

# COUNCIL MEETING MINUTES

August 8, 2022

**DATE COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, AUGUST 8, 2022**

**CONVENED** The meeting convened at 7:05 p.m. with Mayor Swenson presiding.

## **ROLL CALL**

Mayor Swenson	Present
Councilor Carney	Present
Councilor Cornwell	Present
Councilor Schaub	Present
Councilor Swanson	Present
Councilor Puente	Present
Councilor Cabrales	Present – via video conferencing

**Staff Present:** City Administrator Derickson, Assistant City Attorney Granum, Assistant City Administrator Row, Deputy Chief Millican, Public Works Director Stultz, Community Services Director Cuomo, Community Development Director Kerr, Community Relations Manager Guerrero, Economic Development Director Johnk, Special Projects Director Wakely, Senior Planner Cortes, Finance Director Turley, Human Resources Director Gregg, Planner Handel, Public Affairs and Communications Coordinator Moore, City Recorder Pierson

## **PRESENTATION**

**DevNW** – Community Relations Manager Guerrero and Ann Hamilton, DevNW, provided an update on the Woodburn Mortgage Assistance Program.

**Rental Assistance** - Community Relations Manager Guerrero provided an update on the Rental Assistance program.

**Houseless Response** – Community Services Director Cuomo spoke about the process to find the right organization to work with. Deputy Chief Millican spoke about the benefit of joining with Mid-Willamette Valley Community Action Agency. Robert Marshall, Mid-Willamette Valley Community Action Agency, provided a presentation on the houseless response team and how they will collaborate with police.

**New City Seal Proposal** – Public Affairs and Communications Coordinator Moore presented the Council with a proposal for a new City Seal. The Council provided comments and asked that a couple of different versions come back for Council to review.

## **CONSENT AGENDA**

- A. Woodburn City Council Meeting minutes of July 25, 2022,
- B. Crime Statistics through June 2022,
- C. Acceptance of a Public Utility Easement on 2515 Country Club Rd. Woodburn OR, 97071 (Tax Lot 052W12AD18600),
- D. American Rescue Plan Act (ARPA) Agreement with A Ray of Hope, Today! for the Emergency Clothing and Supplies Program,
- E. American Rescue Plan Act (ARPA) Agreement with the Woodburn Area Chamber of Commerce for the Woodburn Business Resource Center,
- F. Cooperative Improvement Agreement for the Construction of the OR 219/Butteville Road Roundabout,

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G. Building Activity for July 2022.

Carney/Schaub... adopt the Consent Agenda. The motion passed unanimously.

**COUNCIL BILL NO. 3191 - AN ORDINANCE ANNEXING APPROXIMATELY 39.21 ACRES OF TERRITORY KNOWN AS THE OREGON GOLF ASSOCIATION (OGA) PROPERTY WITH NO STREET ADDRESS INTO THE CITY OF WOODBURN, LOCATED ALONG THE EAST SIDE OF BOONES FERRY ROAD NE NORTH OF HAZELNUT DRIVE, MARION COUNTY, OREGON**

Carney introduced Council Bill No. 3191. City Recorder Pierson read the bill twice by title only since there were no objections from the Council. Councilor Swanson stated that she was absent during the public hearing on this matter but has reviewed the record and intends to vote. Councilor Cabrales stated that she was absent during the public hearing on this matter and has not had a chance to review the record so she will not participate in the decision making process and will abstain from voting on this matter. On roll call vote for final passage, the bill passed 5-0-1 with Councilor Cabrales abstaining. Mayor Swenson declared Council Bill No. 3191 duly passed.

**COUNCIL BILL NO. 3192 – AN ORDINANCE AMENDING THE WOODBURN ZONING MAP TO DESIGNATE ZONING OF APPROXIMATELY 39.21 ACRES OF ANNEXED TERRITORY KNOWN AS THE OREGON GOLF ASSOCIATION (OGA) PROPERTY WITH NO STREET ADDRESS, LOCATED ALONG THE EAST SIDE OF BOONES FERRY ROAD NE NORTH OF HAZELNUT DRIVE, MARION COUNTY, OREGON AS RESIDENTIAL SINGLE FAMILY (RS), PUBLIC AND SEMI-PUBLIC (P/SP), AND RIPARIAN CORRIDOR AND WETLANDS OVERLAY DISTRICT (RCWOD)) ZONING DISTRICTS**

Carney introduced Council Bill No. 3192. City Recorder Pierson read the bill twice by title only since there were no objections from the Council. Councilor Swanson stated that she was absent during the public hearing on this matter but has reviewed the record and intends to vote. Councilor Cabrales stated that she was absent during the public hearing on this matter and has not had a chance to review the record so she will abstain from voting on this matter. On roll call vote for final passage, the bill passed 5-0-1 with Councilor Cabrales abstaining. Mayor Swenson declared Council Bill No. 3192 duly passed.

**APPROVAL OF FINAL DECISION DOCUMENT FOR MARION POINTE**

Carney/Swanson... authorize the Mayor to sign the Final Order approving the Marion Pointe Planned Unit Development (PUD 22-02) with the conditions of approval. The motion passed 5-0-1 with Councilor Cabrales abstaining.

**COUNCIL BILL NO. 3193 – AN ORDINANCE DECLARING A BAN ON PSILOCYBIN SERVICE CENTERS AND THE MANUFACTURE OF PSILOCYBIN PRODUCTS**

Carney introduced Council Bill No. 3193. City Recorder Pierson read the bill twice by title only since there were no objections from the Council. Assistant City Attorney Granum provided a staff report. On roll call vote for final passage, the bill passed unanimously. Mayor Swenson declared Council Bill No. 3193 duly passed.

**COUNCIL BILL NO. 3194 – A RESOLUTION APPROVING REFERRAL TO THE ELECTORS OF THE CITY OF WOODBURN THE QUESTION OF PROHIBITING PSILOCYBIN-RELATED BUSINESSES WITHIN THE CITY OF WOODBURN; ADOPTING A BALLOT TITLE AND EXPLANATORY STATEMENT; AND AUTHORIZING ALL STEPS NECESSARY TO EFFECTUATE THIS RESOLUTION**

Carney introduced Council Bill No. 3194. City Recorder Pierson read the bill by title only since

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there were no objections from the Council. Assistant City Attorney Granum provided a staff report. On roll call vote for final passage, the bill passed unanimously. Mayor Swenson declared Council Bill No. 3194 duly passed.

## **COUNCIL BILL NO. 3195 – A RESOLUTION AUTHORIZING EXECUTION OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF WOODBURN AND THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFSCME) LOCAL 642 FOR A CONTRACT BEGINNING JULY 1, 2022 AND ENDING JUNE 30, 2025**

Carney introduced Council Bill No. 3195. City Recorder Pierson read the bill by title only since there were no objections from the Council. City Administrator Derickson provided a staff report. Dan Handel, AFSCME Union President, thanked both sides of the bargaining committee. On roll call vote for final passage, the bill passed unanimously. Mayor Swenson declared Council Bill No. 3195 duly passed.

## **ACTION ON FINAL DECISION DOCUMENT DENYING THE US MARKET GAS STATION DEVELOPMENT AT 2540 & 2600 NEWBERG HWY AT THE SOUTHWEST CORNER OF NEWBERG HWY & OREGON WAY (CU 21-02)**

Carney/Schaub... adopt the attached final decision document denying land use applications Conditional Use 21-02, Design Review 21-10, Exception to Street Right of Way and Improvement Requirements (“Street Exception”) EXCP 21-05, & Phasing Plan PP 21-01 for the US Market Gas Station project and authorize the Mayor to sign the final decision document. Councilor Swanson stated that she was absent during the public hearing on this matter but has reviewed the record and intends to vote. Councilor Cabrales stated that she was absent during the public hearing on this matter and has not had a chance to review the record so she will not participate in the decision making process and will abstain from voting on this matter. The motion passed 5-0-1 with Councilor Cabrales abstaining.

Councilor Cornwell stated that the City should look at the ordinances related to commercial zoning and look at ways to protect the areas that are located close to homes so it doesn’t interrupt the continued comfort of living where people have chosen to live. She added that she would like to start looking at the ordinances to make sure the City does not become so overdeveloped that our town loses some of its livability and aesthetics. She also invited people to get involved and be a part of the change.

City Administrator Derickson stated that we could invite Community Development Director Kerr to speak to the Council about the future planning of the City.

## **SMITH CREEK PUBLIC PARK NAMES**

Community Services Director Cuomo provided a staff report. Carney/Cornwell... approve the following park names suggested by the Ad Hoc Smith Creek Park Naming Committee for the public parks located within the Smith Creek residential housing development: Hazel Smith Plaza, Killian’s Well Park, and Madame Dorion Trail. The motion passed unanimously.

## **CALL-UP BRIEFING: PLANNING COMMISSION APPROVAL OF A VARIANCE APPLICATION FOR 2515 NEWBERG HWY (VAR 22-08)**

The Council declined to call this item up.

## **CALL-UP BRIEFING: COMMUNITY DEVELOPMENT DIRECTOR APPROVAL OF A DESIGN REVIEW AND EXCEPTION TO STREET RIGHT OF WAY AND IMPROVEMENT REQUIREMENTS “STREET EXCEPTION” APPLICATION**

# **COUNCIL MEETING MINUTES**

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## **PACKAGE FOR LEGION PARK AT 1385 PARK AVE (DR 22-09 & EXCP 22-04)**

The Council declined to call this item up.

## **CITY ADMINISTRATOR'S REPORT**

The City Administrator reported the following:

- Has a legal opinion from City Attorney Shields regarding the Council's statutory authority in the regulation of vehicles on City Streets. It's been recommended to do a survey to find out the number of vehicles we're talking about and where they are located. The Council would need to see the results of this survey before they take any action.
- The City is aware of the potholes on 214 between the high school and fire department and staff has contacted the state about repairing the road.
- Ongoing discussions to get something more esthetically pleasing and safer in regards to the median on Hwy 99E in front of Safeway are taking place,
- Fiesta is upon us and we have just about reached the fundraising goals. There are 58 vendors set up and there will be a lot of family activities and entertainment.

## **MAYOR AND COUNCIL REPORTS**

Councilor Swanson asked if we really want to start imposing parking violations on individuals based on the traffic on our streets.

Councilor Cornwell stated that the number of cars that people own, putting a restriction on the house number that you can only have two cars per house won't always work. She added that she does not know what the solution is but with the limitations that the state has put upon us, it is going to be a problem so we need to be thinking forward and try to put something in place.

Councilor Puente stated that panhandlers are causing some traffic safety issues.

