

CITY OF LINCOLN CITY

LINCOLN CITY COUNCIL AGENDA

MONDAY FEBRUARY 27, 2023 6:00 PM

**6:00 PM** - The Lincoln City Council will hold a regular meeting in the Council Chambers, 801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367.

Public comments can be submitted to [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org), by attending the City Council meeting, or by telephone.

Public comments submitted by email to [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org) will be entered into the official record, distributed to the governing body, and summarized; however, due to personal privacy issues they are not generally published in the online agenda packet.

**\*\*PUBLIC COMMENT VIA EMAIL WILL ONLY BE RECOGNIZED UPON RECEIPT OF AN EMAIL SENT TO [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org)\*\***

Citizens requesting to give public comment via Zoom or telephone must email [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org) no later than noon on the meeting day. The request must include the person's name, the subject the person wishes to address, and the screenname the person intends to use for the meeting. Instructions will be sent to the person requesting prior to the meeting. Persons who will give public comment via Zoom or telephone will need to leave the microphone muted and camera off until the public comment portion of the meeting.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing-impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting. To request information in an alternate format or other assistance, please contact the City's ADA Coordinator, Kevin Mattias, at [541-996-1013](tel:541-996-1013) or [kmattias@lincolncity.org](mailto:kmattias@lincolncity.org). Visit the [ADA Accessibility | City of Lincoln City, OR](#) webpage to view how the City continues to remain in compliance with Title II of the Americans with Disabilities Act regarding City programs, services, processes, and facilities.

The Lincoln City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

All information for this meeting is available at [www.lincolncity.org](http://www.lincolncity.org) under "Government" then select "Public Meeting, Agendas, Packets & Video". This meeting will be televised live on Channel 4. For additional rebroadcast times, please consult the Channel 4 guide on the hour. If you wish to speak on an agenda or non-agenda item, please sign up on the sheet near the entrance door to the Council Chambers. You will be called to speak during the "Public Comment" section. Comments or testimony on agenda items listed under "public hearing/public comment" will be taken at that time.

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. PLEDGE OF ALLEGIANCE**

**D. CONSENT AGENDA**

1. Regular Meeting – Minutes of Work Session – February 8, 2023 3:30 PM
2. Regular Meeting – Minutes of Regular Meeting – February 13, 2023 6:00 PM
3. Oregon Liquor Control Commission - Request for Ownership Change, Commercial Liquor License for Zeller's Bar and Grill
4. Oregon Liquor Control Commission - Request for Greater Privilege, Commercial Liquor License for Vin & Brau

**E. COUNCIL DELIBERATIONS**

**F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS**

Article I, Section 8, of the Oregon Constitution provides: No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right. Be advised: Comments by citizens under this Public Comments Section of the Agenda or under Public Hearings are solely the opinions and statements of the speakers and are not statements by the City of Lincoln City and do not represent the opinions of the City of Lincoln City, its officers and employees.

**G. PRESENTATIONS**

5. Presentation on the services the Lincoln County Veteran Services provides to veterans.
6. FY2022-23 Submission of Audited Statements

**H. PUBLIC HEARING / ORDINANCE**

**I. PUBLIC HEARINGS / PUBLIC COMMENTS**

**J. ORDINANCES**

1. ORDINANCE NO. 2023-03 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.06 (CITY APPOINTIVE BODIES), AMENDING SECTION 2.06.075 (CODE OF ETHICS) TO FURTHER CLARIFY THE CODE OF CONDUCT FOR APPOINTIVE BODY MEMBERS TO BE CONSISTENT WITH COUNCIL RULES
2. ORDINANCE NO. 2023-02 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 1 (GENERAL PROVISIONS), AMENDING CHAPTER 1.16 (VIOLATIONS), AMENDING SECTION 1.16.030 (DEFINITIONS) TO UPDATE THE DEFINITION OF CITY ENFORCEMENT OFFICER
3. ORDINANCE NO. 2023-04 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), AMENDING CHAPTER 2.14 (COMMITTEE FOR CITIZEN INVOLVEMENT), AMENDING SECTION 2.14.030 (POWERS AND DUTIES) TO REFER TO THE OREGON ADMINISTRATIVE RULE GOVERNING THE COMMITTEE

**K. RESOLUTIONS**

**L. SPECIAL ORDER OF BUSINESS**

4. Wastewater Master Plan Update Contract Award
5. Holmes Pump Station Upgrade
6. NE 14th Sidewalk Project Phase 2

**M. CITY MANAGER/CITY ATTORNEY REPORTS**

**N. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION**

**O. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS**

**P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL**

**Q. ADJOURNMENT**

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF WORK SESSION MEETING

February 8, 2023, 3:30 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at [www.lincolncity.org](http://www.lincolncity.org) under the tab "Agendas, Packets, and Videos". The staff reports, resolutions, ordinances, and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE:

1. **CALL TO ORDER**

*Mayor Wahlke called the meeting to order at 3:34 PM*

Attendee Name	Title	Status	Arrived
Susan Wahlke	Mayor	Present	3:30 PM
Elaine Starmer	Councilor Ward 1	Absent	3:30 PM
Sydney Kasner	Councilor Ward 2	Present	3:30 PM
Judy Casper	Councilor Ward 3	Present	3:30 PM
Riley Hoagland	Councilor Ward 2	Present	3:30 PM
Rick Mark	Councilor Ward 3	Absent	3:30 PM
Mitch Parsons	Councilor Ward 1	Present	3:30 PM

*Staff Present: Daphnee Legarza, City Manager; Jeanne Sprague, Parks and Recreation Director; Cassidy Boyle, Emergency Preparedness Coordinator; Jamie Young, City Recorder.*

2. **DISCUSSION ITEMS**

A. Update Regarding Drive-On Beach Accesses

*Jeanne Sprague, Parks and Recreation Director, presented an update on the drive on beaches. Councilor Hoagland asked if North Lincoln Fire had been consulted. Ms. Sprague confirmed.*

**B. Local Elected Officials: A Guide to Emergency Management**

*Cassidy Boyle, Emergency Preparedness Coordinator, gave a presentation regarding emergency management and disaster preparedness. Council and Staff had a discussion regarding emergency management and disaster preparedness. Ms. Boyle gave an overview of the EOC. Council and Staff discussed options for visitors to our area. Ms. Boyle spoke about the social media accounts for emergency management and the meaning of the graphics. Ms. Boyle updated Council on the tsunami sirens. Council and Staff had a conversation regarding the tsunami sirens.*

**3. MISCELLANEOUS**

*NONE*

**4. ADJOURNMENT**

*Mayor Wahlke adjourned the meeting at 4:57 PM.*

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SUSAN WAHLKE, MAYOR

ATTEST:

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JAMIE YOUNG, CITY RECORDER

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

February 13, 2023, 6:00 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at [www.lincolncity.org](http://www.lincolncity.org) under the tab "Agendas, Packets, and Videos". The staff reports, resolutions, ordinances, and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE:

**A. CALL TO ORDER**

Mayor Wahlke called the meeting to order at 6:00 PM.

**B. ROLL CALL**

Attendee Name	Title	Status	Arrived
Susan Wahlke	Mayor	Present	6:00 PM
Elaine Starmer	Councilor Ward 1	Remote	6:00 PM
Sydney Kasner	Councilor Ward 2	Present	6:00 PM
Judy Casper	Councilor Ward 3	Present	6:00 PM
Riley Hoagland	Councilor Ward 2	Present	6:00 PM
Rick Mark	Councilor Ward 3	Present	6:00 PM
Mitch Parsons	Councilor Ward 1	Present	6:00 PM

Staff Present: Daphnee Legarza, City Manager; Richard Appicello, City Attorney; Chief Broderick, Lincoln City Police Department; Alison Robertson, Economic Development and Urban Renewal Director; Stephanie Reid, Public Works Director; Anne Marie Skinner, Planning and Community Development Director (Remote); Tony LaSoya, I.T. Director; Jamie Young, City Recorder.

**C. PLEDGE OF ALLEGIANCE**

Mayor Wahlke led The Pledge of Allegiance.

Mayor Wahlke moved item L2 Hearth and Table liquor license to D3 Consent Agenda.

**D. CONSENT AGENDA**

<b>MOTION:</b>	<b>Consent Agenda</b>
<b>MOVER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>AYES:</b>	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
<b>RESULT:</b>	<b>Passed</b>

1. Regular Meeting – Minutes of Regular Meeting – January 23, 2023, 6:00 PM
2. INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF OREGON, OREGON PARKS AND RECREATION DEPARTMENT AND THE CITY OF LINCOLN CITY, OREGON
3. Oregon Liquor Control Commission - Request for Full On-Premises, Commercial Liquor License for Hearth & Table

**E. COUNCIL DELIBERATIONS**

NONE

**F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS**

*Ms. Legarza said there were two public comments; one in opposition of the Delake Heights LID and one regarding the assessment of a property within Delake Heights.*

*Leslie James of the North Lincoln Hospital Foundation and Terry Buggenhagen, North Lincoln Hospital Board Chairman spoke regarding the Samaritan Treatment and Recovery Services (STARS) project. Ms. James gave an update and asked for the City's support. Council received a packet from Ms. James and had a discussion.*

*Lisa Spence-Bunnett and Barbara Perry of Lincoln City spoke regarding the Central Coast Human Society and the need for a grant. Council had a discussion with Ms. Spence-Bunnett and Ms. Perry.*

**G. PRESENTATIONS**

4. Motion to Direct Staff to Enter into an MOU with Lincoln County for Pilot Project for Abandoned RVs and Trailers

*Tim Johnson, County Administrator, and Paul Seitz, District Manager of Lincoln County Solid Waste spoke regarding RV waste disposal. Mr. Johnson spoke about the revenue and making this program sustainable. Councilor Mark asked if a lien can be placed on the property for the RV removal. Mr. Johnson said that is a possibility for the City's legal counsel to pursue. Councilor Kasner asked about the possibility of recycling and asbestos testing. Mr. Johnson said that the RVs will be recycled as much as possible and all will be tested for asbestos.*

5. Motion to Approve the Mayor to Sign the USDA Community Facilities Grant Letter

**H. PUBLIC HEARING / ORDINANCE**

NONE

**I. PUBLIC HEARINGS / PUBLIC COMMENTS**

NONE

**J. ORDINANCES**

NONE

**K. RESOLUTIONS**

NONE

**L. SPECIAL ORDER OF BUSINESS****1. Budget Committee Interview - Multiple Applicants**

*Sam Ignazzitto was interviewed for the Budget Committee. Council filled out ballots to vote. Councilor Starmer abstained. Council had a discussion on abstaining to vote. Councilor Mark voted for Neighorn and Ignazzitto; Councilor Parsons voted for Laspa and Neighorn; Mayor Wahlke voted for Laspa and Neighorn; Councilor Casper voted for Laspa & Ignazzitto; Councilor Kasner voted for Neighorn & Ignazzitto; Councilor Hoagland voted for Neighorn & Laspa. Total votes Neighorn 5, Laspa 4, Ignazzitto.*

**2.**

<b>MOTION:</b>	<b>Motion to Appoint Jules Laspa to a Partial Plus Full Term to the Budget Committee Expiring 12/31/26</b>
<b>MOVER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>AYES:</b>	Wahlke, Kasner, Casper, Hoagland, Mark, Parsons
<b>ABSTAIN:</b>	Starmer
<b>RESULT:</b>	<b>Passed by Voice Vote</b>

**3.**

<b>MOTION:</b>	<b>Motion to Appoint Mark Neighorn to a Full Term to the Budget Committee Expiring 12/31/25</b>
<b>MOVER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>AYES:</b>	Wahlke, Kasner, Casper, Hoagland, Mark, Parsons
<b>ABSTAIN:</b>	Starmer
<b>RESULT:</b>	<b>Passed by Voice Vote</b>

**4. Advanced Metering Infrastructure, Phase 2 Contract Award**

<b>MOTION:</b>	<b>Motion to Approve the Implementation of the Advance Metering Infrastructure System Phase 2 and Award Ferguson Waterworks the Contract for Phase 2 in the Amount of</b>
<b>MOVER:</b>	<b>Sydney Kasner, Councilor Ward 2</b>
<b>SECONDER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>AYES:</b>	Wahlke, Starmer, Kasner, Casper, Mark, Parsons
<b>NAYS:</b>	Hoagland
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>

*Stephanie Reid, Public Works Director, explained phase 2 of the contract Advance Metering Infrastructure.*

## 5. City Hall Exterior Painting Project Award

<b>MOTION:</b>	<b>Motion to Award the City Hall Exterior Painting Project Contract to All-Ways Painting and General Construction in the Amount of \$71,500 with a 10% Contingency of \$7,150.00 for a Total Amount of \$78,650.00</b>
<b>MOVER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Sydney Kasner, Councilor Ward 2</b>
<b>AYES:</b>	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>

