

**Scott Derickson:** When is it my turn?

**Jamie Johnk:** To Renee, Renee the legislature has confidence in the City of Woodburn and the City's ability to move this project forward that's the reason why the Representative and legislature approved and recommended funding for this project, so I guess I've been listening to your explanation and I'm kind of curious to say, if the legislature our governing body of our state has confidence in the City's ability to move this project to fruition then, this is kind of a terrible way to ask, but why would DAS come forward and say well we don't think the City can do this and supersede a legislative decision.

**Renee Klein:** I'm not sure what information was provided to legislature during the time of the bill passing but with the information that we have today we do our review based on that information available and we ask the questions that we've asked the City of Woodburn to all our grantees about their funding and timing of the project moving forward and we work with the communities to determine if they're really ready for the lottery revenue funds to be issued for them.

**Jamie Johnk:** But has the City of Woodburn had an opportunity to work with you prior to receiving the email that said that maybe you should consider this as an item in the future? I mean you kind of sent an email stating that the 15 million most DAS is not going to approve it

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essentially you know just cutting it down to the brass tax there and then you recommend a later bond measure which would may or may not be approved and which puts us in a precarious situation as far as being able to meet our timelines for going out to bond on the project. So I'm just trying to think of the rationale with we not be even given the opportunity to prove, I mean first off we can't really get to the next step until we finish our plans and designs and give all of the marking pieces in place in order to go out and then market the project to private foundations which will look at a portion of the overall project costs and then of course we can't market to our community and ask them to support a bond for this community center that they've been asking for, for what 20 years or better. And we can't get our ducks in a row without receiving this \$15 million to help us get those ducks in a row. So DAS is essentially is saying we're considering not funding your project because of your timeline but yet at the same you're kind of killing our timeline in order to move our project forward, does that make sense, are you understanding what I am saying there?

**Renee Klein:** I think I understand what you mean, I understand that not getting the bonding to be able to do the planning which is \$2.4 million is the funding.

**Jamie Johnk:** And a capital asset.

**Renee Klein:** That delays the project.

**Scott Derickson:** Renee, I want to go back to the DAS's decision-making process because it still feels to me like we haven't had a very good answer about the criteria, the evaluation process. You've used terms like more proper, DAS is not comfortable, DAS is forward looking, but what is the criteria that you use to gauge and make these decisions statutory or otherwise that is equitably applied across the board to all these projects? Because it feels a little arbitrary that someone's looking at these and making decisions inconsistent with legislative directive based on not being comfortable or thinking that there's a more proper way. Do you understand? Is there an internal policy? Is there, what is the criteria that has been applied to us and how do we know that it has been applied correctly?

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**Renee Klein:** We have an internal process manual, where we look at the timeline of the project against 36 months and we look at the other funding sources and their availability.

**Scott Derickson:** Is the analysis available to us, can we see the analysis that went into this based on your manual?

**Renee Klein:** I mean there's not—I guess there's not really a formal analysis we, 60 percent of the project funds are not currently available.

**Scott Derickson:** So who made the decision at DAS then, who is the group that looked at the manual and came up with the decision based on that, who is accountable for the decision at DAS.

**Renee Klein:** I am.

**Scott Derickson:** I see. I'm done, thank you.

**Mayor Eric Swenson:** So can I, so taking people out of the equation and just looking at the processes and well my Masters in Public Administration was two decades ago, Frank and the City Council were thinking about this, let me just say it can't be possible in the world of government where where an organization feels like feels like this might not work right. Like it feels and I think to our City Administrator's point like I think we would all be comfortable if this was like a process that had precedent and was and that set down we are not meeting legal criteria which I think we've shown that we are. But the legislature thought, right, that this was a good idea like they were thinking that this is and I can tell you that the proposal sent was clear and was full and I can tell you from sitting in the Speaker's office and the Senate President's office they clearly understood our timeline. We were offering timelines there and we had a committee consider of going out for the bond in 2023 and if that makes something makes something feel more comfortable that is a possibility but I don't think that I can abide and go back to our community and pass on to our next mayor the explanation that that that the Department of

Administrative Services didn't feel like this would be possible and that it might be better to delay it after all the work that we've been putting. And if I can channel Anthony Veliz who's talked about this and I know you're understanding that like that you get the history behind this but a lot of work has gone into this and particularly the million dollars we spent to plan all this simply I don't think we can abide by a process that involves an organization that's feeling like it might not work. That's not going to work for us.

**Representative Teresa Alonso Leon:** Thank you so much everyone. So, Renee I would recommend if possible here as a legislator that fought very hard for this funding, that that your work with the City to create a plan. Because I think this is what they're basically saying, we worked so hard to get to this point and let's not forget COVID happened. Let's not forget that our cities literally redirected their energies to helping communities. So at what point should they prioritize fund raising for a community center when they are trying to save lives, right. So I want you to take that into consideration that all of our cities in our entire state their energies were redirected to ensure that our communities had food, that our communities had resources and information, and that that should be taken into consideration. That their energies could not be spent on, focused on fundraising for a community center that we have needed for several decades. But what I'd like to see here is that Renee you and your team work with the City of Woodburn in creating a plan that will ensure that this funding is going to be available to the City and that it won't go away because of all of the statutes you've indicated in the email. You know, I get that communication from agencies to city governments and to people in general that the way language is written I get why it has to be written that way but it almost feels threatening, like we're gonna take your money away because you guys have not met X requirements, but these X requirements were not very clear for the City to be able to tell you this is what happened, there was no communication other than the received email that says that their money is being threaten to be taken away. So if you can work with the City to create a plan, that would be ideal for me, that everybody agrees on and that we remove language around the threatening of funding being removed because this is funding that has been in the making for a very long time. This wasn't our first try at requesting you know this funding for our community center this was several tries and we finally were able to get this amount and I would you know I would not feel

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good about making a request again and not knowing that there's a guarantee that they are going to get this money again because there's so many circumstances so many factors that are up in the air that are unknown and the chance of losing that money just doesn't feel just doesn't sit right with me. So is that reasonable Renee that we can have you and the City of Woodburn, work on a plan that is reasonable and sustainable and that you both can or all of us can say this is doable?

