

City of Sodaville

Regular Session Agenda

August 10, 2023

7:00 PM – City Hall

Phone: 253-215-8782 * Meeting ID: 839 3137 2691 * Passcode: 049505

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Visitors**
5. **Bills**
6. **Minutes**
 - July 20, 2023
7. **Public Comment**

This is the time to speak to the City Council or Mayor on any subject **including what is listed** on this Agenda except for Public Hearings. Time limit is 3 minutes per person.
8. **City Recorder’s Report**
 - City Finances
 - City Update
9. **Public Works Report**
 - Water Update
10. **New Business:**
 - a. Ordinance 23-07 Contracting and Purchasing
 - b. Ordinance 23-08 Amending Council Rules and Procedures
 - c. Ordinance 23-09 Resting Locations
 - d. Contract Review Board
11. **Old Business**
12. **Council Reports**
13. **Public Comment**

This is the time to speak to the City Council or Mayor on any subject **other than what is listed** on this Agenda except for Public Hearings. Time limit is 3 minutes per person.
14. **Adjourn**

PUBLIC COMMENT There are two times at every regular City Council meeting when the public has an opportunity to address the City Council. The first time is reserved for questions or statements regarding items appearing on the agenda, except public hearings and the merits of land use issues. The second time is at the end of the agenda. At this time, you can address the City Council on any matter of public concern, other than an agenda item. The Mayor will announce the time for public comment, and invite persons to address the City Council. Each person has three minutes to address the City Council. ***PUBLIC COMMENT is not accepted during the meeting other than at those times.*** The Council reserves the right to enter into Executive Session as needed to conduct City business in accordance with Oregon Public Meeting Law as clarified in the Oregon Attorney General’s Public Records and Meetings Manual or advised by counsel.

Individuals needing special accommodations such as sign language, foreign language interpreters or equipment for the hearing impaired must request such services at least 48 hours prior to the City Council meeting by calling 541-258-8882.

“The City of Sodaville is an equal opportunity provider and employer.”

8. City Recorder Update

City Finances

The finance reports are attached to the Council Packet.

City Updates

The Small Municipalities Advocacy Coalition is holding the first advocacy training for elected officials later this summer. Councilors are asked to RSVP via the City Administrator/Recorder to attend either August 24 in Brownsville, August 31 in Halsey, September 14 in Halsey, or September 21 in Harrisburg. All training sessions are at 7:00PM.

Revised office schedule for training season:

- August 12-20: Vacation travel days.
- September 20-22 Oregon Association of Municipal Recorders, Annual Academy + Annual Conference. Spirit Mountain Casino near Grand Ronde, Oregon.
- October 12-14 League of Oregon Cities Annual Conference, attending with Mayor Lewis. Eugene, Oregon.

Keller & Associates is hard at work updating the cost estimate. Updates will be provided to the Council once sent to staff.

The City was threatened by the Sodaville Cutoff Fire on August 1. City staff monitored the fire from Soda Springs Park. Lebanon Fire District, Sweet Home Fire District, Brownsville Fire District, Tangent Fire District, ODF Fire, and the Linn County Sheriff's Office all responded to the fire. Sodaville officials received no communications from any of the responding agencies or Linn County emergency management about the fire. An announcement about the fire calling for residents to stay tuned to emergency services for updates was posted on Facebook and Nextdoor. Linn County Sheriff and Lebanon Fire District shared information on social media that was re-shared on the City's Facebook page.

The lack of communication between first responders and small cities was discussed at length during an August 2 input session on the Linn County Community Wildfire Protection Plan in Albany. Multiple cities report a lack of communication, which was discussed with Linn County's emergency manager during the session. Linn County's emergency manager received the comments well and will follow up with Sodaville and other cities on concrete steps to improve communication, including disseminating emergency alerts via phone message directly to city staff, and allowing city staff to use a phone app that the County currently maintains to coordinate emergency response needs.

9. Public Works Update

- **Water**
 - The city's wells produced 514142 gallons.
 - The city trucked in 65973 gallons.
 - Reservoir + - 69000 gallons
 - The city sold 564955 gallons
 - Difference of 15160 gallons. 2.6% Loss
 - PLC to be replaced 8/16&17
- **Streets**

Street	Sq. ft.	cu ft @ 2"	cu yd @ 2"	cu ft @ 3"	cu yd @ 3"
Fisher	16400	2733.3	101.23	4100	151.85
Maple	10060	1676.7	62.1	2515	93.15
Park	8600	1433.3	53.09	2150	79.63
Rock	3680	613.3	22.72	920	34.07
Loads			239.14 / 10 24		358.7 / 10 36

- **Parks**
- **Misc.**

10.a. Ordinance 23-07 Contracting and Purchasing

Staff Summary

State law requires all local governments to either adopt the Attorney General's model rules for procurement, or adopt their own in line with state law. Sodaville's procurement ordinance, 94-01, is almost 30 years old and accordingly three decades out of alignment with state law. Outdated procurement policies result in legal liability when the City procures goods and services. Business Oregon staff note that the City's procurement policies will need to be up to date and in line with state law in order to properly spend IFA loan money for water system expansion. The proposed Contracting and Purchasing policy is a model ordinance provided by the League of Oregon Cities.

This item is for discussion only. It is requested that Councilors review the model ordinance and suggest changes for adoption at a later meeting.

10.b. Ordinance 23-08 Amending Council Rules and Procedures

Staff Summary

Council rules and procedures enshrined in Ordinance 12-01 currently designate the fourth Tuesday of each month as the regular monthly Council meeting day. The Council meets the third Thursday of the month currently. This ordinance will change the meeting date to the third Thursday and authorize the Mayor to change the meeting date provided advanced notice is given to the Council along with the reason for moving the meeting date. Continuity procedures also reserve this power for the Council President or Administrator/Recorder if there are vacancies in the two preceding offices. Delegating this responsibility to one City official is intended to prevent serial communications.

Suggested Motion: *I move to adopt Ordinance 23-08.*

10.c. Ordinance 23-09 Resting Locations

Staff Summary

HB 3115 resulted in the enactment of Ordinance 23-04, Camping Within the City. Sodaville's legal counsel recommends creating two locations for resting in city limits in order to avoid litigation by the advocacy organization that lobbied for the passage of HB 3115. It is proposed that the right to rest not be infringed at Mineral Springs Park during the non-operating hours for Soda Springs Park. Mineral Springs Park is the historical designation for the forested property containing a pit toilet and parking area adjacent to the southeast corner of Main Street and Sodaville Road. This Ordinance amends Ordinance 22-05, Adopting City Park Rules & Declaring an Emergency.

Suggested Motion: *I move to adopt Ordinance 23-09.*

10.d. Contract Review Board

Staff Summary - SMAC

The Small Municipalities Advocacy Coalition is moving forward with Tate Public Affairs as the executive director contracted to provide member cities with advocacy and training services. Approving the contract with Tate Public Affairs and the SMAC addendum will formalize Sodaville's participation in SMAC. Following approval, Sodaville will take on Tate Public Affairs as their lobbyist and participate in SMAC. The approved budget for SMAC is \$900.00. City membership dues are determined on an individual basis and Sodaville pays the least of all members due to our small size.

Suggested Motion: *I move to approve the Tate Public Affairs contract and SMAC Addendum.*

Staff Summary - DLCD

Renewal of the biannual Grant Young Memorial Planning Assistance Grant.

Suggested Motion: *I move to approve Grant No. GY-25-114 with DLCD.*

City of Sodaville
Regular Session Minutes
July 20, 2023
7:00 PM – City Hall

1. Call to Order

Council President Roger Perry called the meeting to order at 7:00PM.

2. Pledge of Allegiance

Council President Perry led the Pledge of Allegiance.

3. Roll Call

Councilors: Council President Roger Perry, Councilor Jeff Hensley, Councilor Adina Olivares, Councilor Joseph Parsons; Mayor Brian Lewis by phone.

Staff: City Administrator/Recorder Alex McHaddad, Public Works Director J D Burns.

4. Visitors

Councilor Emeritus Ray Jackman, Budget Committee Member Tim Bartley.

5. Bills Jeff moves, Joe seconds. ALL VOTE YES.

Councilor Hensley moved to pay outstanding bills, second by Councilor Parsons.

Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.

No: N/A.

Abstain: N/A.

Motion passes.

6. Minutes

- June 15, 2023. Joe moves, Adina seconds.

Councilor Parsons moved to adopt the minutes as presented, second by Councilor Olivares.

Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.

No: N/A.

Abstain: N/A.

Motion passes.

7. Public Comment

Asked and none received.

8. City Recorder's Report

No action taken.

9. Public Works Report

No action taken.

10. New Business:

a. Resolution 23-10 LGIP Transfer

Councilor Parsons moved to adopt Resolution 23-10, second by Councilor Olivares.

Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.

No: N/A.

Abstain: N/A.

Motion passes.

b. Contract Review Board

Councilor Hensley moved to adopt the contract with MidCo diving, second by Councilor Parsons.

Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.

No: N/A.

Abstain: N/A.

Motion passes.

Councilor Parsons moved to adopt the contract with Keller & Associates, second by Councilor Hensley.

Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.

No: N/A.

Abstain: N/A.

Motion passes.

c. Ordinance 23-05 Amending Ordinance No. 2

Councilor Hensley moved to read Ordinance 23-05 by title only, second by Councilor Parsons.

Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.

No: N/A.

Abstain: N/A.

Motion passes.

City Administrator/Recorder Alex McHaddad read the Ordinance by title.

Councilor Parsons moved to adopt Ordinance 23-05, second by Councilor Olivares.

Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.

No: N/A.

Abstain: N/A.

Motion passes.

- d. Ordinance 23-06 Amending Ordinance 12-01
Councilor Parsons moved to read Ordinance 23-06 by title only, second by Councilor Hensley.
Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.
No: N/A.
Abstain: N/A.
Motion passes.

City Administrator/Recorder Alex McHaddad read the Ordinance by title.

Councilor Parsons moved to adopt Ordinance 23-06, second by Councilor Hensley.
Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.
No: N/A.
Abstain: N/A.
Motion passes.

- e. Accessory Use Structure
Councilor Olivares moved to adopt the accessory use application submitted by Ray Jackman, second by Councilor Hensley.
Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.
No: N/A.
Abstain: N/A.
Motion passes.
- f. Resolution 23-11 Water Restrictions
Councilor Parsons moved to adopt Resolution 23-11 as amended, second by Council President Perry.
Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.
No: N/A.
Abstain: N/A.
Motion passes.

11. Old Business

- A. TMDL Plan Approval
Councilor Parsons moved to adopt the TMDL Implementation Plan, second by Councilor Hensley.
Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.
No: N/A.
Abstain: N/A.
Motion passes.

B. Street Vacation Application

Councilor Parsons moved to refund \$850 to Habitat for Humanity, second by Councilor Hensley.

Yes: Mayor Lewis, Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.

No: N/A.

Abstain: N/A.

Motion passes.

12. Council Reports

Councilor Olivares delivered a report from the OCWCOG Board of Directors. Councilor Parsons provided an update about the Lebanon RFPD. Mayor Lewis thanked City officials for their efforts and ended his phone participation.

13. Public Comment

Public comment was received from Budget Committee Member Tim Bartley.

14. Adjourn Joe moves, Jeff seconds, ALL VOTE YES. 8:24PM.

Councilor Parsons moved to adjourn, second by Councilor Hensley.

Yes: Council President Perry, Councilor Hensley, Councilor Olivares, Councilor Parsons.

No: N/A.

Abstain: N/A.

Meeting adjourned at 8:24PM.