*Stephanie Reid, Public Works Director, explained the City Hall exterior painting project. Council has a discussion with Ms. Reid regarding the project.*

## M. CITY MANAGER/CITY ATTORNEY REPORTS

*Daphnee Legarza, City Manager, shared potential resources for mental health. Ms. Legarza shared about grants and revenue sources that the City is going to look into. Ms. Legarza shared information about the Safe Routes to School grant received. Ms. Legarza gave a list of upcoming events for the Council. Ms. Legarza gave kudos to Ms. Brodbeck-Kenney for her presentation during a virtual conference.*

## N. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION

### 6.

<b>MOTION:</b>	<b>Motion to Accept the City Manager's Final Evaluation as Discussed in Executive Session and Designate the Mayor to Sign and Deliver a Copy of the Finalized Form to the City Manager as Part of her Confidential Record</b>
<b>MOVER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>SECONDER:</b>	<b>Sydney Kasner, Councilor Ward 2</b>
<b>AYES:</b>	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
<b>RESULT:</b>	<b>Passed by Voice Vote</b>

### 7.

<b>MOTION:</b>	<b>Motion to Direct Staff to Set a Date for an Executive Session with the Council and the City Manager to go Over the Contents of the Evaluation</b>
<b>MOVER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>SECONDER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>AYES:</b>	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
<b>RESULT:</b>	<b>Passed by Voice Vote</b>

## O. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

*NONE*

## P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

*Councilor Kasner spoke regarding the STARS program. Mayor Wahlke said that she would like to commit money to the STARS project. Ms. Legarza said they would be able to prove that information in the budget process. Councilor Hoagland asked for further information on the taxing district. Council has a discussion regarding the taxing district and funding sources. Councilor Kasner said this is an important project. Councilor Kasner said it has been nice to have so many applicants for the boards and committees.*

*Councilor Parsons spoke about the art exhibit Pacific Heritage in Newport for the Missing & Endangered Indigenous Persons. The exhibit is there until May 7th, 2023*

*Councilor Hoagland spoke about tree seedlings at the Table Mountain Forestry shop. Councilor Hoagland said these are available until supplies run out.*

*Councilor Mark spoke about the Audubon Society event on March 15th at the Cultural Center from 5:30-8 PM. Council Mark explained the details of the event.*

*Councilor Casper spoke about the broadband symposium attended last Friday. Councilor Casper asked that Citizens log on to faster internet Oregon (<https://www.fasterinternetoregon.org/>) and participate. Councilor Casper said that you can apply for affordable internet to students and seniors. Councilor Casper spoke about internet speed and the advisory committee.*

*Mayor Wahlke spoke about the Accessibility Travel Conference that she attended. Mayor Wahlke said she is pleased that our community will have the funding to help with the accessibility issues. Mayor Wahlke was also impressed that the City has an Accessibility Committee. Mayor Wahlke spoke about the Parks and Recreation Valentine's Essay Contest. Mayor Wahlke said that she fully supports the STARS program and she is looking forward to discussing a contribution during the budget process. Councilor Mark asked with the tight budget about delaying projects to support the STARS project. Ms. Legarza spoke about future funding options.*

**Q. ADJOURNMENT**

*Mayor Wahlke adjourned the meeting at 7:55 PM.*

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SUSAN WAHLKE, MAYOR

ATTEST:

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JAMIE YOUNG, CITY RECORDER

# Council Communication

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## Oregon Liquor Control Commission - Request for Ownership Change, Commercial License

Meeting Date:	February 27, 2023	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	3 min

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### Questions:

Should the City Council provide a recommendation to the Oregon Liquor Control Commission (OLCC) for an Ownership Change, Commercial Liquor License for Zeller's Bar and Grill?

### Staff Recommendations:

A review was conducted by Chief Broderick, who recommends that City Council provide a favorable recommendation to grant the license to the applicant.

### Legal Background and Framework:

Oregon Revised Statute (ORS) 471.166 establishes the process for local governments to make recommendation to the OLCC.

Lincoln City Municipal Code Chapter 5.20 sets forth the local process for making recommendations to OLCC.

### Council Options:

1. Approve a favorable recommendation for an Ownership Change, Commercial Liquor License for Zeller's Bar and Grill.
2. To not approve the license application.

### Attachments:

Zellers Bar and Grill\_Redacted.pdf (PDF)

# LIQUOR LICENSE APPLICATION

Page 1 of 4

Check the appropriate license request option:

- New Outlet
- Change of Ownership
- Renewal
- Transfer
- Add Sales Privilege

Select the license type you are applying for.

More information about all license types is available [here](#).

### Full On-Premises

- Commercial
- Caterer
- Public Passenger Carrier
- Other Public Location
- For Profit Private Club
- Nonprofit Private Club

### Winery

- Primary location
- Additional locations:  2nd  3rd  4th  5th

### Brewery

- Primary location
- Additional locations:  2nd  3rd

### Brewery-Public House

- Primary location
- Additional locations:  2nd  3rd

### Grower Sales Privilege

- Primary location
- Additional locations:  2nd  3rd

### Distillery

- Primary location
- Additional tasting locations:  2nd  3rd  4th  5th  6th

- Limited On-Premises
- Off Premises
- Warehouse
- Wholesale Malt Beverage and Wine

### INTERNAL USE ONLY

Local Governing Body: After providing your recommendation, return this application to the applicant.

### LOCAL GOVERNING BODY USE ONLY

City/County name:

*City of Lincoln City*

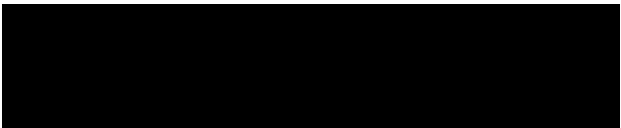
Optional: Date Stamp

RECEIVED

FEB 13 2023

CITY OF LINCOLN CITY  
LINCOLN CITY OR

- Recommend this license be granted
- Recommend this license be denied



Zeller's Bar and Grill, 1643 NW US 101, Lincoln City, 97367  
2-13-23 RE

# LIQUOR LICENSE APPLICATION

Page 2 of 4

**APPLICANT INFORMATION**

Identify the applicants applying for the license. This is the entity (example: corporation or LLC) or individual(s) applying for the license. Please add an additional page if more space is needed.

Name of entity or individual applicant #1: Zeller's Bar and Grill <sup>Company</sup> ~~Corporation~~ Name of entity or individual applicant #2: Adina Zeller

Name of entity or individual applicant #3: Dean Zeller Name of entity or individual applicant #4: \_\_\_\_\_

2-13-23 RE

**BUSINESS INFORMATION**

Trade Name of the Business (name customers will see): Zeller's Bar and Grill

Premises street address (The physical location of the business and where the liquor license will be posted):

1643 NW US 101  
 City: Lincoln City Zip Code: 97367 County: Lincoln

Business phone number: [REDACTED] Business email: [REDACTED]

Business mailing address (where we will send any items by mail as described in OAR 845-004-0065(11)):

5824 Salmon R. Hwy 4  
 City: Otis State: OR Zip Code: 97368

Does the business address currently have an OLCC liquor license?  Yes  No Does the business address currently have an OLCC marijuana license?  Yes  No

**AUTHORIZED REPRESENTATIVE** – A liquor applicant or licensee may give a representative authorization to make changes to the license or application on behalf of the licensee or to receive information about a license or application.

I give permission for the below named representative to:

Make changes regarding this license/application on my behalf.

Receive information about the status of this application, including information about pending compliance action or communications between OLCC and the licensee/applicant.

Representative Name: Adina Zeller Should be N/A this is the licensee  
 2-13-23 RE

Phone number: [REDACTED] Email: [REDACTED]

Mailing address:

5824 Salmon R Hwy 4  
 City: Otis State: OR Zip Code: 97368

Please note: liquor license applications are public records.

OLCC Liquor License Application (Rev. 10.18.22)

# LIQUOR LICENSE APPLICATION

Page 3 of 4

**APPLICATION CONTACT INFORMATION** – Provide the point of contact for this application. If this individual is not an applicant or licensee, the Authorized Representative section must be filled in and the appropriate permission(s) must be selected.

Application Contact Name:

Adina Zeller

Phone number:

[REDACTED]

Email:

[REDACTED]

## TERMS

- “Real property” means the real estate (land) and generally whatever is erected or affixed to the land (for example, the building) at the business address.
- “Common area” is a privately owned area where two or more parties (property tenants) have permission to use the area in common. Examples include the walking areas between stores at a shopping center, lobbies, hallways, patios, parking lots, etc. An area’s designation as a “common area” is typically identified in the lease or rental agreement.

## ATTESTATION – OWNERSHIP AND CONTROL OF THE BUSINESS AND PREMISES

- Each applicant listed in the “Application Information” section of this form has read and understands [OAR 845-005-0311](#) and attests that:
  1. At least one applicant listed in the “Application Information” section of this form has the legal right to occupy and control the real property proposed to be licensed as shown by a property deed, lease, rental agreement, or similar document.
  2. No person not listed as an applicant in the “Application Information” section of this form has an ownership interest in the business proposed to be licensed, unless the person qualifies to have that ownership interest waived under OAR 845-005-0311.
  3. The licensed premises at the premises street address proposed to be licensed either:
    - a. Does not include any common areas; or
    - b. Does include one or more common areas; however, only the applicant(s) have the exclusive right to engage in alcohol sales and service in the area to be included as part of the licensed premises.
      - In this circumstance, the applicant(s) acknowledges responsibility for ensuring compliance with liquor laws within and in the immediate vicinity of the licensed premises, including in portions of the premises that are situated in “common areas” and that this requirement applies at all times, even when the business is closed.
  4. The licensed premises at the premises street address either:
    - a. Has no area on property controlled by a public entity (like a city, county, or state); or
    - b. Has one or more areas on property controlled by a public entity (like a city, county, or state) and the public entity has given at least one of the applicant(s) permission to exercise the privileges of the license in the area.





## OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

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### WHO MUST COMPLETE THIS FORM?

You must complete this form if:

- Your name is listed as an applicant in the "Entity or Individuals applying for the license" section of the Liquor License Application form.
- A corporation is listed as an applicant in the "Entity or Individuals applying for the license" section of the Liquor License Application form and you are:
  - President, a Vice President with responsibility over the operation of the business, Secretary, or Treasurer.
  - A Director.
  - An individual who owns 10% or more of issued stock.
- A limited liability company (LLC) is listed as an applicant in the "Entity or Individuals applying for the license" section of the Liquor License Application form and you are:
  - A Managing Member of the LLC (this is an individual designated to manage the LLC; it may or may not be the same individual designated to manage the business).
  - A Member who owns 10% or more of the membership.
  - An Officer (such as a President or Secretary) with responsibilities over the operation of the business.

You must work with the OLCC to determine who must complete this form if you are:

- Part of an entity *other than* a corporation or LLC that is listed as an applicant in the "Entity or Individuals applying for the license" section of the Liquor License Application form, or
- Part of an entity that owns 10% or more of an entity listed as an applicant in the "Entity or Individuals applying for the license" section of the Liquor License Application form.

**IN ADDITION, THE OLCC MAY REQUIRE OTHER PEOPLE TO COMPLETE THIS FORM WHEN THERE IS REASON TO BELIEVE IT MAY HELP THE OLCC IN ITS INVESTIGATION.**

# Council Communication

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## Oregon Liquor Control Commission - Request for Greater Privilege, Commercial License

Meeting Date:	February 27, 2023	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	3 min

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### Questions:

Should the City Council provide a recommendation to the Oregon Liquor Control Commission (OLCC) for a greater privilege, commercial liquor license for Vin & Bräu?

### Staff Recommendations:

A review was conducted by Chief Broderick, who recommends that City Council provide a favorable recommendation to grant the license to the applicant.

### Legal Background and Framework:

Oregon Revised Statute (ORS) 471.166 establishes the process for local governments to make recommendation to the OLCC.

Lincoln City Municipal Code Chapter 5.20 sets forth the local process for making recommendations to OLCC.

### Council Options:

1. Approve a favorable recommendation for a greater privilege, commercial liquor license for Vin & Bräu.
2. To not approve the license application.

### Attachments:

Vin & Brau Greater Privilege\_Redacted.pdf (PDF)

# LIQUOR LICENSE APPLICATION

Page 1 of 3

Check the appropriate license request option:

- New Outlet |  Change of Ownership |  Greater Privilege |  Lesser Privilege

Select the license type you are applying for.

More information about all license types is available [online](#).