**Renee Klein:** Yes that's reasonable, I'd like to also include the Legislative Fiscal Office in that conversation because if there is a need for legislative change they would absolutely need to be involved in that.

**Representative Teresa Alonso Leon:** Of course, yeah bring all the people you think invite all the people you think are needed so that we can create a plan and again I want it to be reasonable and sustainable in that it works for all of us. Lisa do you have anything else to add on behalf of Senator Courtney?

**Lisa Taylor:** Yeah, I mean Senator Courtney is very supportive of this project and we do really want to see it happen you know that said I do want to give Renee a little bit of a break here, that DAS does have a legislative responsibility to be making sure we're spending funds in a proper manner and that you know we are protecting tax payer money. So I don't want you to feel like we're ganging up on you too much because I realize that there are rules you have to be following and things but I really appreciate your willingness to work with the City and get that timeline in to a better place that you guys are more comfortable with issuing those bonds, I'd be happy to help in any way I can and get LFO involved as well.

**Renee Klein:** Sounds good.

**Lisa Taylor:** Great.

**Representative Teresa Alonso Leon:** I want to underscore what Lisa just said, Renee I know that you are in a very hard position to be in. As you can tell this is a very emotional project for

all of us because it has been in the making for a very long time and we're gonna work so hard to keep it and not lose it because it took us so much it took so much work to even get to this point, so I am very appreciative of your willingness to work with our City to ensure that we don't lose this money and that we have a plan moving forward. Wonderful. So next steps Renee I'm gonna assume that you are going to get your team together and then send out an email to the City of Woodburn to schedule some time to meet and discuss the new timeline. Scott and folks at the City just want to thank you all for bringing this to my attention and also want to reiterate how appreciative I am of your willingness to work with DAS to figure out a plan that makes sense for everyone. Scott any thoughts about that?

**Scott Derickson:** No, we're happy to do whatever we can to keep the project moving forward to secure these dollars you know this is a top priority for the City, I think everybody would agree with everything that you said Representative and you know I think you know whatever we could do, more communication would be better. I think we need to understand the process here and what the expectations are and how we can move forward. Our expectation is if the legislature approved this funding they approved this project as submitted then our expectations are that's going to come to fruition. And we'll work with DAS and whoever we need to so that we can serve our community.

**Representative Teresa Alonso Leon:** Excellent, thank you Scott. Alright then if there are no closing remarks from anybody else, I'll end this meeting, I'll give a little, just a quick moment see if anybody wants to say anything.

**Mayor Eric Swenson:** Well maybe since we're talking about timelines, I'm not sure Renee your timelines but you may get the sooner the better from the City of Woodburn so it's not dragging on if there is time between now and the holidays are coming, the time between the first of the year to have an initial meeting so that we're understanding better what you're thinking and you can understand better what we're thinking. And having said that I want to keep focusing on the thinking not the feeling but I do want to recognize Renee that when you face a table full of

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people and the Senate President's assistant and the State Representative you did very well through all the whatever feelings were going through your so thank you for accommodating our passions and listening to our concerns.

**Renee Klein:** No problem and I'm happy to continue working with you I know this project is important not just to the to Woodburn but like you said the larger community and I want to see it be a success as well. I'm happy to keep working keep working on this and that I'll be in touch soon, like I said I would like to reach out to LFO and talk with some other people in CFO and then I'll reach out, so yeah absolutely yeah I want a resolution on this quickly as well.

**Representative Teresa Alonso Leon:** Thank you so much Renee, thank you all, have a good rest of your day.

Present: Senate President Chief of Staff Taylor, Representative Alonso Leon Chief of Staff Emery, Mayor Swenson, Mayor Elect Lonergan, City Council President Carney, City Administrator Derickson, Assistant City Administrator Row, Economic Development Director Johnk, Community Services Director Cuomo, Executive Legal Assistant Bravo, DAS Capital Finance and Planning Manager Klein, DAS Capital Finance Analyst Frazier, LFO Principal Legislative Fiscal Analyst Campbell, DAS Capital Finance Analyst Nelson, Oregon State Treasury Director of Debt Management Knights

**Scott Derickson:** I am Scott Derickson, I'm the Woodburn City Administrator.

**Frank Lonergan:** Frank Lonergan I'm Mayor Elect Woodburn.

**Eric Swenson:** I'm Eric Swenson I'm the Mayor for two more weeks.

**Jamie Johnk:** Good morning, I'm Jamie Johnk, I'm the Community Development Director.

**Brenda Bravo:** Brenda Bravo, Executive Legal Assistant.

**Robert Carney:** Robert Carney, Council President.

**Jim Row:** Jim Row, Assistant City Administrator.

**Jesse Cuomo:** Jesse Cuomo, Community Services Director. And that's all of us.

**Scott Derickson:** Yup, that's us.

**Renee Klein:** Thank you, So I think I briefed both treasury and LFO on where our last conversation and also given them an update on the additional information that you sent me last week. So I guess if you wanted to—again I think I communicated this on email as best I can but my intentions at the end of our last conversation was to continue the conversation about how to move forward with the issuance for the City of Woodburn and I do apologize if that seems to imply that it would be a 2023 participating in the 2023 it was more of how can we move this forward and continue this conversation going knowing that this is an important project. That's why I wanted to get this larger group together so they can all hear about the project and your timeline and we could move forward. So I'll let the City give some background on the project and then the timeline that you're proposing moving the bond to a possible (unintelligible – 1:43) up. So I'll hand it over to you.