## **ADJOURNMENT**

**Swanson/Carney**...move to adjourn. The motion passed unanimously. Mayor Swenson adjourned the meeting at 8:58 p.m.

APPROVED \_\_\_\_\_

ERIC SWENSON, MAYOR

ATTEST \_\_\_\_\_

Heather Pierson, City Recorder  
City of Woodburn, Oregon

# Woodburn Police Department

## MONTHLY ARRESTS BY OFFENSES

2022 Year to Date

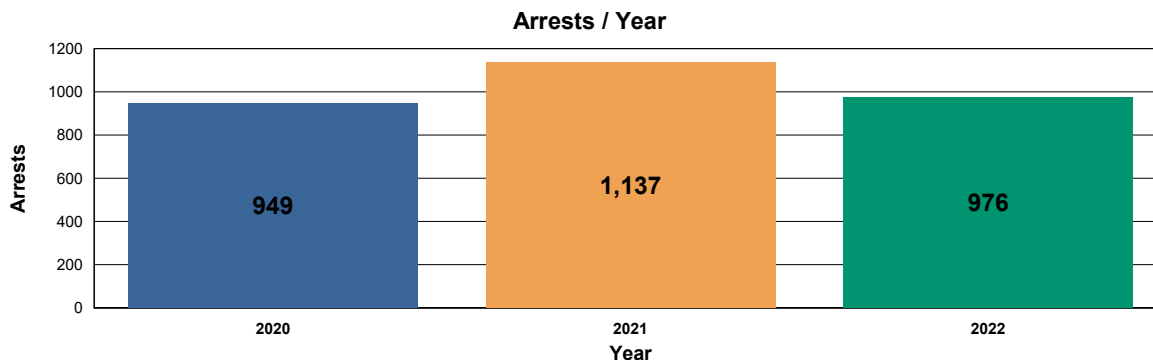
CHARGE DESCRIPTION	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
AGGRAVATED ASSAULT	5	0	0	10	2	6	3	26
ANIMAL CRUELTY	0	0	0	0	0	0	1	1
ANIMAL ORDINANCES	2	9	2	7	4	3	0	27
ARSON	0	0	0	0	0	0	1	1
ASSAULT SIMPLE	8	7	8	11	12	13	11	70
ATTEMPTED MURDER	0	0	0	0	2	0	0	2
BURGLARY - BUSINESS	2	2	0	0	0	0	0	4
BURGLARY - RESIDENCE	2	1	0	0	0	2	1	6
CHILD NEGLECT	0	0	1	0	0	0	1	2
CRIME DAMAGE-NO VANDALISM OR ARSON	3	6	1	1	2	4	1	18
CURFEW	0	1	0	0	0	0	0	1
CUSTODY - MENTAL	2	4	3	2	1	2	3	17
DISORDERLY CONDUCT	5	2	1	3	4	6	1	22
DRIVING UNDER INFLUENCE	6	8	7	11	9	6	14	61
DRUG LAW VIOLATIONS	2	0	3	3	1	5	0	14
DWS/REVOKED - FELONY	0	0	0	0	0	2	0	2
DWS/REVOKED-MISDEMEANOR	4	2	2	1	1	2	5	17
ELUDE	1	2	0	2	0	0	0	5
ESCAPE FROM YOUR CUSTODY	0	0	1	0	0	1	0	2
EXTORTION/BLACKMAIL	0	0	0	0	0	0	1	1
FAIL TO DISPLAY OPERATORS LICENSE	0	0	0	1	0	0	0	1
FORCIBLE RAPE	0	0	0	2	0	0	0	2
FORGERY/COUNTERFEITING	1	0	0	0	0	0	0	1
FRAUD - BY DECEPTION/FALSE PRETENSES	0	1	5	0	0	1	0	7
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	0	0	0	3	1	1	0	5
FRAUD - OF SERVICES/FALSE PRETENSES	0	2	0	0	0	0	0	2
FUGITIVE ARREST FOR ANOTHER AGENCY	43	38	37	29	30	22	32	231
HIT AND RUN FELONY	0	0	0	0	0	0	1	1
HIT AND RUN-MISDEMEANOR	1	3	5	2	2	4	4	21
IDENTITY THEFT	1	0	0	0	0	1	0	2
INTIMIDATION /OTHER CRIMINAL THREAT	8	7	6	3	2	7	10	43
INVASION OF PERSONAL PRIVACY	0	0	0	0	0	1	0	1
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	0	2	0	0	0	2	0	4
MINOR IN POSSESSION	1	1	0	0	1	0	1	4
MISCELLANEOUS	0	0	4	0	0	0	0	4
MOTOR VEHICLE THEFT	3	2	3	1	6	0	2	17
OTHER	2	0	1	6	2	4	3	18
PROPERTY RECOVER FOR OTHER AGENCY	2	0	0	0	0	0	0	2
PROVIDE FALSE INFORMATION TO LAW ENFORCEMENT	1	0	0	2	0	1	1	5
RECKLESS DRIVING	2	3	5	4	3	2	9	28
RECKLESSLY ENDANGERING	2	0	1	0	3	1	5	12
RESTRAINING ORDER VIOLATION	2	1	1	2	2	1	0	9
ROBBERY - BUSINESS	1	1	0	0	0	0	0	2
ROBBERY - CAR JACKING	0	1	0	0	0	0	1	2
ROBBERY - OTHER	1	0	0	0	0	0	0	1
ROBBERY - RESIDENCE	1	0	0	0	0	0	0	1
RUNAWAY	1	0	0	0	1	1	1	4
SEX CRIME - CONTRIBUTE TO SEX DELINQUENCY	1	0	0	0	0	0	0	1
SEX CRIME - EXPOSER	0	0	0	0	0	0	1	1
SEX CRIME - MOLEST (PHYSICAL)	0	0	2	1	0	1	0	4
SEX CRIME - NON-FORCE RAPE	1	0	0	1	0	0	0	2
SEX CRIME - OTHER	0	1	0	0	0	0	0	1
SEX CRIME - SEXUAL ASSAULT WITH AN OBJECT	0	0	1	0	0	0	0	1
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	1	0	4	0	0	0	1	6

# Woodburn Police Department

## MONTHLY ARRESTS BY OFFENSES 2022 Year to Date

	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
THEFT - BICYCLE	0	0	0	0	0	0	1	1
THEFT - BUILDING	2	1	1	0	2	0	0	6
THEFT - FROM MOTOR VEHICLE	1	0	0	0	0	0	0	1
THEFT - OTHER	4	0	3	2	0	1	1	11
THEFT - PICKPOCKET	0	0	0	0	1	1	0	2
THEFT - SHOPLIFT	13	2	3	5	9	6	4	42
TRAFFIC VIOLATIONS	1	2	0	0	0	0	0	3
TRESPASS	3	45	3	2	4	4	3	64
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	2	0	1	0	0	1	0	4
VANDALISM	2	38	4	1	2	3	1	51
WEAPON - CARRY CONCEALED	1	0	0	0	0	3	0	4
WEAPON - EX FELON IN POSSESSION	2	2	1	1	0	1	0	7
WEAPON - OTHER	0	0	1	0	0	0	0	1
WEAPON - POSSESS ILLEGAL	7	3	3	5	6	2	6	32
WEAPON - SHOOTING IN PROHIBITED AREA	2	0	0	0	0	0	0	2

	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
2022 Total	158	200	124	124	115	124	131	976
2021 Total	173	97	81	272	134	173	207	1137
2020 Total	161	139	105	133	149	153	109	949



# Woodburn Police Department

## MONTHLY CRIMINAL OFFENSES

2022 Year to Date

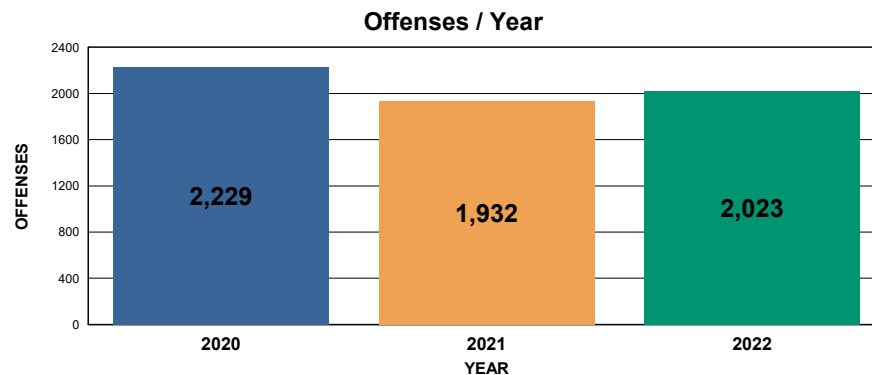
CHARGE DESCRIPTION	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
AGGRAVATED ASSAULT	5	0	3	5	4	10	5	32
ANIMAL CRUELTY	0	0	0	0	0	1	1	2
ANIMAL ORDINANCES	2	5	3	6	4	3	0	23
ARSON	0	0	0	1	0	0	3	4
ASSAULT SIMPLE	17	11	12	13	24	18	21	116
ATTEMPTED MURDER	0	0	0	0	1	0	0	1
BURGLARY - BUSINESS	4	1	0	1	1	2	0	9
BURGLARY - OTHER STRUCTURE	1	0	0	1	0	1	0	3
BURGLARY - RESIDENCE	3	2	0	0	0	3	1	9
CHILD NEGLECT	0	0	1	0	0	0	1	2
CRIME DAMAGE-NO VANDALISM OR ARSON	18	9	6	15	4	8	10	70
CRIMINAL MISTREATMENT	0	0	1	0	0	0	0	1
CURFEW	0	1	0	0	0	0	0	1
CUSTODY - MENTAL	2	4	3	2	1	2	3	17
DISORDERLY CONDUCT	4	3	2	3	7	8	4	31
DRIVING UNDER INFLUENCE	6	8	7	11	9	6	15	62
DRUG LAW VIOLATIONS	2	0	2	3	1	2	0	10
DWS/REVOKED - FELONY	0	0	0	1	0	2	0	3
DWS/REVOKED-MISDEMEANOR	4	2	2	2	1	2	5	18
ELUDE	6	1	1	4	2	1	3	18
ESCAPE FROM YOUR CUSTODY	0	0	1	0	0	1	0	2
EXPLOSIVES	0	0	0	0	0	0	1	1
EXTORTION/BLACKMAIL	0	0	0	0	0	0	2	2
FAIL TO DISPLAY OPERATORS LICENSE	0	0	0	1	0	0	0	1
FORCIBLE RAPE	2	0	4	2	3	2	0	13
FORGERY/COUNTERFEITING	2	2	2	1	5	4	2	18
FRAUD - BY DECEPTION/FALSE PRETENSES	2	4	8	9	3	7	6	39
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	3	2	0	4	4	1	3	17
FRAUD - IMPERSONATION	0	1	2	1	2	0	0	6
FRAUD - OF SERVICES/FALSE PRETENSES	1	2	0	0	0	0	0	3
FRAUD - WIRE	0	0	0	0	1	0	0	1
FRAUD-OTHER	0	0	0	1	0	0	0	1
FUGITIVE ARREST FOR ANOTHER AGENCY	25	22	28	18	19	15	24	151
GARBAGE LITTERING	0	0	1	0	0	0	0	1
HIT AND RUN FELONY	1	0	1	1	2	1	1	7
HIT AND RUN-MISDEMEANOR	23	21	27	15	14	20	20	140
IDENTITY THEFT	3	3	2	4	2	2	3	19
INTIMIDATION /OTHER CRIMINAL THREAT	5	6	6	1	10	8	14	50
INVASION OF PERSONAL PRIVACY	0	0	0	0	0	1	0	1
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	0	2	0	0	2	2	0	6
KIDNAP - HOSTAGE/SHIELD OR REMOVAL/DELAY WITNE	0	0	0	0	0	0	1	1
MINOR IN POSSESSION	1	1	0	0	0	0	1	3
MISCELLANEOUS	13	20	16	21	8	8	9	95
MOTOR VEHICLE THEFT	22	19	9	22	17	19	14	122
NON CRIMINAL DOMESTIC DISTURBANCE	0	0	0	0	1	1	0	2
OTHER	3	1	3	5	4	4	4	24
PROPERTY - FOUND LOST MISLAID	3	3	1	2	0	0	2	11
PROPERTY RECOVER FOR OTHER AGENCY	1	0	1	1	0	0	1	4
PROSTITUTION - ENGAGE IN	0	1	0	0	0	0	0	1
PROSTITUTION - PROMOTE	0	1	0	0	0	0	0	1
RECKLESS DRIVING	3	3	7	6	3	3	10	35
RESTRAINING ORDER VIOLATION	3	2	1	2	3	2	0	13
ROBBERY - BUSINESS	3	1	0	2	1	0	2	9
ROBBERY - CAR JACKING	0	1	0	0	0	0	1	2
ROBBERY - OTHER	2	0	0	0	0	2	1	5
ROBBERY - RESIDENCE	1	0	0	0	0	0	0	1
RUNAWAY	3	0	1	1	2	6	1	14

# Woodburn Police Department

## MONTHLY CRIMINAL OFFENSES 2022 Year to Date

	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
SEX CRIME - CONTRIBUTE TO SEX DELINQUENCY	0	0	0	0	0	1	0	1
SEX CRIME - EXPOSER	0	0	0	0	0	0	1	1
SEX CRIME - FORCIBLE SODOMY	0	0	0	0	0	0	1	1
SEX CRIME - MOLEST (PHYSICAL)	0	0	5	2	2	3	0	12
SEX CRIME - NON-FORCE RAPE	4	1	0	0	0	0	0	5
SEX CRIME - OBSCENE PHONE CALL	0	0	0	0	0	0	1	1
SEX CRIME - OTHER	0	1	0	0	0	1	0	2
SEX CRIME - SEXUAL ASSAULT WITH AN OBJECT	0	0	0	0	1	0	0	1
STALKER	0	0	0	1	2	1	2	6
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	0	0	1	0	1	1	1	4
SUICIDE	0	0	0	0	0	0	1	1
THEFT - BICYCLE	2	0	0	1	2	2	1	8
THEFT - BUILDING	2	1	2	1	4	4	0	14
THEFT - FROM MOTOR VEHICLE	31	15	17	12	14	13	9	111
THEFT - MOTOR VEHICLE PARTS/ACCESSORIES	0	2	1	3	2	6	5	19
THEFT - OTHER	10	12	8	8	7	12	11	68
THEFT - PICKPOCKET	0	1	0	0	1	0	1	3
THEFT - PURSE SNATCH	3	0	0	0	1	1	0	5
THEFT - SHOPLIFT	35	26	54	28	28	33	33	237
TRAFFIC VIOLATIONS	2	2	4	0	2	0	1	11
TRESPASS	5	15	2	4	3	5	3	37
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	7	1	0	1	2	0	2	13
VANDALISM	12	23	17	20	28	11	15	126
VEHICLE RECOVERD FOR OTHER AGENCY	4	3	0	2	1	1	2	13
WEAPON - CARRY CONCEALED	1	0	0	0	1	2	0	4
WEAPON - EX FELON IN POSSESSION	2	2	1	1	1	2	0	9
WEAPON - OTHER	0	0	1	0	0	0	0	1
WEAPON - POSSESS ILLEGAL	8	3	4	4	7	4	8	38
WEAPON - SHOOTING IN PROHIBITED AREA	6	2	2	1	2	1	3	17

	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
<b>2022 Total</b>	<b>333</b>	<b>275</b>	<b>283</b>	<b>277</b>	<b>277</b>	<b>282</b>	<b>296</b>	<b>2,023</b>
<b>2021 Total</b>	<b>259</b>	<b>213</b>	<b>257</b>	<b>262</b>	<b>273</b>	<b>330</b>	<b>338</b>	<b>1,932</b>
<b>2020 Total</b>	<b>307</b>	<b>322</b>	<b>249</b>	<b>278</b>	<b>361</b>	<b>376</b>	<b>336</b>	<b>2,229</b>