### Full On-Premises

- Commercial
- Caterer
- Public Passenger Carrier
- Other Public Location
- For Profit Private Club
- Nonprofit Private Club

### Winery

- Primary location
- Additional locations:  2nd  3rd  4th  5th

### Brewery

- Primary location
- Additional locations:  2nd  3rd

### Brewery-Public House

- Primary location
- Additional locations:  2nd  3rd

### Grower Sales Privilege

- Primary location
- Additional locations:  2nd  3rd

### Distillery

- Primary location
- Additional tasting locations:  2nd  3rd  4th  5th  6th

### Limited On-Premises

### Off Premises

### Warehouse

### Wholesale Malt Beverage and Wine

### INTERNAL USE ONLY

Application received:

Minimum documents acquired:

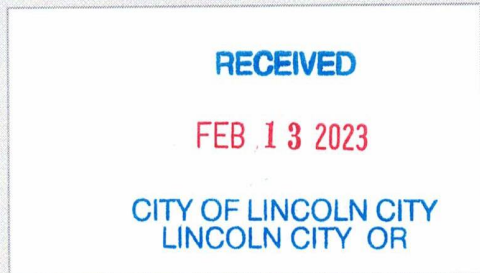
### LOCAL GOVERNING BODY USE ONLY

City/County name:

*City of Lincoln City*

Date application received:

Optional: Date Stamp



- Recommend this license be granted
- Recommend this license be denied

[Redacted Name]

Printed Name

Date

*2/13/2023*

Return this form to:

Investigator name:

Email:

**LIQUOR LICENSE APPLICATION**

Page 2 of 3

<b>APPLICANT INFORMATION</b>	
Identify the applicants applying for the license. This is the entity (example: corporation or LLC) or individual(s) applying for the license. Please add an additional page if more space is needed.	
Name of entity or individual applicant #1: Vin & Bräu LLC	Name of entity or individual applicant #2:
Name of entity or individual applicant #3:	Name of entity or individual applicant #4:

<b>BUSINESS INFORMATION</b>		
Trade Name of the Business (name customers will see): Vin & Bräu		
Business phone number: [REDACTED]	Business email: [REDACTED]	
Premises street address (The physical location of the business and where the liquor license will be posted): 5040 SE HWY 101		
City: Lincoln City	Zip Code: 97367	County: Lincoln
Business mailing address (where we will send any items by mail as described in <a href="#">OAR 845-004-0065[1]</a> ): PO BOX 192		
City: Lincoln City	State: OR	Zip Code: 97367
Does the business address currently have an OLCC liquor license? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Does the business address currently have an OLCC marijuana license? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

<b>APPLICATION CONTACT INFORMATION</b>		
Contact Name: Rachelle Rehberg		
Phone number: [REDACTED]	Email: [REDACTED]	
Mailing address: PO BOX 192		
City: Lincoln City	Zip Code: 97367	County: Lincoln

Please note: liquor license applications are public records.

# LIQUOR LICENSE APPLICATION


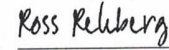
Page 3 of 3

## ATTESTATIONS

By signing this form, you attest that each of the following statements are true. I understand the Commission may require a licensee to provide proof of any of the below or below referenced documents at any time.

I understand that marijuana is **prohibited** on the licensed premises. This includes marijuana use, consumption, ingestion, inhalation, samples, give-away, sale, etc. I attest that all answers on all forms and documents, and all information provided to the OLCC as a part of this application are true and complete.

I affirm that I have read OAR 845-005-0311 and all individuals (sole proprietors) or entities with an ownership interest (other than waivable ownership interest per OAR 845-005-0311[6]) are listed as license applicants in #2 above. I understand that failure to list an individual or entity who has an un-waivable ownership interest in the business may result in denial of my license or the OLCC taking action against my license in the event that an undisclosed ownership interest is discovered after license issuance.

Rachelle Rehberg	<small>DocuSigned by:</small>  <small>3E3183A80B344AD...</small> Signature	2/6/2023   7:08 PM PST	
Print name		Date	Atty. Bar Info (if applicable)
Ross Rehberg	<small>DocuSigned by:</small>  <small>5E2739E00294FE...</small> Signature	2/6/2023   7:12 PM PST	
Print name		Date	Atty. Bar Info (if applicable)
	Signature		Atty. Bar Info (if applicable)
Print name		Date	Atty. Bar Info (if applicable)

## Council Communication

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### Lincoln County Veterans Services Presentation

Meeting Date:	February 27, 2023	Primary Staff Contact:	Michael Phillips
Department:	Administration	E-Mail:	MPhillips@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	15 minutes

---

#### Attachments:

Lincoln County Veterans Services Lincoln City City Council Presentation (PDF)

Lincoln County  
Veteran  
Services

**Keith Barnes**  
County Veteran  
Service Officer

**Caroline  
Karaverdian**  
Veteran Service  
Officer  
**541-265-0570**



# Dual Functions of the office

## ○ Veteran Services

- Disability and Pension claims
- Health care enrollment
- Education/ Vocational Rehab
- Dependent and Survivor services
- Employment Services
- Housing stability/ houseless services

## ○ Economic impact

- 5200 Veterans in Lincoln County
- 1800 seeking services through the office
- \$24,539,504.76 yearly awards
- FY 22/23 \$150.916.88 in new monthly awards
- Average award \$1500 Monthly
- FY 22/23 \$523,997.33 in back pay
- Tax free funds

# What is a Veteran?

- The term "veteran" means a person who served in the **active** military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable.
- A Reservist or member of the National Guard called to Federal active duty or disabled from a disease or injury incurred or aggravated in line of duty or while in training status also qualify as a veteran.
- Army, Navy, Marines, Air Force, Coast Guard, Space Force
- Merchant Marines under certain conditions
- NOAA commissioned Corps
- U.S. Public Health Services

Economic  
Multiplier

x7

○ \$171 Million



National Call Center  
for Homeless Veterans  
**877-424-3838**  
[va.gov/homeless](http://va.gov/homeless)



**Veterans  
Crisis Line**  
DIAL 988 then **PRESS 1**

**Thank you**

# Council Communication

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## FY2022-23 Submission of Audited Statements

Meeting Date:	February 27, 2023	Primary Staff Contact:	Debbie Bridges
Department:	Finance	E-Mail:	dbridges@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	20 Minutes

---

### Comments:

The FY2021-22 audited financial statements for the City and for the Urban Renewal Agency have been posted on our website. I am pleased to report both audits received an unmodified audit opinion, which means Talbot, Korvola & Warwick, LLP, (TKW) concluded from their audit that the financial statements do not contain any material errors.

Included in this packet are three communications from our auditors:

### Independent Auditor's Report

The primary purpose of an audit is to provide assurance to the users of the financial statements that the statements are reliable. The independent auditor's report states that the examination was performed in conformity with generally accepted auditing standards, and it expresses an opinion that the City's financial statements are presented fairly in conformity with generally accepted accounting principles. This letter also details management's responsibility for the financial statements and the auditor's responsibility, and discusses the Required Supplementary Information and Other Information sections of the statements.

### Independent Auditor's Report on Compliance and Internal Control over Financial Reporting based on an Audit of Financial Statements Performed in Accordance with Oregon State Regulations

This letter discusses the auditor's review of the City's compliance with certain provisions of laws, regulations, contracts, and grants. It notes the following items in regards to compliance:

The General fund

- *Building Inspection expenditures were \$43,455 higher than budget. Note: the over expenditure is in miscellaneous contracted services, which is payments made to NW*

*Code Professionals (aka The Building Dept LLC). Payments made to this company is set at 75% of three building revenue accounts: building permits, mechanical permits, and plan checks. These three revenue accounts were \$136,421 over budget.*

- *Debt Service expenditure was \$5,835, there was no budget for debt service. This over-expenditure occurred due to the implementation of GASB 87, which moved \$3,914 of lease payments for the City Hall postage machine, from an operational expense to a debt service expense. In addition, \$1,921 of lease payments for the Police copier was budgeted as an operational expense and should have been budgeted as a debt service expense.*

#### The Water Operations fund

- *Debt Service expenditure was \$839 over budget. This over-expenditure occurred due to the implementation of GASB 87, which moved \$839 of lease payments for the Public Works copier, from an operational expense to a debt service expense.*

#### The Sewer Operations fund

- *Debt Service expenditure was \$840 over budget. This over-expenditure occurred due to the implementation of GASB 87, which moved \$840 of lease payments for the Public Works copier, from an operational expense to a debt service expense.*

#### Budget Compliance

- The report states: “The City was not in compliance with ORS 294.426 as it did not provide sufficient notification to the public of the Budget Committee meetings it held on May 16, 2022 and May 31, 2022.”

The first budget committee meeting was published as a legal notice and also posted to the City website as required by budget law. At that meeting, the date for the second budget committee meeting was announced, and at the second meeting, the date of the third budget committee meeting was announced. In addition, the second and third meeting notice and agenda was posted on the City website in the same time frame and manner as City Council meetings are noticed.

Finance believes this meets the publishing requirements, as stated in “Municipal Corporations Local Budget Law Instructions” which is published by the Oregon Department of Revenue, which states: “If more than one meeting is used to meet the requirements, the published notice may be a single notice containing all of the required information. If several meetings are being held to take public questions and comments, only the first of the series must be formally

“published,” but notice of each subsequent meeting must be given in the same time frame as meetings of the governing body of the municipal corporation and in the same manner, or in one of the publication formats described in Local Budget Law: printing in newspaper, mailing, or hand delivery.”

**SAS 114 Letter: Ending Communications with Those Charged with Governance**

This letter is an AICPA (American Institute of CPAs) required communication letter for all financial statement audits. The purpose of the letter is to communicate to those charged with governance the scope of audit procedures performed, significant findings, and other information, such as disagreements with management, audit adjustments and significant estimates, that aren't communicated in the audited financial statements. Another important portion of the letter is the presentation of any passed journal entries. These are entries that were not posted to the audited financials, because, in total, they have no material effect on the financial statements, but are presented to you in this letter in order to bring to your attention other known errors that were found during the audit

**Council Options:**

No action needed.

**Attachments:**

9100.001 IAR City - 2022 (PDF)

City IAR OMS-2020 (PDF)

9130 Communications with Those Charged with Governance (Final) - City (PDF)



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## **INDEPENDENT AUDITOR'S REPORT**

Honorable Mayor and Members of City Council  
City of Lincoln City  
Lincoln City, Oregon

### **Report on the Audit of the Financial Statements**

#### ***Opinions***

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Lincoln City, Oregon (the City), as of and for the year ended June 30, 2022, and the related notes to the financial statements, which collectively comprise the City's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City, as of June 30, 2022, and the respective changes in financial position, and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

#### ***Basis for Opinions***

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the City, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

#### ***Responsibilities of Management for the Financial Statements***

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for 12 months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

#### ***Auditor's Responsibilities for the Audit of the Financial Statements***

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material

**INDEPENDENT AUDITOR'S REPORT (Continued)**

misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that Management's Discussion and Analysis (MD&A) and the Pension and OPEB schedules, as listed in the Table of Contents in the Required Supplementary Information section, be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Accounting principles generally accepted in the United States of America require that the budgetary comparison information for the General Fund, the Explore Lincoln City Fund, and the Parks and Recreation Fund, listed in the Table of Contents as Required Supplementary Information, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. This budgetary comparison information is the responsibility of

**INDEPENDENT AUDITOR'S REPORT (Continued)**

management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the budgetary comparison information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

***Other Supplementary Information***

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City's basic financial statements. The information listed in the Table of Contents as Other Supplementary Information is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the Other Supplementary Information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

***Other Information***

Management is responsible for the other information included in the annual financial report. The other information comprises the Additional Schedules, as listed in the Table of Contents, but does not include the basic financial statements and our auditor's report thereon. Our opinions on the basic financial statements do not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the basic financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

***Other Reporting Required by Oregon Minimum Standards***

In accordance with *Minimum Standards for Audits of Oregon Municipal Corporations*, we have also issued our report dated January 31, 2023, on our consideration of the City's compliance with certain provisions of laws and regulations, including the provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules. The purpose of that report is to describe the scope of our testing of compliance and the results of that testing, and not to provide an opinion on compliance.



For Talbot, Korvola & Warwick, LLP  
Portland, Oregon  
January 31, 2023



Talbot, Korvola & Warwick, LLP 14945 SW Sequoia Parkway, Suite 150, Portland, Oregon 97224  
P 503.274.2849 F 503.274.2853 [www.tkw.com](http://www.tkw.com)

**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE AND INTERNAL CONTROL OVER FINANCIAL REPORTING BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH OREGON STATE REGULATIONS**

Honorable Mayor and Members of City Council  
City of Lincoln City  
Lincoln City, Oregon

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Lincoln City, Oregon (the City), as of and for the year ended June 30, 2022, and the related notes to the financial statements, which collectively comprise the City's basic financial statements, and have issued our report thereon dated January 31, 2023. We conducted our audit in accordance with auditing standards generally accepted in the United States of America.