**Scott Derickson:** Okay thanks, I think I'll start off by saying that generally the City was surprised and caught off guard with the email letting us know that we were that our project was not included in the bond sale sort of despite the legislative directive that the City is entitled to this money. This project that the City it's been a long time in its planning. We've received other lottery back bond dollars, a million dollars, to do some of the preliminary design engineering already on it. And our project timeline which is contingent on the awarding of this money is to have a GO bond to fund the remaining portion of the project as soon as we can get the design work completed. We have some ability to manage that but there's no question that this money is critical to moving this project forward. There was Speaker Kotek at the time was very supportive of this along with Senator Courtney and our representative Alonso Leon and you know we have no reason to think that anybody would have any other desires in this project stay on course and on track and not be derailed indefinitely. We've put too much time and effort into this, it's too important to the community for this project to get tripped up somehow, which honestly I don't particularly understand the reluctance on DAS to want to—to have concerns about this it doesn't—I don't know that we feel we got a good answer about why despite a legislative directive this is now in question. Having said all that, we do want to be responsive to your concerns, we do want the project to move forward and we did provide what we thought was responsive to Renee your concerns about the timing of the GO bond and the funding of some of the work. So that was, I guess a counterproposal to the one we gave our legislatures that resulted in the bond sale of this project. So we think we can live with that, I hope that's acceptable and we can all move forward now with the project. Jim do you want to add anything to that?

**Jim Row:** I don't. I think you captured it well.

**Scott Derickson:** Okay, so I think from our perspective we've been responsive Renee to your concerns with this 2.0 plan if you will. We just want this money that we think our community should receive to move forward with the bond sale.

**Renee Klein:** Okay, thank you. So again I wanted to relay my concerns so that everyone today can hear it. My concern is that this is only \$15 million of a \$58 million project. And if the bond measure doesn't pass locally, I'm not sure that the project will be seen to fruition. So normally, what we're looking for is that there's a decent amount of funding already available before we go forward with the bond issuance. So my initial recommendation was that we requested for reauthorization during 23-25. At that point, we should know if the bond passes locally. So I appreciate the push to try to move it forward. But for me, it still feels like we're not sure about the remainder, you know, almost three quarters of the funding may not be available [inaudible – 5:47-5:48] not pass locally.

**Scott Derickson:** Renee, Renee to be fair, the City did request the full amount for the community center project from the legislature, they chose to fund a portion of it with the understanding that the City would generate the remaining component of the project, the legislature could have funded the entire project. So I think this idea that, you know, the funding may not materialize yet. You know, it's not a concern of the legislatures, they approved the port a portion of the funding. We know and we briefed our legislative delegation, as well as Speaker Kotek that this \$15 million was needed to enable the bond question. It's not a question of getting the bond first we have to complete the design work to get the cost estimates to generate the bond question. So in essence, this is a critical juncture moving our project forward. And I think everybody expects a project to move forward. I don't understand, honestly, why DAS has the ability to override legislative directive.

**Renee Klein:** So I think in reviewing the bill, you'll notice that the bonds are issued at the request of DAS. So we request, we request to depart—the Treasury to authorize bond to issue on our behalf. But part of our process is to make sure that the bonds will be used for the legislative purpose in this in this specific case is about construction of a community center. At this point, I don't feel that we have enough confidence that the funding is available to construct a community center. And I'm not saying every single penny needs to be accounted for and available. But we've there's a point at which we feel confident that that is going to happen. We only have you know, 25% of the funding, essentially, identify which in this issuance there's concern that we're not going to end with a community center at the end of the bond issuing.

**Scott Derickson:** Renee, are there any other municipal projects that are also not moving forward in this bond sale because of DAS's concerns?

**Renee Klein:** We have other projects that are not moving forward. But honestly those project holders have come to us and told us that their funding is not available. So they come to us and asked to be added to the list for next time. [inaudible 8:28-8:31]

**Scott Derickson:** So Woodburn is the only City on the list that DAS is basically removing from the list.

**Renee Klein:** We're—removing from the list. I guess what I would say is I think in terms of timing, moving this project into 23-25, when we know some other funding has been secured, feels like the best path forward.

**Eric Swenson:** So Renee can this is Eric Swenson, the—So two points. One was very clear to Senator Courtney and to Governor elect Kotek that that this money awarding this money that the

legislative intent was to enable us to go out to the voters with \$15 million, or a quarter of the projects in hand. Right. As our City Administrator said, they could, you know, voted for the entire amount. But the intent was clearly to give us a large chunk of the money so that when we went to voters, we were saying that the state lottery bonds or funds, and the legislature is approving this project. And so it's the cart before the horse. I think we're just seeing it in two, two different ways. And I think the other point is that this intent started with a million dollars that the legislature awarded five years ago now, that set the project in motion. And that million dollars was spent without the other 58 million in hand. So I think I think our fundamental disagreement is about the legislative intent. And back to my comments, last week, it just, I'm not understanding how we can make government decisions with where you're feeling like it's not a not a good investment. When the legislature clearly thought like that it a good investment in our community.

**Walt Campbell:** So Eric, let me jump in really quick. So this is wall Campbell, Legislative Fiscal Office. So just a couple of points. So reviewing the capital project information form, which is the form that City of Woodburn submitted for this project, the requested amount was was only \$20 million. So what you all submitted to a request was not the full amount of the project costs. I'm not aware of any preliminary discussions that could have been happening with legislators and other stuff. But when, when LFO received the request, it was only for \$20 million. So what was you all were funded through the legislative intent in the '21 session for \$15 million. But what's written in the bill that conveys the legislative intent, that's fine. What it says in the bill is for the City of Woodburn to construct a community center. It doesn't mention planning and construction, it mentions it very clearly says for construction of a community center. And so if there's not funding in place, aside from the \$15 million, then it's granted of lottery bonds for the remaining three fourths of the project. There's no certainty that the project can be completed. So I just wanted to jump in a little bit on the initial request from you guys, which was only \$20 million. Not more than that.