# Woodburn Police Department

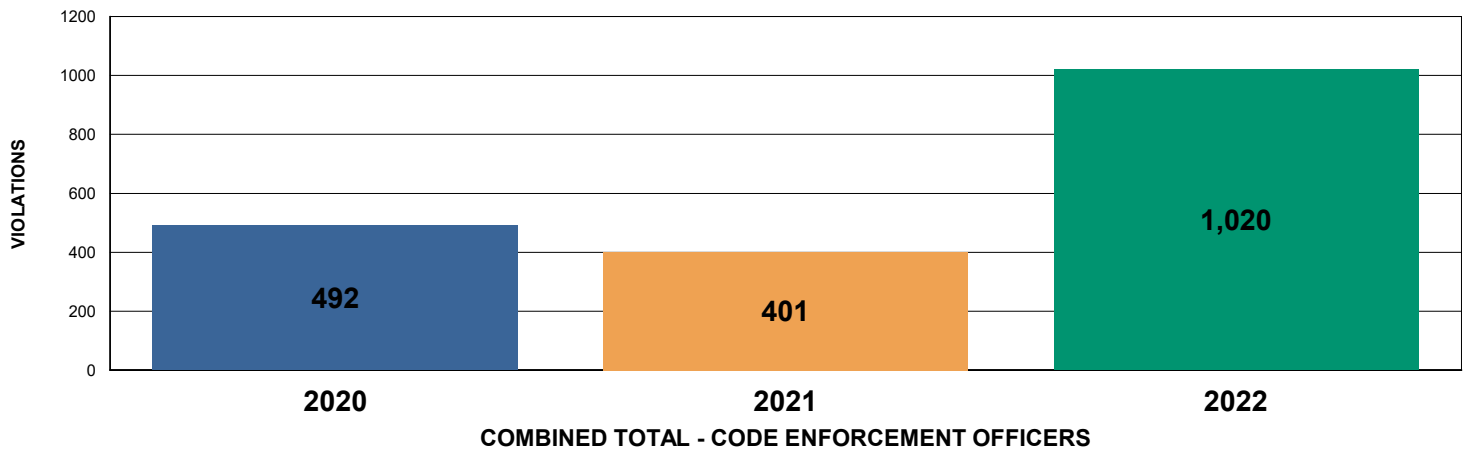
## ORDINANCE VIOLATIONS

### 2022 Year to Date

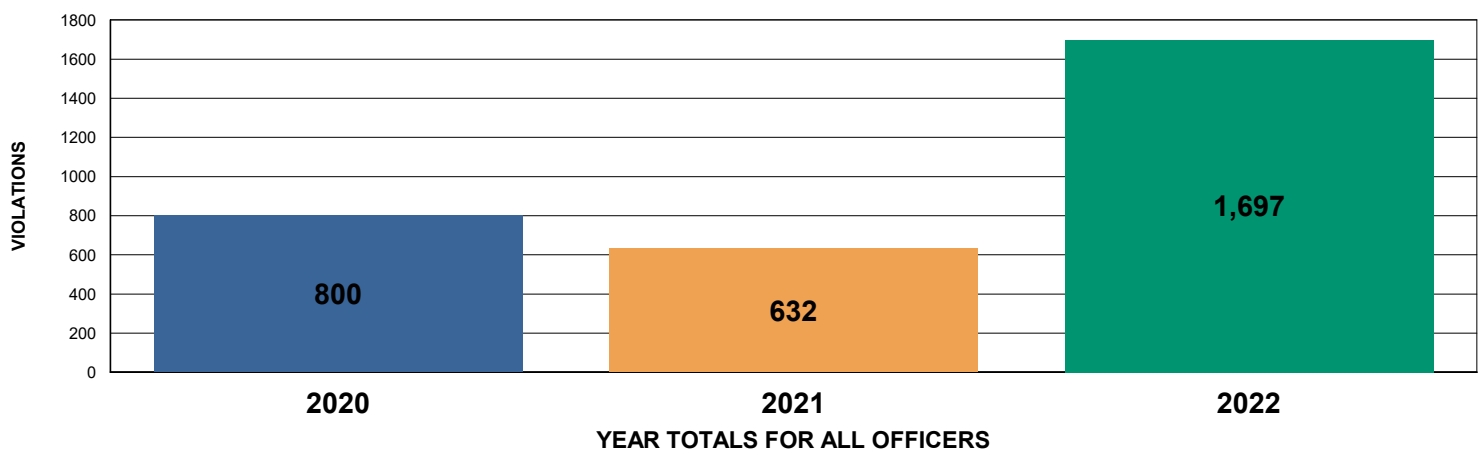
8/10/2022

Ordinance Discription	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
Animal Complaint	39	53	53	67	48	66	50	<b>376</b>
Ordiinance - Abate/Nuisances	2	5	11	6	3	0	1	<b>28</b>
Ordinance - Abandoned Vehicles	38	34	59	36	31	25	55	<b>278</b>
Ordinance - Abate Graffiti	13	48	18	38	14	15	5	<b>151</b>
Ordinance - Land Use Violations	1	0	0	0	0	0	0	<b>1</b>
Ordinance - Oth Violation	135	58	110	58	45	31	33	<b>470</b>
Ordinance - Tall Grass	1	0	0	1	241	83	67	<b>393</b>
<b>2022 Total</b>	<b>229</b>	<b>198</b>	<b>251</b>	<b>206</b>	<b>382</b>	<b>220</b>	<b>211</b>	<b>1,697</b>
<b>2021 Total</b>	<b>51</b>	<b>66</b>	<b>83</b>	<b>96</b>	<b>115</b>	<b>101</b>	<b>120</b>	<b>632</b>
<b>2020 Total</b>	<b>109</b>	<b>121</b>	<b>97</b>	<b>80</b>	<b>156</b>	<b>123</b>	<b>114</b>	<b>800</b>

### Ordinance Violations / Code Enforcement Officers



### Ordinance Violations / Year



August 22, 2022

TO: Honorable Mayor and City Council

FROM: Renata Wakeley, Special Projects Director

SUBJECT: **Adoption of Resolution of Non-Discrimination, and updated Limited English Proficiency (LEP) Language Access Plan and Section 3 Plan**

**RECOMMENDATION:**

Adopt a Resolution updating the City's Policy of Non-Discrimination on the Basis of Disability Status, updating the City's Limited English Proficiency (LEP) Language Access Plan, and updating the City's Section 3 Plan.

**BACKGROUND:**

The City applied for and secured federal Housing and Urban Development (HUD) grant funding through the Community Development Block Grant (CDBG) COVID-19 Impact Assistance (CV-2) program funds to support the reconstruction of the AWARE Food Bank. Federal program rules require that for the City to expend CDBG funding, it must adopt a policy of non-discrimination, policies addressing the needs of individuals with Limited English Proficiency (LEP) language skills, and a policy/plan related to Section 3 compliance providing opportunities to recruit, target, and direct economic opportunities to Section 3 residents and businesses.

In seeking previous rounds of HUD funding in 2013 and 2020, the City adopted LEP Plans via Resolutions 2034 and 2150. The current LEP Plan and Resolution presented to you provides updated census data relied upon to support the associated policies.

While the City already had an adopted policy related on Non-Discrimination on the Basis of Disability Status, staff was unable to locate a more recent publication of the policy than a 2003 version with outdated contact information. Staff is seeking adoption of the attached updated policy, to be published in compliance with CDBG program rules.

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Agenda Item Review: City Administrator ☒ City Attorney ☒ Finance ☒

Since the City's last CDBG award and previously adopted Section 3 plan, HUD has updated the Section 3 policies and requirements and our previous Section 3 plan no longer complies. The general purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended, requires the recipients of HUD funding to ensure that employment and other economic and business opportunities generated by HUD financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons. The attached Section 3 plan is found to comply with the current guidance.

**DISCUSSION:**

Updating the Limited English Proficiency (LEP) and Non-Discrimination policies require no new action or program policies of the City or staff, but simply update the information to ensure we maintain compliance with the guidelines. The City will review the policies periodically against new Census data, or as needs arise, to identify any changes that may need to be made.

The updated Section 3 plan, if adopted, does expand the requirements of the City to include, but not limited to: notifying Section 3 workers, contractors, and businesses about training, employment, and contracting opportunities generated by the CDBG funding; incorporating the Section 3 clauses into all CDBG solicitations and contracts; assisting contractors in complying with Section 3 reporting requirements and documenting actions to comply with Section 3, etc.

**FINANCIAL IMPACT:**

The City already has a comprehensive program to provide translation services to LEP individuals, and an adopted policy related on Non-Discrimination on the Basis of Disability Status and Section 3 plan. These updates to the policies and plan documents are not expected to require considerable changes in City operations or practices that would otherwise have a significant financial or budgetary impact.

**COUNCIL BILL NO. 3196**

**RESOLUTION NO. 2197**

**A RESOLUTION ADOPTING AN UPDATED SECTION 3 PLAN TO COMPLY WITH 24 CFR, PART 135 OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 3 REGULATIONS; A LIMITED ENGLISH PROFICIENCY (LEP) LANGUAGE ACCESS PLAN; A POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY STATUS; AND REPEALING PREVIOUSLY ADOPTED PLANS AND POLICIES**

**WHEREAS**, the City has been the recipient of certain Community Development Block Grant (CDBG) funding awards that provide financial resources from the U.S. Department of Housing and Urban Development (HUD) for a wide range of community development activities; and

**WHEREAS**, as a part of receiving CDBG grant funds, the City must adopt and adhere to certain federal program plans and policies; and

**WHEREAS**, as part of previous CDBG funding years, the City has adopted earlier versions of a Section 3 Plan, an LEP Plan, and a Policy of Nondiscrimination on the Basis of Disability Status, but recognizes that those plans should be updated and newly adopted as part of a recent CDBG CV-2 grant award (AWARE Food Bank Project); and

**WHEREAS**, the United States Congress passed Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) to further the goal of ensuring that federal funds benefit the residents of projects funded wholly or in part by those funds; and

**WHEREAS**, the City of Woodburn has developed a Section 3 Plan in adherence to 24 CFR, Part 135 that more comprehensively addresses the standards and procedures prescribed in the Act; and

**WHEREAS**, the Section 3 Plan has been reviewed by the City of Woodburn staff and legal counsel and their comments incorporated into the Plan; and

**WHEREAS**, as a recipient of federal financial assistance as it relates to the needs of individuals with Limited English Proficiency (LEP) language skills, the City of Woodburn is also required for purposes of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq, and its implementing regulations to develop a plan for meeting the needs of individuals with LEP language skills; and

**WHEREAS**, the attached Limited English Proficiency (LEP) Language Access Plan provides updated guidance to the City of Woodburn in meeting the needs of individuals with Limited English Proficiency language skills; and

**WHEREAS**, to comply with Section 504 of the Federal Rehabilitation Act of 1973 and the Americans with Disabilities Act, the City must adopt and periodically publish a Policy of Non-Discrimination on the Basis of Disability Status, **NOW, THEREFORE**,

**THE CITY RESOLVES AS FOLLOWS:**

**Section 1. Section 3 Plan.** The City Council adopts and implements an updated the Section 3 Plan to ensure compliance with Federal Law and Community Development Block Grant project standards and designates the City Administrator, or person designated by the City Administrator, as the Section 3 Coordinator for the City of Woodburn. The Section 3 Plan is attached to this Resolution as Exhibit A and is incorporated herein by reference.

**Section 2. LEP Language Access Plan.** The City Council adopts and implements the LEP Language Access Plan to ensure compliance with Federal Law and Community Development Block Grant project standards and to provide guidance to City staff in meeting the needs and planning to assist individuals with limited English proficiency. The LEP Plan is attached to this Resolution as Exhibit B and is incorporated herein by reference.

**Section 3. Policy of Non-Discrimination on the Basis of Disability Status.** The City Council adopts and re-publishes the Policy of Non-Discrimination on the Basis of Disability Status. Such policy is attached to this Resolution as Exhibit C and is incorporated herein by reference.

**Section 4. Repeal.** Where the City has adopted previous iterations of the above identified plans and policies, including through Resolutions No. 2034 and 2150, those policies are hereby repealed and replaced by the above adopted versions.

**Section 5. Title VI Program.** The City's Title VI Program specific to the Woodburn Transit System and adopted September 25, 2017, remains in effect.

Approved as to form: \_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

Approved: \_\_\_\_\_  
Eric Swenson, Mayor

Passed by the Council	_____
Submitted to the Mayor	_____
Approved by the Mayor	_____
File in the Office of the Recorder	_____

ATTEST: \_\_\_\_\_  
Heather Pierson, City Recorder  
City of Woodburn, Oregon



## SECTION 3 PLAN

### **1. General Policy Statement**

It is the policy of the City of Woodburn to require its contractors to make a good faith effort to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

The City of Woodburn (hereinafter "CITY") implements this policy through the awarding of Community Development Block Grant program contracts to construction contractors and subcontractors, vendors, professional service providers/consultants and suppliers (hereinafter "CONTRACTOR") to create employment and business opportunities for residents of the City of Woodburn and other qualified low- and very low-income persons.

The policy will ensure that, in good faith, the CITY will have a reasonable level of success in the recruitment, employment, and utilization of Section 3 workers, Targeted Section 3 workers or other eligible persons and Section 3 business concerns working on contracts *partially or wholly funded* with the United States Department of Housing and Urban Development (HUD) monies. The CITY shall examine and consider a CONTRACTOR'S potential for success by providing employment and business opportunities to Section 3 eligible residents and business concerns prior to acting on any proposed contract award.

### **2. Background**

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC 1701u) (Section 3) requires that recipients of HUD-funding exceeding \$200,000 ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and Local laws and regulations, be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to such persons.

Section 3 is applicable when the normal completion of construction and rehabilitation projects creates the need for employment, contracting, or training opportunities. If the expenditure of

covered funding does not result in new employment, contracting, or training opportunities, the requirements of Section 3 are not applicable.