**COMPLIANCE**

As part of obtaining reasonable assurance about whether the City's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, including the provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules 162-10-000 through 162-10-330 of the *Minimum Standards for Audits of Oregon Municipal Corporations*, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

We performed procedures to the extent we considered necessary to address the required comments and disclosures which included, but were not limited to the following:

- Deposit of public funds with financial institutions (ORS Chapter 295).
- Indebtedness limitations, restrictions and repayment.
- Budgets legally required (ORS Chapter 294).
- Insurance and fidelity bonds in force or required by law.
- Programs funded from outside sources.
- Highway revenues used for public highways, roads, and streets.
- Authorized investment of surplus funds (ORS Chapter 294).
- Public contracts and purchasing (ORS Chapters 279A, 279B, 279C).

In connection with our testing, nothing came to our attention that caused us to believe the City was not in substantial compliance with certain provisions of laws, regulations, contracts, and grants, including the provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules 162-10-000 through 162-10-330 of the *Minimum Standards for Audits of Oregon Municipal Corporations*, except as follows:



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INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE AND INTERNAL CONTROL OVER FINANCIAL REPORTING BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH OREGON STATE REGULATIONS (Continued)

Honorable Mayor and Members of City Council  
City of Lincoln City

**COMPLIANCE (Continued)**

- The General Fund reported an over expenditure of \$43,455 in building inspection appropriations and \$5,835 in debt service.
- The Water Fund reported an over expenditure of \$839 in debt service appropriations
- The Sewer Fund reported an over expenditure of \$840 in debt service appropriations
- The City was not in compliance with ORS 294.426 as it did not provide sufficient notification to the public of the Budget Committee meetings it held on May 16, 2022 and May 31, 2022.

**INTERNAL CONTROL OVER FINANCIAL REPORTING**

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses.

**PURPOSE OF THIS REPORT**

This report is intended solely for the information and use of the City Council, Oregon Secretary of State Audits Division, and management and is not intended to be and should not be used by anyone other than these specified parties.

*Talbot, Kowala & Warwick LLP*

Portland, Oregon  
January 31, 2023



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P 503.274.2849 F 503.274.2853 www.tkw.com

January 31, 2023

Honorable Mayor and Members of City Council  
City of Lincoln City  
Lincoln City, Oregon

This letter is to inform the Honorable Mayor and City Council of the City of Lincoln City, Oregon (the City) about significant matters related to the conduct of our audit as of and for the year ended June 30, 2022, so that it can appropriately discharge its oversight responsibility and we comply with our professional responsibilities.

Auditing standards generally accepted in the United States of America (AU-C 260, *The Auditor's Communication With Those Charged With Governance*) require the auditor to promote effective two-way communication between the auditor and those charged with governance. Consistent with this requirement, the following summarizes our responsibilities regarding the financial statement audit as well as observations arising from our audit that are significant and relevant to your responsibility to oversee the financial reporting process.

#### **Our Responsibilities With Regard to the Financial Statement Audit**

Our responsibility under auditing standards generally accepted in the United States of America has been described to you in our arrangement letter dated June 6, 2022. The audit of the financial statements does not relieve management or those charged with governance of their responsibilities, which are also described in that letter.

#### **Overview of the Planned Scope and Timing of the Financial Statement Audit**

We have issued a separate communication dated November 21, 2022 regarding the planned scope and timing of our audit and identified significant risks.

#### **Significant Accounting Practices, Including Policies, Estimates and Disclosures**

Under accounting principles generally accepted in the United States of America (GAAP), in certain circumstances management may select among alternative accounting practices. In our view, in such circumstances, management has selected the preferable accounting practice. Management has the ultimate responsibility for the appropriateness of the accounting policies used by the City.

During the year ended June 30, 2022, the City implemented Governmental Accounting Standards Board (GASB) Statement No. 87, *Leases*, which resulted in a restatement of beginning assets and liabilities. This Statement required the City, as lessee, to record lease liabilities and intangible assets representing the right to use the leased assets throughout its operations and, as lessor, to record lease receivables and deferred inflows of resources representing the income which will be received as a result of leases in place.

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Honorable Mayor and Members of City Council  
City of Lincoln City  
Page 2

### **Significant Accounting Practices, Including Policies, Estimates and Disclosures (Continued)**

We did not identify any significant or unusual transactions or significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.

Accounting estimates are an integral part of the preparation of financial statements and are based upon management's current judgment. The process used by management encompasses their knowledge and experience about past and current events and certain assumptions about future events. You may wish to monitor throughout the year the process used to determine and record these accounting estimates. The following describes the significant accounting estimates reflected in the City's June 30, 2022, basic financial statements.

- Assets Held for Sale, as described in Note 1 of the Notes to Basic Financial Statements, is recorded at the lower of cost or estimated market value.
- Capital Assets and Related Depreciation, as described in Note 1 of the Notes to Basic Financial Statements, are recorded at cost and depreciated over the estimated useful lives of respective assets on a straight-line basis.
- Net Pension Liability and Related Deferred Outflows and Inflows, as described in Note 1 of the Notes to the Basic Financial Statements, are based on an actuarial valuation prepared by the Oregon Public Employees Retirement System (OPERS) using information provided by the City to OPERS.
- Landfill Closure and Post Closure Care Costs, as described in Note 9 of the Notes to Basic Financial Statements, is based on a relative percentage of total unfunded costs as determined through a combination of engineering estimates, construction bids and projected monitoring costs.
- Other Postemployment Benefits, as described in Note 11 of the Notes to Basic Financial Statements, are based on actuarial valuations prepared using information provided by the City to the actuary.
- Leases, as described in Note 1 of the Notes to Basic Financial Statements, is composed of the following for leases in which the City is the lessee: the lease liability is based on the present value of lease payments discounted by the estimated incremental borrowing rate; the right-to-use asset is amortized over the term of the lease. For leases in which the City is the lessor, the lease receivable is based on the present value of lease receipts discounted by the estimated incremental loan rate; the deferred inflows of resources is recognized over the life of the lease.

### **Audit Adjustments and Uncorrected Misstatements**

Management corrected the following material misstatements that were identified as a result of our audit procedures:

Honorable Mayor and Members of City Council  
 City of Lincoln City  
 Page 3

Description	Increase/(Decrease)				
	Assets	Liabilities	Net Position/Fund	Revenue	Expenses/ Expenditures
<u>Governmental Activities</u>					
To record an allowance for Prepaid expense held as of June 30, 2022	\$ (172,600)	\$ -	\$ (172,600)	\$ -	\$ 172,600
<u>General Fund</u>					
	\$ 15,784	\$ -	\$ 15,784	\$ 15,784	\$ -
<u>Street Fund</u>	16,189	-	16,189	16,189	-
<u>Facilities Capital Fund</u>	8,094	-	8,094	8,094	-
<u>Parks Fund</u>	16,189	-	16,189	16,189	-
<u>Explore Lincoln City Fund</u>	24,688	-	24,688	24,688	-
To correct Transient Room Tax Receivables as of June 30, 2022					
<u>Sewer Fund</u>					
	\$ -	\$ -	\$ (107,004)	\$ (107,004)	\$ -
<u>Sewer Fund</u>	\$ -	\$ -	\$ 107,004	\$ 107,004	\$ -
To reclassify donations as asset transfers for the period ending June 30, 2022					
<u>Governmental Activities</u>					
	\$ -	\$ -	\$ (107,004)	\$ (107,004)	\$ -
<u>Governmental Activities</u>	\$ -	\$ -	\$ 107,004	\$ 107,004	\$ -
To reclassify loss on disposals to asset transfers for the period ending June 30, 2022					

We identified an uncorrected misstatement, detailed in the attached representation letter, that management has concluded is not material to the financial statements. We agree with management's conclusion in that regard.

#### Consultation With Other Accountants

We are not aware of any consultations management had with other accountants about accounting or auditing matters.

#### Recently Issued Accounting Standards

The Governmental Accounting Standards Board (GASB) has recently issued the following statements:

##### ***GASB Statement No. 94, Public-Private and Public-Public Partnerships and Availability Payment Arrangements***

This Statement will be effective for reporting periods beginning after June 15, 2022. This Statement provides guidance to improve accounting and financial reporting for public-private and public-public partnership arrangements (PPPs) and availability payment arrangements (APAs). It includes guidance for PPP arrangements, including those that are outside of the scope of the GASB's existing literature for those transactions, namely Statement No. 60, *Accounting and Financial Reporting for Service Concession Arrangements*, and Statement No. 87, *Leases*. This Statement also makes certain improvements to the guidance previously included in Statement No. 60 and provides accounting and financial reporting guidance for APAs.

## Recently Issued Accounting Standards (Continued)

### **GASB Statement No. 96, *Subscription-Based Information Technology Arrangements***

This Statement will be effective for fiscal years beginning after June 15, 2022. This Statement provides guidance on the accounting and financial reporting for subscription-based information technology arrangements (SBITAs) for government end users (governments). This Statement defines a SBITA; establishes that a SBITA results in a right-to-use subscription asset—an intangible asset—and a corresponding subscription liability; provides the capitalization criteria for outlays other than subscription payments, including implementation costs of a SBITA; and requires note disclosures regarding a SBITA. To the extent relevant, the standards for SBITAs are based on the standards established in Statement No. 87, *Leases*, as amended.

### **GASB Statement No. 99, *Omnibus 2022***

This Statement includes guidance addressing various accounting and financial reporting issues identified during the implementation and application of certain GASB pronouncements and accounting and financial reporting for financial guarantees.

The requirements related to extension of the use of LIBOR, accounting for SNAP distributions, disclosures of nonmonetary transactions, pledges of future revenues by pledging governments, clarification of certain provisions in Statement 34, as amended, and terminology updates related to Statement 53 and Statement 63 are effective upon issuance.

The requirements related to leases, PPPs, and SBITAs are effective for fiscal years beginning after June 15, 2022.

The requirements related to financial guarantees and the classification and reporting of derivative instruments within the scope of Statement 53 are effective for fiscal years beginning after June 15, 2023.

### **GASB Statement No. 100, *Accounting Changes and Error Corrections***

This Statement will be effective for fiscal years beginning after June 15, 2023, with earlier application encouraged. This Statement prescribes accounting and financial reporting for each category of accounting change and error corrections. This Statement also addresses how accounting changes and error corrections should be displayed in financial statements, disclosed in notes, and presented in required supplementary information and supplementary information.

### **GASB Statement No. 101, *Compensated Absences***

This Statement will be effective for fiscal years beginning after December 15, 2023, with earlier application encouraged. This Statement aligns recognition and measurement guidance for all types of compensated absences under a unified model which will result in governments recognizing a liability that more appropriately reflects when they incur an obligation for compensated absences. The model also will lead to greater consistency in application and improved comparability across governments.

Generally, a liability for leave that has not been used would be recognized if the leave: is attributable to services already rendered; accumulates; and is more likely than not to be used for time off or otherwise paid or settled.

Honorable Mayor and Members of City Council  
City of Lincoln City  
Page 5

### Management Representations

Attached is a copy of the management representation letter.

### Closing

We will be pleased to respond to any questions you have about the foregoing. We appreciate the opportunity to continue to be of service to the City.

This report is intended solely for the information and use of the Honorable Mayor and City Council and is not intended to be, and should not be, used by anyone other than these specified parties.

*Talbot, Kowala & Warwick LLP*

Portland, Oregon  
January 31, 2023

## Council Communication

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### Ordinance 2023--03 Amending LCMC Ch. 2.06 Appointive Bodies

Meeting Date:	February 27, 2023	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	15 minutes

---

#### Question(s):

Should the City Council conduct and approve First and Second Reading of Ordinance 2023-03 entitled:

#### ORDINANCE NO. 2023-03

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.06 (CITY APPOINTIVE BODIES), AMENDING SECTION 2.06.075 (CODE OF ETHICS) TO FURTHER CLARIFY THE CODE OF CONDUCT FOR APPOINTIVE BODY MEMBERS TO BE CONSISTENT WITH COUNCIL RULES**

#### Staff Recommendation:

Staff recommends Council conduct and approve First and Second Reading of Ordinance 2023-03.

#### Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

**Background:**

This ordinance amends LCMC 2.06.075 to add code of conduct provisions for appointive body members, consistent with council rules.

**Financial Impact**

None expected.

**Council Options:**

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to March 13, 2023 [or]
3. Continue First Reading to March 13, 2023.

**Potential Motions:**

*City Attorney:* [Conduct First Reading of Ordinance by Title only]

**ORDINANCE NO. 2023-03**

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.06 (CITY APPOINTIVE BODIES), AMENDING SECTION 2.06.075 (CODE OF ETHICS) TO FURTHER CLARIFY THE CODE OF CONDUCT FOR APPOINTIVE BODY MEMBERS TO BE CONSISTENT WITH COUNCIL RULES**

Motion to approve First Reading of Ordinance 2023-03.