**Jim Row:** Thanks Walt. This is Jim Row, assistant city administrator. In reviewing the records, we've got the original project information form that was submitted, and it was for the full amount of the project minus the million dollars that had already been spent. And there was correspondence with Representative Alonso Leon's Chief of Staff at the time, relaying information about a conversation they had with Courtney's office in which he requested that the request be pared down to \$20 million. So the original request was for the full project amount, and then based off of feedback from Courtney's office, we reduce that request to \$20 million. So both were submitted.

**Scott Derickson:** I might also add to that engineering and design are critical, critical components to construction they're not—it's a phased approach. You don't have construction without engineering and design. Those are all considered capital assets, including the engineering design work its cap—has been capitalized by DAS before the work we've done. So the construction of a community center project entails all of the work associated with construction of a community center project. I hope that's helpful

**[Inaudible 13:35]**

**Jacqueline Knights:** This is Jacqueline Knights. As Renee says, we respond to the request by the various agencies of the state to issue debt. We're also governed by federal regulations when we issue tax exempt debt. And those regulations require spend down provisions, which is why we tend to for projects see to have a project fairly come—be in terms of the scope of funding. Because if the project proceeds would have not spent with 85% of them within three years, then there are two things that may happen with tax exempt proceeds. One, if it's not spent, or the proceeds are misused, and a taxable event can occur, which means that it will affect the entire bond issue that was sold as taxable bonds as tax exempt bonds. And if a taxable event occurs, it effects the entire bond issues and effects it from the date of issuance. So it causes a ripple effect throughout the bonding process. That is why it is important to have projects really defined and complete. In addition, if you say there was no misuse of [ unintelligible 15:05] meaning that the taxes and proceeds will use for taxable purpose, if that was not the condition and funds were not utilized, then you would have to rebate those funds to us. And we would have to repay the bonds that were issued for that project. And that's equally as complicated. So I think that project readiness and I, I fully support your thought that engineering and design are really critical to a project. And I wonder if there is an approach that can be taken, so that you can obtain the funds necessary for the engineering and design component. So that gets you to the point of being able to put together your ballot measure and get your bonding resolutions for the authority for the remainder of the issuance. I think it sounds like you have strong legislative support for your project. So you know, delaying a portion of it and or submitting an updated request for the new biennium, you know, would be a cleaner approach. So, if there's an opportunity to identify what the engineering costs are, perhaps that would be the best approach that we off (?) funding, at least a good portion of the funding can be identified and minimize the risks.

**Scott Derickson:** Well thank you so much for that, it's helpful. Please know that here at the City, we have extensive experience in geo and revenue bonding, that is—it sounds very similar to the type of bonds, we're subjected to the same kind of rules. We're very used to managing indebtedness at the City, but based on either revenue or geo backed types of debt. We get it. Our plan that we submitted to DAS revised plan, we think accomplishes works within all those

criteria. And it includes the engineering costs that is delineated. We know what we need to spend in order to get it on the ballot. And, and so I think that I don't I don't think we'd have any issue in terms of managing the debt correctly. I don't think you'd have to worry about that. And I'm pretty, you know, we, we feel like that project. This, this project piece accomplishes everything you just you just said.

**Eric Swenson:** I think about, you know, hear hearing all your reluctance about me not having, you know, three fourths or two thirds of the money in hand. At our last meeting, the concern was that putting it having an election in 2024 really gave it a limited amount to that if it didn't pass then then the scenarios that you're all worried about there wouldn't be a solution to be able to spend the money within 36 months. But moving it up to November 2023, it seems like that would help you feel better, right? And think, and have more confidence in the fact that, that we were, that we've able to pass the bond and have time to maneuver. And then I believe last time he talked about that if the bond didn't pass, or often [inaudible 18:51].

**Jacqueline Knights:** If I might (?) we're using terms like feelings, and I would, you know, steer away from that. Really, what we're talking about is the authority to issue debt. And that's what we're concerned with a treasury. We frequently work with the City of Woodburn and with other local governments, and one of the things that's two of the things that's really important is the authority to issue debt. And if you do not have that authority, this is not about my feelings, or your feelings or any (?) feelings, it's about the authority to issue debt or not. And if there's no authority there's no issuance of debt, the legislature does provide authority. But not all authorizations that are not all bonding authorization, approved by the legislature or issued. I just give you an example. For ODOT, there's 808 million authorized, you're not issuing 880 million, but they plan for it. But if the projects are not ready, then they do not issue the debt. And this is part of the due diligence that's being conducted. So the authority is there to give you the flexibility, because it is a biennium process to allow you to get that funding. If the other parameters man (?), if there's no ballot initiative, there's no authority to issue the debt. And until there's a ballot pass by the voters, there's no authority at all. It's not about feelings. And I think that this confusion about that. I don't have specific feelings about bonds, you know, but I do have feelings about the authority to issue debt because I am required by law to ensure that there is sufficient authority to issue the debt.

**Scott Derickson:** Can somebody on the phone call, then cite some of the specific authority and criteria legislative or administrative rule or wherever this authority is found that our project is being weighed against so that we can also see it?

**Jacqueline Knights:** I didn't hear the questions fully, could you please repeat that?

**Scott Derickson:** Sure. Well, could you please—could somebody cite or provide us this specific authority, ORS statutory rules, there was a reference to a manual at our last call, that we could look at how our project is being weighed against these criteria. And this decision that's been made. We would like to look at that. There's been a lot of references to authority and laws and rules, but we can't find them. Could somebody provide them to us?