As a recipient of HUD Community Development Block Grant (CDBG) funds through the Oregon Business Development Department (OBDD), the CITY certifies that it will make good faith efforts, including the preference to contract with businesses that employ Section 3 workers and Targeted Section 3 workers from the local community, to comply with the requirements of Section 3. These same requirements apply to all contractors or subcontractors that receive contracts in excess of \$200,000 for Section 3 eligible projects.

HUD's Section 3 regulations can be found at 24 CFR 75.

### **3. Eligible Projects**

All projects and activities involving housing construction, demolition, rehabilitation, or other public construction, such as roads, sewers, community centers, et cetera, that are completed with HUD Community Planning and Development funding are subject to the requirements of Section 3.

### **4. Section 3 Workers and Businesses**

A Section 3 Worker is any worker who currently fits, or when hired within the past five years fit, at least one of the following:

1. The worker's income for the previous or annualized calendar year is below the income limit established by HUD;
2. The worker is employed by a Section 3 business concern; or
3. The worker is a YouthBuild participant

A Targeted Section 3 Worker for Housing and Community Development Financial Assistance projects, is a Section 3 worker who:

1. Is employed by a Section 3 business concern; or
2. Currently fits, or when hired fits, at least one of the following categories, as documented within the past five years:
  - a. Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5; or
  - b. Document the employee is a resident of a public housing complex or is a recipient of a Section 8 housing voucher.
  - c. Is a YouthBuild participant.

In accordance with the regulation, workers seeking Section 3 preference shall certify, and/or submit evidence to the CITY or CONTRACTOR, verifying that they meet the definitions provided above.

To be considered a Section 3 Business Concern, at least one of the following criteria must apply as documented within the last six-month period:



1. At least 51 percent owned and controlled by low-or very low-income persons;
2. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
3. A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

## **5. Best Effort or Good Faith Effort**

At a minimum, the following tasks must be completed to demonstrate a “best effort or good faith effort” with the requirements of Section 3. The CITY and CONTRACTOR’S/SUBCONTRACTOR’S seeking to establish a “best effort or good faith effort” as required should be filling all training positions with qualified Section 3 persons residing in the target area. The following are examples of how to meet the “best effort or good faith effort” requirements.

1. Send notices of job availability subcontracting opportunities subject to these requirements to recruitment source organizations, local public housing authority, and any other community groups capable of referring eligible Section 3 applicants, including WorksSource Oregon.
2. Include in all solicitations and advertisements a statement to encourage eligible qualified Section 3 residents or eligible businesses to apply.
3. When using a newspaper of major circulation to request bids/quotes or to advertise employment opportunities to also advertise in minority-owned newspapers.
4. Maintain a list of all residents from the target area who have applied either on their own or by referral from any service, and employ such persons, if otherwise qualified for the position and if a trainee position exists. (If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy). A list of eligible applicants will be maintained for future vacancies.

## **6. Section 3 Contracting Policy and Procedure**

**Section 3 residents must meet the minimum qualifications of the position to be filled and a Section 3 Business Concern must have the ability to and capability to perform successfully under the terms and conditions of the proposed contract.**

The CITY will incorporate Section 3 into all solicitations for project proposals that are funded in part or in whole with HUD monies. The Section 3 contract clause (see Exhibit 2) specifies the requirements for CONTRACTOR’S hired for Section 3 covered projects and shall be included in all CITY bid solicitations and requests for proposals for projects whose funding is derived from HUD and involves housing construction, demolition, rehabilitation, or other public construction.

Section 3 workers must meet the minimum qualifications of any position to be filled. Any worker seeking Section 3 preference should register with the CITY or CONTRACTOR by submitting the certification form in Exhibit 3. Contractor should have all workers on a project submit the certification form to support required reporting of labor hours.

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with the CITY should follow the steps at <https://hudapps.hud.gov/OpportunityPortal/> to register their business in HUD's Section 3 Business Registry. Section 3 businesses must meet minimum qualifications, including prequalification with the CITY, and have the ability and capacity to perform successfully under the terms and conditions of the proposed contract.

The CITY will, to the greatest extent possible, offer contracting opportunities to business concerns that provide economic opportunities to Section 3 workers residing within the county in which the project is located. However, in the event that no Section 3 businesses bid on the contract, or bids but is not able to demonstrate to the CITY that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business that can meet the terms and conditions of the proposed contract through the competitive bidding process. That business concern must meet the general conditions of compliance with Section 3. This will include:

1. Requiring employees working on the project to submit a certification form (Exhibit 3).
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.
3. To the greatest extent possible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 workers.
4. As positions are vacated during completion of contract, following guidelines enumerated in numbers 2 and 3 above.
5. Submitting Compliance Reports to the CITY as required (see Exhibit 4 for details on CONTRACTOR requirements).
6. If notified of non-compliance, correcting non-compliance within allowable time period.

The CITY and their covered contractors, subcontractors, professional service providers/consultants or subrecipients subject to Section 3 requirements, will in good faith comply with the requirements of Section 3 for employment, training, or contracting opportunities resulting from the expenditure of HUD funding. For projects with HUD funding, the CITY responsibility includes:

1. Advertise contracting opportunities via newspaper, mailings, and posting notices about the work to be contracted and where to obtain additional information.
2. Provide notice of employment and contracting opportunities, or require CONTRACTOR to do so, to all known Section 3 business concerns or workers within the City of Woodburn. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.
3. Include in all solicitations a statement to encourage eligible Section 3 businesses to apply.
4. Assist and actively cooperate with the Business Oregon to ensure contractors and subcontractors comply with Section 3.
5. Refrain from entering into contracts with contractors or subcontractors that are in violation of Section 3 regulations.

6. Inform businesses that they can use the Work Source Oregon -First Source Hiring Agreement in complying with the Section 3 requirements.
7. Document actions taken to comply with Section 3 and submitting necessary documentation to Business Oregon.

**7. The CONTRACTOR will be responsible for the following:**

1. Include Section 3 requirements in all subcontracts and requiring subcontractors to submit worker certification forms and compliance reports as required (see Exhibit 4 for more details).
2. To the greatest extent possible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 workers.
3. If a position is necessary to complete contractual task is vacated during the contract period, CONTRACTOR's certification that, to the greatest extent possible, that vacancies will be filled pursuant to item 2 above.
4. Submitting worker certification forms and compliance reports as required.
5. If notified of non-compliance, will correct issues of non-compliance within the allowable time period.

**8. Section 3 Benchmarks**

The CITY has established employment goals in order to comply with Section 3 requirements. For housing and community development financial assistance projects, the benchmark for Section 3 workers is set at 25 percent or more of the total number of labor hours worked by all workers on a Section 3 project. The benchmark for Targeted Section 3 workers is set at 5 percent or more of the total number of labor hours worked by all workers on a Section 3 project. This means that the 5 percent is included as part of the 25 percent threshold.

These benchmarks will require the CONTRACTOR to identify existing workers and new hires who meet the definition of a Section 3 worker or Targeted Section 3 worker (see Exhibit 1 for definitions) and to track hours of all employees throughout the project. The CITY will require that CONTRACTOR provide documentation to demonstrate compliance, including documentation that shows worker certification, hours worked by Section 3 workers, Targeted Section 3 workers, and any qualitative efforts to comply with Section 3 (see Exhibits 3 and 4).

It is the responsibility of the CONTRACTOR to implement progressive efforts to attain Section 3 compliance. If the CONTRACTOR fails to meet the benchmarks above, they bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable the state to make a compliance determination (see Exhibit 4). All firms submitting bids or proposals are required to certify that they will comply with the requirements of Section 3.

Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment, suspension, or limited denial of participation in HUD programs pursuant to 24 CFR Part 24.

## **9. Monitoring and Enforcement**

The function of monitoring and enforcing these provisions will be carried out by the City's project manager for each HUD-funded construction project. During the pre-bid or pre-construction meetings between the CITY and CONTRACTOR, the CITY's Section 3 Policy will be provided again to the CONTRACTOR for inclusion in contract documents. The following contract requirements will be discussed in detail:

1. Prevailing wage rates (Davis-Bacon or BOLI, whichever is higher)
2. Minority and woman-owned businesses
3. Section 3 hiring requirements

Each representative will define specific functional requirements and require the CONTRACTOR to certify its understanding of the terms and conditions of the contract as it applies to the aforementioned requirements.

## **10. Section 3 Complaint Procedure**

The CITY will make every effort to resolve complaints generated from alleged non-compliance through an internal process. The CITY encourages submittal of non-compliance complaints to its Section 3 Coordinator as follows:

1. Submit to: Scott Derickson, City Administrator, (PH): 503-982-5230 (EMAIL): [scott.derickson@ci.woodburn.or.us](mailto:scott.derickson@ci.woodburn.or.us) and CITY Attorney.
2. Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 75.
3. Complaints must be filed within thirty calendar days after the complainant becomes aware of the alleged violation.
4. An investigation will be conducted if complaint is found to be valid. The Section 3 Coordinator will conduct an informal but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
5. The Section 3 Coordinator will provide written documentation detailing the findings of the investigation to the City Attorney. The CITY Attorney will review the findings for accuracy and completeness before it is released to the complainants. The findings will be made available no more than thirty days after the complaint is filed with the CITY.

If complainants wish to have their concerns considered outside the CITY internal procedure, a complaint may be filed with:

United States Department of Housing and Urban Development Community Planning and Development  
Region X Field Office

1220 SW 3rd Avenue, Suite 400  
Portland, OR 97204-2830

The complaint must be received no later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended for good cause shown.

Adopted: August 2022

## **EXHIBIT 1 - Definitions**

**Assistant** – the Assistant Secretary for Fair Housing and Equal Opportunity.

**Business Concern** – a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

**Contractor** -any entity which contracts to perform work generated the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Employment Opportunities Generated by Section 3 Covered Assistance** – all employment opportunities generated by the expenditure of Section 3 covered public assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 75.3 (a) (1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 75.3 (a) (2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, et cetera.

**Housing Authority** (HA) – Public Housing Agency.

**Housing Development** – low-income housing owned, developed, or operated by public housing agencies in accordance with HUD's public housing program regulations codified in 24 CFR Chapter IX.

**HUD Youthbuild Programs** – programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

**JTPA** – The Job Training Partnership Act (29 U.S.C. 1579 (a)).

**Low-income person** – households (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by HUD, with adjustments for smaller and larger households,.

**Metropolitan Area** – a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

**New Hires** – full-time employees for permanent, temporary or seasonal employment opportunities.

**Recipient** – any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State unit of local government, PHA, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

**Section 3** – Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

**Section 3 Business Concern** – a business that meets at least one of the following criteria, documented within the last six-month period:

- 1) At least 51 percent or more owned by Section 3 resident (PHA resident, Section 8 recipient, or low income person living in the community): or
- 2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- 3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 above.

**Section 3 Covered Assistance** –

- 1) Public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- 2) Public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- 3) Public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- 4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

**Section 3 Clause** – the contract provisions set forth in Section 75.

**Section 3 Covered Contracts** – a contract or subcontract awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

**Section 3 Covered Project** -the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public

construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

**Section 3 Worker** – a public housing resident or an individual who resides in the identified service area or nonmetropolitan county in which the Section 3 covered assistance is expended and who is considered to be a low-to very low-income person.

**Service Area** – A one mile radius or 5000 in population of the project site.

**Subcontractor** – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance or arising in connection with a Section 3 covered project.

**Targeted Section 3 Worker -for Housing and Community Development Financial Assistance projects, is a Section 3 worker who:**

- 1) Is employed by a Section 3 business concern; or
- 2) Is a Section 3 worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
  - a. Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5; or
  - b. A YouthBuild participant.
  - c. Resident of public housing or recipient of a Section 8 housing voucher.

**Low-income person** – families (including single persons) whose income do not exceed 50 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families.



### **Exhibit 2- Section 3 Clause**

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 Clause):

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.

- F. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. Contractor shall complete THE REQUIRED Section 3 report within the timeline identified by the CITY or at a minimum with the final construction pay estimate for the project.

**Exhibit 3**  
**Section 3 – Worker Certification Form**

**Eligibility for Preference**

A Section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, that the person is a Section 3 resident, as defined in Section 75. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

**Part 1. Residents of Marion County, Oregon**

I, (print name) \_\_\_\_\_, am a legal resident of the City of Woodburn/Marion County and certify that I meet the income eligibility guidelines for a low-or very-low-income person.

My \_\_\_\_\_ permanent \_\_\_\_\_ address \_\_\_\_\_ is:

**Part 2. Income Status (to be completed by all workers)**

Check the number of persons in your household.

☐ 1    ☐ 2    ☐ 3    ☐ 4    ☐ 5    ☐ 6    ☐ 7    ☐ 8

**Annual Gross Income:**

**Check the appropriate box for your household's annual total gross income before taxes for the most recent tax reporting year. (Income will need to be updated per COUNTY).**

<https://www.huduser.gov/portal/datasets/il/il2020/2020summary.odn>

<input type="checkbox"/>	\$0 - \$44,300	<input type="checkbox"/>	\$63,251 - \$68,350
<input type="checkbox"/>	\$42,301 - \$50,600	<input type="checkbox"/>	\$68,351 - \$73,400
<input type="checkbox"/>	\$50,601 - \$56,950	<input type="checkbox"/>	\$73,401 - \$78,450
<input type="checkbox"/>	\$56,951 - \$63,250	<input type="checkbox"/>	Above \$78,451

I have attached the following documentation as evidence of my status:

- a. Copy of lease demonstrating proof of residency in a public housing development.
- b. Copy of receipt of public assistance such as a Section 8 certificate or voucher.
- c. Copy of evidence of participation in a public assistance program such as Youthbuild, JTPA, Jobs Corps, et cetera.
- d. Income tax records.
- e. Other: \_\_\_\_\_

I certify that the above information is accurate and is subject to verification by government officials.