Resources to 7/31/23	Budgeted	Remaining	Received
Available Cash On Hand	\$196,000.00	-\$10,782.45	\$206,782.45
Interest	\$2,850.00	\$2,428.05	\$421.95
Franchise Fees	\$20,000.00	\$18,517.77	\$1,482.23
Grants	\$1,000.00	\$1,000.00	\$0.00
Metered Water Sales	\$130,000.00	\$119,518.21	\$10,481.79
Construction Apps/Site Reviews/Permits	\$500.00	\$500.00	\$0.00
Zoning Apps and Permits	\$350.00	\$350.00	\$0.00
Refunds	\$500.00	\$391.46	\$108.54
Donations	\$5,000.00	\$5,000.00	\$0.00
Administrative Services Charges/Lien Search	\$400.00	\$400.00	\$0.00
Sale of maps, Publications & Photocopies	\$100.00	\$100.00	\$0.00
Cigarette Taxes	\$300.00	\$277.02	\$22.98
Liquor Taxes	\$7,300.00	\$6,486.10	\$813.90
State Highway Fund	\$28,500.00	\$25,853.53	\$2,646.47
State Revenue Sharing	\$4,150.00	\$4,150.00	\$0.00
Taxes estimated to be received	\$8,500.00	\$8,500.00	\$0.00
Previously Levied Taxes	\$200.00	\$200.00	\$0.00
Marijuana	1100	\$983.97	\$116.03
TOTAL	\$406,750.00	\$183,873.66	\$222,876.34

Administration to 7/31/23	Budgeted	Remaining	Spent
Mayor	\$400.00	\$400.00	\$0.00
City Recorder	\$18,200.00	\$16,720.59	\$1,479.41
Public Works Director	\$4,300.00	\$3,947.30	\$352.70
Payroll Taxes	\$4,800.00	\$4,295.63	\$504.37
Health Benefits and PFMLI	\$4,100.00	\$3,764.30	\$335.70
Consultants	\$4,000.00	\$3,940.00	\$60.00
Operating Expenses	\$750.00	\$750.00	\$0.00
Supplies and Duplication	\$450.00	\$443.79	\$6.21
Communications	\$1,000.00	\$846.36	\$153.64
Utilities & Maintenance – Bldg/Grnd/Equip	\$2,000.00	\$1,769.00	\$231.00
Insurance	\$3,000.00	\$1,242.25	\$1,757.75
Community Relations	\$500.00	\$500.00	\$0.00
Planning Grant	\$1,000.00	\$1,000.00	\$0.00
Office Equipment	\$500.00	\$463.50	\$36.50
Park Improvements	\$3,500.00	\$3,114.59	\$385.41
City Hall Building Improvements	\$2,500.00	\$2,500.00	\$0.00
TOTAL	\$51,000.00	\$45,697.31	\$5,302.69
Streets 7/31/23	Budgeted	Remaining	Spent
City Recorder	\$6,000.00	\$5,104.69	\$895.31
Public Works Director	\$11,000.00	\$10,148.88	\$851.12
Payroll Taxes	\$8,000.00	\$7,632.33	\$367.67
Health Benefits	\$4,500.00	\$4,500.00	\$0.00
Consultants	\$2,000.00	\$1,619.20	\$380.80
Operating Expenses – Street Lights	\$5,500.00	\$5,492.98	\$7.02
Administrative Supplies	\$500.00	\$423.18	\$76.82
Communication	\$500.00	\$500.00	\$0.00
Construction Supplies	\$2,000.00	\$2,000.00	\$0.00
Contract Services - Maintenance & Repair	\$2,500.00	\$1,294.69	\$1,205.31
Liability Insurance	\$2,000.00	\$2,000.00	\$0.00
Operating Expenses - Rock, Grading	\$61,000.00	\$61,000.00	\$0.00
Equipment Expenses	\$800.00	\$800.00	\$0.00
TOTAL	\$106,300.00	\$102,515.95	\$3,784.05
Water to 7/31/23	Budgeted	Remaining	Spent
City Recorder	\$6,000.00	\$5,506.87	\$493.13
Public Works Director	\$17,800.00	\$16,234.94	\$1,565.06
Payroll Taxes	\$16,500.00	\$14,703.25	\$1,796.75
Health Benefits	\$11,000.00	\$10,104.80	\$895.20
Electricity	\$4,500.00	\$4,105.02	\$394.98
Monthly Water Quality Monitoring	\$500.00	\$455.00	\$45.00
Non-Routine Water Quality Monitoring	\$3,000.00	\$3,000.00	\$0.00
Operating Supplies	\$2,000.00	\$1,838.14	\$161.86
Equipment and Facilities Repair & Maintenance	\$12,500.00	\$12,500.00	\$0.00
Operating Expenses – Equipment Rental	\$1,500.00	\$1,500.00	\$0.00
Contract Services – Maintenance & Repair	\$15,000.00	\$15,000.00	\$0.00
Water Acquisition	\$60,000.00	\$59,425.00	\$575.00
Consultants	\$10,000.00	\$10,000.00	\$0.00
Dues, Mileage, Training	\$10,000.00	\$8,698.74	\$1,301.26
Administrative Supplies & Duplication	\$1,000.00	\$986.24	\$13.76
Communication	\$3,000.00	\$2,502.34	\$497.66
State Review, Conditional Use	\$500.00	\$500.00	\$0.00
Insurance	\$3,500.00	\$1,440.92	\$2,059.08
TOTAL	\$178,300.00	\$168,501.26	\$9,798.74
Debt Service to 7/31/23	Budgeted	Remaining	Spent
Vehicle	\$2,800.00	\$2,570.32	\$229.68
TOTAL	\$2,800.00	\$2,570.32	\$229.68
Contingency to 7/31/23	\$6,350.00	\$6,350.00	\$0.00
TOTALS to 7/31/23	Budgeted	Remaining	Spent
TOTALS	\$287,400.00	\$268,284.84	\$19,115.16

Ordinance 23-07

Contracting and Purchasing

The City of Sodaville Ordains as Follows:

Section 1. Abolition of 1994 Procurement Policy

1. Ordinance No. 94-1 is abolished.

Section 2. Introduction

1. Purpose of Purchasing Policy. This Ordinance is adopted by the city council as the governing body of the city to establish the rules and procedures for contracts entered into and purchases made by the city. It is the policy of the city in adopting this Ordinance to utilize public contracting and purchasing practices and methods that maximize the efficient use of city resources and the purchasing power of city funds by:
 - a. Promoting impartial and open competition;
 - b. Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
 - c. Taking full advantage of evolving procurement methods that suit the purchasing needs of the city as they emerge within various industries.
2. Interpretation of Purchasing Policy. Except as specifically provided in this Ordinance, public contracts and purchases shall be awarded, administered and governed according to ORS Chapters 279A, 279B and 279C (the “Public Contracting Code”) and the Attorney General’s Model Public Contract Rules (“Model Rules”), as they now exist.
 - a. In furtherance of the purposes of the objective set forth above in subsection A, it is the city’s intent that this Ordinance be interpreted to authorize the full use of all contracting and purchasing powers described in ORS Chapters 279A, 279B and 279C.
 - b. The Model Rules adopted under ORS 279A.065 shall apply to the contracts and purchases of the city to the extent they do not conflict with this Ordinance and the rules and regulations adopted by the city.
 - c. In the event of a conflict between any provisions of this Ordinance and the Model Rules, the provisions of this Ordinance shall prevail.
3. Specific Provisions’ Precedence over General Provisions. In the event of a conflict between the provisions of this Ordinance, the more specific provision shall take precedence over the more general provision.
4. Conflict with Federal Statutes and Regulations. Except as otherwise expressly provided in ORS Chapters 279A, 279B and/or 279C, applicable federal statutes and regulations govern when federal funds are involved.

Section 3. Definitions.

1. Unless a different definition is specifically provided herein, or context clearly requires otherwise, the following terms have the meanings set forth herein. Additionally, any term defined in the singular includes the meaning of the plural, and vice versa.

- a. Administering agency. The contracting agency that solicited and established the original contract in a cooperative procurement for goods, services, personal services, professional services, or public improvements.
- b. Affected person/offeree. A person whose ability to participate in a procurement is adversely impaired by a city decision.
- c. Architectural, engineering, and land surveying services. Professional services performed by an architect, engineer, or land surveyor and includes architectural, engineering or land surveying services, separately or any combination thereof, as appropriate within the context of a section of this Model.
- d. Award. The decision to enter into a contract or purchase order with a specific offeror.
- e. Bid. A response to an invitation to bid.
- f. Bidder. A person who submits a bid in response to an invitation to bid.
- g. Business with which a city employee is associated. Any business in which a city employee is a director, officer, owner or employee, or any corporation in which a city employee owns or has owned ten percent (10%) or more of any class of stock at any point in the preceding calendar year.
- h. City. The city of {insert city's name}, a municipal corporation, and a contracting and purchasing agency.
- i. City Recorder/Administrator. The person appointed by the city council to the position of City Recorder/Administrator.
- j. Closing. The date and time announced in a solicitation document as the deadline for submitting bids or offers.
- k. Contract. See Public Contract.
- l. Contractor. The person who enters into a contract with the city.
- m. Contract price. As the context requires:
 - i. The maximum payment that the city will make under a contract if the contractor fully performs under the contract, including bonuses, incentives and contingency amounts;
 - ii. The maximum not-to-exceed payment specified in the contract; or
 - iii. The unit prices set forth in the contract.
- n. Contracting agency. A public body authorized by law to conduct a procurement.
- o. Cooperative procurement. A procurement conducted by, or on behalf of, one or more contracting agencies.
- p. Days. Calendar days.
- q. Emergency. Involves circumstances that:
 - i. Could not have been reasonably foreseen;
 - ii. Create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and
 - iii. Require prompt execution of a contract or amendment in order to remedy the condition.
- r. Findings. The justification for a conclusion. If the justification relates to a public improvement contract, findings may be based on information that includes, but is not limited to:
 - i. Operational, budget and financial data;
 - ii. Public benefits;

- iii. Value engineering;
 - iv. Specialized expertise;
 - v. Market conditions;
 - vi. Technical complexity; and
 - vii. Funding sources.
- s. Goods and/or services. Supplies, equipment, materials and services, other than personal services, and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto. The term includes combinations of any of the items identified in the definition.
- t. Grant. An agreement under which:
- i. The city receives moneys, property or other assistance, including but not limited to, federal assistance that is characterized as a grant by federal law or regulation, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets;
 - 1. The assistance received by the city is from a grantor for the purpose of supporting or stimulating a program or activity of the city; and
 - 2. No substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions; or
 - ii. The city provides moneys, property or other assistance, including but not limited to, federal assistance that is characterized as a grant by federal law or regulation, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets;
 - 1. The assistance is given to the recipient for the purpose of supporting or stimulating a program or activity of the recipient; and
 - 2. No substantial involvement by the city is anticipated in the program or activity other than involvement associated with monitoring compliance with grant conditions.
- u. Immediate family member. An employee's: spouse, and parents thereof; children, and spouses thereof; parents, and spouses thereof; siblings, and spouses thereof; grandparents and grandchildren, and spouses thereof; and domestic partner, and parents thereof.
- v. Offer. A bid, proposal, quote or other response to a solicitation document.
- w. Offeror. A person who submits an offer.
- x. Opening. The date, time and place announced in the solicitation document for the public opening of written sealed offers.
- y. Original contract. The initial contract or price agreement solicited and awarded during a cooperative procurement by an administering agency.
- z. Purchasing agency. An agency that procures goods or services, personal services, or public improvements from a contractor based on the original contract established by an administering agency in a cooperative procurement.
- aa. Person. An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public

body, public corporation or other legal or commercial entity, and any other person or entity with legal capacity to contract.