**Renee Klein:** I think the initial statute is 286A.025 Issuance and sale of bonds. It says the State Treasurer may at the request of a related agency [unintelligible 22:00] issuing bonds. So the specific—

**Scott Derickson:** Is that only, only statute that you're relying on in this decision?

**Renee Klein:** No, if I can finish my statement—

**Scott Derickson:** Oh sorry, please.

**Renee Klein:** And then in House Senate Bill 5534A, Section 25 it specifically says, for the biennium beginning July 1, 2021, at the request of the Oregon Department of Administrative Services, after the department consults with the City of Woodburn, the State Treasurer is authorized to issue lottery bonds. Authorize it doesn't mean that it's absolutely going to happen. It means that through our due diligence process, we will review and we may request that the Treasurer issue bonds.

**Scott Derickson:** Could we look at your due diligence process. Is that an administrative role? Is that an internal review? I mean, we're you know, what is the criteria?

**Renee Klein:** and then in 286A200 Administration of certain bond programs by Oregon Department of Administrative Services, which lottery revenue bond program is administered by the Department of Administrative Services. We have several criteria and I know I talked with you about these during our last meeting that we have to feel like a project meets these requirements before we're comfortable issuing.

**Scott Derickson:** Could you forward us all those—

**Renee Klein:** And then of course there are other—Go ahead.

**Scott Derickson:** Oh no I just I understand that you have an internal process, I would just like to look at it. What are these criteria you're referencing, we want to see 'em.

**Jesse Cuomo:** Is there—

**Renee Klein:** There's—It's not laid out, we have to look at each project and [inaudible 23:49] construction of a community center, how much money is available, versus what we're issuing, we have to be confident that can be can center in this case would be constructed.

**Jesse Cuomo:** So Renee—

**Renee Klein:** I'm sorry, I'm gonna turn it back on you if there is a project that you have. And there's only 25% of the funding available, do you feel confident that that will be constructed.

**Scott Derickson:** Why I feel this project will be constructed! Yes, I do, unless we can get this money.

**Jesse Cuomo:** Yeah.

**Renee Klein:** I want to go back because I'm a little frustrated. I have never said that I don't think the City of Woodburn should receive the funding, I have indicated that I think it'd be best to come back for reauthorization and to address an earlier concern. If it came back for reauthorization, you would know that prior to your ballot initiative that would be going out next, next November, we would know that by the end of the long session that's coming up. So I still think they would be able to show their legislative support for your ballot measure if that's an important component.

**Jesse Cuomo:** So Renee, back to the process question. Um, is there like a rubric criteria that all of the projects are put through? So they can either be passed along? Is there a process in which you put every single project through that is equal across the board to prevent any kind of, you know, any kind of feeling or any kind of arbitrary piece that is makes it a concrete kind of process?

**Renee Klein:** There is a process that each project goes through. There are some judgment calls that are made during that process, I'm not going to say that there's some special calculation that is done to determine yes or no, we don't we don't run it through a system or a calculation. And I apologize deeply for using the word feeling or—

**Jesse Cuomo:** No, it's okay. We're just trying to—no, it's understandable. We're just trying to get down to if there's a true concrete process. And that that is helpful. Thank you.

**Jamie Johnk:** Yeah, even in a community like Woodburn a smaller, rural community, we have a matrix we use when we're analyzing projects that are going to move forward, whether it's a street project, a downtown project, a new building, or community center, we put it through our matrix of what can we do, how can we do it? What are the steps? What are the processes of which all have been shared. In this particular timeline, you know, we've shared all of that our timeline, our due diligence, where we're going to identify the other funding sources, you know, what our possibilities are part of our funding source identified in our evaluation of our project and our community, we are relying on that \$15 million. So remaining funds will come from the bond measure as well as grant writing and or a private donation or campaign funds for some of the little ancillary items that we may need. We know what our evaluation process is, we know as a community, that this project will move forward, and we have all the confidence otherwise, we would not be here for a second time. Nor have we been advocating and working with our legislative officials in order to get this funds raised if we did not have confidence in this project and our community to move it forward. So I'm standing here listening for the second time you explaining to us Renee that there is a process that you put your projects through in order to assess value and completion and all of these other aspects, but you don't know Woodburn and you've not asked us until just now, do you feel this project will be funded? We said yes. That's the first time one, that we've been asked. And secondly, this is not an emotional or feelings, that was brought up by DAS that they have a feeling as they make these determinations on their own accord. We want something more reliable like we use here. We have, like I said, a tool that we use on every project, public works projects, water projects, street projects, you name it, we got an assessment and valuation for that and we know how we're moving forward. So we want something concrete that says this project will not happen because you feel are you you have this tool that says Woodburn can't do it.

**Jacqueline Knights:** This is Jacqueline, I want to say pretty clearly. Without a ballot measure that is approved by the voters, you do not have the authority to issue General Obligation debt. And that's it. And so the question, and the assessment that is being made is that without that authority, and that's an authority given to the governing body of the City of Woodburn by its electorate, it's voters. So without that authority, your ability to do this project is not there. Okay, it's not authorized. And I assume that your projects that you have in your matrix should include one, the ballot measure being passed; two, if you're going to issue General Obligation debt to and resolution by the City, authorizing the issuance of bonds. Those two things when we look at the Treasury, see like on the OSB G programs, those are two of the main criteria, if we do not have that we will not approve any debt. Okay? And we're not, we're not rendering an opinion on why



you're issuing the debt, we just know that the legal authority to issue the debt is in place. That's it. It's, it's, we don't really, we're not going to review your community center, we just want to make sure that the legality of the process works. And the bond counsel is also going to require that all of those things are in place before any bonds is issued by the City of Woodburn and I know you're familiar with it, because we have done a lot of work with the City of Woodburn, one of the things I would like to because the City feels like we're going in circle is to propose that I know that business, Oregon from time to time, has worked with various entities, local governments to provide interim financing. And I wonder if that's a way that we can bridge the gap between perhaps there's a dialogue that needs to happen to bridge the gap between your needs to get this getting monies, which is clear to do the engineering work. And the delivery of lottery proceeds is Treasury of the state is not saying no, it's project readiness is the issue. In terms of the funding, we deal with this for every all the issuers. So that's one of the suggestions, I would have to try to bridge this gap that we have, what we really have is a gap.