*By executing this certification, I acknowledge and understand that Title 18 United States Code Section 1001: (1) makes it a violation of federal law for a person to knowingly and willfully (a) falsify, conceal, or cover up a material fact; (b) make any materially false, fictitious, or fraudulent statement or representation; OR (c) make or use any false writing or document knowing it contains a materially false, fictitious, or fraudulent statement or representation, to any branch of the United States Government; and (2) requires a fine, imprisonment for not more than five (5) years, or both, which may be ruled a felony, for any violation of such Section.*

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

### **Exhibit 4 - Certification for Business Concerns Seeking Section 3 Preference**

**Name of Business:** \_\_\_\_\_

**Address of Business:** \_\_\_\_\_

**Type of Business:**

- ☐ Corporation      ☐ Partnership  
☐ Sole Proprietorship      ☐ Joint Venture

**Attached is the following documentation as evidence of status:**

\_\_\_\_ For business claiming status as a Section 3 resident owned enterprise:

- ☐ Copy of resident lease ☐ Copy of receipt of public assistance  
☐ Copy of evidence of participation in public assistance ☐ Other evidence

\_\_\_ For business entity as applicable:

- ☐ Copy of articles of Incorporation
 ☐ Certificate of Good Standing  
☐ Assumed Business Name Certificate
 ☐ Partnership Agreement  
☐ List of owners/stockholders and % ownership of each
 ☐ Corporation Annual Report  
☐ Latest Board minutes appointing officers  
☐ Organizational chart with names and titles and brief function statement  
☐ Additional documentation: \_\_\_\_\_

\_\_\_ For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:

- ☐
- List of subcontracted Section 3 business(es) and subcontract amount

\_\_\_ For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- ☐ List of all current full-time employees
- ☐ List of all employees claiming Section 3 status
- ☐ PHA/IHA Residential lease less than 3 years from day of employment
- ☐ Other evidence of Section 3 status less than 3 years from date of employment
- ☐ Evidence of availability to perform successfully under the terms and conditions of the proposed contract:
  - ☐ Current financial statement
  - ☐ Statement of ability to comply with public policy
  - ☐ List of owned equipment
  - ☐ List of all contracts for the past two years

Authorizing Name and Signature

(Corporate Seal)

### **Exhibit 5- Section 3 Requirements for Contractors**

The purpose of Section 3 is to ensure that jobs and economic opportunities generated by HUD financial assistance for housing and community development programs shall be directed to low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns which provide economic opportunities to low and very low income persons. Contractors can use HUD's Section 3 Business Registry (<https://hudapps.hud.gov/OpportunityPortal/>) to find Section 3 business concerns in the area. In addition, it is advised that contractors make Disadvantaged Business Enterprises (DBEs) aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. This will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources. The following sites may be of assistance for locating DBEs:

- Oregon directory of certified firms at Certification Office of Business Inclusion and Diversity <https://www.oregon.gov/biz/programs/COBID/Pages/default.aspx>
- Federal System for Award Management at [www.sam.gov/](http://www.sam.gov/)
- Minority Business Development Agency, US Dept. of Commerce at <http://www.mbda.gov/>
- EPA's Office of Small Business Programs at [www.epa.gov/osbp/](http://www.epa.gov/osbp/)
- U.S. Department of Transportation at <https://www.transportation.gov/civil-rights/disadvantagedbusiness-enterprise>

Contractors on HUD funded projects are required, to the greatest extent possible, to make available vacant positions, including training and/or apprenticeship positions, to Section 3 workers. If a position necessary to complete the project is vacated during the contract period, the contractor will make best efforts to fill the vacancies with Section 3 workers.

Contractors are also required, to the greatest extent feasible, to achieve the benchmarks required for the number of labor hours performed by both Section 3 workers (25% of total labor hours) and Targeted Section 3 workers (5% of total labor hours). If a contractor fails to fully meet the Section 3 benchmarks, they must adequately document the efforts taken to meet the benchmarks.

If a prime contractor is unable to satisfy the Section 3 worker and Targeted Section 3 worker benchmarks, the requirements may be satisfied through any subcontractors that may be involved in the project. It is the responsibility of the prime contractor to include Section 3 requirements in all subcontracts and require subcontractors to submit documentation.

Contractors will need to have employees working on the project complete the certification form in Exhibit 3. To determine if a worker qualifies as a Section 3 worker or Targeted Section 3 worker, compare the annual gross income and number of persons reported on the form in Exhibit 3 to the income limits located at <https://www.huduser.gov/portal/datasets/il/il2020/2020summary.odn> identified by county where the project will be completed. A Targeted Section 3 worker must meet the income limits and reside in the county of the project.

Certification forms, along with a compliance report, will be submitted to the project owner on a quarterly basis throughout the contract period. A template report is included below. The quarterly report shall be submitted no later than 10 days after the end of each calendar quarter of the contract (e.g., April 10 for calendar quarter January 1 to March 31). The report must include details of labor hours worked by Section 3 workers, Targeted Section 3 workers, and all workers. If section 3 benchmarks are not met, the report should document 'Good Faith Efforts' as described in the included form. The report should include any documentation showing Section 3 worker eligibility and records of qualitative efforts (such as a copy of a job posting or solicitations sent to employment agencies).

**Section 3 Contractor Quarterly Status Report**  
**Submit to Project Owner**

<b>Project Title:</b>			
<b>Contractor:</b>			
<b>Contact Person:</b>		<b>Phone:</b>	
<b>Local Contract / Agreement #:</b>		<b>Dates of work reported:</b>	

**Labor Hours Worked**

Job Title	All Employees	By Section 3 Workers*	% Section 3 Worker Hours	Targeted Section 3 Workers	% Targeted Section 3 Worker Hours
<b>Totals:</b>					

\*Note: The labor hours for Targeted Section 3 workers should be included in the labor hours reported for Section 3 workers as well.

Attach employee certification forms showing eligibility as Section 3 or Targeted Section 3 workers if such documentation has not been submitted previously.

**Were Section 3 benchmarks met?**

25% of total labor hours worked by Section 3 workers \_\_\_ Yes      \_\_\_ No

5% of total labor hours worked by Section 3 Targeted workers \_\_\_ Yes      \_\_\_ No

If NO for either benchmark, please describe 'Good Faith Efforts' in the form below. Attach any associated information.



**Project Name:** \_\_\_\_\_

**Project No:** \_\_\_\_\_

**Type of Service Solicited:**

☐ Construction Contractor

☐ Construction Sub-Contractor

☐ Employee

☐ Other: \_\_\_\_\_

<b>Best Effort or Good Faith Efforts</b>	<b>Did you pursue this effort? (yes or no)</b>	<b>If <b>yes</b>, please explain what you did and attached supporting documentation. If <b>no</b>, please explain why this effort is not being pursued.</b>
Ensure Section 3 business concerns are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. Arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Section 3 business concerns.		
Divide contracts into smaller jobs to facilitate participation by Section 3 business concerns.		
Promote use of business registries designed to create opportunities for disadvantaged and small businesses.		
Engage in outreach efforts to generate job applicants who are Section 3 or Targeted Section 3 workers, including providing notices of any vacant positions, including		

training and/or apprenticeship positions, and details on qualifications, where applications will be received and starting date of employment to the Section 3 Coordinator for the project owner.		
Provide training or apprenticeship opportunities.		
Other efforts:		



## LIMITED ENGLISH PROFICIENCY LANGUAGE ACCESS PLAN

This Limited English Proficiency (LEP) Language Access Plan (LAP) addresses City of Woodburn’s responsibilities as a recipient of federal financial assistance as it relates to the needs of individuals with limited English proficiency language skills. U.S. Department of Housing and Urban Development defines limited English proficient as persons are who, as a result of national origin, do not speak English as their primary language and who have a limited ability to speak, read, write or understand.<sup>i</sup> Limited English proficiency refers to anyone above the age of 5 who reported speaking English less than “very well,” as classified by the U.S. Census Bureau. For purposes of Title VI and the LEP Guidance, persons may be entitled to language assistance with respect to a particular service, benefit or encounter. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq, and its implementing regulations which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

Executive Order 13166, titled “Improving Access to Services for Persons with Limited English Proficiency,” indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national original discrimination. It directs each agency to publish guidance for its respective recipients clarifying their obligation to ensure such discrimination does not take place. This order applies to all state and local agencies which receive federal funds, including the City of Woodburn.

The City of Woodburn referenced the most current data from U.S. Census Bureau’s American Community Survey (below) and utilized both the Four-Factor LEP Analysis for Meaningful Access and Safe Harbor Test for Written Translation Services to prepare this plan.

### 1. INTRODUCTION

The City of Woodburn is located in Marion County, Oregon. According to American Community Survey (ACS) 5-year estimates for 2015-2020<sup>1</sup>, the City of Woodburn had a total population of 26,008, with 24,207 persons that are 5 years of age or older, and a population of 18,604 that are 18 years of age and older. The City encompasses a multitude of services including the Public

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<sup>1</sup> American Community Survey Demographic and Housing Estimates, <https://data.census.gov/> July 2022.

Works Department, the Woodburn Public Library and Aquatic Center, Community and Economic Development, and the Mayor's Office and City Council.

Table 1.1 below identifies languages spoken at home by Woodburn residents. The most recent Census data available for Language Spoken at Home from the ACS covers 2015-2020.

**Table 1: Language Spoken at Home - Woodburn, Oregon – 2015-2020**

SUBJECT	NUMBER	PERCENT
Population 5 years and over	24,207	
Speak only English	11,091	45.8%
Speak a language other than English	13,116	54.2%
Spanish	12,226	50.5%
Other Indo-European languages	693	2.9%
Asian and Pacific Island languages	155	0.6%

Source: U.S. Census Bureau, American Community Survey 5-Year Estimates, ACS Table B16001

## **2. FOUR FACTOR ANALYSIS FOR MEANINGFUL ACCESS**

Recipients are required to take reasonable steps to ensure meaningful access to LEP persons through the four-factor analysis. This "reasonableness" standard intends to be flexible and fact-dependent. It also intends to balance the need to ensure meaningful access by LEP persons to critical services while not imposing undue financial burdens on small businesses, small local governments, or small nonprofit organizations. As the City of Woodburn encompasses a variety of services, application of the Four-Factor analysis varies depending on the specific service.

As a starting point, a recipient may conduct an individualized assessment that balances the following four factors:

1. The number or proportion of LEP persons served or encountered in the eligible service population ("served" or "encountered" includes those persons who would be served or encountered by the recipient if the persons received adequate education and outreach and the recipient provided sufficient language services):

*According to ACS 5-year estimates, an estimated 50.5 percent (12,226 persons) of the population over the age of five (5) in Woodburn reported speaking Spanish at home. In addition, an estimated 2.9 percent (693 persons) of the population over the age of five (5) in Woodburn speak other Indo-European languages and 0.6 percent (155 persons) speak Asian and Pacific Island languages.*

*According to the 'Safe Harbor' Guidelines provided in Table 2 below, for any language population that constitutes more than 5% of the population or 50 or more persons in the*

*eligible population, it is recommended that all vital documents for City services are or can be provided as translated documents in that language.*

*As Spanish speakers, Indo-European, and Asian or Pacific Island speakers can be considered LEP populations under these guidelines, the City of Woodburn is required to provide translation services for any vital documents under the 'Safe Harbor' guidelines to non-English LEP individuals. Table 2 summarizes Safe Harbor guidelines for written translations.*

**Table 2: "Safe Harbors" for Written Translations**

SIZE OF LANGUAGE GROUP	RECOMMENDED PROVISION OF WRITTEN LANGUAGE ASSISTANCE
1,000 or more in the eligible population in the market area or among current beneficiaries	Translated vital documents
More than 5% of the eligible population or beneficiaries and more than 50 in number	Translated vital documents
More than 5% of the eligible population or beneficiaries and 50 or less in number	Translated written notice of right to receive free oral interpretation of documents.
5% or less of the eligible population or beneficiaries and less than 1,000 in number	No written translation is required.

Source: Oregon Business Development Department, Community Development Block Grant (CDBG) "Grant Management Handbook" (2020), Chapter 7, page 19.

2. The frequency with which LEP persons come into contact with the program:

*The City's programs and/or services are to benefit the entire population of the City of Woodburn. The City encompasses a multitude of services, including City Hall, City Parks, Library and Community Center, and Public Works/Infrastructure services, which can including registration to access services and billings associated with utilities and other services. Those interested in the learning more about the City's programs or projects are encouraged to attend City Council meetings, access the City's website, or request information at City Hall.*

*The City of Woodburn provides vital written documents and information on their website in English, Spanish, Russian, and Chinese languages. In addition, the City commits to and provides other language translation services, sign language, hearing, speech or other translation services as requested via bi-lingual employees/staff who are available during normal business hour and a contract with the translation service "Language Line".*

3. The nature and importance of the program, activity, or service provided by the program:

*The program, activities and services provided by the City serves all residents. The City of Woodburn provides vital written documents and information on their website in English, Spanish, Russian, and Chinese languages. In addition, the City commits to and provides other language translation services, sign language, hearing, speech or other translation*

*services as requested via bi-lingual employees/staff who are available during normal business hour and a contract with the translation service "Language Line".*

4. The resources available and costs to the recipient:

*The City of Woodburn has sufficient staff capacity at City Hall and the Public Works Department and vital documents are available in Spanish and Russian. Upon request. the City also commits to provide other language translation services, sign language, hearing, speech or other translation services as requested via bi-lingual employees/staff who are available during normal business hour and a contract with the translation service "Language Line".*

FOUR FACTOR ANALYSIS DETERMINATION: The City shall make sure that all notices provide for access to public meeting spaces and provide for the availability of translation services, if requested. Said notices will be provided in English and Spanish and Russian and staff has developed model text to include in future agendas and notices regarding this project.