- bb. Personal services. Services, other than professional services, that require specialized skill, knowledge and resources in the application of technical or scientific expertise or in the exercise of professional, artistic or management discretion or judgment.
 - 1. Qualifications and performance history, expertise and creativity, and the ability to exercise sound professional judgment are typically the primary considerations when selecting a personal services contractor, with price being secondary.
 - 2. Personal services contracts include, but are not limited to, the following classes of contracts:
 - a. Contracts for services performed in a professional capacity, including but not limited to, services of an accountant, attorney, auditor, court reporter, information technology consultant, physician or broadcaster;
 - b. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the city is or may become interested;
 - c. Contracts for services as an artist in the performing or fine arts, including any person identified as a photographer, film maker, actor, director, painter, weaver or sculptor;
 - d. Contracts for services that are specialized, creative or research-oriented; and/or
 - e. Contracts for services as a consultant.
- cc. Price agreement. A contract for the procurement of goods or services at a set price which has:
 - i. No guarantee of a minimum or maximum purchase; or
 - ii. An initial order or minimum purchase combined with a continuing contractor obligation to provide goods or services with no guarantee of any minimum or maximum additional purchase.
- dd. Procurement. The act of purchasing, leasing, renting or otherwise acquiring goods or services, personal services or professional services. It includes each function and procedure undertaken or required to be undertaken to enter into a contract, administer a contract and obtain the performance of a contract for goods or services, personal services or professional services.
- ee. Professional services. Architectural, engineering, land surveying, photogrammetric, transportation planning or related services, or any combination of these services, provided by a consultant.
- ff. Proposal. A response to a request for proposals.
- gg. Proposer. A person that submits a proposal in response to a request for proposals.
- hh. Provider. As the context requires, a supplier of goods or services, personal services, or professional services.
- ii. Public contract. A sale or other disposal, or a purchase, lease, rental or other acquisition, by the city of personal property, goods or services, including personal

services, professional services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement. It does not include grants.

- jj. Public contracting. Procurement activities relating to obtaining, modifying or administering contracts or price agreements.
- kk. Public improvement. A project for construction, reconstruction or major renovation on real property, by or for the city. It does not include projects for which no funds of the city are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or emergency work, minor alteration, or ordinary repair or maintenance necessary to preserve a public improvement.
- ll. Public improvement contract. A contract for a public improvement. This does not include a contract for emergency work, minor alterations, or ordinary repair, or maintenance necessary to maintain a public improvement.
- mm. Recycled product. All materials, goods and supplies, not less than fifty percent (50%) of the total weight of which consists of secondary and post-consumer waste with not less than ten percent (10%) of its total weight consisting of post-consumer waste. It includes any product that could have been disposed of as solid waste, having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of the product's form.
- nn. Related services. Personal services, other than architectural, engineering and land survey services, that are related to the planning, design, engineering or oversight of public improvement projects or components thereof, including but not limited to:
 - i. Landscape architectural services;
 - ii. Facilities planning services;
 - iii. Energy planning services;
 - iv. Space planning services;
 - v. Environmental impact studies;
 - vi. Hazardous substances or hazardous waste or toxic substances testing services;
 - vii. Wetland delineation studies;
 - viii. Wetland mitigation services;
 - ix. Native American studies;
 - x. Historical research services;
 - xi. Endangered species studies;
 - xii. Rare plant studies;
 - xiii. Biological services;
 - xiv. Archaeological services;
 - xv. Cost estimating services;
 - xvi. Appraising services;
 - xvii. Material testing services;
 - xviii. Mechanical system balancing services;
 - xix. Commissioning services;
 - xx. Project management services;

- xxi. Construction management services and owner's representatives service; and/or
- xxii. Land use planning services.
- oo. Request for proposals. A solicitation document used for soliciting proposals.
- pp. Request for qualifications. A written document issued by the city describing particular services to which potential contractors respond with a description of their experience and qualifications that results in a list of potential contractors who are qualified to perform those services, but which is not intended to create a contract between a potential contractor on the list and the city.
- qq. Revenue generating agreements. Contracts or agreements for services that generate revenue and that are typically awarded to the offeror proposing the most advantageous or highest monetary return.
- rr. Scope. The range and attributes of the goods or services described in a procurement document.
- ss. Signed or signature. Any mark, word or symbol attached to or logically associated with a document and executed or adopted by a person with the authority and intent to be bound.
- tt. Solicitation. As the context requires:
 - i. A request for the purpose of soliciting offers, including an invitation for bid, a request for proposal, a request for quotation, a request for qualifications, or other similar documents;
 - ii. The process of notifying prospective offerors of a request for offers; and/or
 - iii. The solicitation document.
- uu. Work. The furnishing of all materials, equipment, labor, and incidentals necessary to successfully complete any individual item in a contract and successful completion of all duties and obligations imposed by the contract.
- vv. Written or in writing. Conventional paper documents, whether handwritten, typewritten or printed, in contrast to spoken words, including electronic transmissions or facsimile documents when required by applicable law or permitted by a solicitation document or contract.

Section 4. Authority.

1. City Council as Local Contract Review Board. The city council is designated as the local contract review board of the city and has all the rights, powers, and authority necessary to carry out the provisions of this Ordinance, the Public Contracting Code, and/or the Model Rules.
2. Application of Attorney General's Model Rules of Procedure. Pursuant to ORS 279A.065(6), the city has elected to establish its own policy for public contracting and purchasing. Except as provided herein, the Model Rules do not apply to the city.
3. Inapplicability of Ordinance. This Ordinance does not apply to the following:
 - a. Contracts or agreement to which the Public Contracting Code does not apply;
 - b. Contracts, intergovernmental and interstate agreements entered into pursuant to ORS Chapter 190;
 - c. Grants;
 - d. Acquisitions or disposals of real property or interests in real property;

- e. Procurements from an Oregon Corrections Enterprise program;
 - f. Contracts, agreements or other documents entered into, issued or established in connection with:
 - i. The incurring of debt, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited;
 - ii. The making of program loans and similar extensions or advance of funds, aid or assistance by the city to a public or private person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law other than for the construction of public works or public improvements;
 - iii. The investment of funds by the city as authorized by law; or
 - iv. Banking, money management or other predominantly financial transactions that, by their character, cannot practically be established under the competitive contractor selection procedures, based upon the findings of the City Recorder/Administrator.
 - g. Contracts for employee benefit plans;
 - h. Contracts with newspapers and other publications for the placement of advertisements or public notices;
 - i. Contracts for items where the price is regulated and available from a single source or limited number of sources;
 - j. Insurance contracts;
 - k. Revenue-generating agreements;
 - l. Federal agreements where applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or this Ordinance, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or this Ordinance.
1. Authority of City Recorder/Administrator. For contracts and purchases covered by this Ordinance, the City Recorder/Administrator is authorized to:
- a. Award contracts and amendments without specific authorization by the city council whenever the contract amount is \$100,000 or less and the proposed expenditure is included in the current fiscal year budget.
 - b. Execute contracts and amendments with specific authorization by the city council whenever the contract or amendment amount is greater than \$100,000 and the proposed expenditure is included in the current fiscal year budget.
 - c. As the purchasing agent for the city, the City Recorder/Administrator is authorized to:
 - i. Advertise for bids or proposals without specific authorization from the city council, when the proposed purchase is included within the current fiscal year budget.
 - ii. Advertise for bids or proposals when the proposed purchase is not included within the current fiscal year budget after the city council approves the proposed budget transfer.

- iii. Purchase goods, services and/or property without specific authorization by the city council whenever the amount is \$100,000 or less and the proposed expenditures are included in the current fiscal year budget.
 - iv. Purchase goods, services and/or property with specific authorization by the city council whenever the amount is greater than \$100,000 and the proposed expenditure is included in the current fiscal year budget.
 - v. Purchases of any goods or services in excess of \$7,500 from city employees require authorization of the City Recorder/Administrator.
 - vi. Departments shall communicate purchase requirements to the City Recorder/Administrator and plan sufficiently in advance so that orders can be placed in economical quantities.
- d. Delegate, in writing, the signature authority described in the above subsection (2) and the purchasing powers described in the above subsection (3). In the absence of a written delegation to the contrary, and in the absence of the City Recorder/Administrator, the signature authority described in the above subsection (2) and the purchasing powers described in the above subsection (3) are delegated in order as follows:
- i. Auditor;
 - ii. Finance director; and
 - iii. Mayor.
- e. Adopt forms, procedures, computer software, and administrative rules for all city purchases regardless of the amount.
- i. When adopting the forms, procedures, computer software, and/or administrative rules, the City Recorder/Administrator shall establish practices and policies that:
 - 1. Do not encourage favoritism or substantially diminish competition; and
 - 2. Allow the city to take advantage of the cost-saving benefits of alternative contracting methods and practices;
 - ii. The city shall use these forms, procedures, computer software and administrative rules unless they conflict with the Ordinance.
2. Favorable Terms. Contracts and purchases shall be negotiated on the most favorable terms in accordance with this Ordinance, other adopted ordinances, state and federal laws, policies and procedures.
3. Unauthorized Contracts or Purchases. Public contracts entered into or purchases made as authorized herein shall be voidable at the sole discretion of the city.
- a. The city may take appropriate action in response to execution of contracts or purchases made contrary to this provision.
 - b. Such actions include, but are not limited to, providing educational guidance, imposing disciplinary measures, and/or holding individuals personally liable for such contracts or purchases.
4. Purchasing from City Employees or Employees' Immediate Family Prohibited. No contract shall be entered into with or purchase made from any city employee or employee's immediate family member, or any business with which the employee is associated, unless:

- a. The contract or purchase is expressly authorized and approved by the city council;
or
- b. The need for the contract or purchase occurs during a state of emergency, and the City Recorder/Administrator finds, in writing, that the acquisition from the employee, employee's immediate family member or business with which the employee is associated is the most expeditious means to eliminate the threat to public health, safety and welfare.

Section 5. Preferences.

1. Discretionary Local Preference. If the solicitation is in writing, the City Recorder/Administrator may provide a specified percentage preference of not more than ten percent (10%) for goods fabricated or processed entirely in Oregon or services performed entirely in Oregon.
 - a. When a preference is provided under this subsection, and more than one offeror qualifies for the preference, the City Recorder/Administrator may give further preference to a qualifying offeror that resides in or is headquartered in Oregon.
 - b. The City Recorder/Administrator may establish a preference percentage of ten percent (10%) or higher if the City Recorder/Administrator makes a written determination that good cause exists to establish the higher percentage, explains the reasons, and provides evidence of good cause.
 - c. The preference described in this subsection cannot be applied to a contract for emergency work, minor alterations, and ordinary repairs or maintenance of public improvements.
2. Mandatory Tie Breaker Preference. If offers are identical in price, fitness, availability, and the quality is identical, and the city desires to award the contract, the preferences provided in ORS 279A.120 shall be applied prior to the contract award.
3. Reciprocal Preference. Reciprocal preferences must be given when evaluating bids, if applicable under ORS 279A.120.
4. Preference for Recycled Materials and Supplies. Preferences for recycled goods shall be given when comparing goods, if applicable under ORS 279A.125. The City Recorder/Administrator shall adopt standards to determine if goods are manufactured from recycled materials.

Section 6. General Provisions.

1. Public Notice. Unless otherwise specifically provided by this Ordinance, any notice required to be published by this Ordinance may be published using any method the City Recorder/Administrator deems appropriate, including but not limited to, mailing notice to persons that have requested notice in writing, placing notice on the city's website, or publishing in statewide trade or local publications.
2. Procedure for Competitive Verbal Quotes and Proposals. Where allowed by this Ordinance, solicitations by competitive verbal quotes and proposals shall be based on a description of the quantity of goods or services to be provided, and may be solicited and

received by phone, or facsimile or email if authorized by the City Recorder/Administrator.