*If unanimous: City Attorney conducts Second Reading*

*City Attorney:* [Conduct Second Reading of Ordinance by Title only]

*Council:*

1. Motion to approve Second Reading and adopt Ordinance 2023-03.

**[or]**

2. Motion to set Second Reading for March 13, 2023.

**Attachments:**

Ordinance 2023-03 2-22-23 Appointive bodies (DOCX)

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**ORDINANCE NO. 2023-03**

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.06 (CITY APPOINTIVE BODIES), AMENDING SECTION 2.06.075 (CODE OF ETHICS) TO FURTHER CLARIFY THE CODE OF CONDUCT FOR APPOINTIVE BODY MEMBERS TO BE CONSISTENT WITH COUNCIL RULES**

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

**WHEREAS**, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City  
The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter  
In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

**WHEREAS**, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

**WHEREAS**, the City Council desires to clarify that appointive body members are subject to a code of conduct similar to that of City Councilors;

**THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

**SECTION 1.** Lincoln City Municipal Code Title 2 (*Administration and Personnel*), Chapter 2.06 (*City Appointive Bodies*), Section 2.06.075 (*Code of Ethics*), is amended to read as follows:

1           **2.06.075 Appointive body Members – Ethics and Code of Conduct.**

2  
3           **A. General Policy.**

4  
5           **The City of Lincoln City is committed to the highest ethical standards for its public**  
6           **officials, including appointive officers. To ensure public confidence, all members of**  
7           **appointive bodies (commissions, boards and the like) must be independent,**  
8           **impartial, responsible and not use their position for personal gain or to benefit or**  
9           **harm others. Members of appointive bodies shall operate in the general public**  
10           **interest serving the community as a whole and shall serve no special interests.**  
11           **Appointive officers shall not endorse in their official capacity any commercial**  
12           **product or enterprise. Except for authorized reimbursements, appointive body**  
13           **members shall not receive a salary or any payment for material or services**  
14           **provided to the appointive body. Notwithstanding the above, the City Council may**  
15           **provide volunteers with certain fringe benefits (e.g., community center privileges)**  
16           **in accordance with adopted policy. Appointive body members should be familiar**  
17           **with the criminal codes, ethics and conflict of interest laws set forth in state**  
18           **statutes and city ordinances.**

19  
20           **B. Respect for the form of government – Non-Interference.**

21  
22           **1. The City Charter establishes a Council-Manager form of government.**  
23           **Essentially, a professional manager is charged with the administration of**  
24           **City government. An appointive body member has no supervisory**  
25           **authority over City staff. An appointive body member shall not coerce**  
26           **or attempt to coerce the manager or any other city employee in carrying out**  
27           **their duties. An appointive body member shall not coerce or attempt to**  
28           **coerce the manager or any other city employee in making an appointment**  
29           **or promotion or in the removal or discipline of an officer or employee. An**  
30           **appointive body member shall not coerce or attempt to coerce the manager**  
31           **or any other city employee in or in purchasing equipment, services or**  
32           **supplies. A violation of this section may occasion the censure or removal**  
33           **from appointive office of the offending member, by the City Council, or by a**  
34           **court of competent jurisdiction.**

35  
36           **2. Appointive body members shall respect the separation between**  
37           **policy-making, which is a City Council function, and administration, which is**  
38           **the city manager’s function. While the City Council may request**  
39           **recommendations from appointive bodies on policy, city administration is**  
40           **reserved to the city manager. The city manager is the administrative head**  
41           **of the city government and receives policy direction from the elected**  
42           **governing body - not from appointive bodies.**

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**a. Guidelines for staff:**

- 1. Staff shall respect the roles and responsibilities of appointive body members.**
- 2. All written informational material requested by individual members will be submitted by staff to the entire appointive body.**
- 3. Staff shall not attempt to influence individual members concerning City business.**

**b. Guidelines for appointive body members:**

- 1. Work with the staff as a team with a spirit of mutual respect and support.**
- 2. Do not attempt to influence the city manager, department head, or city staff concerning personnel matters, purchasing issues, contracts, the selection of consultants, the processing of development applications, granting of licenses and permits, or any other matter under the direction of the city manager.**
- 3. Limit individual contacts with city officers and employees so as not to influence staff decisions or recommendations, interfere with staff work performance, undermine the authority of supervisors, or prevent the full appointive body from having the same benefit of information received.**
- 4. Respect roles and responsibilities of staff, refrain from appearing to take a supervisory role, such as expressing critical opinions in a public meeting or in correspondence including electronic mail messages.**

**C. Prohibited Political Activity. Appointive body members are included in the definition of "public employee" for purposes of ORS 260.432(2). ORS 260.432(2) provides:**

**(2) No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of a public employee to express personal political views.**

1  
2 **While on the job, during working hours, any comment or suggestion to fellow**  
3 **employees or the public to vote a certain way is prohibited, even if it does not**  
4 **interfere with the performance of duties of the employee or other employees.**  
5 **Politically related activities such as fundraising, soliciting volunteer help on**  
6 **political campaigns or disseminating partisan election material is prohibited while**  
7 **on the job during working hours.**

8  
9 **D. Ethics.**

10  
11 **1. Appointive body members shall be familiar with and observe the**  
12 **requirements of the State of Oregon Ethics Law (ORS 244.010 to**  
13 **ORS 244.400) dealing with the use of public office for private financial gain.**

14 **2. Generally, conflicts of interest arise in situations in which an appointive**  
15 **body member in a quasi-judicial proceeding has a potential or actual**  
16 **financial (pecuniary) interest in the matter before the appointive body.**  
17 **Under Oregon Government Ethics Law, a member shall publicly disclose a**  
18 **potential or actual conflict of interest and, in the case of an actual conflict**  
19 **of interest, must step down and not participate in the matter.**

20  
21 **3. Although a determination of conflict of interest is a personal member**  
22 **decision, any member may seek the advice of the city attorney prior to**  
23 **disclosure of any potential or actual conflict of interest.**

24  
25 **E. Member Responsibility for Public Records and Public Meetings.**

26  
27 **1. Public Record Defined. A public record includes any document, book,**  
28 **paper, photograph, file, sound recording, machine readable electronic**  
29 **record, electronic communications, or other material, regardless of physical**  
30 **form or characteristics, made, received, filed or recorded in connection with**  
31 **the transaction of public business, whether or not confidential or restricted**  
32 **in use. For purposes of these rules, "Electronic Communications" means E-**  
33 **mail, text messages or other forms of communications transmitted or**  
34 **received by technological means. "Electronic Communications Devices"**  
35 **means desktop or lap-top computers, blackberries, cell-phones, notebooks,**  
36 **tablets, pads, or other similar devices capable of transmitting or receiving**  
37 **messages electronically.**

38  
39 **2. Electronic Records. All communications on electronic communications**  
40 **devices have the same public records character as they would have had they**  
41 **been sent on paper. Any electronic communications that may be exempt**  
42 **from disclosure under Oregon public records law should be clearly marked**

1 as confidential and exempt from disclosure. Electronic records in any way  
 2 relating to the business of the city created on electronic communication  
 3 devices not owned or provided by the city are subject to review and  
 4 disclosure under Oregon Public Records law. Electronic records, including  
 5 emails sent and received on city systems are the property of the city and  
 6 public records. Members should assume that most correspondence about  
 7 city business, even if contained on personal electronic communication  
 8 devices, is a public record subject to disclosure. There is no protected right  
 9 of privacy if the electronic record is a public record. Unless the City Attorney  
 10 determines a records exemption applies, on an individual case basis, you  
 11 should assume no privacy right in these areas.

12  
 13 **3. Retention. Public records created or received by appointive body**  
 14 **members, including electronic communications, shall be retained in**  
 15 **accordance with Oregon Public Records Law and the rules of the Secretary**  
 16 **of State and State Archivist. To this end, members shall use only official City**  
 17 **email addresses for the conduct of City business. If members inadvertently**  
 18 **receive electronic communications concerning city business on personal**  
 19 **electronic communication devices, members shall forward such public**  
 20 **records to their official email addresses for retention. Members shall reply**  
 21 **to such messages by directing the sender to the official city email address.**  
 22 **Similarly, all written public records should be in the possession of the City.**  
 23 **Members shall annually turn into the City Recorder any written and**  
 24 **electronic records for retention. The City Recorder shall establish a schedule**  
 25 **for appointive bodies to turn in sum public records and members shall**  
 26 **comply with such schedule.**

27  
 28 **4 Public Meetings. Under the Public Meetings Law, any time a quorum of**  
 29 **the appointive body meets to make a determination or gather information,**  
 30 **a “public meeting” may be presumed to occur. Members shall therefore**  
 31 **avoid inadvertent electronic meetings by limiting use of electronic**  
 32 **communication. Email is best utilized for communications with staff. Serial**  
 33 **meetings violate public meetings law.**

34  
 35 **F. Fair and Equal Treatment.**

36  
 37 **1. Interest in Appointments. Canvassing of members of the Council or Mayor,**  
 38 **directly or indirectly, in order to obtain preferential consideration in**  
 39 **connection with any appointment to the City service shall disqualify the**  
 40 **candidate for appointment.**

41  
 42 **2. Use of Public Property. No appointive body member shall request or permit**  
 43 **the use of City-owned vehicles, equipment, materials or property for personal**

1 convenience or profit, except when such services are available to the public  
 2 generally or are provided as municipal policy for the use of such member in the  
 3 conduct of official business or as a specifically defined benefit.

4  
 5 **3. Obligations to Citizens. No appointive body member shall grant any special**  
 6 **consideration, treatment or advantage to any citizen beyond that which is**  
 7 **available to every other citizen except as otherwise permitted by law or**  
 8 **ordinance.**

9  
 10 **E. Gifts.**

11  
 12 **No appointive body member shall solicit or accept gifts, favors, services,**  
 13 **compensation, retainers or promises of future employment from a source with a**  
 14 **legislative or administrative interest in the performance of his/her official duties or**  
 15 **in anticipation of official action to be taken by the public official or by the City.**  
 16 **For purposes of this provision, "gift" means something of economic value given to**  
 17 **a public official, a candidate or a relative or member of the household of the public**  
 18 **official. An appointive body member may not accept a gift from a source with a**  
 19 **legislative or administrative interest in the member's official duties if the gift has a**  
 20 **value in excess of \$50.00 or smaller gifts from a single source with an aggregate**  
 21 **value exceeding \$50.00 in the course of a calendar year. [See ORS 255.025].**

22  
 23 **F. Other applicable law.**

24  
 25 **The Code of Conduct is not intended to replace or supersede applicable federal or**  
 26 **state laws, regulations, city ordinances or provisions of the Lincoln City Charter**  
 27 **(Charter). In the event of any conflict between the this ordinance and rules**  
 28 **adopted by appointive bodies, the provisions of this ordinance shall prevail.**

29  
 30 **G. Violations.**

31  
 32 **1. Authority. If a member of an appointive body violates state law, city**  
 33 **ordinances or the code of conduct applicable to governing bodies, the City**  
 34 **Council may take action to protect the integrity of the city and discipline the**  
 35 **appointive body member with a public reprimand, censure, citation or**  
 36 **removal from office.**

37  
 38 **2. Investigation. The Council may investigate the actions of any appointive**  
 39 **body member and may meet in executive session under ORS 192.660 (2)(b)**  
 40 **to discuss any finding that reasonable grounds exist that a violation of local**  
 41 **ordinance or state laws has occurred. Sufficient notice must be given to the**  
 42 **appointive body member to afford them the opportunity to request an**  
 43 **open hearing.**

3. Due Process and Sanctions. Due process requirements of notice and the opportunity to be heard will be met with regard to any proceeding to reprimand, censure or remove a member. No matter discussed or disclosed in executive session may be discussed or disclosed in any reprimand, censure, or removal proceeding, except by approved motion of the city council and upon advice of the city attorney. Sanctions should be generally geared towards changing problem behavior rather than punitive in nature, and measured against the severity and frequency of the violation(s) and the impact on the city organization and/or council operations and effectiveness.

4. Citation. The city governing body, exclusively, may, by motion, initiate a violation citation against a member pursuant to Chapter 1.16 LCMC for violation of council rules. The general penalty provisions of LCMC 1.04.065 shall apply to any such violation. For continuing violations, each day the offense continues shall be a separate offense.