*Based on the four-factor analysis for meaningful access, the City provides text translation in Spanish, Chinese, and Russian, and other languages upon request, on all public notices and newsletters and other applicable forms that the City of Woodburn has jurisdiction over via their website. Upon request. the City also commits to provide other language translation services, sign language, hearing, speech or other translation services as requested via bi-lingual employees/staff who are available during normal business hour and a contract with the translation service "Language Line".*

### **3. IMPLEMENTATION PLAN**

#### Language Services Available

##### **Written Translations**

Safe Harbor: Housing and Urban Development, in its final guidance for providing program access to LEP individuals, has detailed a 'Safe Harbor' where providing a certain level of translated materials for a LEP population of a specified size will "be considered strong evidence of compliance with the recipient's written translation obligations." According to the 'Safe Harbor' Guidelines for written language assistance, any language population that constitutes more than 5-percent of the eligible population or beneficiaries and/or 50 person or more in number is required to provide written translations of vital documents.

*The City of Woodburn determines that, in regards to its LEP language populations, Spanish, Russian, and Chinese LEP populations are at 5 percent or more or 50 persons or more, and thus translated vital documents is required. Therefore, City of Woodburn is required to provide written translation to these LEP individuals as identified in the 'Safe Harbor' guidelines. The City of Woodburn will use, when there is difficulty determining this language spoken, Language Identification Cards created by the U.S. Census Bureau.*

Vital Documents: *The City of Woodburn provides text translation in Spanish, Chinese, and Russian, and other languages upon request, on all public notices and newsletters and other applicable forms that the City of Woodburn has jurisdiction over via their website.*

### **Oral Interpretation**

Staff Obtainment of Language Services: *Staff needing translation services will contact Heather Pierson, City Recorder, who will refer staff to community liaisons proficient in the language. In addition, the City of Woodburn will use, when there is difficulty determining this language spoken, Language Identification Cards created by the U.S. Census Bureau.*

Procedure for LEP Callers: Upon request the City also commits to provide sign language, hearing, speech or other translation services including referrals to community liaisons proficient in providing services to LEP persons.

### **Procedure for Written Communication with LEP Individuals**

Upon request the City also commits to provide sign language, hearing, speech or other translation services including referrals to community liaisons proficient in the language of LEP persons. In addition, the City of Woodburn will use, when there is difficulty determining this language spoken, Language Identification Cards created by the U.S. Census Bureau.

### **Procedure for In-Person Communication with LEP Individuals**

*Employees of the City of Woodburn who encounter an LEP individual will contact Heather Pierson, City Recorder, who will refer the individual to community liaisons. The LEP individual can decline the interpretation assistance if he or she wishes to utilize another individual for services, but the individual will still be offered the service. In addition, the City of Woodburn will use, when there is difficulty determining this language spoken, Language Identification Cards created by the U.S. Census Bureau.*

### **Ensuring Competency in Interpreters and Translation Services**

Training Staff: *All City of Woodburn staff acting as point-of entry contacts will be given instruction on how to identify LEP clients using Language Identification Cards and other established methods and how to utilize interpretation services.*

Documenting LEP Interactions: *All City of Woodburn staff acting as point-of entry contacts will record interactions with LEP individuals, including the method of interaction, number of interactions, and reason for interaction.*

Monitoring and Updating the LEP: *The City of Woodburn will monitor and update the LEP as needed. The City will review the LEP periodically against new Census data, or as needs arise, to identify any changes that need to be made or if the City of Woodburn encounters difficulty interacting with LEP individuals.*

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<sup>i</sup> U.S. Department of Housing and Urban Development. Limited English Proficiency (LEP) Frequently Asked Questions. [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq#q1](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq#q1)

Adopted: August 2022





## POLICY OF NONDISCRIMINATION ON THE BASIS OF DISABILITY STATUS

The City of Woodburn does not discriminate on the basis of disability status in the admission or access to, or treatment or employment in, its federally assisted programs or activities.

The person named below has been designated to coordinate compliance with the nondiscrimination requirements contained in the Department of Housing and Urban Development's (HUD) regulations implementing Section 504 (24 CFR Part 8. dated June 2, 1988).

Name: ADA Coordinator

Address: City of Woodburn, 270 Montgomery Street, Woodburn OR 97071

Telephone Number: 503-982-5231 (Voice) / 800-735-1232 (TTY)

Adopted: August 2022



## Agenda Item

August 22, 2022

TO: Honorable Mayor and City Council, acting as the Local Contract Review Board

FROM: Jim Row, Assistant City Administrator  
Jesse Cuomo, Community Services Director

SUBJECT: **Award of Construction Contract for the Concession Stand Rehabilitation and Reroof as part of the Legion Park Improvement Project**

### **RECOMMENDATION:**

Award a Construction Contract to Nataly's Construction LLC for the Concession Stand Rehabilitation at Legion Park in the amount of \$85,858.00 and authorize the City Administrator to sign the Agreement.

### **BACKGROUND:**

As part of the Legion Park Improvement Project, the rehabilitation of the existing concession stand on the site will be made to bring it to an operational standard and match the standard and quality of the rest of the Legion Park Improvement Project. Components of the rehabilitation include, but are not limited to, exterior paint, soffit lighting, new restroom fixtures, epoxy flooring paint, updated siding, new gutters, and reroof.

This project was bid as two separate components with the reroof, gutters, and window replacement being one component and the interior work and exterior paint as the other using the City's intermediate procurement process. Upon bid closure on August 8, 2022, of both components, it was determined that Nataly's Construction LLC was the lowest qualified bidder on both parts of the project.

With the total cost of both components of the project exceeding \$75,000.00 The City Council, acting as the Local Contract Review Board, must authorize the City Administrator to enter into the resulting Agreement with Nataly's Construction LLC.

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Agenda Item Review: City Administrator ☒ City Attorney ☒ Finance ☒

The contract award is in conformance with public contracting laws of the State of Oregon as outlined in ORS Chapter 279C for the construction of public improvements and the public contracting regulations of the City of Woodburn, therefore, the staff is recommending the contract be awarded.

**FINANCIAL IMPACT:**

The subject project is identified in the adopter fiscal year 2022/23 Budget and funded by the General Cap Construction Fund.

## CITY OF WOODBURN

### PUBLIC IMPROVEMENT CONSTRUCTION AGREEMENT

THIS PUBLIC IMPROVEMENT CONSTRUCTION AGREEMENT ("Agreement") is entered into between the City of Woodburn, an Oregon municipal corporation (the "City"), and Nataly's Construction LLC, a Contractor ("Contractor") (collectively the "Parties").

#### BACKGROUND

- A. City selected Contractor to construct a public improvement project for the City by contract award through the intermediate procurement process and will now perform the scope of work for the project as described in this Agreement.
- B. This Agreement is for a public improvement project subject to State prevailing wage rates.

The Parties Agree as Follows:

#### AGREEMENT

1. Contract Documents. This Agreement shall consist of the following documents ("Contract Documents"), hereby incorporated by reference, and listed in descending order of precedence as follows:

- (i) Authorized Change Orders;
- (ii) This Agreement;
- (iii) Exhibit A – Scope of Work;
- (iv) Exhibit B – Fee Schedule;
- (v) Approved Project Construction Drawings & Specifications;
- (vi) Contractor's Signed Bid & Proposal;
- (vii) First-Tier Subcontractor Disclosure Form;
- (viii) Contractor's Proof of Insurance.

The terms of this Agreement control over any inconsistent provision of any document other than a Change Order.

Contractor acknowledges that it has or has access to all the contract documents referred to in this Section and agrees to comply with all the Contract Documents.

2. Term. This Agreement becomes effective when signed by both Parties and Contractor has submitted the required certificates of insurance and performance and payment bonds. Unless earlier terminated or extended, this Agreement will remain in effect until completion of Work designated under Section 3 and described in Exhibit A, the improvements have been

accepted by the City, and the warranty period has expired. Such expiration shall not extinguish or prejudice the City's right to enforce this Agreement with respect to: (i) any breach of a Contractor warranty; or (ii) any default or defect in Contractor performance that has not been cured.

3. Scope of Work. Contractor shall construct the Concession Stand Rehabilitation at Legion Park including the full scope of work described in Exhibit A Contractor shall perform the Work in accordance with the terms and conditions of this Agreement, including furnishing all materials, labor, water, tools, power, equipment, transportation, and other work needed to construct the Project. Work on the Project is to be completed [pursuant to the schedule included in Exhibit A and no later than November 15, 2022.

4. Duties of Contractor.

4.1. Contractor shall be responsible for the professional quality, technical accuracy and coordination of all Work furnished by Contractor under this Agreement. Contractor shall, without additional compensation, correct or revise any errors or deficiencies in its work.

4.2. Contractor represents that it is qualified to furnish the Work described in this Agreement. Contractor has familiarized itself with the nature and extend of the Contract Documents, Work, locality, and with all local conditions and any federal, state, and local laws, ordinances, rules, and regulations which, in any manner, may affect cost, progress, or performance of Work.

4.3. Contractor shall be responsible for employing or engaging all persons necessary to perform the Work.

4.4. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees and other persons who may be affected and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

4.5. The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. By the Completion Date, Contractor shall have removed its tools, construction equipment, machinery, and surplus material(s), and shall have properly disposed of all waste materials.

4.6. It is understood that Contractor as will designate Gerardo Ramos the person serving as the main point of contact to the City under this Agreement and that this designated person shall not be replaced without City's approval.

5. Duties of City.

5.1. The City shall provide Contractor the pertinent information regarding City's requirements for the Project.

5.2. The City shall examine documents and construction plans submitted by Contractor and shall render decisions promptly to avoid unreasonable delay in the progress of Contractor's Work.

5.3. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this Agreement.

5.4. The contact person on the Project for City is designated as Jesse Cuomo, Community Services Director. The City shall provide written notice to Contractor if City changes its contact person.

6. Consideration & Payment. The City shall pay Contractor according to the schedule(s) and unit prices stated in Exhibit B, with the Project Sum totaling \$85,858.00.

Contractor shall not submit billings for, and the City will not pay, any amount in excess of the compensation amount set forth above. If any compensation or fee amount is increased by an approved Change Order or Amendment, the Change Order or Amendment must be fully effective before Contractor performs any modified Scope of Work. No payment will be made for any Work performed before the beginning date or after the expiration date of this Agreement.

Contractor shall invoice the City monthly for work performed during the previously month-long period, based on a progress payment calculation outlined and included in Exhibit B. Invoices shall be directed to the City of Woodburn, Attn: Jesse Cuomo Community Services Director, 270 Montgomery Street, Woodburn, OR 97071. Invoices may also be emailed to: jesse.cuomo@ci.woodburn.or.us. The City shall make a progress payment equal to the value of the completed Work, less amounts previously paid, less retainage of 5 percent within 30 days of receipt of the invoice.

7. Change Orders. A Change Order includes a written order to the Contractor signed by the City authorizing an addition, deletion, or revision in the Work, or an adjustment in the Compensation amount or the Completion Date after the effective date of this Agreement. At any time the need arises, the City may submit a Change Order to Contractor without invalidating the Agreement, so long as it is within the general scope of this Agreement and the Contract Documents.

If such changes increase or decrease the amount of Work due under the Contract Documents, or the time required for performance of the Work, an equitable adjustment shall be authorized

and approved by the City. The value of any Work covered by a Change Order shall be determined by one or more of the following methods in the order of precedence listed below:

- (i) Unit price previously approved;
- (ii) Price of the new or replacement unit; or
- (iii) The actual cost of labor, direct overhead, materials, supplies, and other services necessary to complete the new scope of work plus an amount not to exceed 5% of the actual Work (to cover the cost of general overhead profit).

8. Final Acceptance of Project. The City shall inspect the Project within 15 days of receipt of written notice from Contractor that the Work is ready for final inspection and acceptance. The City shall either accept or reject Contractor's Work in writing. A rejection must state the reasons for the rejection and list the Work that must be done before the Project can be accepted. If a rejection is issued, Contractor shall complete all Work needed to be done and request another inspection. The process shall be continued until the City determines that the Project is complete and accepted. Within 30 days after written acceptance by the City and receipt of the Warranty Bond required by Section 15(iii), all remaining compensation, including the retainage, shall be paid to Contractor, provided that Contractor shall submit evidence satisfactory to the City that all payrolls, material bills, and other indebtedness connected with the Work have been paid; except that in case of disputed indebtedness or liens, the Contractor may submit in lieu of evidence of payment, a Surety Bond satisfactory to City guaranteeing payment of all such disputed amounts when adjudicated in cases where such payment has not already been guaranteed by Surety Bond.

9. Warranties. Contractor unconditionally warrants all work and materials under this Agreement, including additional work authorized under Change Orders, against any defects whatsoever, for one year from the date of acceptance by the City, except that manufacturers' warranties and extended manufacturer warranties as specified in the Contract Documents or otherwise is a standard manufacturer product warranty shall not be abridged. In addition to its right to proceed on the warranty, the City may recover for breach of contract or negligence even if defects do not become evident during the warranty period.