- a. A good faith effort shall be made to contact at least three (3) potential providers.
 - b. If three (3) potential providers are not reasonably available, fewer will suffice, provided the reasons three potential providers are not reasonably available is documented as part of the procurement file.
3. Procedure for Informal Written Solicitation. Where allowed by this Ordinance, informal written solicitations shall be made by a solicitation document sent to not less than three (3) prospective providers.
 - a. The solicitation document shall request competitive price quotes or competitive proposals, and include:
 - i. The date, time and place that price quotes or proposals are due;
 - ii. A description or quantity of the good or service required;
 - iii. Any statement of period for which price quotes or proposals must remain firm, irrevocable, valid and binding on the offeror. If no time is stated in the solicitation document, the period shall be thirty (30) days;
 - iv. Any required contract terms or conditions; and
 - v. Any required bid form or proposed format.
 - b. Price quotes or proposals shall be received by the City Recorder/Administrator at the date, time and place established in the solicitation document.
 - i. The City Recorder/Administrator shall keep a written record of the sources of the quotes or proposals.
 - ii. If three (3) quotes or proposals are not reasonably available, fewer shall suffice, but the City Recorder/Administrator shall make a written record of the effort made to obtain quotes or proposals as part of the procurement file.
4. Procurement Methods for Professional Services and Public Improvements. The city shall apply the Public Contracting Code and the Model Rules when procuring professional services and public improvements and processing protests thereof.
5. Retroactive Approval. Retroactive approval of a contract means the award or execution of a contract where work was commenced without final award or execution. The City Recorder/Administrator may make a retroactive approval of a contract only if the responsible employee submits a copy of the proposed contract to the City Recorder/Administrator, along with a written request for contract retroactive approval, that contains:
 - a. An explanation of the reason work was commenced before the contract was finally awarded or executed;
 - b. A description of steps being taken to prevent similar occurrences in the future;
 - c. Evidence that, but for the failure to finally award or execute the contract, the employee complied with all other steps required to properly select a contractor and negotiate the contract; and
 - d. A proposed form of contract.

Section 7. Source Selection Methods for Goods or Services, Other Than Personal or Professional Services.

1. Small Procurements. Contracts for or purchases of goods or services with a contract price of \$10,000 or less are small procurements.
 - a. Purchases less than \$7,500. The City Recorder/Administrator may use any procurement method the City Recorder/Administrator deems practical or convenient, including direct negotiation or award, for small procurements of goods or services with a contract price of less than \$7,500.
 - b. Purchases between \$7,500 and \$10,000. The City Recorder/Administrator may use competitive verbal quotes or proposals and informal written solicitations for small procurements of goods or services with a contract price between \$7,500 and \$10,000.
 - c. Negotiations. The City Recorder/Administrator may negotiate with an offeror to clarify competitive verbal quotes or proposals or informal written proposals, or to make modifications that will make the quote or proposal acceptable or more advantageous to the city.
 - d. Award. If a contract is awarded, the award shall be made to the offeror whose verbal quote or proposal the City Recorder/Administrator determines will best serve the interests of the city, taking into account price as well as any other relevant considerations, including but not limited to, experience, expertise, product functionality, suitability for a particular purpose, delivery, and contractor responsibility.
 - e. Amendments. Small procurement contracts may be amended if the cumulative amendments do not increase the total contract price to more than twenty-five percent (25%) of the original contract price.
 - f. Public notice. No public notice of small procurements is required.
2. Intermediate Procurements. Contracts for goods or services with a contract price greater than \$10,000 and less than or equal to \$150,000 are intermediate procurements.
 - a. Intermediate procurements shall be by informal written solicitation.
 - b. Negotiations. The City Recorder/Administrator may negotiate with an offeror to clarify an informal written solicitation, or to make modifications that will make the quote, proposal, or solicitation acceptable or more advantageous to the city.
 - c. Award. If a contract is awarded, the award shall be made to the offeror whose competitive verbal quote or proposal or informal written solicitation the City Recorder/Administrator determines will best serve the interests of the city, taking into account price or any other relevant considerations, including but not limited to, experience, expertise, product functionality, suitability for a particular purpose, delivery and contractor responsibility.
 - d. Amendments. Intermediate procurement contracts may be amended if the cumulative amendments do not increase the total contract price by more than twenty-five percent (25%) of the original contract price.
 - e. Public notice. Public notice is required for intermediate procurements with a contract price equal to or exceeding \$50,000.
3. Large Procurements. Contracts for goods or services with a contract price greater than \$150,000 are large procurements.

- a. The City Recorder/Administrator may use competitive sealed bidding as set forth in ORS 279B.055, or competitive sealed proposals as set forth in ORS 279B.060.
- b. When using either competitive sealed bidding or competitive sealed proposals, the City Recorder/Administrator shall follow the applicable procedures set out in the Model Rules.
- c. The city shall apply the applicable procedure set out in the Model Rules for processing protests of large procurements.

Section 8. Personal Services Contracts.

1. Classification of Services as Personal Services. In addition to the classes of personal services contracts identified in the definition of personal services contracts, the City Recorder/Administrator may classify additional specific types of services as personal services. In determining whether a service is a personal service, the City Recorder/Administrator shall consider:
 - a. Whether the work requires specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment;
 - b. Whether the city intends to rely on the contractor's specialized skills, knowledge and expertise to accomplish the work; and
 - c. Whether selecting a contractor primarily on the basis of qualifications, rather than price, would most likely meet the city's needs and result in obtaining satisfactory contract performance and optimal value.
 - d. A service shall not be classified as personal services for the purposes of this Ordinance if:
 - i. The work has traditionally been performed by contractors selected primarily on the basis of price; or
 - ii. The services do not require specialized skills, knowledge and resources in the application of highly technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment.
2. Requests for Qualifications. At the City Recorder/Administrator's discretion, a request for qualifications may be used to determine whether competition exists to perform the needed personal services or to establish a non-binding list of qualified contractors for individual negotiation, informal written solicitations or requests for proposals.
 - a. A request for qualifications shall describe the particular type of personal services that will be sought, the qualifications the contractor must have to be considered, and the evaluation factors and their relative importance.
 - b. A request for qualifications may require information including, but not limited to:
 - i. The contractor's particular capability to perform the required personal services;
 - ii. The number of experienced personnel available to perform the required personal services;
 - iii. The specific qualifications and experience of personnel;
 - iv. A list of similar personal services the contractor has completed;
 - v. References concerning past performance; and

- vi. Any other information necessary to evaluate the contractor's qualifications.
 - c. A voluntary or mandatory qualifications pre-submission meeting may be held for all interested contractors to discuss the proposed personal services. The request for qualifications shall include the date, time and location of the meeting.
 - d. Unless the responses to a request for qualifications establish that competition does not exist, the request for qualifications is canceled, or all responses to the request for qualifications are rejected, and all respondents who meet the qualifications set forth in the request for qualifications shall receive notice of any required personal services and have an opportunity to submit a proposal in response to request for proposals.
3. Direct Negotiations. Personal services may be procured through direct negotiations if:
 - a. The contract price does not exceed \$75,000 and the work is within a budgetary appropriation or approved by the city council; or
 - b. The confidential personal services, including special counsel, or professional or expert witnesses or consultants, are necessary to assist with pending or threatened litigation or other legal matters in which the city may have an interest; or
 - c. The nature of the personal service is not project-driven but requires an ongoing, long-term relationship of knowledge and trust.
 - d. Amendments. Personal services contracts procured by direct negotiation pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total contract price by more than twenty-five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another provider within the time frames needed to complete the work.
 - e. Public Notice. No public notice of personal services contracts procured by direct negotiations is required.
4. Informal Written Solicitations. An informal written solicitation process may be used for personal services when the contract price is less than \$125,000.
 - a. An informal written solicitation shall solicit proposals from at least three (3) qualified providers. If the City Recorder/Administrator determines three (3) qualified providers are not reasonably available, fewer shall suffice if the reasons three (3) providers are not reasonably available are documented in the procurement file.
 - b. The solicitation document shall include:
 - i. The date, time and place that proposals are due;
 - ii. A description of personal services sought, or the project to be undertaken;
 - iii. Any statement of the time period for which proposals must remain firm, irrevocable, valid and binding on the offeror. If no time is stated in the solicitation document, the period shall be thirty (30) days;
 - iv. Any required contract terms or conditions; and
 - v. Any required bid form or proposal format.
 - c. Selection and ranking of proposals may be based on the following criteria:
 - i. Particular capability to perform the personal services required;

- ii. Experienced staff available to perform the personal services required, including the proposer's recent, current and projected workloads;
 - iii. Performance history;
 - iv. Approach and philosophy used in providing personal services;
 - v. Fees or costs;
 - vi. Geographic proximity to the project or the area where the services are to be performed; and
 - vii. Such other factors deemed appropriate, including a desire to ensure an equitable distribution of work among highly qualified contractors.
 - d. The City Recorder/Administrator shall maintain written documentation of the solicitation, including solicitation attempts, responses, and provider names and addresses in the procurement file.
 - e. Amendments. Personal services contracts procured by informal written solicitations pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total contract price by more than twenty-five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another provider within the time frames needed to complete the work.
 - f. Public Notice. No public notice of personal services contracts procured by informal written solicitations pursuant to this section is required.
5. Requests for Proposals. A request for proposals shall be used to procure personal services when the contract price is \$125,000 or more or the complexity of the project requires the use of a formal competitive process to determine whether a particular proposal is most advantageous to the city.
- a. Request for Proposal. The request for proposal shall include:
 - i. Notice of any pre-offer conference, including:
 - 1. The time, date and location;
 - 2. Whether attendance at the pre-offer conference is mandatory or voluntary; and
 - 3. A provision that statements made by representatives of the city at the pre-offer conference are not binding unless confirmed by written addendum.
 - ii. The form and instructions for submission of proposals, including the location where proposals must be submitted, the date and time by which proposals must be received and any other special information, e.g., whether proposals may be submitted by electronic means;
 - iii. The name and title of the person designated for the receipt of proposals and the person designated as the contact person for the procurement, if different;
 - iv. A date, time and place that pre-qualification applications, if any, must be filed and the classes of work, if any, for which proposers must be pre-qualified;
 - v. A statement that the city may cancel the procurement or reject any or all proposals;

- vi. The date, time and place of opening;
 - vii. The office where the request for proposals may be reviewed;
 - viii. A description of the personal services to be procured;
 - ix. The evaluation criteria;
 - x. The anticipated schedule, deadlines, evaluation process and protest process;
 - xi. The form and amount of any proposal security deemed reasonable and prudent by the City Recorder/Administrator to protect the city's interests;
 - xii. A description of the manner in which proposals will be evaluated, including the relative importance of price and other evaluation factors used to rate the proposals;
 - xiii. If more than one tier of competitive evaluation will be used, a description of the process under which the proposals will be evaluated in the subsequent tiers;
 - xiv. If contracts will be awarded to more than one personal services contractor, an identification of the manner in which the city will determine the number of contracts to be awarded, or that the manner will be left to the city's discretion at time of award;
 - xv. If contracts will be awarded to more than one personal services contractor, the criteria to be used to choose from the multiple contracts when acquiring personal services shall be identified;
 - xvi. All required contract terms and conditions, including the statutorily required provisions in ORS 279B.220, 279B.230 and 279B.235; and
 - xvii. Any terms and conditions authorized for negotiation.
- b. Public Notice. The City Recorder/Administrator shall provide public notice of a request for proposals for personal services.
- i. Public notice shall be given not less than twenty-one (21) days prior to closing for the request for proposals, unless the City Recorder/Administrator determines that a shorter interval is in the public's interest, or a shorter interval will not substantially affect competition.
 - ii. The City Recorder/Administrator shall document the specific reasons for the shorter public notice period in the procurement file.
- c. Amendments. Personal services contracts procured by requests for proposals pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total contract price by more than twenty-five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another provider within the time frames needed to complete the work.

Section 9. Alternative Source Selection Methods for Goods or Services & Personal Services.

1. Sole-Source Procurements. A contract may be awarded as a sole-source procurement without competition pursuant to this section.