~~2.06.075 Code of Ethics.  
The city of Lincoln City is committed to the highest ethical standards for its public officials, including elected and appointive officers. To ensure public confidence, all members of elected and appointive bodies (council, commissions, boards and the like) must be independent, impartial, responsible and not use their position for personal gain or to benefit or harm others. Members of appointive bodies shall operate in the general public interest serving the community as a whole and shall serve no special interests. Elected and appointive officers shall not endorse in their official capacity any commercial product or enterprise. Except for authorized reimbursements, elected and appointive body members shall not receive a salary or any payment for material or services provided to the elected or appointive body. Notwithstanding the above, council may provide volunteers with certain fringe benefits (e.g., community center privileges) in accordance with adopted council policy. Appointive body members should be familiar with the criminal codes, ethics and conflict of interest laws set forth in state statutes and city ordinances.~~

**SECTION 2. Findings Adopted.**

The findings contained in the Whereas Clauses of this Ordinance, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

**SECTION 3. Severability.**

1 The sections, subsections, paragraphs and clauses of this Ordinance are severable. The invalidity  
2 of one section, subsection, paragraph, or clause shall not affect the validity of the remaining  
3 sections, subsections, paragraphs and clauses.

4  
5 **SECTION 4. Ordinance Effective Date.**

6  
7 Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its  
8 adoption.

9  
10 **SECTION 5. Codification.**

11  
12 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and  
13 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,  
14 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any  
15 Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City  
16 Recorder is authorized to correct any cross-references and any typographical errors.

17  
18 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section  
19 9.2 of the City of Lincoln City Charter on the 27th day of February, 2023 (First Reading) and on  
20 the 27<sup>th</sup> day of February, 2023 (Second Reading).

21  
22 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 27<sup>th</sup> day of February,  
23 2023.

24  
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27 \_\_\_\_\_  
SUSAN WAHLKE, MAYOR

28 ATTEST:

29  
30 \_\_\_\_\_  
JAMIE YOUNG, CITY RECORDER

31  
32  
33 APPROVED AS TO FORM:

34  
35 \_\_\_\_\_  
36 RICHARD APPICELLO, CITY ATTORNEY  
37

## Council Communication

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### Ordinance 2023--02 Amend Definition of City Enforcement Officer

Meeting Date:	February 27, 2023	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	5 mins.

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**Question:** Should the City Council conduct and approve First Reading and Second Reading of Ordinance 2023-02 amending the definition of enforcement officer?

#### ORDINANCE NO. 2023-02

#### AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 1 (GENERAL PROVISIONS), AMENDING CHAPTER 1.16 (VIOLATIONS), AMENDING SECTION 1.16.030 (DEFINITIONS) TO UPDATE THE DEFINITION OF CITY ENFORCEMENT OFFICER

#### Staff Recommendation:

Staff recommends Council conduct and approve First Reading of Ordinance 2023-02 and, *if unanimous*, Conduct and approve Second Reading and adopt Ordinance 2023-02.

#### Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

#### Background:

The City Manager has requested the new community service officer position be added to the list of enforcement officers in Chapter 1.16.

#### Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Continue Second Reading to March 13, 2023.
3. Continue First Reading to March 13, 2023.
4. Do not proceed with proposed ordinance.

**Potential Motions:**

*City Attorney:* [Conduct First Reading of Ordinance by Title only]

**ORDINANCE NO. 2023-02**

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 1 (GENERAL PROVISIONS), AMENDING CHAPTER 1.16 (VIOLATIONS), AMENDING SECTION 1.16.030 (DEFINITIONS) TO UPDATE THE DEFINITION OF CITY ENFORCEMENT OFFICER**

*Council:*

1. Motion to approve First Reading of Ordinance 2023-02.

*If unanimous: Conduct Second Reading*

*City Attorney:* [Conduct Second Reading of Ordinance by Title only]

*Council:*

1. Motion to approve Second Reading and adopt Ordinance 2023-02.

**Attachments:**

Ordinance 2023-02 final (DOCX)

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 1 (GENERAL PROVISIONS), AMENDING CHAPTER 1.16 (VIOLATIONS), AMENDING SECTION 1.16.030 (DEFINITIONS) TO UPDATE THE DEFINITION OF CITY ENFORCEMENT OFFICER

Annotated to show deletions and additions to the code sections being modified. Deletions are bold lined through and additions are bold underlined.

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop, 20 Or. App. 293; 531 P 2d 730, 734 (1975); LaGrande/Astoria v. PERB, 281 Or 137, 142 (1978), aff'd on reh'g 284 Or 173 (1978); and

WHEREAS, the City Council wanted to expand the definition of Enforcement Officer to encompass the newly created community service officer position; and

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Lincoln City Municipal Code Title 1 (General Provisions), Chapter 1.16 (Violations), Section 1.16.030 (Definitions), definition of "City enforcement officer" is amended to read as follows:

1 "City enforcement officer" or "enforcement officer," means, for purposes of this  
2 chapter, any one or more of the following personnel: city manager, city attorney,  
3 code enforcement officer, **community service officer**, VRD compliance officer,  
4 city engineer, building official, building inspector, planning director, floodplain  
5 administrator, any sworn member of the Lincoln City police department, or any  
6 city employee, contractor or agent designated by the city manager in writing to  
7 perform code enforcement.  
8

9 **SECTION 2. Findings Adopted.**

10  
11 The findings contained in the Whereas Clauses of this Ordinance, as well as the  
12 competent substantial evidence in the whole record of this legislative proceeding are  
13 incorporated into this section by reference as if fully set forth herein, and are adopted in  
14 support of this legislative action.  
15

16 **SECTION 3. Severability.**

17 The sections, subsections, paragraphs and clauses of this Ordinance are severable. The  
18 invalidity of one section, subsection, paragraph, or clause shall not affect the validity of  
19 the remaining sections, subsections, paragraphs and clauses.  
20

21 **SECTION 4. Ordinance Effective Date.**

22  
23 Pursuant to Chapter IX, Section 9.3, this ordinance takes on the thirtieth (30<sup>th</sup>) day after  
24 its adoption  
25

26 **SECTION 5. Codification.**

27  
28 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal  
29 Code and the word "ordinance" may be changed to "code", "article", "section", "chapter"  
30 or another word, and the sections of this Ordinance may be renumbered, or re-lettered,  
31 provided that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need  
32 not be codified and the City Recorder is authorized to correct any cross-references and  
33 any typographical errors.  
34

35 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX,  
36 Section 9.2 of the City of Lincoln City Charter on the 27<sup>th</sup> day of February, 2023 (First  
37 Reading). The Ordinance was again read by title only on the 27<sup>th</sup> day of February, 2023  
38 (Second Reading) and Council approved Second Reading and adoption of the Ordinance.  
39

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 27th day of  
2 February, 2023.

3

4

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\_\_\_\_\_  
SUSAN WAHLKE, MAYOR

7

8

9 ATTEST:

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11

\_\_\_\_\_  
JAMIE YOUNG, CITY RECORDER

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16 APPROVED AS TO FORM:

17

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\_\_\_\_\_  
RICHARD APPICELLO, CITY ATTORNEY

19

## Council Communication

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### Ordinance 2023--04 Amend Authority for Citizen Involvement

Meeting Date:	February 27, 2023	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	5 mins.

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**Question:** Should the City Council conduct and approve First Reading and Second Reading of Ordinance 2023-04 amending the definition of enforcement officer?

#### ORDINANCE NO. 2023-04

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), AMENDING CHAPTER 2.14 (COMMITTEE FOR CITIZEN INVOLVEMENT), AMENDING SECTION 2.14.030 (POWERS AND DUTIES) TO REFER TO THE OREGON ADMINISTRATIVE RULE GOVERNING THE COMMITTEE**

**Staff Recommendation:**

Staff recommends Council conduct and approve First Reading of Ordinance 2023-04 and, *if unanimous*, Conduct and approve Second Reading and adopt Ordinance 2023-04.

**Authority:**

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

**Background:**

The City Manager and Planning Director have requested that the Committee for Citizen Involvement provisions of the Code be amended to refer to the current Oregon Administrative Rules, rather than thirty-year-old Council resolutions. The Code currently contains the following reference in LCMC 2.14.030 (Powers and Duties), Paragraph B:

B. The committee shall operate consistent with citizen involvement Resolution 93-12 and Resolution 94-33 until the comprehensive plan citizen involvement program is amended pursuant to the procedures in ORS 197.610.

Staff recommends updating the reference to the Current OAR:

B. The committee shall operate consistent with ~~citizen involvement Resolution 93-12 and Resolution 94-33~~ **OAR 660-015-0000(1)** until the comprehensive plan citizen involvement program is amended pursuant to the procedures in ORS 197.610.

**Council Options:**

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Continue Second Reading to March 13, 2023.
3. Continue First Reading to March 13, 2023.
4. Do not proceed with proposed ordinance.

**Potential Motions:**

*City Attorney:* [Conduct First Reading of Ordinance by Title only]

**ORDINANCE NO. 2023-04**

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), AMENDING CHAPTER 2.14 (COMMITTEE FOR CITIZEN INVOLVEMENT), AMENDING SECTION 2.14.030 (POWERS AND DUTIES) TO REFER TO THE OREGON ADMINISTRATIVE RULE GOVERNING THE COMMITTEE**

*Council:*

1. Motion to approve First Reading of Ordinance 2023-04.

*If unanimous: Conduct Second Reading*

*City Attorney:* [Conduct Second Reading of Ordinance by Title only]

*Council:*

1. Motion to approve Second Reading and adopt Ordinance 2023-04.

**Attachments:**

Ordinance 2023-04 (DOCX)

ORDINANCE NO. 2023-04

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), AMENDING CHAPTER 2.14 (COMMITTEE FOR CITIZEN INVOLVEMENT), AMENDING SECTION 2.14.030 (POWERS AND DUTIES) TO REFER TO THE OREGON ADMINISTRATIVE RULE GOVERNING THE COMMITTEE

Annotated to show deletions and additions to the code sections being modified. Deletions are bold ~~lined through~~ and additions are **bold underlined**.

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Lincoln City Municipal Code Title 2 (*Administration and Personnel*), Chapter 2.14 (*Committee for Citizen Involvement*), Section 2.14.030 (*Powers and Duties*), Paragraph B. is amended to read as follows:

B. The committee shall operate consistent with ~~citizen involvement Resolution 93-12 and Resolution 94-33~~ **OAR 660-015-0000(1)(Goal 1)** until the comprehensive plan citizen involvement program is amended pursuant to the procedures in ORS 197.610.



1 RICHARD APPICELLO, CITY ATTORNEY

## Council Communication

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### Wastewater Master Plan Update Contract Award

Meeting Date:	February 27, 2023	Primary Staff Contact:	Stephanie Reid
Department:	Public Works	E-Mail:	SReid@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	10 minutes

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#### Question:

Should the City Council award the Wastewater Master Plan Update contract to HBH Consulting Engineers in the amount of \$220,000.00?

#### Staff Recommendation:

Staff recommends the Council award the Wastewater Master Plan Update contract to HBH Consulting Engineers in the amount of \$220,000.00.

#### Authority:

LCMC 2.05.060 ...”the solicitation and award of public contracts in the city shall be accomplished pursuant to the Public Contracting Code, the Model Rules as they now exist, and the Lincoln City Municipal Code. (Ord. 2013-15 § 3; Ord. 2005-04 § 1).

The solicitation for the Wastewater Master Plan met the Code; staff issued a request for proposals on September 26, 2022 and received one proposal on November 3, 2022.

#### Background:

The City was issued a new National Pollutant Disposal Elimination System (NPDES) Permit by the Department of Environmental Quality on June 30, 2020. HBH Consulting Engineers completed a report in October 2021 titled “Wastewater Feasibility Study: Alternative Solutions for Reduction in Temperature, Cooper, and Zinc”. The NPDES Permit requires the City to update the existing 2004 Wastewater Facilities Plan. This update, among other tasks, will address Temperature, Cooper and Zinc limits in the new permit which we currently cannot meet.

It was not concerning or surprising that the City only received one proposal. Previous work performed by HBH was included in the proposal and HBH is very familiar with our system.

**Council Options:**

Award the Wastewater Master Plan Update contract to HBH Consulting Engineers in the amount of \$220,000.00.

**Financial Impact:**

The Wastewater Master Plan Update was budgeted in fiscal year 2022-23 in the amount of \$300,000.00.

**Potential Motions:**

Move to award the Wastewater Master Plan Update contract to HBH Consulting Engineers in the amount of \$220,000.00.

**Attachments:**

HBH Consulting Engineers Scope of Work

**Attachments:**

Lincoln City WW Plan Scope of Work Updated 1-13-2023 (PDF)



501 E First Street  
 Newberg, Oregon 97132  
 phone 503-554-9553  
 fax 503-537-9554

Date: **January 13, 2023**  
 To: **Terry Chamberlin, PE, City of Lincoln City**  
 From: **Robert Henry, PE, HBH Consulting Engineers, Inc.**  
 RE: **Lincoln City Wastewater Plan and NPDES Compliance Tasks: Ocean Outfall Pre-Design Report, Pump Station/I&I Evaluation, and Sewer Model Scope and Fee**

## PROJECT UNDERSTANDING

The City of Lincoln City (City) would like to get DEQ approval for the ocean outfall and do some evaluations on the collection system. HBH Consulting Engineers, Inc. (HBH) shall assist the City is preparing an Ocean Outfall and sludge dryer pre-design report in accordance with Oregon Department of Environmental Quality (DEQ) requirements. The City would also like HBH to refine its hydraulic model and complete pump station and I&I evaluations. A capital improvement plan will be coordinated with the City and a financial plan will be established.