**Scott Derickson:** I appreciate your, your thinking about alternatives, I really do. The project at hand is not the geo bond project that the City is going to issue debt. It's the State issuing the lottery bond debt to fund this phase of the project that's required before the last phase. And I know we're kicking this horse a lot. But I don't want to just be difficult, but this is going to be a media interest. This is going to be, I think, a controversy. And I want to make sure that, you know the City is in a position to be able to be responsive to that. I suspect that when this this, you know that DAS's decision here becomes—hits the awareness of our community that there will be inquiries into this decision making. So what I want to put that out there, we're not intentionally trying to be difficult, but I do expect that we're going to have to be accountable. And you know, the City is going to have to evaluate what our position is on this.

**Eric Swenson:** And can I hear from—

[Inaudible 32:24]

**Jaqueline Knights:** We frequently get inquiries as to the Treasurer's—I'm sorry?

**Renee Klein:** Lisa has had her hand up for a while

**Jacqueline Knights:** I apologize.

**Lisa Taylor:** Not at all. A lot of your information that's been really helpful. I just, I also kind of feel like we're going around in circles a bit. And I kind of wanted to summarize what I'm hearing here is that DAS and the Treasury are unable to issue these bonds, because there's only 25% of

the funding for a project. And you are not allowed to issue bonds that don't have the full amount of funding for the final project. Is that correct? More or less, I know there's a lot more legal financial terms involved.

**Renee Klein:** Yeah, it's not even necessarily full funding. We need to believe that—  
[inaudible 33:20]

**Lisa Taylor:** That 85%, yeah, Okay.

**Renee Klein:** Or it could be scaled down to the amount that is available. A \$58 million project likely couldn't be built with \$15 million.

**Lisa Taylor:** Yeah, so we have this, the team, City of Woodburn would like to use that for planning and to help them be able to bring something forward to the voters to say this is what we're gonna do this is we have some money from the state. I was hoping in this meeting that we would hear if there were any, if there was any option or ability for the City of Woodburn to change their proposal with DAS or make—change something that would allow DAS to issue those bonds for the planning for that that part. I don't know if that's possible. But is there any way we could get there?

**Jim Row:** Well Lisa, I don't know if you saw it. But we did submit a counter proposal last week that move the timeline of the project up a full year and limited the expenditure of the pre bond measure expenditure of funds to get the project ready to put on the ballot.

**Lisa Taylor:** Yeah, and is that new proposal getting closer? Is that sufficient? Is this even an option with DAS?

**Renee Klein:** It still, it still means that we don't know. We don't have certainty about that funding. I mean, I what I would recommend going forward would be the City, if possible, continue to leave it on the 2023 ballots, get reauthorization and we'll know for sure the next time our revenue bonds are issued during the 23-25 biennium that that has passed, and the funding will be available, and then it would make sense for us to issue of \$40 million available 15. There's only a \$3 million gap. I think—

**Lisa Taylor:** And I completely agree.

**Renee Klein:** Oh, go ahead Lisa, go ahead.

**Lisa Taylor:** Oh, I understand what you're saying. I guess. Clearly and I liked the Business Oregon idea, but clearly the City of Woodburn needs some funds so they can get to the ballot and so they can get to that point. And maybe it is that the initial legislative LFO worksheet, maybe we should have been more specific about this about how it was for pre planning and things leading up to but it does seem like for a community center is a fairly broad term. I guess I would—obviously Senator Courtney is very supportive of this project. Obviously the City of Woodburn doesn't want to have to come back and re-give their reasons for why this is a great project. I would I would love it if there is any suggestion of how we can get them the ability to access part of that 15 million without reauthorization. And if that's just not a possibility, I think it would be beneficial to hear that now. Rather than continue to go through this.

**Eric Swenson:** And Lisa—

**Renee Klein:** Honestly I don't think that's a possibility the way the bill is written because it says construct a community center I think we would need a legislative change if we wanted to issue a lesser amount just for planning so that we could clearly go back to the bill and see that planning this money is for planning. I'm not sure, my concern with that is even if that goes through quickly during the session we are looking a issuing while we're in bonds I believe in April. So it would need to move very quickly so the legislature had approved it prior to our bond sale. So I'll be honest in terms of timing I don't know if that is even a possibility but that is what we would need to issue the lesser amount for a different purpose, a slightly different purpose. I realize planning is part of the construction but the way the bill is written, it doesn't say that we can issue just for planning, it says issue for construction of a community center.

**Eric Swenson:** And back to Lisa's point, I think when we sat with Senator Courtney and Governor elect Kotek, it was clear that the 15 million wasn't going to go to construct the whole community center and it was clear that it was for the construction of community center. Maybe like a million was going to go in to the planning and the 14 million or so was going to go in to the construct of the community center when the bond is passed. And so I guess were—had they awarded 30 million instead of 15 then would you be comfortable with the difference? And I have get back to our City Administrator's point, like we do need to explain this to our community. Our new Governor and our Senate President steered this through, the legislative session approved it for Woodburn and we need to explain why that's not happening. And having a rubric from you, had you had more money or a different timeline like then you would of and we're still using the word feeling—felt comfortable or been comfortable with this bond issuance so that'll help us tremendously understand like the reasons that this project is not moving forward.