- a. Determination of Sole Source. Before a sole-source contract may be awarded, the City Recorder/Administrator shall make written findings that the goods or services, personal services or professional services are available from only one source, based on one or more of the following criteria:
 - i. The efficient use of existing goods or services, personal services or professional services requires the acquisition of compatible goods or services, personal services or professional services that are available from only one source;
 - ii. The goods or services, personal services or professional services are available from only one source and required for the exchange of software or data with other public or private agencies;
 - iii. The goods or services, personal services or professional services are available from only one source, and are needed for use in a pilot or an experimental project; or
 - iv. Other facts or circumstances exist that support the conclusion that the goods or services, personal services or professional services are available from only one source.
 - b. Negotiations. To the extent reasonably practical, contract terms advantageous to the city shall be negotiated with the sole source provider.
 - c. Notice. The City Recorder/Administrator shall post notice of any determination that the sole source selection method will be used on the city's website not less than ten (10) days prior to the date a sole source contract will be awarded. The notice shall describe the goods or services, personal services or professional services to be procured, identify the prospective contractor and include the date and time when, and place where, protests of the use of a sole source selection method must be filed.
2. Special Procurements. In its capacity as contract review board for the city, the city council, upon its own initiative or upon request of the City Recorder/Administrator, may create special selection, evaluation and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.
 - a. Basis for Approval. The approval of a special solicitation method or exemption from competition must be based upon a record before the city council that contains the following:
 - i. The nature of the contract or class of contracts for which the special solicitation or exemption is requested;
 - ii. The estimated contract price or cost of the project, if relevant;
 - iii. Findings to support the substantial cost savings, enhancement in quality or performance, or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;
 - iv. Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;

- v. A description of the proposed alternative contracting methods to be employed; and
 - vi. The estimated date by which it would be necessary to let the contract(s).
 - b. In making a determination regarding a special selection method, the city council may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.
 - c. Hearing. The city shall approve the special solicitation or exemption after a public hearing before the city council.
 - i. At the public hearing, the city shall offer an opportunity for any interested party to appear and present comment.
 - ii. The city council shall consider the findings and may approve the exemption as proposed or as modified by the city council after providing an opportunity for public comment.
- 3. Contracts. Subject to award at the City Recorder/Administrator's discretion. The following classes of contracts may be awarded in any manner that the City Recorder/Administrator deems appropriate to the city's needs, including by direct appointment or purchase. Except where otherwise provided, the City Recorder/Administrator shall make a record of the method of award.
 - a. Amendments. Contract amendments shall not be considered to be separate contracts if made in accordance with the Ordinance.
 - b. Copyrighted Materials; Library Materials. Contracts for the acquisition of materials entitled to copyright, including but not limited to, works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials.
 - c. Equipment Repair. Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.
 - d. Government-Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
 - e. Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the city.
 - f. Specialty Goods for Resale. Contracts for the purchase of specialty goods by the city for resale to consumers.
 - g. Sponsorship Agreements. Sponsorship agreements, under which the city receives a gift or donation in exchange for recognition of the donor.
 - h. Structures. Contracts for the disposal of structures located on city-owned property.
 - i. Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued contracts and are not subject to competitive procurement procedures.
 - j. Temporary Extensions or Renewals. Contracts for a single period of one (1) year or less, for the temporary extension or renewal of an expiring and non-renewable, or recently expired, contract, other than a contract for public improvements.
 - k. Temporary Use of City-Owned Property. The city may negotiate and enter into a license, permit or other contract for the temporary use of city-owned property without using a competitive selection process if:

- i. The contract results from an unsolicited proposal to the city based on the unique attributes of the property or the unique needs of the proposer;
 - ii. The proposed use of the property is consistent with the city's use of the property and the public interest; and
 - iii. The city reserves the right to terminate the contract without penalty, in the event that the city determines that the contract is no longer consistent with the city's present or planned use of the property or the public interest.
 1. Used Property. The City Recorder/Administrator may contract for the purchase of used property by negotiation if such property is suitable for the city's needs and can be purchased for a lower cost than substantially similar new property.
 - i. For this purpose, the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the city.
 - ii. The City Recorder/Administrator shall record the findings that support the purchase.
 - m. Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.
 - n. Conference/Meeting Room Contracts. Contracts entered into for meeting room rental, hotel rooms, food and beverage, and incidental costs related to conferences and city-sponsored workshops and trainings.
4. Emergency Procurements. When the City Recorder/Administrator determines that immediate execution of a contract within the City Recorder/Administrator's authority is necessary to prevent substantial damage or injury to persons or property, the City Recorder/Administrator may execute the contract without competitive selection and award or city council approval, but, where time permits, competitive quotes should be sought from at least three (3) providers.
 - a. When the City Recorder/Administrator enters into an emergency contract, the City Recorder/Administrator shall, as soon as possible in light of the emergency circumstances, document the nature of the emergency, the method used for selection of the particular contractor, and the reason why the selection method was deemed in the best interest of the city and the public.
 - b. The City Recorder/Administrator shall also notify the city council of the facts and circumstances surrounding the emergency execution of the contract.
5. Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Public Contracting Code.

Section 10. Surplus Property.

1. General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the City Recorder/Administrator that the method of disposal is in the best interest of the city. Factors that may be considered by the City Recorder/Administrator include costs of sale, administrative costs, and public benefits to the city.
 - a. Governments. Without competition, by transfer or sale to another government department or public agency.
 - b. Auction. By publicly advertised auction to the highest bidder.
 - c. Bids. By publicly advertised invitation to bid.

- d. Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with this Ordinance for the award of personal services contracts.
 - e. Fixed Price Sale. The City Recorder/Administrator may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.
 - f. Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.
 - g. Donation. By donation to any organization operating within or providing a service to residents of the state of Oregon, which is recognized by the Internal Revenue Service as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
2. Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500, or for which the costs of sale are likely to exceed sale proceeds, may be disposed of by any means determined to be cost-effective, including by disposal as waste. The employee making the disposal shall make a record of the value of the item and the manner of disposal.
 3. Personal-Use Items. An item (or indivisible set) of specialized and personal use with a current value of less than \$100 may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the City Recorder/Administrator.
 4. Restriction on Sale to City Employees. City employees shall not compete, as members of the public, for the purchase of publicly sold surplus property.
 5. E. Conveyance to Purchaser. Upon the consummation of a sale of surplus personal property, the city shall make, execute and deliver a bill of sale or similar instrument signed on behalf of the city, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

Section 11. Protest and Appeal Procedures.

1. Appeal of Debarment or Prequalification Decision.
 - a. Right to Hearing. Any person who has been debarred from competing for the city's contracts or for whom prequalification has been denied, revoked or revised may appeal the city's decision to the city council as provided in this section.
 - b. Filing of Appeal. The person shall file a written notice of appeal with the City Recorder/Administrator within five (5) business days after the prospective contractor's receipt of notice of the determination of debarment or denial of prequalification.
 - c. Notification of City Council. Immediately upon receipt of such notice of appeal, the City Recorder/Administrator shall notify the city council of the appeal.
 - d. Hearing. The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:
 - i. Promptly upon receipt of notice of appeal, the city shall notify the appellant of the date, time and place of the hearing;

- ii. The city council shall conduct the hearing and decide the appeal within thirty (30) days after receiving notice of the appeal from the City Recorder/Administrator; and
 - iii. At the hearing, the city council shall reconsider, without regard to the underlying decision giving rise to the appeal, the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties.
 - e. Decision. The city council shall set forth in writing the reasons for the decision.
 - f. Costs. The city council may allocate its costs for the hearing between the appellant and the city.
 - i. The allocation shall be based upon facts found by the city council and stated in the city council's decision that, in the city council's opinion, warrant such allocation of costs.
 - ii. If the city council does not allocate costs, the costs shall be paid by the appellant if the decision is upheld, or by the city if the decision is overturned.
 - iii. Judicial Review. The decision of the city council may be reviewed only upon a petition in the circuit court of {County} filed within fifteen (15) days after the date of the city council's decision. The appeal must be filed in accordance with all applicable state laws and trial court procedures.
- 2. Protests and Judicial Review of Special Procurements. An affected person may protest the request for approval of a special procurement as provided in this section.
 - a. Delivery; Late Protests. An affected person shall deliver a written protest to the City Recorder/Administrator within seven (7) days after the first date of public notice of a proposed special procurement, unless a different period is provided in the public notice.
 - i. The written protest shall include a fee in an amount established in a schedule adopted by the City Recorder/Administrator to cover the costs of processing the protest.
 - ii. A protest submitted after the timeframe established under this subsection is untimely and shall not be considered.
 - b. Content of Protest. The written protest shall include:
 - i. Identification of the requested special procurement;
 - ii. A detailed statement of the legal and factual grounds for the protest;
 - iii. Evidence or documentation supporting the grounds on which the protest is based;
 - iv. A description of the resulting harm to the affected person; and
 - v. The relief requested.
 - c. Additional Information. The City Recorder/Administrator may allow any person to respond to the protest in any manner the City Recorder/Administrator deems appropriate, by giving such persons written notice of the time and manner whereby any response shall be delivered.
 - d. City Response. The City Recorder/Administrator shall issue a written disposition of the protest in a timely manner.

4. Protests and Judicial Review of Personal Services Procurements. An affected person may protest the procurement of a personal services contract as provided in this section.
 - a. Delivery. Unless otherwise specified in the solicitation document, the protest shall be in writing and delivered to the City Recorder/Administrator.
 - i. The written protest shall include a fee in an amount established in a schedule adopted by the City Recorder/Administrator to cover the costs of processing the protest.
 - ii. Protests of the procurement of a specific contract as a personal services contract shall be made prior to closing.
 - iii. Protests to the award or an intent to award a personal services contract shall be made within seven (7) days after issuance of the intent to award, or if no notice of intent to award is given, within forty-eight (48) hours after award.
 - iv. Protests submitted after the timeframe established under this subsection are untimely and shall not be considered.
 - b. Contents of Protest. The written protest shall:
 - i. a. Specify all legal or factual grounds for the protest as follows:
 1. A person may protest the solicitation on the grounds that the contract is not a personal services contract or was otherwise in violation of this Ordinance or applicable law. The protest shall identify the specific provision of this Ordinance or applicable law that was violated.
 2. A person may protest award or intent to award for the reason that:
 - All proposals ranked higher than the affected persons are nonresponsive;
 - The city failed to conduct the evaluation of proposals in accordance with the criteria or processes described in the solicitation document;
 - The city abused its discretion in rejecting the affected person's proposal as nonresponsive; or
 - The evaluation of proposals or the subsequent determination of award is otherwise in violation of this Ordinance or applicable law.
 3. The protest shall identify the specific provision of this Ordinance or applicable law that was violated by the city's evaluation or award;
 - ii. Include evidence or supporting documentation that supports the grounds on which the protest is based;
 - iii. A description of the resulting harm to the affected person; and
 - iv. The relief requested.
 - c. Additional Information. The City Recorder/Administrator may allow any person to respond to the protest in any manner the City Recorder/Administrator deems appropriate by giving such person written notice of the time and manner whereby any response shall be delivered.
 - d. City Recorder/Administrator Response. The City Recorder/Administrator shall issue a written disposition of the protest in a timely manner.

- i. If the City Recorder/Administrator upholds the protest, in whole or in part, the proposed personal services contract procurement shall be cancelled, or the contract shall not be awarded, as the case may be.
 - ii. If the City Recorder/Administrator upholds the protest, in whole or in part, the city shall refund the fee required to be delivered with the protest.
 - e. Judicial Review. Before seeking judicial review, an affected person shall exhaust all administrative remedies. Judicial review shall be in accordance with ORS 279B.420.
- 5. Protests of Cooperative Procurements. Protests of the cooperative procurement process, contents of a solicitation document, or award may be filed with the city only if the city is the administering agency and under the applicable procedure described herein.