Contractor shall perform all Work in accordance with all specifications, correcting any Work not in compliance with specifications, and for all repairs of damage to other improvements, natural and artificial structures, systems, equipment, and vegetation caused by, or resulting in whole or in part from occurrences beginning during the warranty period and are the result of defects in construction or materials installed under this Agreement. Contractor shall be responsible for all costs associated with site cleanup and remediation caused by, or resulting in whole or in part from, defects in its work or materials.

All Work done to comply with the warranty shall itself be warranted for one year beginning on the date of the City's notification of the corrections, repairs, replacements or changes.

10. Liquidated Damages. Contractor recognizes that the City shall incur significant internal and external costs (damages) as a result of any delay by the Contractor completing all Work by the specified Completion Date. However, given the nature of the Project, it is unduly burdensome and difficult to demonstrate the exact dollar value of damages related to delay. The City has made a good faith and reasonable estimate of damages it would suffer from delay in completion. Contractor agrees to pay to City, not as a penalty but as liquidated damages, the amount \$100.00 for each calendar day of delay in completion of the project.

The City is authorized to deduct the amount of the liquidated damages from any amounts due and the Contractor and its Surety shall be liable for any excess.

If the Contract is terminated according to Section 16 and if the Project and all Work has not been completed by other means on or before the expiration of Completion Date or adjusted Completion Date, liquidated damages shall be assessed against the Contractor for the duration of time reasonably required to complete the work.

11. Provisions Required by State Law.

11.1. Contractor shall:

- (i) Make payment promptly, as due, to all persons supplying to the Contractor labor or material for the performance of the Work provided for in the Agreement;
- (ii) Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or Subcontractor incurred in the performance of the Agreement;
- (iii) Not permit any lien or claim to be filed or prosecuted against City;
- (iv) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167;
- (v) Demonstrate that an employee drug testing program is in place. City has the right to audit and/or monitor the program. On request by the City, Contractor shall furnish a copy of the employee drug testing program; and
- (vi) Salvage or recycle construction and demolition debris, if feasible and cost-effective.

11.2. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person in connection with the public improvement contract as the claim becomes due, the City may pay the claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the contractor by reason of the contract.

11.3. If Contractor or a First Tier Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this Agreement



within 30 days after receipt of payment from the City (or in the case of a subcontractor, from Contractor), Contractor or first tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10 day period that payment is due under ORS 279C.580 (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to Contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.

11.4. If Contractor or a Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this Agreement, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

11.5. The payment of a claim in the manner authorized in this section does not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.

11.6. For work under this Contract, a person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in those cases, the employee shall be paid at least time and a half pay:

- (i) For all overtime in excess of 8 hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or
- (ii) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
- (iii) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.

Contractor is not required to pay overtime if the request for overtime pay is not filed within 30 days of completion of the Agreement if Contractor has posted and maintained in place a circular with the information contained in ORS 279C.545 as required by ORS 279C.545(1).

11.7. Contractors and Subcontractors must give notice in writing to employees who perform work under this Agreement, either at the time of hire or beforeth commencement of Work under the Agreement, or by posting a notice in a location

frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

11.8. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that the Contractor collected or deducted from the wages of employees under any law, Contract or Agreement for the purpose of providing or paying for the services.

11.9. All employers, including Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors comply with these requirements.

11.10. Contractor shall utilize where applicable, recycled materials if (a) The recycled product is available; (b) The recycled product meets applicable standards; (c) The recycled product can be substituted for a comparable non-recycled product; and (d) The recycled product's costs do not exceed the costs of non-recycled products by more than 5 percent.

11.11. Contractor shall include in each first-tier subcontract, including contracts with material suppliers, a clause that obligates Contractor to pay the first-tier subcontractor for satisfactory performance under its subcontract within 10 days out of the amounts paid to Contractor by City under this contract, and if payment is not made within 30 days after receipt of payment from City, to pay an interest penalty as specified in ORS 279C.515(2) to the first-tier subcontractor. The interest penalty does not apply if the only reason the delay in payment is due to a delay in payment by City to Contractor. Contractor shall include in each of Contractor's subcontracts, a provision requiring the first-tier subcontractor to include a similar payment and interest penalty clause and shall require Subcontractors to include similar clauses with each lower-tier subcontractor or supplier. Contractor shall also include in each first-tier subcontract a clause that requires Contractor to provide a standard form that the first-tier subcontractor may use as an application for payment and that requires Contractor to use the same form throughout the period of the contract, unless the contractor provides written notice of a change in the form, including a copy of the new form, at least 45 days before change.

11.12. By signing this Contract, Contractor certifies that all Subcontractors performing construction work shall be registered by the Construction Contractors Board or licensed by the State Landscape Contractors Board before the subcontractor starts Work on the Project.

11.13. City's performance under the Agreement is conditioned upon Contractor's compliance with the provisions of: (i) Title VI and VII of the Civil Rights Act of 1964; (ii) Section 503 and 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 (Pub L No 101- 336); (iv) the Oregon Pay Equity Act (ORS 652.220); and (v) ORS Chapter 659, and all amendments of and regulations and administrative rules established pursuant to those laws, which are incorporated into the Agreement by reference.

11.14. By signing this Contract, Contractor certifies that it shall comply with Oregon tax laws.

12. Prevailing Wage. Contractor and subcontractors shall comply with all provisions required by ORS 279C.800 through ORS 279C.870 relating to the payment of prevailing wage rates for work performed. Contractor and subcontractors shall pay to workers in each trade or occupation the current, applicable State prevailing rate of wage as established by the Oregon State Bureau of Labor and Industries ("BOLI") <http://www.boli.state.or.us/BOLI>. Contractor and any Subcontractors shall post the prevailing wage rates and fringe benefits as required by ORS 279C.840. The City shall not make final payment under this Agreement unless prevailing wage rate certifications are received.

13. Indemnification. Contractor shall defend, indemnify, and hold the City, its officers, agents, employees and volunteers harmless against all liability, claims, losses, demands, suits, fees and judgments (collectively known as 'claims'). That may be based on, or arise out of damage or injury (including death) to persons or property caused by or resulting from any act or omission sustained in connection with the performance of this Agreement or by conditions created thereby or based upon violation of any statute, ordinance or regulation. This indemnification required shall not apply to claims caused by the sole negligence or willful misconduct of the City, its officers, agents, employees and volunteers. The Contractor agrees that it is not an agent of the City and is not entitled to indemnification and defense under ORS 30.285 and ORS 30.287.

14. Insurance. Contractor shall purchase and maintain at their own expense the following forms and types of insurance:

- (i) **Commercial General Liability Insurance** with minimum coverage in effect of \$1,000,000 per incident, claim or occurrence and \$2,000,000 in aggregate. The policy shall include coverage for personal injury, bodily injury, advertising injury, property damage, premises, operations, products completed operations, and contractual damages. Contractor shall remain fully responsible and liable for any claims resulting from the negligence or intentional misconduct of contractor, its subcontractors, and their officials, agents and employees in performance of this contract, even if not covered by, or in excess of insurance limits.

- (ii) **Commercial Automobile (Fleet) Liability Insurance** with minimum combined single limit of \$1,000,000 covering all owned, non-owned, and hired vehicles. This coverage shall be written in combination with the Commercial General Liability Insurance with separate limits for Commercial Automobile Liability and Commercial General Liability.
- (iii) **Workers' Compensation Insurance** as required by ORS Chapter 656. Contractor shall ensure that each subcontractor obtains workers compensation insurance. The Contractor shall ensure that its insurance carrier files a guaranty contract with the Oregon Workers Compensation Division before performing work.

Commercial General Liability coverage shall name, by certificate and endorsement the City, its officers, agents, employees and volunteers as additional insureds with respect to Contractor's work or services provided under this Agreement. Additionally, Contractor shall provide proof of coverage required by acceptable Certificate of Insurance and signed Endorsement from the carrier(s). The Certificate and Endorsement shall provide that there will be no cancellation, termination, material change or reduction in limits of the insurance coverage without a minimum 30-day written notice to the City. The Certificate and Endorsement shall also state the deductible or self-insured retention level.

15. Bonds. Contractor shall procure and deliver to the City, at their own expense, the following Bonds:

- (i) **Performance Bond** and a separate **Payment Bond** in a form acceptable to the City. Each bond shall be equal to 100 percent of the Project Sum. The Performance Bond and the Payment Bond must be signed by the Surety's Attorney-in-Fact, and the Surety's seal must be affixed to each bond. Bonds shall not be canceled without the City's consent, nor shall the City release them prior to Project completion.
- (ii) **A Public Works Bond**, filed with the Construction Contractor's Board, with a corporate surety authorized to do business in the State of Oregon in the amount of \$30,000 prior to starting work on this Agreement unless otherwise exempt. Contractor is aware of the provisions of ORS 279C.600 and 279C.605 relating to notices of claim and payment of claims on Public Works Bonds.
- (iii) **Warranty Bond** in the amount of the Project Sum to cover the warranty period after acceptance. The City's acceptance of the work shall not take effect until receipt of the warranty bond.

Contractor shall include in every Subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractor's Board before starting work on the project, unless otherwise exempt.

16. Termination.

16.1. Parties' Right to Terminate for Convenience. This Agreement may be terminated at any time by mutual written consent of the Parties.

16.2. City's Right to Terminate for Cause. The City may terminate this Agreement in whole or in part, upon 10-days' notice to Contractor, or at such later date as the City may establish in such notice, upon the occurrence of any of the following events:

- (i) Contractor commits a material breach or default of any covenant, warranty, or obligation under this Agreement, fails to perform the Work under this Contract within the time specified herein or any extension thereof, and such breach, default or failure is not cured within the 10-day notice period after delivery of the City's notice, or such longer period as the City may specify in such notice;
- (ii) Contractor disregards applicable laws and regulation, including failing to make prompt payment to Subcontractors;
- (iii) Contractor makes an unauthorized assignment; or
- (iv) Contractor has a receiver appointed because of the Contractor's insolvency or is adjudged bankrupt.

16.3. Contractor's Right to Terminate for Cause. Contractor may terminate this Agreement upon 10-days' notice to the City if the City fails to pay Contractor pursuant to the terms of this Agreement and the City fails to cure within the 10-day notice period after delivery of Contractor's notice, or such longer period of cure as Contractor may specify in such notice.

16.4. Remedies. In the event of termination pursuant to Sections 16.1 and 16.3, Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the City, less previous amounts paid and any claim(s) which City has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this subsection, Contractor shall pay any excess to the City upon demand.

In the event of termination pursuant to Section 16.2, the City shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Section 16.2, the rights and obligations of the parties shall be the same as if the Agreement was terminated pursuant to Section 16.1.

## 17. Independent Contractor; Responsibility for Taxes and Withholding.

17.1. Contractor shall perform all required Work as an independent contractor. Although the City reserves the right (i) to determine (and modify) the delivery schedule for the Work to be performed and (ii) to evaluate the quality of the completed performance, the City cannot and will not control the means or manner of Contractor's

performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor shall also provide, at its sole expense, all equipment and materials necessary to perform the Work described in this Agreement.

17.2. If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Agreement declares and certifies that: Contractor's Work to be performed under this Agreement creates no potential or actual conflict of interest as defined by ORS 244 and no rules or regulations of Contractor's employing agency (state or federal) would prohibit Contractor's Work under this Agreement. Contractor is not an "officer", "employee", or "agent" of the City, as those terms are used in ORS 30.265.

17.3. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Agreement and, unless Contractor is subject to backup withholding, the City will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Agreement, except as a self-employed individual

18. No Third Party Beneficiaries. The City and Contractor are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

19. Subcontracts and Assignment; Successors and Assigns. City has selected Contractor based on its reputation and specialized expertise. Contractor shall not enter into any subcontracts for any of the Work required by this Agreement, or assign or transfer any of its interest in this Agreement without City's prior written consent.

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any.

20. Force Majeure. Neither the City, nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond the reasonable control of the City or Contractor, respectively. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

21. Notice. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder will be given in writing by personal delivery, email, or mailing the same, postage prepaid, to Contractor or the City at the address or number set forth on the signature page of this Agreement. Any communication or notice so addressed and mailed will be deemed to be given five (5) days after mailing.

22. Severability. The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

23. Disclosure of Federal Tax ID Number. Contractor must provide Contractor's federal tax ID number. This number is requested pursuant to ORS 305.385, OAR 125-20-0030 and OAR 150-305-0010. Federal tax ID numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

24. Governing Law; Venue; Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the City and Contractor that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. Contractor hereby agrees to the in personam jurisdiction of such court and waives any claims of an inconvenient forum.

25. Confidentiality. Contractor, may, in the course of its duties have in its possession sensitive information relating to internal policy and procedure of the City. All such information is confidential and unless permitted by the City in writing, Contractor shall not disclose such information, directly or indirectly, to any party, its counsel or any representatives, or use it in any way, except as required to perform their duties as requested by the City.

26. Merger Clause; Waiver. This Agreement and the Contract Documents as incorporated constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of the City to enforce any provision of this Agreement shall not constitute a waiver by the City of that or any other provision.

*[Signature Page Follows]*

CONTRACTOR DATA, CERTIFICATION AND SIGNATURE  
(please print or type)

<b>Name</b> (tax filing):	<b>Address:</b>
<b>Email:</b>	<b>Phone #:</b>  <b>Facsimile #:</b>
<b>Social Security #:</b> or <b>Federal Tax ID #:</b>	<b>State Tax ID#:</b>
<b>Citizenship</b> , if applicable: Non-resident alien <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Business Designation</b> (check one): <input type="checkbox"/> Corporation <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Company	
Above payment information must be provided prior to Contract approval. This information will be provided to the Internal Revenue Service (IRS) under the name and taxpayer ID number submitted. Information not matching IRS records could subject Contractor to 31 percent backup withholding.	