## SCOPE OF SERVICES

### Task 1: Project Management

This task covers project management work associated with executing the Project and includes the following:

1. Prepare a project management plan.
2. Handle project communications.
3. Manage project team members.
4. Manage the scope and project budget.
5. Two technical advisory meetings (with City staff at major milestones).
6. One City Council meeting to present the draft or final report.

This task will also include:

- Regular project status updates,
- Coordination of subconsultant invoicing, and
- A monthly project billing report.

### Task 2: Review of Existing Facilities

HBH will review all available information, including the previous wastewater facilities plan (2004), NPDES permit, wastewater treatment plant upgrade plans, and pump station upgrade plans. The following specific facilities will be reviewed:

- Pump Stations

- Treatment Plant (including capacity)

### Task 3: Wastewater Quantities and Characteristics

The following flows will be calculated and analyzed:

- Seasonal Influence of Flows and Loads
- Historical Flow Evaluation
- Dry Weather Flow
- Weekend Flow Peaking - Lincoln City has significant tourism influence and will be evaluated as appropriate

### Task 4: Basis of Planning

The following sections will be discussed as required by DEQ and as useful to the City:

- Pump Station Basin Population Projections
- UGB Service Area Build-Out Population
- Flow and Load Projection Methodology
- Influent Flow Projections
- Regulatory Requirements

### Task 5: Collection System Evaluation

The model will be used to evaluate the capacity of the collection system. HBH will perform site visits to evaluate the conditions and capacities of the pump stations. Deficiencies will be well documented in the report.

- Collection System Design Criteria
- Baseline Flow
- Wet Weather Flow Events
- Definition of Design Storm
- *PCSWMM Modeling* – The City has a running PCSWMM model of the sanitary sewer system. The model has not been calibrated for dry weather conditions. HBH will calibrate the dry weather flow modes and create a wet weather and build-out model.
- Pump Station Condition Evaluations – The City has 21 pump stations. Twelve pump stations have not been recently upgraded. HBH will perform a conditions evaluation at the non-updated pump stations. The City will provide condition assessments for the other pump stations (presumed to be in good condition).
- I&I Evaluation – HBH will conduct an I&I analysis at each pump station service area and determine a I&I rate for each pump station and then an I&I rate at the Treatment Plant.
- Piping System Undersized Line Needs – Based on the model, consultant will identify any sewer lines that are undersized. No alternatives will be presented to fix the issues in this scope of work, only presenting problem areas.
- Pump Station Upgrade Needs – HBH will provide a detailed list of upgrade needs for each pump station.
- Pressure Sewer Systems Upgrades – HBH will evaluate force mains based on age, known condition, and capacity and provide recommendations on when lines should be replaced.
- Development of Unsewered Areas - The unsewered area within the City will either be sewer by gravity sewers or low-pressure E-One pumps. All the area outside the City limits and inside the UGB will be serviced by low-pressure E-One pumps. Consultant shall calculate the potential flow that the City will experience from this area based on zoning

provided by the City and analysis by City of how zoning may change in the future (i.e. Putting multiple homes on existing large lots). The City's intent is not to construct any additional traditional pump stations except a boosted pump station for the area outside the City.

#### **Task 6: Treatment Plant Evaluation**

HBH will perform a site visit to analyze the condition of the treatment plant. Water quality and quantity data will be reviewed in other tasks and compared with the treatment process to determine functional and capacity deficiencies:

- Meeting Future Treatment Requirements at Build Out Conditions – HBH will determine the future year when the treatment plant will reach capacity under the conditions that I&I is reduced and that I&I is not reduced. The City and HBH will work together to determine an allowable amount of I&I to be used for this analysis. HBH will then evaluate the relative merits of the City spending resources on a treatment plant expansion versus fixing I&I in the system to delay expansion.
- Plant Current Need Upgrades – Discuss with Dan Christian what his current needs at the Treatment Plant and incorporate into the report. Additional items will be added from the site visit as appropriate.
- Lagoons – Consultant will discuss with Dan the history of the lagoons and potential plans for future use to be included in the report.
- Solids Handling Evaluation – Review the solids handling equipment and procedures for current and planning period needs. Evaluate if a dryer would be a better option.
- Meeting NPDES Temperature, Copper, and Zinc – HBH will prepare a detailed alternatives analysis of the best options for meeting the NPDES permit. In the Ocean Outfall options, HBH will determine the pump station design flow.

#### **Task 7: Development of Alternatives Considered**

The alternatives analysis will include the following for all applicable categories:

- Alternative Management Approaches
- Descriptions
- Maps
- Environmental Impacts
- Land Requirements
- Potential Construction Problems
- Sustainability Considerations
- Water and Energy Efficiency
- Green Infrastructure Considerations
- Cost Estimates

#### **Task 8: Financial Plan**

HBH will conduct a rate study to generate the revenue to support plan recommendations. HBH will review existing operations and maintenance costs and compiling several years of budgets, including existing debt service.

The rate study will include a plan of how the cost of facility improvements, operations, and maintenance will be paid, examining current user rates for adequacy, and forecasting when rates increases are necessary.

### **Task 9: Program Implementation**

Consultant shall identify the capital improvements needed and associated cost estimates. Based on the alternatives analysis, City staff will group these projects together and prepare a capital improvement plan. Consultant shall include the plan in the final report.

Consultant will complete tasks necessary for a Pre-Design Report for the Ocean Outfall alternative. These tasks will include:

- Pump Station Sizing
- Preliminary Pump Station Site Plan
- Outfall Force Main Sizing and Routing (to allow City to design and construct portions of the Outfall Force Main as needed during street and utilities upgrades)
- Project Cost Estimate
- Other parameters as required by DEQ for Pre-Design Reports

The Pre-Design Report will not include:

- Mixing Zone Study
- Ocean Environmental Tasks
- Detailed Geotechnical Investigations

### **PROPOSED HOURS AND FEE BY TASK**

The attached pages contain the proposed hours and fee by task.

Task	Subtasks	Hours Total	Subtask Cost	Task Hours	Task Cost
Project Management	Project Management Plan	15	\$ 2,580.00	101	\$ 17,042.00
	Communications & Community Meetings	44	\$ 7,238.00		
	Management of Team Members	10	\$ 1,720.00		
	Manage Scope & Budget	12	\$ 2,064.00		
	Monthly Invoices/Progress Reports	20	\$ 3,440.00		
Review of Existing Systems	Pump Stations	100	\$ 16,100.00	141	\$ 22,648.00
	WWTP Solid Handling Systems	7	\$ 1,124.00		
	Location Map	4	\$ 664.00		
	Treatment Plant Capacity	30	\$ 4,760.00		
Wastewater Quantities and Characteristics	Seasonal Influence of Flows and Loads	8	\$ 1,328.00	24	\$ 3,984.00
	Historical Flow Evaluation	8	\$ 1,328.00		
	Dry Weather Flow	4	\$ 664.00		
	Weekend Flow Peaking	4	\$ 664.00		
Basis of Planning	Pump Station Basin Population Projections	8	\$ 1,328.00	30	\$ 4,942.00
	UGB Service Area Build-Out Population	5	\$ 830.00		
	Flow and Load Projection Methodology	6	\$ 1,002.00		
	Influent Flow Projections	11	\$ 1,782.00		
Collection System Evaluation	Collection System Design Criteria	4	\$ 676.00	469	\$ 77,866.00
	Baseline Flow	5	\$ 830.00		
	Wet Weather Flow Events	5	\$ 830.00		
	Definition of Design Storm	5	\$ 830.00		
	PC SWWM Modeling	240	\$ 39,840.00		
	I&I Evaluation	20	\$ 3,320.00		
	Piping System - Undersized Lines Evaluation	80	\$ 13,280.00		
	Pump Station Upgrades	80	\$ 13,280.00		
	Pressure Sewer Systems Upgrades	20	\$ 3,320.00		
	Development of Unsewered Areas	10	\$ 1,660.00		
Treatment Plant Evaluation	Meeting Future Treatment Requirements at Buildout	20	\$ 3,120.00	162	\$ 25,368.00
	WWTP Current Needed Upgrades	64	\$ 9,888.00		
	Lagoons	24	\$ 3,808.00		
	Solids Handling	34	\$ 5,368.00		
	Meeting NPDES (including Temperature, Copper and Zinc)	20	\$ 3,184.00		
Development of Alternatives Considered	Alternative Management Approaches	26	\$ 4,288.00	130	\$ 20,950.00
	Descriptions	12	\$ 1,954.00		
	Maps	8	\$ 1,328.00		
	Environmental Impacts	21	\$ 3,236.00		
	Land Requirements	2	\$ 312.00		
	Potential Construction Problems	5	\$ 816.00		
	Sustainability Considerations	5	\$ 816.00		
	Water and Energy Efficiency	7	\$ 1,112.00		
Cost Estimates	44	\$ 7,088.00			
Financial Plan	Rate Study	84	\$ 13,168.00	124	\$ 19,536.00
	O&M Budget Review	24	\$ 3,808.00		
	Funding for CIP	16	\$ 2,560.00		
Program Implementation	Develop Capital Improvement Plan (with City)	36	\$ 5,840.00	112	\$ 18,208.00
	Outfall Predesign Report Tasks	76	\$ 12,368.00		
<b>PROJECT TOTALS</b>				<b>1,293</b>	<b>\$ 210,544.00</b>

# Council Communication

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## Holmes Pump Station Upgrade

Meeting Date:	February 27, 2023	Primary Staff Contact:	Stephanie Reid
Department:	Public Works	E-Mail:	SReid@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	5 minutes

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### Question:

Should the City Council Award a construction contract to Bateson Enterprises, LLC. for the Homes Pump Station Upgrade?

### Staff Recommendation:

Staff recommends the construction contract be awarded to Bateson Enterprises, LLC in the amount of \$803,256.00.

### Authority:

**LCMC 2.05.060** (Public Improvement contracts shall be awarded by competitive bid or as provided by the Public Contracting Code or these rules)

### Background:

Staff first started working on this project in 2021. The goal of the project is to upgrade the pump station capacity to avoid overflows.

### Project Description

The project includes upgrading the existing wetwell and installing new pumps and controls to meet Department of Environmental Quality standards. During design a question was raised whether the wetwell can be rehabilitated or should the City construct a new wetwell? Staff decided to ask this question to the contractor bidding the project so the City advertised the project as a best value bid.

The project also includes installing 964 feet of liner into the existing 8" sanitary sewer lines along the lake that will prevent water from infiltrating into the sanitary sewers.

### Bids

Public Works Department advertised the project for bid on January 2 & 3, 2023. The City Public Works Department opened bids for the project on January 26, 2023. Two bids were received:

<b>Bidder</b>	<b>Bid Amount</b>
Bateson Enterprises, LLC	\$803,256.00
HP Civil, Inc.	\$1,444,400.00

Bateson Enterprises, LLC proposed rehabilitation of the existing wetwell and HP Civil proposed constructing a new wet well. Engineering and Pump Station Maintenance reviewed the two bids and recommends the award of the contract to Bateson Enterprises, LLC.

**Financial Impact:**

This project will be funded out of Sewer Capital - Pump Station Construction (252-000-634219). The budgeted for FY 22 – 23 is \$1,300,000.00.

The following table shows the estimated cost to construct and complete the project in FY2022-24.

<b>Item</b>	<b>Estimated Cost to Complete FY2022-24</b>
Survey Services	
Design	
Bid Advertisement	
Bureau of Labor and Industries	\$741.25
Construction Bid	\$803,256.00
Art (1/2 of one percent of the construction bid)	\$3,706.28
Construction Contingency	\$80,325.00
<b>Total</b>	<b>\$888,028.53</b>

**Council Options:**

The Council may approve the construction award.

The Council may not approve the construction award.