Ordinance 23-08

Amending Council Rules & Procedures

The City of Sodaville Ordains as Follows:

Section 1.

Ordinance 12-01 Section 3. is amended as follows:

3.1 Regular meetings of the Council will be held the ~~fourth Tuesday~~ **third Thursday** of each month beginning at 7:00 p.m. in the Council Chambers at the Sodaville City Hall.

3.2 Times and dates of the regular Council meetings may be changed **by the Mayor** because of special circumstances, to facilitate work sessions, or in order to have a quorum of Councilors at the meeting. Regular meeting notice requirements must be followed. **In the absence of the Mayor, times and dates of regular meetings may be changed by the Council President. In the absence of both the Mayor and Council President, times and dates of regular meetings may be changed by the City Administrator/Recorder.**

Passed by the City Council this 10th day of August 10, 2023.

Approved by the Mayor this _____ day of August, 2023.

_____ Ayes _____ Nays

Mayor

City Administrator/Recorder

Ordinance 23-09

Resting Locations

The City of Sodaville Ordains as Follows:

Section 1.

Ordinance 22-05 is amended as follows:

(s). ~~The Soda Springs~~ Park will be closed from dusk until dawn 7 days a week. There is to be no persons in ~~the Soda Springs p~~Park from 9:00 pm until 6:00 am April 1 to September 30 and from 8:00 pm until 7:00 am October 1 to March 31. **The right to rest will not be infringed in Mineral Springs park from 9:00 pm until 6:00 am April 1 to September 30 and from 8:00 pm until 7:00 am October 1 to March 31, provided that an individual does not rest on the paved portion or inside the bathroom.**

Passed by the City Council this 10th day of August 10, 2023.

Approved by the Mayor this _____ day of August, 2023.

_____ Ayes _____ Nays

Mayor

City Administrator/Recorder

STATE OF OREGON
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT



**2023-2025 GRANT YOUNG MEMORIAL
PLANNING ASSISTANCE GRANT**

AGREEMENT COVER SHEET	
This cover sheet is informational and not a part of the agreement	
Offer Date: July 21, 2023	Grant No. GY-25-114
Grantee City of Sodaville 30723 Sodaville Rd. Lebanon, Oregon 97355	DLCD Grant Manager Angela Williamson, Grants Administrative Specialist 971-239-2901 DLCD.GFGrant@dlcd.oregon.gov
GRANT AMOUNT: \$2,000	CLOSING DATE: April 30, 2025

This grant is named in honor of Grant Young, DLCD's Eastern Oregon regional representative who passed away in 2017. Mr. Young was a strong advocate for smaller jurisdictions in the Eastern Oregon region and a proponent for creative use of these grants. He helped find productive uses of the grants by pooling or leveraging the funds or simply suggesting uses for the dollars in ways to advance the objectives of the jurisdiction. Mr. Young put a considerable amount of effort into helping small cities and counties in his region address local needs.

INSTRUCTIONS – READ CAREFULLY

In order to receive this grant, Grantee must sign this Agreement and scan it and e-mail it to DLCD at DLCD.GFGrant@dlcd.oregon.gov by **August 31, 2023**. Alternatively, the signed Agreement may be mailed to:

Angela Williamson, Grants Administrative Specialist
Department of Land Conservation and Development
635 Capitol St. NE, Suite 150
Salem, OR 97301

If the Agreement is not signed and returned without modification by Grantee by the due date, DLCD may withdraw the grant offer. Upon receipt of the signed Agreement, the DLCD Grant Program Manager will countersign the Agreement and return an electronic file containing the executed Agreement to Grantee with a payment voucher for the grant amount as listed in the Grant Amount box above, to the address provided above.

STATE OF OREGON
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
2023-2025 PLANNING ASSISTANCE GRANT
AGREEMENT

DLCD Grant Number: GY-25-114

City of Sodaville

This agreement (“Agreement”) is made and entered into by and between the **State of Oregon**, acting by and through its Department of Land Conservation and Development, hereinafter referred to as “DLCD,” and **City of Sodaville**, hereinafter referred to as “Grantee,” and collectively referred to as the “Parties.”

1. **Effective Date and Availability of Grant Funds.** This Agreement is effective on the date on which every party has signed this Agreement and all required State approvals have been obtained (“Effective Date”). Grant Funds under this Agreement are available for eligible costs as defined in Section 8 incurred beginning on the Effective Date and ending on the earlier of the termination of this Agreement or **April 30, 2025** (“Closing Date”). DLCD’s obligation to disburse Grant Funds under this Agreement ends 60 days after the earlier of termination of this Agreement or the Closing Date.
2. **Agreement Documents.** The Agreement consists of this document and one attachment, all of which are attached hereto and incorporated by reference:
3. **Grant Funds.** The maximum, not-to-exceed, grant amount that the DLCD will pay to Grantee is **\$2,000**. Disbursements will be made only in accordance with the schedule and requirements contained in this Agreement.
4. **Closeout Report.** Grantee must submit a closeout report to DLCD within 30 days after the termination of the Agreement or the Closing Date, whichever is earlier to the DLCD Grant Manager in writing by personal delivery, e-mailing, or mailing at the address or number set forth in the attachment. The closeout report is attached to this Agreement.
5. **Subsequent funding:** Eligibility for subsequent funding to the Grantee is contingent upon receipt of the closeout report as referenced in Section 4.
6. **Acknowledgment.** All reports, studies, and other documents produced in whole or in part under this grant must indicate on the cover or title page an acknowledgment of the financial assistance provided by DLCD.
7. **Final Products.** Grantee shall provide copies of all final products produced under this grant to DLCD upon request. Grantee must describe final products in the Grant Closeout Report. DLCD may display products on its website.

8. **Acceptable use of grant funds.** Grant funds may be used by Grantee to accomplish and carry out one or more of the following:
 - a. Paying the salary of an employee or the fee of a contractor for day-to-day administration of the Grantee's planning program, including but not limited to: answering planning and zoning questions; providing planning and zoning information; carrying out administrative actions such as zone changes, permits, land divisions, and similar ministerial and quasi-judicial actions; updating application forms; and enforcing local zoning regulations.
 - b. Preparing for meetings such as planning commission, city council, and board of commissioners for planning and zoning related matters. Examples include postage, copying, paper, notices, and other documents.
 - c. Creating, updating, amending, or codifying all or a part of a comprehensive plan, land use regulations, or other planning studies or reports.
 - d. Collecting data and conducting inventories and studies related to comprehensive plan elements, land use regulations, development codes, zoning ordinances.
 - e. Updating and reprinting maps, inventory data, and plan documents.
 - f. Developing and implementing a public facility financing plan.
 - g. Supporting citizen involvement programs and activities.
 - h. Developing and conducting public workshops on planning and zoning.
 - i. Developing, amending, or implementing intergovernmental coordination programs or agreements.
 - j. Developing and implementing a dispute resolution program.
 - k. Training in land use planning for local elected and appointed officials, staff, and citizens on land use planning.
 - l. Purchasing maps, aerial photos, GIS products, or mapping software.
 - m. Other planning activities or products pre-approved by DLCD.
9. **Excluded uses of grant funds:** The grant funds may not be used for office equipment or other types of hardware such as desks, tables, chairs, cabinets, appliances, computers, printers, photo copiers, digital equipment, vehicles, outdoor supplies, beautification projects, and other business supplies. Grant funds may not be used by the grantee for legal or administrative costs associated with defending the grantee or other grantees from decisions made by the Land Conservation Development Commission or DLCD. Grant funds may not be used for legal or administrative costs associated with Measure 37 or Measure 49 costs incurred by Grantee.
10. **Subsequent funding.** Eligibility for subsequent funding is contingent upon timely receipt of the Closeout Report by DLCD.
11. **Unexpended Funds.** Grantee will return all unexpended grant funds to DLCD with submission of the Closeout Report.
12. **Payment.** All grant funds will be disbursed upon execution of this Agreement.
13. **DLCD Funds.** DLCD certifies that at the time this grant is written sufficient funds are available and authorized.

14. **Reporting.** At any time during the grant period, when requested by the DLCD grant manager, Grantee shall provide a written report on the status and progress of work performed under this grant.

15. **Indemnity.**

a. **GENERAL INDEMNITY.** SUBJECT TO THE LIMITS OF THE OREGON CONSTITUTION AND STATE OF OREGON TORT CLAIMS ACT, IF APPLICABLE TO GRANTEE, GRANTEE SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DLCD, THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY FEES, ARISING OUT OF, OR RELATING TO THE ACTS OR OMISSIONS OF GRANTEE OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.

b. **CONTROL OF DEFENSE AND SETTLEMENT.** GRANTEE SHALL HAVE CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY CLAIM THAT IS SUBJECT TO SECTION 15.a; HOWEVER, NEITHER GRANTEE NOR ANY ATTORNEY ENGAGED BY GRANTEE SHALL DEFEND THE CLAIM IN THE NAME OF THE STATE OF OREGON OR ANY AGENCY OF THE STATE OF OREGON, NOR PURPORT TO ACT AS LEGAL REPRESENTATIVE OF THE STATE OF OREGON OR ANY OF ITS AGENCIES, WITHOUT FIRST RECEIVING FROM THE OREGON ATTORNEY GENERAL, IN A FORM AND MANNER DETERMINED APPROPRIATE BY THE ATTORNEY GENERAL, AUTHORITY TO ACT AS LEGAL COUNSEL FOR THE STATE OF OREGON. NOR SHALL GRANTEE SETTLE ANY CLAIM ON BEHALF OF THE STATE OF OREGON WITHOUT THE APPROVAL OF THE ATTORNEY GENERAL. THE STATE OF OREGON MAY, AT ITS ELECTION AND EXPENSE, ASSUME ITS OWN DEFENSE AND SETTLEMENT IN THE EVENT THAT THE STATE OF OREGON DETERMINES THAT GRANTEE IS PROHIBITED FROM DEFENDING THE STATE OF OREGON, OR IS NOT ADEQUATELY DEFENDING THE STATE OF OREGON'S INTERESTS, OR THAT AN IMPORTANT GOVERNMENTAL PRINCIPLE IS AT ISSUE AND THE STATE OF OREGON DESIRES TO ASSUME ITS OWN DEFENSE.

16. **Recovery of Grant Moneys.** Any Grant moneys disbursed to Grantee under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement must be returned to DLCD. Grantee shall return all Misexpended Funds to DLCD promptly after DLCD's written demand and no later than 15 days after DLCD's written demand. Grantee shall return all Unexpended Funds to DLCD within 14 days after the earlier of expiration or termination of this Agreement."

17. Termination:

- a. **DLCD's Right to Terminate at its Discretion.** At its sole discretion, DLCD may terminate this Agreement:
 - i. **For its convenience** upon thirty (30) days' prior written notice by DLCD to Grantee;
 - ii. **Immediately upon written notice** if DLCD fails to receive funding, appropriations, allotments or other expenditure authority at levels sufficient to allow DLCD, in the exercise of its reasonable administrative discretion, to continue to make disbursement under this Agreement; or
 - iii. **Immediately upon written notice** if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- b. **DLCD's Right to Terminate for Cause.** In addition to any other rights and remedies DLCD may have under this Agreement, DLCD may terminate this Agreement immediately upon written notice by DLCD to Grantee, or at such later date as DLCD may establish in such notice, after the occurrence of any of the following events:
 - i. **Grantee is in default** because Grantee institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
 - ii. **Grantee is in default** because Grantee commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform any of its obligations under this Agreement within the time specified herein or any extension thereof, or so fails to pursue its work hereunder as to endanger Grantee's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after DLCD's notice, or such longer period as DLCD may specify in such notice.
- c. **Grantee's Right to Terminate for Cause.** Grantee may terminate this Agreement by written notice to DLCD if DLCD is in default because DLCD fails to pay Grantee any amount due pursuant to the terms of this Agreement, and DLCD fails to cure such failure within thirty (30) calendar days after Grantee's notice or such longer period as Grantee may specify in such notice; or
- d. **Termination** under Section 14 shall be without prejudice to any claims, obligations, or liabilities either party may have incurred prior to such termination.