**Certification and Execution:**

**Contractor, by execution of this contract, hereby acknowledges that contractor has read this contract, understands it, and agrees to be bound by its terms and conditions.**

The Contractor hereby certifies that: (a) the number shown on this form is Contractor's correct taxpayer ID; and (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding or (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (c) they authorized to act on behalf of Contractor, they have authority and knowledge regarding Contractor's payment of taxes, and to the best of their knowledge, Contractor is not in violation of any Oregon tax laws; (d) Contractor is an independent contractor as defined in ORS 670.600; and (e) the above Contractor data is true and accurate.



Signed by the Contractor:

**Nataly's Construction LLC.**

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Gerardo Ramos, Owner

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Date

Accepted and Signed by the City:

**City of Woodburn**

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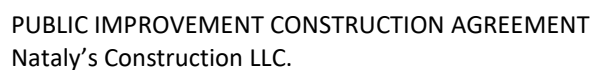
Scott Derickson  
City Administrator

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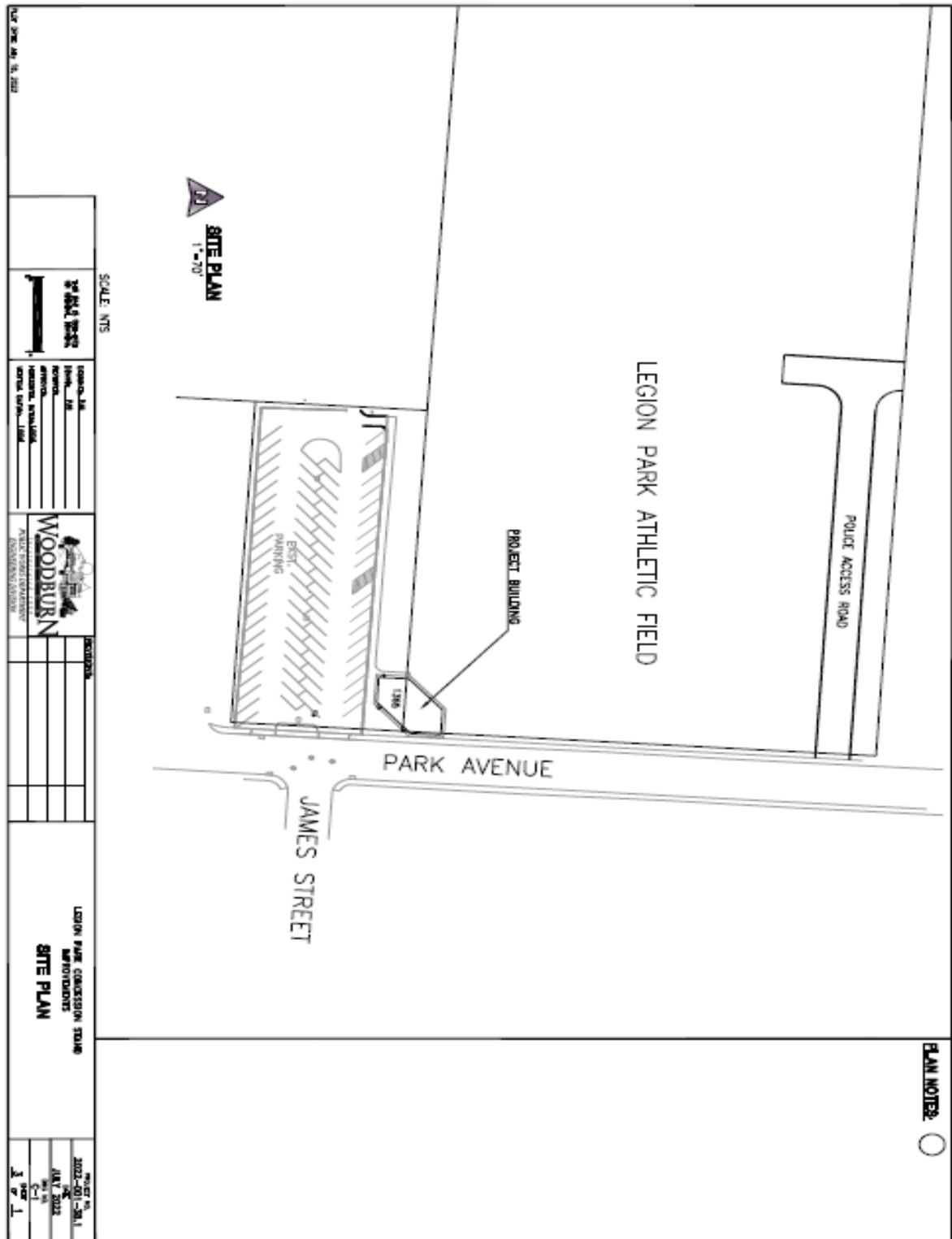
Date

City of Woodburn  
270 Montgomery Street  
Woodburn, OR 97071  
Email: [Scott.Derickson@ci.woodburn.or.us](mailto:Scott.Derickson@ci.woodburn.or.us)

## SCOPE OF WORK







## EXHIBIT B

### COMPENSATION SCHEDULE

#### BID PROPOSAL

Due: Monday August 8<sup>th</sup>, 2022 5:00pm

The Bidder declares that he has carefully examined the drawings for the construction of the proposed improvements; that he has personally inspected the site; that he has satisfied himself as to the quantities of materials, items of equipment, and conditions or work involved, including the fact that the description of work and materials as included herein, is brief and is intended only to indicate the general nature of such items. Any quantities shown are for reference only. Contractor to verify actual quantities.

No bid for a construction contract shall be received or considered unless the bidder is registered with the Construction Contractors Board (CCB). The Contractor and every Subcontractor must have a Public Works Bond filed with the CCB before starting work on the project.

#### DESCRIPTION OF THE PROPOSED WORK:

The major part of the work will include: reroofing, replacing a 8' x 4' window, replacing gutters and downspouts, and residing a gable end.

**INSURANCE COVERAGES** - The following insurance coverages and dollar amounts are required:

#### **Insurance Combined Single Limit Annual Aggregate**

Coverages	per Occurrence	Limit
Commercial General Liability	\$1,000,000.00	\$2,000,000.00
Commercial Automobile Liability	\$1,000,000.00	(aggregate limit not required)

**ADDITIONAL INSURED** - Add the following paragraph and bullet to the end of this subsection:

Add the following as Additional Insureds under the Contract:

The City of \_Woodburn, OR and its officers, agents, representatives, volunteers and employees

The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

(In Words): Thirty eight Thousand one hundred seventy

(In Numbers): \$ 38,170 (Alt \$45,420 For metal)



Signature of Bidder

owner

Title (If Corporation)

*SR* *Initial* \*Bidder will comply with the provisions of (ORS) 279C.800 through 279C.870

### **BID PROPOSAL**

\*Please Bid Prevailing Wage

#### **CONCESSION STAND REROOF**

<u>Item No.</u>	<u>Description</u>	<u>QNTY.</u>	<u>UNITS</u>	<u>UNIT PRICE</u>	<u>TOTAL</u>
				Sub Total	\$
	<b>ROOFING</b>				
1	GAF Roofing System (Approx 3,700 ft <sup>2</sup> )	LS	1	22,050	\$22,050
2	Extend Overhang above Press Box window	LS	1	3,500	\$3,500
3	New Gutters	LS	1	2,400	\$2,400
				Sub Total	\$28,450
	<b>SIDING/WINDOW</b>				
4	Change Widow to Vinyl	LS	1	4,200	\$4,200
5	Cementitious Plank Siding	LS	1	5,520	\$5,520
				Sub Total	\$9,720
				<b>Total</b>	<b>\$38,170</b>
	<b>Alternate 1</b>				
6	Standing Seam Metal Roof System	LS	1	29,300	\$29,300
	Alternate 1 Total includes items #2 thru 5	LS	1	<b>Alt 1 Total</b>	<b>\$45,420</b>

Bid Item #1 includes, but not limited to, removing and properly discarding existing roofing material and installing GAF system as per the drawing including all miscellaneous items required for a complete installation.

Bid Item #2 includes all Labor and material, to extend the roof gable over the press box window 2' per the plans

Bid Item #3 includes all Labor and material to install new gutters and down spouts on the building.

Bid Item #4 includes all Labor and miscellaneous material, supplies, to change out existing aluminum framed single pane press box window with similar vinyl framed double pane window.

Bid Item #5 includes all Labor and material to reside Gable around Press box window with cementitious horizontal siding

Bid Item #6 includes all Labor and miscellaneous material and supplies to remove existing composition shingle roof and replace with a standing seam metal roof per drawings as in item #1.

**BID PROPOSAL**  
**Due: Monday August 8<sup>th</sup>, 2022 5:00pm**

The Bidder declares that he has carefully examined the drawings for the construction of the proposed improvements; that he has personally inspected the site; that he has satisfied himself as to the quantities of materials, items of equipment, and conditions or work involved, including the fact that the description of work and materials as included herein, is brief and is intended only to indicate the general nature of such items. Any quantities shown are for reference only. Contractor to verify actual quantities.

No bid for a construction contract shall be received or considered unless the bidder is registered with the Construction Contractors Board (CCB). The Contractor and every Subcontractor must have a Public Works Bond filed with the CCB before starting work on the project.

**DESCRIPTION OF THE PROPOSED WORK:**

The major part of the work will include:

- Updating Lighting fixtures, plumbing fixtures, and upgrading some door hardware.
- Interior and exterior painting, epoxy coating restroom walls, and epoxy coating restroom and concession room floors.
- Remove the CMU infill to reopen the concession window (nonstructural).

**INSURANCE COVERAGES** - The following insurance coverages and dollar amounts are required:

**Insurance Combined Single Limit Annual Aggregate**

Coverages	per Occurrence	Limit
Commercial General Liability	\$1,000,000.00	\$2,000,000.00
Commercial Automobile Liability	\$1,000,000.00	(aggregate limit not required)

**ADDITIONAL INSURED** - Add the following paragraph and bullet to the end of this subsection:

Add the following as Additional Insureds under the Contract:

The City of Woodburn, OR and its officers, agents, representatives, volunteers and employees

The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

(In Words): forty Thousand four hundred thirty eight

(In Numbers): \$ 40,438



  
Signature of Bidder

Owner  
Title (If Corporation)

GR "Bidder will comply with the provisions of (ORS) 279C.800 through 279C.870  
Initial

**BID PROPOSAL**

\*Please Bid Prevailing Wage

**CONCESSION STAND UPDATED**

EXTERIOR RESTROOMS					
1	New Door Hardware	LS	1	970	\$970
2	Paint walls	LS	1	2800	\$2,800
3	Epoxy Coat Floors	LS	1	1500	\$1,500
4	New sinks (one in interior restroom)	EA	3	900	\$2,700
5	New Toilets	EA	2	1450	\$2,900
				Sub Total	\$10,870
EXTERIOR					
6	Paint exterior (includes six doors and soffit)	LS	1	9,448	\$9,448
7	Remove infill CMU,	LS	1	3,700	\$3,700
8	Soffit Lighting	EA	9	480	\$4,320
				Sub Total	\$17,468
INTERIOR					
9	Epoxy Coat Concession floor	LS	1	3,200	\$3,200
10	Paint Concession room walls	LS	1	1,900	\$1,900
11	Install owner provided sink/counter	EA	1	800	\$800
12	New door and jamb in concession Space	EA	1	2,100	\$2,100
13	New weather stripping on exterior doors	EA	6	200	\$1,200
14	Update restroom light fixtures	EA	2	300	\$600
15	Update restroom fans	EA	2	600	\$1,200
16	Paint Restrooms	LS	1	1,100	\$1,100
				Sub Total	\$12,100
				Total	\$40,438

Bid Item #1 includes, but not limited to, replacing door hardware as required, ADA compliant locksets of similar quality as existing, and weather-strip.

Bid Item #2 includes, all labor and materials to epoxy coat the floors in the exterior restrooms

Bid Item #3 includes all Labor and material, to paint the wall in the exterior restrooms as per the drawings.



Bid Item #4 includes all Labor and material to replace the sinks in the exterior restrooms and one of the interior restrooms as per the drawing.

Bid Item #5 includes all Labor and material, to replace the toilets in the exterior restrooms.

Bid Item #6 includes all Labor and material to paint exterior including six (6) doors and soffit.

Bid Item #7 includes all Labor, miscellaneous material and supplies to remove infill CMU on east wall (concession window).

Bid Item #8 includes all Labor and material to install soffit lighting as indicated on the plans.

Bid Item #9 includes all Labor and material, to epoxy coat concession room floor.

Bid Item #10 includes all Labor and material to paint concession room walls.

Bid Item #11 includes all Labor, and material to connect owner provided SS sink and counter to existing , abandon drain and supply in concession room floor.

Bid Item #12 includes all Labor, and material to install new interior solid core door, jamb, and trim in existing opening.

Bid Item #13 includes all Labor and material to install new weather strip on all exterior doors.

Bid Item #14 includes all Labor and material, to replace with new, light fixtures in interior restrooms.

Bid Item #15 includes all Labor and material to replace with new, fans in interior restrooms.

Bid Item #16 includes all Labor, and material to paint restrooms tile wainscot trim and above