**Scott Derickson:** We're not gonna get it.

**Jesse Cuomo:** Yeah.

**Renee Klein:** Jacqueline go ahead, I—I did provide what I provided already, so I don't know what else to say.

**Jacqueline Knights:** I wonder if I could ask for a clarifying question. It's my understanding based on this conversation, I was trying to go back to the various bond bills. The one million, at least from this conversation, was awarded in 2015, I believe you said.

**Jim Row:** 2017

**Jacqueline Knights:** For design of this project. Would it be possible if you can update us as to what happened between 2015 and now with respect to the project?

**Jim Row:** Yeah, Jacqueline, I think I can help with that. I think it was in the 2017 session that the million dollars was awarded for preliminary design work on the community center and we've completed that level of design work. It's taken us through schematic design and then about half way through the design development phase. And so we would pick the we would pick that project up where that funding left of.

**Eric Swenson:** And so to give you a visual Jacqueline—Jacqueline the like—

**Jacqueline Knights:** Are we thinking it's COVID that delayed the process of the design?

**Jim Row:** No, it was the million dollar the million dollars took us to the level that we are at now. We fully expended that and have done a level of preliminary design that that bought us. There's more work to be done before the project is ready to be put on the ballot.

**Eric Swenson:** But Jacqueline if you just understand our (40:26?) that's 2017, then 20—then we got to 2019 that process was completed. There were posters around Woodburn, at the aquatic center at city hall, did presentations to the Rotarys, the Kiwanis, the Chamber of Commerce with the design that is that that design is very close to being ballot ready. I mean the height of the walls, where the bathrooms are and all the landscaping. I mean a million dollars from the legislature that went into this project, right, without assurance that the bond would pass, brought us to a place where our community has seen it and is ready to go forward to complete it.

**Jacqueline Knights:** Just to follow up the, it was not on this year's ballot measure for what reason?

**Jim Row:** The strategy for this project has been to complete the design work so that we can tell the voters that we have a shovel ready project and we have a commitment from the state for \$15 million and if the bond measure passes the voters won't have to pay the full cost of the project because of the state allocation and the design work is ready when the bond measure passes we're ready to begin construction. That has been the project strategy.

**Scott Derickson:** It's also important that until you completed the design you can't accurately price the project for the ballot title. So it's a chicken and egg problem. We can't tell the voters that it's going to cost X amount until we've got design engineering that has accurately delineated what that property tax levy is going to cost. You see our dilemma here is that until you design a project you don't know what it's going to cost and you can't put it on the ballot with a property tax levy until you know what it costs and you can't do that until the design engineering is done.

**Jacqueline Knights:** So in terms of the design work itself to get it to the ballot measure, how much funding is needed, and I'm just asking a series of questions because if you had some sort of resolution and you're spending money of course you're familiar with this, you can be you know you can spend money and then get reimbursed when the funding becomes available, you know the bond counsel will be able to provide that information but I'm wondering if it's two million, two and a half million or whatever another million what's the gap to get you because it sounds like with this legislative process even if a new request were put in April or March right I don't think it will be approved, well the legislative session ends at the end of June at the end of May and then the Governor I don't want to speak for them folks(?) representing the legislature wouldn't be approved probably til mid August in which case you could still have that authority to issue the debt as a—you know—with submitting a new request and the ballot measure would be right contemporaneously with the (44:05 ?). You'd be in a very good position to fund it if you had whatever the gap funding is to get the design work to present the ballot measure to the voters.

**Jim Row:** That's a good question. It would take us about—so there's a couple there's two more phases of design work that need to be completed. The first phase is about a million and a half dollars and that gets us pretty close to where we have a pretty good handle on the project costs. And then the final phase is the development of construction documents. When you put all of those together it's about two and a half million dollars worth to get to the fully design ready to bid phase.

**Jacqueline Knights:** So I'm sorry, that was two and a half million total?

**Jim Row:** Two and a half total to get the design completely finished, yes.

**Jacqueline Knights:** Okay.

**Jim Row:** And you are suggesting that somehow we utilize the existing bond authorization to fund that work and then seek reauthorization for the balance in this upcoming session?

**Jacqueline Knights:** I'm suggesting that you seek reauthorization for the amount you think you will need, if that's 15 million, 20 million, if it's whatever number of millions you think you need that would be a good approach. If you already have an authorization for this project you can expend monies I'm not sure what the resources of the City of Woodburn is in terms of available funds. You could re—you could reimburse yourself for monies spent. I mean it sounds like this project has lots of support, so I feel based on what you are saying, I hate to say the term feeling, but you sound very confident that you have this legislative support and I would suggest that really you noodle(?) over those numbers, make an updated request but have resolution in place so that you can reimburse any spending that's completed for the design work.

**Jim Row:** So you're suggesting that we abandon the current legislative authorization and move forward with a new one—

**Jacqueline Knights:** Not abandon.

**Jim Row:** Okay.

**Jacqueline Knights:** You can amend it for the new session. In the last two years we issued lottery bonds last year we issued lottery bonds this year. This falls on the legislature when they'll determine when we issue lottery bonds. My senses—you know they could issue a lottery bonds in the spring of 2024 in which place you'll be in a good position if that occurs to move along with this project.