18. Failure to Comply: If a party fails to comply with any of the requirements or conditions of this Agreement, the other may, without incurring liability, refuse to perform further pursuant to this Agreement. DLCD shall make no further reimbursement to Grantee and Grantee shall

upon demand by DLCD promptly repay DLCD all unexpended grant funds and grant funds expended in breach of this Agreement.

19. **Accounting and Fiscal Records:** Grantee shall maintain its fiscal records related to this Agreement in accordance with generally accepted accounting principles. The Grantee shall maintain records of the receipt and expenditure of all funds subject to this Agreement for a period of six (6) years after the Project End Date, or for such longer period as may be required by applicable law or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Accounting records related to this Agreement will be separately maintained from other accounting records.
20. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between DLCD (or any other agency or department of the State of Oregon) and Grantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
21. **Audit:** The Oregon Secretary of State, Attorney General of the State of Oregon and the Director of DLCD or any other duly authorized representative of DLCD shall have access to and the right to examine any records of transactions related to this Agreement for six (6) years after the final disbursement of Grant Funds under this Agreement is authorized by DLCD.
22. **Amendments:** Amendments must be facilitated by the DLCD Grant Manager. An amendment to this Agreement may be initiated at any time during the grant period, but must be received at the DLCD Salem Office at least ninety (90) days prior to the Closing Date and be signed by all parties on or before sixty (60) days prior to the Closing Date.
23. **Counterparts.** This Grant Agreement may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all the parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.
24. **Survival.** All agreements, representations, and warranties of Grantee shall survive the execution and delivery of this Agreement, any investigation at any time made by DLCD or on its behalf and the making of the Grant.
25. **Successors and Assigns.** Recipient may not assign this Agreement or any right hereunder or interest herein, in whole or in part, without the prior written consent of DLCD. This

Agreement shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns.

26. **Validity and Severability.** If any provision of this Agreement is held to be invalid, such event shall not affect, in any respect whatsoever, the validity of the remainder of this Agreement and the remainder shall be construed without the invalid provision so as to carry out the intent of the parties to the extent possible without the invalid provision.

27. **Relationship of the Parties.** Nothing contained in this Agreement or any acts of the parties hereto shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture or of any other association other than that of independent contracting parties.

28. **No Third Party Beneficiary Rights.** No person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall have any right to enforce any term of this Agreement.

DLCD Planning Assistance Grant Information and Signature Page

This grant, approved by the Director of DLCD, acting on behalf of the Land Conservation and Development Commission, constitutes an obligation of funds in return for the work described herein. By signing the document, Grantee agrees to comply with the provisions contained in and attached to this Agreement. Upon acceptance by Grantee, the signed Agreement shall be returned to DLCD.

By signing this Agreement the Parties each represents and warrants that it has the power and authority to enter into this Agreement and that the Agreement is executed by its duly authorized representative. By signing the document, Grantee agrees to comply with the terms of this Agreement.

Grantee Jurisdiction Name City of Sodaville	E-mail Address	
Mailing Address, City, State, Zip code		
Telephone Number	Fax Number	
Print Name of Authorized Official For the Grantee	Title	Date
Signature of Authorized Official For the Grantee		
Print Name of Authorized Official for DLCD Gordon Howard	Title	Date
Signature of Authorized Official for DLCD	Grant Program Manager	

Department of Land Conservation and Development *Attachment A*
2023-25 Grant Young Memorial Planning Assistance Grant Closeout Report

Grantee City of Sodaville	Grant No. Assigned by DLCD GY-25-114	Grant Funds – Already Dispersed \$2,000.00*	Final Report
Funding / Grant Period From: Agreement Execution	Funding / Grant Period To: 4/30/2025	Summary of Activities and Products Provide a brief description of activities performed and/or products worked on using funds from this grant in the space provided below. Expenditure detail not needed for this section. In many cases a sentence or two is all that is required but we welcome as much information as you can provide.	
Transactions	Do not write in this space		
DLCD Grant Funding Expenditures	Provide amounts in spaces below		
1.Salaries and Benefits			
2.Supplies and Services			
3.Agreements (including consultants – provide name and contact information)			
4.Other (provide detailed list and explanation)			
5. DLCD Total (add lines 1, 2, 3, 4)			
Local Contributions – not required	Provide amounts in spaces below		
6 Salaries and Benefits			
7.Supplies and Services			
8.Agreements			
9.Other			
10. Local Total (if any)			
11. Certification: I certify to the best of my knowledge and belief that this report is correct, complete, and that all expenditure are for the purposes set forth in the award document. I further certify that all records are available upon request, and the financial records will be retained for SIX (6) YEARS after the Final Products and Payment are received.			
12. * If the total grant expenditures are less than the grant funds already dispersed, enter the difference here and send a reimbursement check for that amount to: DLCD, ATTN: Fiscal. \$ _____			
13. Typed or Printed Name and Title (required)		14. Mailing Address: Include City, State and Zip Code (required)	
15. Authorized Certifying Official Signature (required)		16. Date (required)	
PLEASE DO NOT WRITE BELOW THIS LINE			
DLCD CERTIFICATION (for DLCD use only) I certify, as a representative of the Department of Land Conservation and Development, that the grantee: ___ has met the terms and conditions of the grant and that all funds have been expended. ___ has not met the terms and conditions of the grant for the reasons stated on the attached sheet, and reimbursement from the grantee in the amount of \$ _____ is due.			
Signature of DLCD Grant Manager		Date Signed	
Signature of DLCD Program Manager		Date Signed	
BATCH #/DATE _____	VOUCHER#/DATE _____	PCA _____	
OBJ. CODE _____	VENDOR NO. _____	AMOUNT _____	

Closeout Form Attachment - Instructions

Instructions for Department of Land Conservation and Development 2023-25 Planning Assistance Grant Closeout Report

If you have questions about the Closeout Report or what the grant can be used for, please contact Angela Williamson, Grants Administrative Specialist at 971-239-2901 or DLCD.GFGrant@dlcd.oregon.gov.

The closeout report documents the allowable expenditures of previously distributed funds. Unexpended funds must be returned to DLCD.

- In the second row of the closeout report, please fill in the Starting Date (“Funding / Grant Period From”) for which the reimbursable expenditures were incurred. This will be the date the city or county signed the grant agreement.
- Under “Transactions,” complete items 1–5 for how the grant funds were used (required) and items 6–10 for local contributions (optional). Please do not include expenditures for projects or activities that the grant did not contribute to.
 1. **Salaries and Benefits** include the grantee’s staff time, including Other Personnel Expenses. Receipts are not required with this report submission.
 2. **Supplies and Services** include the grantee’s supplies used for the planning program and services not covered by an agreement or contract. Receipts are not required with this report submission.
 3. **Agreements** include consultants, attorneys, and any company or individual retained by the grantee to conduct work under the grant. This category does not include employees of the grantee, but rather an individual or entity that invoices the grantee for services rendered. Information required for the closeout report is: Name, address, and phone number of the payee. If there are multiple entities, please provide the amount of grant funds allocated for the reimbursement of each individually. If space in the Summary of Activities and Products box is insufficient to identify contractors, please attach an additional sheet.
 4. Please provide a brief explanation and dollar breakdown for amounts listed as “**Other.**” Receipts are not required.
 5. The **Total** listed in the “DLCD Grant Expenditures” section cannot exceed the total amount of the previously dispersed funds. If the total is less than the dispersed amount, the difference between the amount previously dispersed and the amount listed on the **Total** of the DLCD Grant Expenditures section is due and payable to DLCD upon submission of the closeout report. Please send a check with the report to: DLCD, Attn: Fiscal Department, 635 Capitol Street NE, Suite 150; Salem, OR 97301.

- Reporting of Local Contributions (boxes 6–10) is not required. DLCD asks for the information to receive accurate information regarding the cost of activities and/or products worked on in compliance with this grant. This category includes both in-kind and cash contributions.
- **Certification (box 11): Please read and understand the certification statement.** If you have questions please contact Angela Williamson, Grants Administrative Specialist at 971-239-2901 or DLCD.GFGrant@dlcd.oregon.gov.
- **Returning funds (box 12):** When returning general grant funds that were awarded to the jurisdiction because expenditures were less than the grant funds award to the jurisdiction, please indicate the number of dollars being returned.

Boxes 13–16 are for documenting responsibility for the information being submitted and requesting payment. Please use dark blue or black ink so the information shows when copied or scanned.

13. Print Name and Title legibly.

14. Print the mailing address where payment should be sent.

15. Signature of Authorized Certifying Official: by signing this box this person takes responsibility of the information and accuracy of the information.

16. “Date” is the date the closeout form was signed. It must be sent by the closeout date.

- The “Summary of Activities and Products” box, located on the top right side of form, must be completed. Please provide a brief description of activities performed and/or products worked on in compliance of this grant. Use additional sheets as needed. The Planning Assistance Grant Awards Conditions describes in detail the projects and activities allowed. (If you have questions, please contact Angela Williamson, Grants Administrative Specialist at 971-239-2901 or DLCD.GFGrant@dlcd.oregon.gov).

The grant funds dispersed to you must be used after the date on which all parties have signed the agreement and not after the closing date of this agreement.

It is important that you retain documentation of expenditures in a grant file maintained in your jurisdiction for six (6) years from the closeout date.

Two ways to submit the Closeout Report:

1. E-mail a PDF file of the signed closeout form attachment and cover memo to DLCD.GFGrant@dlcd.oregon.gov.
2. Send the hard copy of the signed closeout form and cover memo via US Mail to:

Grants Administrative Specialist
 Department of Land Conservation and Development
 635 Capitol Street NE, Suite 150
 Salem, Oregon 97301-2540

STATE OF OREGON
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT



**2023-2025 GRANT YOUNG MEMORIAL
PLANNING ASSISTANCE GRANT**

AGREEMENT COVER SHEET	
This cover sheet is informational and not a part of the agreement	
Offer Date: July 21, 2023	Grant No. GY-25-114
Grantee City of Sodaville 30723 Sodaville Rd. Lebanon, Oregon 97355	DLCD Grant Manager Angela Williamson, Grants Administrative Specialist 971-239-2901 DLCD.GFGrant@dlcd.oregon.gov
GRANT AMOUNT: \$2,000	CLOSING DATE: April 30, 2025

This grant is named in honor of Grant Young, DLCD's Eastern Oregon regional representative who passed away in 2017. Mr. Young was a strong advocate for smaller jurisdictions in the Eastern Oregon region and a proponent for creative use of these grants. He helped find productive uses of the grants by pooling or leveraging the funds or simply suggesting uses for the dollars in ways to advance the objectives of the jurisdiction. Mr. Young put a considerable amount of effort into helping small cities and counties in his region address local needs.

INSTRUCTIONS – READ CAREFULLY

In order to receive this grant, Grantee must sign this Agreement and scan it and e-mail it to DLCD at DLCD.GFGrant@dlcd.oregon.gov by **August 31, 2023**. Alternatively, the signed Agreement may be mailed to:

Angela Williamson, Grants Administrative Specialist
Department of Land Conservation and Development
635 Capitol St. NE, Suite 150
Salem, OR 97301

If the Agreement is not signed and returned without modification by Grantee by the due date, DLCD may withdraw the grant offer. Upon receipt of the signed Agreement, the DLCD Grant Program Manager will countersign the Agreement and return an electronic file containing the executed Agreement to Grantee with a payment voucher for the grant amount as listed in the Grant Amount box above, to the address provided above.