**Potential Motions:**

Move to award the construction contract to Bateson Enterprises, LLC in the amount of \$803,256.00 with a construction contingency of \$80,325.00 (10 percent of bid amount) for a total amount of \$883,581.00

**Attachments:**

Bid Tab

**Attachments:**

Bid Results (PDF)

Holmes PS		Bateson Enterprises, LLC				HP Civil	
	ITEMS	QUANTITY	UNIT	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	Mobilization	1	LS	\$54,370.00	\$54,370.00	\$144,440.00	\$144,440.00
2	Erosion Control	1	LS	\$3,000.00	\$3,000.00	\$15,000.00	\$15,000.00
3	Bypass Pumping	1	LS	\$37,000.00	\$37,000.00	\$80,000.00	\$80,000.00
4	Demolition	1	LS	\$27,000.00	\$27,000.00	\$20,000.00	\$20,000.00
6	Wet Well Rehabilitation	1	LS	\$40,000.00	\$40,000.00	\$0.00	\$0.00
	Yard Piping includes excavation, backfill, testing, and surface restoration	1	LS	\$33,800.00	\$33,800.00	\$80,000.00	\$80,000.00
9	Valve Vault Installation includes excavation, backfill and Surface Restoration	1	LS	\$29,100.00	\$29,100.00	\$65,000.00	\$65,000.00
10	Valve Vault Mechanical includes piping, valves, coatings, pipe supports, and testing	1	LS	\$24,700.00	\$24,700.00	\$40,000.00	\$40,000.00
11	Flow Meter & Bypass Pumping Vault Installation includes excavation, backfill, and surface restoration	1	LS	\$26,300.00	\$26,300.00	\$45,000.00	\$45,000.00
12	Flow Meter and Bypass Pumping Vault Mechanical includes piping, valves, coatings, pipe supports and testing	1	LS	\$19,070.00	\$19,070.00	\$30,000.00	\$30,000.00
13	Wetwell Mechanical Includes piping, valves, coatings, pipe supports, testing, and startup	1	LS	\$135,600.00	\$135,600.00	\$175,000.00	\$175,000.00
14	Instrumentation & Controls includes all devices, panels, programming, testing, and startup	1	LS	\$94,500.00	\$94,500.00	\$175,000.00	\$175,000.00
15	Electrical	1	LS	\$78,000.00	\$78,000.00	\$185,000.00	\$185,000.00
	Cured-In-Place Lining (8")	964	FT	\$144.00	\$138,816.00	\$140.00	\$134,960.00
	Design Costs	1	LS	\$62,000.00	\$62,000.00	\$170,000.00	\$170,000.00
	New Wetwell	1	LS			\$85,000.00	\$85,000.00
	<b>Total</b>				<b>\$803,256.00</b>		<b>\$1,444,400.00</b>

# Council Communication

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## NE 14th Sidewalk Project Phase 2

Meeting Date: February 27, 2023      Primary Staff Contact: Stephanie Reid  
 Department: Public Works      E-Mail: SReid@lincolncity.org  
 Secondary Dept:      Secondary Contacts:  
 Approval: Daphnee Legarza      Estimated Time: 5 minutes

---

### Question

Should the Council award the NE 14<sup>th</sup> Sidewalk Project, Phase 2, to K&E Excavating?

### Staff Recommendation

Staff recommends the Council award the NE 14<sup>th</sup> Sidewalk Project, Phase 2, to K&E Excavating.

### Background

The City constructed the NE 14<sup>th</sup> Sidewalk project in 2021 the added a sidewalk from Hwy 101 to NE Port Ave. This project is a continuation of the sidewalk from NE Port Ave. to Spring Lake.

### Project Description

This project includes installing 634 feet of sidewalk from NE Port Ave. to Spring Lake. The project also includes adding 13 parking spaces along NE 14<sup>th</sup> just north of Spring Lake.

### Bids

The Public Works Department opened bids for the project on February 16, 2023. Five bids were received:

Bidder	Bid Amount
K&E Excavating, Inc	\$522,632.00
D&D Concrete and Utilities, Inc.	\$527,040.00
Cascade Civil Corp	\$588,093.00
Jesse Rodrigues Construction, LLC	\$596,093.00
Brown Contracting, Inc.	\$608,888.00

The lowest responsive and responsible bidder was K&E Excavating, Inc. in the amount of \$522,632.00.

### Project Budget and Costs

This project was approved in the FY22-23 budget, Street Capital Fund-Sidewalk Construction (211-000-6340208). The following table shows the estimated cost to construct and complete the project in FY2022-23 and FY2023-04.

Item	Estimated Cost to Complete FY23/24 and 24/25
Bureau of Labor and Industries	\$5,226.32
Construction Bid	\$522,632.00
Art (1/2 of one percent of the construction bid)	\$2,613.16
Construction Contingency	\$52,263.00
Total	\$582,734.48

### Recommendation

Staff recommends the construction contract be awarded to K&E Excavating, Inc. in the amount of \$522,632.00 with a construction contingency of \$52,632.00 (10 percent of bid amount) for a total of \$574,895.00.

### Attachments:

Bid Tab

### Attachments:

Bid Tab (PDF)

BID TAB

NE 14th Sidewalk - Phase 2			Engineer's Estimate		K&E Excavating		D&D Concrete		Cascade Corp		Jesse Rodriguez		Brown Contracting		
	ITEMS	QUANTITY	UNIT	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
GENERAL BID ITEMS															
00210	Mobilization	1	LS	\$45,000.00	\$45,000.00	\$52,000.00	\$52,000.00	\$50,000.00	\$50,000.00	\$57,000.00	\$57,000.00	\$50,000.00	\$50,000.00	\$58,000.00	\$58,000.00
00225	Temporary Work Zone Traffic Control, Complete	1	LS	\$30,000.00	\$30,000.00	\$50,000.00	\$50,000.00	\$20,000.00	\$20,000.00	\$41,000.00	\$41,000.00	\$35,000.00	\$35,000.00	\$45,102.00	\$45,102.00
00280	Inlet Protection	4	EA	\$150.00	\$600.00	\$80.00	\$320.00	\$100.00	\$400.00	\$100.00	\$400.00	\$75.00	\$300.00	\$200.00	\$800.00
00280	Sediment Fence/straw Wattles	770	FT	\$8.00	\$6,160.00	\$5.00	\$3,850.00	\$6.00	\$4,620.00	\$2.00	\$1,540.00	\$10.00	\$7,700.00	\$3.50	\$2,695.00
00320	Clear & Grubbing	1	LS	\$15,000.00	\$15,000.00	\$22,000.00	\$22,000.00	\$6,000.00	\$6,000.00	\$15,000.00	\$15,000.00	\$35,000.00	\$35,000.00	\$30,000.00	\$30,000.00
00310	Demolition	1	LS	\$5,000.00	\$5,000.00	\$10,500.00	\$10,500.00	\$16,000.00	\$16,000.00	\$6,000.00	\$6,000.00	\$5,500.00	\$5,500.00	\$12,000.00	\$12,000.00
0330	General Excavation & Grading	1	LS	\$20,000.00	\$20,000.00	\$30,000.00	\$30,000.00	\$19,000.00	\$19,000.00	\$78,790.00	\$78,790.00	\$27,000.00	\$27,000.00	\$16,000.00	\$16,000.00
00330.12	Fill, Clean	75	CY	\$50.00	\$3,750.00	\$85.00	\$6,375.00	\$100.00	\$7,500.00	\$105.00	\$7,875.00	\$75.00	\$5,625.00	\$216.00	\$16,200.00
00445	Storm Sewer Pipe, PVC 3034, Class A Backfill	700	FT	\$120.00	\$84,000.00	\$110.00	\$77,000.00	\$190.00	\$133,000.00	\$103.00	\$72,100.00	\$175.00	\$122,500.00	\$160.00	\$112,000.00
00470	Doghouse Storm Manhole	1	EA	\$4,000.00	\$4,000.00	\$8,000.00	\$8,000.00	\$10,000.00	\$10,000.00	\$6,000.00	\$6,000.00	\$7,500.00	\$7,500.00	\$4,800.00	\$4,800.00
00470	Flat Top Storm Manhole	1	EA	\$3,500.00	\$3,500.00	\$5,300.00	\$5,300.00	\$10,000.00	\$10,000.00	\$6,300.00	\$6,300.00	\$5,795.00	\$5,795.00	\$7,500.00	\$7,500.00
	CDS 3030-6-C Online Manhole	1	LS	\$15,000.00	\$15,000.00	\$67,000.00	\$67,000.00	\$70,000.00	\$70,000.00	\$92,000.00	\$92,000.00	\$65,000.00	\$65,000.00	\$45,000.00	\$45,000.00
00470	Catch Basin, CG-3	3	EA	\$5,000.00	\$15,000.00	\$2,900.00	\$8,700.00	\$3,000.00	\$9,000.00	\$2,600.00	\$7,800.00	\$7,000.00	\$21,000.00	\$3,000.00	\$9,000.00
00470	Catch Basin, Tppe 1	1	EA	\$3,000.00	\$3,000.00	\$2,300.00	\$2,300.00	\$3,000.00	\$3,000.00	\$2,100.00	\$2,100.00	\$6,575.00	\$6,575.00	\$4,000.00	\$4,000.00
00470	Connect to Existing Catch Basin	1	EA	\$2,000.00	\$2,000.00	\$3,000.00	\$3,000.00	\$1,000.00	\$1,000.00	\$1,900.00	\$1,900.00	\$2,750.00	\$2,750.00	\$3,800.00	\$3,800.00
00490	Minor MH Adjustment	1	EA	\$300.00	\$300.00	\$1,500.00	\$1,500.00	\$1,200.00	\$1,200.00	\$1,100.00	\$1,100.00	\$500.00	\$500.00	\$2,800.00	\$2,800.00
00641	Aggregate Base Rock 3/4"-0	400	CY	\$120.00	\$48,000.00	\$90.00	\$36,000.00	\$90.00	\$36,000.00	\$105.00	\$42,000.00	\$57.00	\$22,800.00	\$158.00	\$63,200.00
00759	Standard Concrete Curb, 6" Reveal	634	FT	\$50.00	\$31,700.00	\$42.00	\$26,628.00	\$45.00	\$28,530.00	\$62.00	\$39,308.00	\$42.00	\$26,628.00	\$55.00	\$34,870.00
00759	Back of Sidewalk Curb	10	FT	\$50.00	\$500.00	\$220.00	\$2,200.00	\$60.00	\$600.00	\$62.00	\$620.00	\$65.00	\$650.00	\$120.00	\$1,200.00
00759	Concrete Sidewalk & Ramps, 4" Thick	6165	SF	\$12.00	\$73,980.00	\$11.00	\$67,815.00	\$10.00	\$61,650.00	\$10.00	\$61,650.00	\$13.00	\$80,145.00	\$9.00	\$55,485.00
00759	Truncated Dome	1	EA	\$500.00	\$500.00	\$680.00	\$680.00	\$500.00	\$500.00	\$2,000.00	\$2,000.00	\$2,250.00	\$2,250.00	\$2,400.00	\$2,400.00
00744	Level 2, 1/2" Dense ACP, 4" depth	44	Ton	\$200.00	\$8,800.00	\$330.00	\$14,520.00	\$220.00	\$9,680.00	\$240.00	\$10,560.00	\$280.00	\$12,320.00	\$464.00	\$20,416.00
00860	Thermoplastic, Extruded, Surface, Profiled, White, 4-Inch	280	FT	\$20.00	\$5,600.00	\$9.00	\$2,520.00	\$25.00	\$7,000.00	\$34.00	\$9,520.00	\$24.00	\$6,720.00	\$52.00	\$14,560.00
00860	Thermoplastic, Extruded, Surface, Profiled, White, 4-Inch, Parking	120	FT	\$10.00	\$1,200.00	\$11.00	\$1,320.00	\$40.00	\$4,800.00	\$50.00	\$6,000.00	\$24.00	\$2,880.00	\$45.00	\$5,400.00
	Relocate Sign	1	EA	\$500.00	\$500.00	\$300.00	\$300.00	500	\$500.00	\$850.00	\$850.00	\$375.00	\$375.00	\$900.00	\$900.00
	Concrete Block Wall	38	FT	\$100.00	\$3,800.00	\$208.00	\$7,904.00	\$120.00	\$4,560.00	\$110.00	\$4,180.00	\$276.00	\$10,488.00	\$444.00	\$16,872.00
01040	Hydro-Seeding	2000	SF	\$3.00	\$6,000.00	\$0.80	\$1,600.00	\$1.00	\$2,000.00	\$2.00	\$4,000.00	\$4.00	\$8,000.00	\$6.00	\$12,000.00
	Restore Disturbed River Rock Area	1	LS	\$500.00	\$500.00	\$4,000.00	\$4,000.00	\$500.00	\$500.00	\$2,000.00	\$2,000.00	\$1,650.00	\$1,650.00	\$888.00	\$888.00
	Construction Surveying	1	LS	\$20,000.00	\$20,000.00	\$9,300.00	\$9,300.00	\$10,000.00	\$10,000.00	\$8,500.00	\$8,500.00	\$23,500.00	\$23,500.00	\$11,000.00	\$11,000.00
	<b>TOTAL BID ITEMS</b>				<b>\$453,390.00</b>		<b>\$522,632.00</b>		<b>\$527,040.00</b>		<b>\$588,093.00</b>		<b>\$596,151.00</b>		<b>\$608,888.00</b>