**Eric Swenson:** So can I ask a hypothetical? So if we went through the same process and were awarded more than 15, were awarded 30 for example if it was 50% funded would that rise to the level of meeting the judgment of DAS that that would be like enough to issue the bonds or you're saying for the full project—

**Jacqueline Knights:** I think there are two things that would need to be present right because you're saying that you would advance the ballot measure to 2023, so then you have the authority on your side to issue the residual funding then whether or not you get the—you know request additional support through the lottery bonds, you know that's the function of the legislative office so what they approve. But it seems to me at minimum they would likely consider what you've already requested.

**Scott Derickson:** Well it feels like there are some discussions to have on our side. I think I don't have anymore questions. I do appreciate you all taking the time to have this meeting today. It's difficult news on our end for sure.

**Jesse Cuomo:** It's not an easy one.

**Robert Carney:** Is there a way to get that to express what's protocol as we forward—

**Jacqueline Knights:** We appreciate that we are here to help you know local government the state agencies do what they need to get their projects ready and our goal is to have successful projects.

**Scott Derickson:** Great.

**Eric Swenson:** Thank you very much.

**Scott Derickson:** Yeah thank you. We'll talk here and we'll get back Renee to you directly after we've had some conversations here.

**Renee Klein:** Okay, sounds good.

**Scott Derickson:** Thank you, bye everybody.

City of Woodburn  
(503) 982-5265  
[jim.row@ci.woodburn.or.us](mailto:jim.row@ci.woodburn.or.us)

Begin forwarded message:

**From:** KLEIN Renee A \* DAS <[Renee.A.KLEIN@das.oregon.gov](mailto:Renee.A.KLEIN@das.oregon.gov)>  
**Date:** November 10, 2022 at 4:18:34 PM PST  
**To:** Jim Row <[Jim.Row@ci.woodburn.or.us](mailto:Jim.Row@ci.woodburn.or.us)>  
**Cc:** FRAZIER Renee K \* DAS <[Renee.K.FRAZIER@das.oregon.gov](mailto:Renee.K.FRAZIER@das.oregon.gov)>  
**Subject:** RE: 2023 Bond Issuance for Woodburn Community Center

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Hi Jim-

The legal authority for DAS to make determination on grant agreements is contained in ORS 286A.200. Section 1(b), (c), and (d) discuss the need for DAS to ensure funds will comply with both state and federal legal requirements, including requirements of the IRS, and that fund will be used for the authorized purpose. To determine the authorized purpose we use the language included in the enrolled bill, SB 5534 (2021). The bill states the funding is "for construction of a community center in Woodburn".

In reviewing the details of the project we don't have reasonable assurance that the funding needed will be available to result in construction of the community center. It seems like there are still several unknowns related to the additional funding sources. At this point it makes sense to request to have the project reauthorized for a later sale when more of the funding sources have been secured. There are several projects each biennium that end up needing to be delayed and request reauthorization in the following biennium.

Please let me know if you have any other questions.

Thanks,  
Renee A. Klein  
Capital Finance and Planning Manager  
DAS | Chief Financial Office  
[Renee.A.Klein@das.oregon.gov](mailto:Renee.A.Klein@das.oregon.gov)  
971-900-7691

**From:** Jim Row <[Jim.Row@ci.woodburn.or.us](mailto:Jim.Row@ci.woodburn.or.us)>  
**Sent:** Thursday, November 10, 2022 3:39 PM  
**To:** KLEIN Renee A \* DAS <[Renee.A.KLEIN@das.oregon.gov](mailto:Renee.A.KLEIN@das.oregon.gov)>  
**Subject:** Re: 2023 Bond Issuance for Woodburn Community Center

Renee,

Can you please send me the statutes you are referencing in your determination not to issue bonds for this project, which was presented by our elected representative and received full legislative approval?



Jim Row  
Assistant City Administrator  
City of Woodburn  
(503) 982-5265  
[jim.row@ci.woodburn.or.us](mailto:jim.row@ci.woodburn.or.us)

On Nov 10, 2022, at 1:31 PM, KLEIN Renee A \* DAS <[Renee.A.KLEIN@das.oregon.gov](mailto:Renee.A.KLEIN@das.oregon.gov)> wrote:

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Hello-

Renee F passed the City of Woodburn's project information on to me for review; thank you for your patience while we worked on our due diligence. This project is important to us and we want to make sure everything is in place for the project to be successful, while meeting our rules and guidelines for a project to be included in a bond issuance.

Our team considers several factors in determining if a project is ready to proceed and a grant agreement can be executed. Several of the primary factors we consider include the statutes governing the use of lottery bond proceeds, legislative intent when awards are made to communities, other secured funding sources, total project costs and project timeline.

Based on the information available, we will not be able to issue bonds for this project during the Spring of 2023. The project does not appear to be ready to proceed; we want to be certain we can confidently enter into a grant agreement with the City that ensures the community center can be successfully built and that complies with our bond program guidelines. I recommend the City of Woodburn ask for the \$15M award to be reauthorized for the 2023-25 biennium. This will allow the City time to secure more of the other funds needed for the project prior to the bond issuance.

The following factors informed this recommendation:

1. The total project cost for the Woodburn Community Center is \$57.8M, of which \$15M in lottery bond proceeds have been secured.
1. It will not be known if most of the other funding for this project is available until, at the earliest, November 2024.
1. The legislative language awarding the \$15M grant is clear that the lottery bond proceeds are to be used to construct a community center. If other funding is not secured, that intent is not likely to be realized with the lottery funds alone.
1. Lottery bond proceeds must be expended for a capital construction project that produces an asset. Due to the uncertainty of the future ballot measures, we cannot reasonably be certain that the community center can be constructed.

I understand this is disappointing news, please reach out if you have any questions or would like to further discuss.

Thanks,  
Renee A. Klein  
Capital Finance and Planning Manager  
DAS|Chief Financial Office  
[Renee.A.Klein@das.oregon.gov](mailto:Renee.A.Klein@das.oregon.gov)  
971-900-7691

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