STATE OF OREGON
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
2023-2025 PLANNING ASSISTANCE GRANT
AGREEMENT

DLCD Grant Number: GY-25-114

City of Sodaville

This agreement (“Agreement”) is made and entered into by and between the **State of Oregon**, acting by and through its Department of Land Conservation and Development, hereinafter referred to as “DLCD,” and **City of Sodaville**, hereinafter referred to as “Grantee,” and collectively referred to as the “Parties.”

1. **Effective Date and Availability of Grant Funds.** This Agreement is effective on the date on which every party has signed this Agreement and all required State approvals have been obtained (“Effective Date”). Grant Funds under this Agreement are available for eligible costs as defined in Section 8 incurred beginning on the Effective Date and ending on the earlier of the termination of this Agreement or **April 30, 2025** (“Closing Date”). DLCD’s obligation to disburse Grant Funds under this Agreement ends 60 days after the earlier of termination of this Agreement or the Closing Date.
2. **Agreement Documents.** The Agreement consists of this document and one attachment, all of which are attached hereto and incorporated by reference:
3. **Grant Funds.** The maximum, not-to-exceed, grant amount that the DLCD will pay to Grantee is **\$2,000**. Disbursements will be made only in accordance with the schedule and requirements contained in this Agreement.
4. **Closeout Report.** Grantee must submit a closeout report to DLCD within 30 days after the termination of the Agreement or the Closing Date, whichever is earlier to the DLCD Grant Manager in writing by personal delivery, e-mailing, or mailing at the address or number set forth in the attachment. The closeout report is attached to this Agreement.
5. **Subsequent funding:** Eligibility for subsequent funding to the Grantee is contingent upon receipt of the closeout report as referenced in Section 4.
6. **Acknowledgment.** All reports, studies, and other documents produced in whole or in part under this grant must indicate on the cover or title page an acknowledgment of the financial assistance provided by DLCD.
7. **Final Products.** Grantee shall provide copies of all final products produced under this grant to DLCD upon request. Grantee must describe final products in the Grant Closeout Report. DLCD may display products on its website.

8. **Acceptable use of grant funds.** Grant funds may be used by Grantee to accomplish and carry out one or more of the following:
 - a. Paying the salary of an employee or the fee of a contractor for day-to-day administration of the Grantee's planning program, including but not limited to: answering planning and zoning questions; providing planning and zoning information; carrying out administrative actions such as zone changes, permits, land divisions, and similar ministerial and quasi-judicial actions; updating application forms; and enforcing local zoning regulations.
 - b. Preparing for meetings such as planning commission, city council, and board of commissioners for planning and zoning related matters. Examples include postage, copying, paper, notices, and other documents.
 - c. Creating, updating, amending, or codifying all or a part of a comprehensive plan, land use regulations, or other planning studies or reports.
 - d. Collecting data and conducting inventories and studies related to comprehensive plan elements, land use regulations, development codes, zoning ordinances.
 - e. Updating and reprinting maps, inventory data, and plan documents.
 - f. Developing and implementing a public facility financing plan.
 - g. Supporting citizen involvement programs and activities.
 - h. Developing and conducting public workshops on planning and zoning.
 - i. Developing, amending, or implementing intergovernmental coordination programs or agreements.
 - j. Developing and implementing a dispute resolution program.
 - k. Training in land use planning for local elected and appointed officials, staff, and citizens on land use planning.
 - l. Purchasing maps, aerial photos, GIS products, or mapping software.
 - m. Other planning activities or products pre-approved by DLCD.
9. **Excluded uses of grant funds:** The grant funds may not be used for office equipment or other types of hardware such as desks, tables, chairs, cabinets, appliances, computers, printers, photo copiers, digital equipment, vehicles, outdoor supplies, beautification projects, and other business supplies. Grant funds may not be used by the grantee for legal or administrative costs associated with defending the grantee or other grantees from decisions made by the Land Conservation Development Commission or DLCD. Grant funds may not be used for legal or administrative costs associated with Measure 37 or Measure 49 costs incurred by Grantee.
10. **Subsequent funding.** Eligibility for subsequent funding is contingent upon timely receipt of the Closeout Report by DLCD.
11. **Unexpended Funds.** Grantee will return all unexpended grant funds to DLCD with submission of the Closeout Report.
12. **Payment.** All grant funds will be disbursed upon execution of this Agreement.
13. **DLCD Funds.** DLCD certifies that at the time this grant is written sufficient funds are available and authorized.

14. **Reporting.** At any time during the grant period, when requested by the DLCD grant manager, Grantee shall provide a written report on the status and progress of work performed under this grant.

15. **Indemnity.**

a. **GENERAL INDEMNITY.** SUBJECT TO THE LIMITS OF THE OREGON CONSTITUTION AND STATE OF OREGON TORT CLAIMS ACT, IF APPLICABLE TO GRANTEE, GRANTEE SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DLCD, THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY FEES, ARISING OUT OF, OR RELATING TO THE ACTS OR OMISSIONS OF GRANTEE OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.

b. **CONTROL OF DEFENSE AND SETTLEMENT.** GRANTEE SHALL HAVE CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY CLAIM THAT IS SUBJECT TO SECTION 15.a; HOWEVER, NEITHER GRANTEE NOR ANY ATTORNEY ENGAGED BY GRANTEE SHALL DEFEND THE CLAIM IN THE NAME OF THE STATE OF OREGON OR ANY AGENCY OF THE STATE OF OREGON, NOR PURPORT TO ACT AS LEGAL REPRESENTATIVE OF THE STATE OF OREGON OR ANY OF ITS AGENCIES, WITHOUT FIRST RECEIVING FROM THE OREGON ATTORNEY GENERAL, IN A FORM AND MANNER DETERMINED APPROPRIATE BY THE ATTORNEY GENERAL, AUTHORITY TO ACT AS LEGAL COUNSEL FOR THE STATE OF OREGON. NOR SHALL GRANTEE SETTLE ANY CLAIM ON BEHALF OF THE STATE OF OREGON WITHOUT THE APPROVAL OF THE ATTORNEY GENERAL. THE STATE OF OREGON MAY, AT ITS ELECTION AND EXPENSE, ASSUME ITS OWN DEFENSE AND SETTLEMENT IN THE EVENT THAT THE STATE OF OREGON DETERMINES THAT GRANTEE IS PROHIBITED FROM DEFENDING THE STATE OF OREGON, OR IS NOT ADEQUATELY DEFENDING THE STATE OF OREGON'S INTERESTS, OR THAT AN IMPORTANT GOVERNMENTAL PRINCIPLE IS AT ISSUE AND THE STATE OF OREGON DESIRES TO ASSUME ITS OWN DEFENSE.

16. **Recovery of Grant Moneys.** Any Grant moneys disbursed to Grantee under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement must be returned to DLCD. Grantee shall return all Misexpended Funds to DLCD promptly after DLCD's written demand and no later than 15 days after DLCD's written demand. Grantee shall return all Unexpended Funds to DLCD within 14 days after the earlier of expiration or termination of this Agreement."

17. Termination:

- a. **DLCD's Right to Terminate at its Discretion.** At its sole discretion, DLCD may terminate this Agreement:
 - i. **For its convenience** upon thirty (30) days' prior written notice by DLCD to Grantee;
 - ii. **Immediately upon written notice** if DLCD fails to receive funding, appropriations, allotments or other expenditure authority at levels sufficient to allow DLCD, in the exercise of its reasonable administrative discretion, to continue to make disbursement under this Agreement; or
 - iii. **Immediately upon written notice** if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- b. **DLCD's Right to Terminate for Cause.** In addition to any other rights and remedies DLCD may have under this Agreement, DLCD may terminate this Agreement immediately upon written notice by DLCD to Grantee, or at such later date as DLCD may establish in such notice, after the occurrence of any of the following events:
 - i. **Grantee is in default** because Grantee institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
 - ii. **Grantee is in default** because Grantee commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform any of its obligations under this Agreement within the time specified herein or any extension thereof, or so fails to pursue its work hereunder as to endanger Grantee's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after DLCD's notice, or such longer period as DLCD may specify in such notice.
- c. **Grantee's Right to Terminate for Cause.** Grantee may terminate this Agreement by written notice to DLCD if DLCD is in default because DLCD fails to pay Grantee any amount due pursuant to the terms of this Agreement, and DLCD fails to cure such failure within thirty (30) calendar days after Grantee's notice or such longer period as Grantee may specify in such notice; or
- d. **Termination** under Section 14 shall be without prejudice to any claims, obligations, or liabilities either party may have incurred prior to such termination.

18. Failure to Comply: If a party fails to comply with any of the requirements or conditions of this Agreement, the other may, without incurring liability, refuse to perform further pursuant to this Agreement. DLCD shall make no further reimbursement to Grantee and Grantee shall

upon demand by DLCD promptly repay DLCD all unexpended grant funds and grant funds expended in breach of this Agreement.

19. **Accounting and Fiscal Records:** Grantee shall maintain its fiscal records related to this Agreement in accordance with generally accepted accounting principles. The Grantee shall maintain records of the receipt and expenditure of all funds subject to this Agreement for a period of six (6) years after the Project End Date, or for such longer period as may be required by applicable law or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Accounting records related to this Agreement will be separately maintained from other accounting records.
20. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between DLCD (or any other agency or department of the State of Oregon) and Grantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
21. **Audit:** The Oregon Secretary of State, Attorney General of the State of Oregon and the Director of DLCD or any other duly authorized representative of DLCD shall have access to and the right to examine any records of transactions related to this Agreement for six (6) years after the final disbursement of Grant Funds under this Agreement is authorized by DLCD.
22. **Amendments:** Amendments must be facilitated by the DLCD Grant Manager. An amendment to this Agreement may be initiated at any time during the grant period, but must be received at the DLCD Salem Office at least ninety (90) days prior to the Closing Date and be signed by all parties on or before sixty (60) days prior to the Closing Date.
23. **Counterparts.** This Grant Agreement may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all the parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.
24. **Survival.** All agreements, representations, and warranties of Grantee shall survive the execution and delivery of this Agreement, any investigation at any time made by DLCD or on its behalf and the making of the Grant.
25. **Successors and Assigns.** Recipient may not assign this Agreement or any right hereunder or interest herein, in whole or in part, without the prior written consent of DLCD. This

Agreement shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns.

26. **Validity and Severability.** If any provision of this Agreement is held to be invalid, such event shall not affect, in any respect whatsoever, the validity of the remainder of this Agreement and the remainder shall be construed without the invalid provision so as to carry out the intent of the parties to the extent possible without the invalid provision.

27. **Relationship of the Parties.** Nothing contained in this Agreement or any acts of the parties hereto shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture or of any other association other than that of independent contracting parties.

28. **No Third Party Beneficiary Rights.** No person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall have any right to enforce any term of this Agreement.

DLCD Planning Assistance Grant Information and Signature Page

This grant, approved by the Director of DLCD, acting on behalf of the Land Conservation and Development Commission, constitutes an obligation of funds in return for the work described herein. By signing the document, Grantee agrees to comply with the provisions contained in and attached to this Agreement. Upon acceptance by Grantee, the signed Agreement shall be returned to DLCD.

By signing this Agreement the Parties each represents and warrants that it has the power and authority to enter into this Agreement and that the Agreement is executed by its duly authorized representative. By signing the document, Grantee agrees to comply with the terms of this Agreement.

Grantee Jurisdiction Name City of Sodaville	E-mail Address	
Mailing Address, City, State, Zip code		
Telephone Number	Fax Number	
Print Name of Authorized Official For the Grantee	Title	Date
Signature of Authorized Official For the Grantee		
Print Name of Authorized Official for DLCD Gordon Howard	Title	Date
Signature of Authorized Official for DLCD	Grant Program Manager	