

CITY OF LINCOLN CITY

LINCOLN CITY COUNCIL AGENDA

MONDAY March 22, 2021 6:00 PM

6:00 PM - The Lincoln City Council for March 22, 2021 will be held via Zoom. The City Council Chambers will be open and the meeting will be broadcast live in the Council Chambers. It will also be live on Channel 4 and through streaming on the web at [www.lincolncity.org](http://www.lincolncity.org).

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

Public comments submitted by email to [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org) will be summarized and entered into the record.

Citizens present in the Council Chambers will be given the opportunity to comment via Zoom. Laptops will be set up for those comments. Citizens present in the Council Chambers will be required wear a face covering and must observe social distancing. A member of the Information Technology staff will be present during the meeting to assist with any technical issues.

Citizens requesting to give public comment via Zoom must email [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org) no later than 12 pm on the meeting day. The request must include the person's name, the subject the person wishes to address and the Zoom screen name the person intends to use for the meeting. A Zoom invitation will be sent to the person requesting prior to the meeting. Persons who will give public comment via Zoom will be placed in a Zoom waiting room upon entering the meeting until the public comment portion of the meeting at which time they will be admitted into the meeting through Zoom.

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 the City Recorder, 541-996-1203.

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 "Agenda, Packets & Video". This meeting will be televised on Channel 4. For additional rebroadcast times, please consult the Channel 4 guide on the hour.

- A. CALL TO ORDER**
- B. ROLL CALL**
- C. PLEDGE OF ALLEGIANCE**
- D. CONSENT AGENDA**
  - 1. Regular Meeting – Minutes of Regular Meeting – March 8, 2021 6:00 PM
- E. COUNCIL DELIBERATIONS**
- F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS**
- G. PRESENTATIONS**
  - 2. Presentation: New Business - Bird Rides, Inc. (Scooters), Michael Covato
  - 3. Annual Update: Lincoln City Cultural Center
  - 4. Mural Art in Parks - Public Art Donation
  - 5. Last Words Art Installations - Public Art Donation
- H. PUBLIC HEARING / ORDINANCE**
- I. PUBLIC HEARINGS / PUBLIC COMMENTS**
- J. ORDINANCES**
- K. RESOLUTIONS**
- L. SPECIAL ORDER OF BUSINESS**
  - 1. Funding on Hold - Percentage of Public Arts Fund
  - 2. Arbor Day 2021 Proclamation
  - 3. Order Approving Real Property Lease - McKay's Market Building
  - 4. AFSCME Letter of Agreement--One-Year Union Contract Rollover
  - 5. City Hall HVAC Construction Award
  - 6. Input for TCB contract at Beach Accesses on 4th of July
  - 7. Council Consideration for Purchase of Four ATV's for Beach Patrol
  - 8. Canyon Park Bollard information
  - 9. Comprehensive Plan Update - Schedule
  - 10. Department Update: Economic Development
  - 11. COVID-19 Update
  - 12. Echo Mountain Complex Emergency Update
- 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**
- R. COUNCIL COMMUNICATIONS**

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

March 8, 2021, 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**

Council President Casper called the meeting to order. Council President Casper advised the public that there are now three ways to provide public comment.

1. Comments can be made through email to [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org);
2. Comments can be made via Zoom if a request is emailed to [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org) by 12 pm on the meeting day;
3. Comments can be made in person at the Council Chambers (COVID-19 precautions are taken).

**B. ROLL CALL**

Attendee Name	Title	Status	Arrived
Judy Casper	Councilor Ward 3	Present	6:00 PM
Diana Hinton	Councilor Ward 1	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
Anne Marie Skinner	Councilor Ward 2	Present	6:00 PM
Vacant	Mayor		

Staff Present: Ron Chandler, City Manager; Richard Appicello, City Attorney; Chief Palmer, Lincoln City Police Department; Abigail Edwards, Human Resources Director; Lila Bradley, Public Works Director; Sungman "Simon" Kim, Planning Director; Tony LaSoya, I.T. Director; Ken Murphy, Emergency Services Coordinator; Jamie Young, City Recorder.

**C. PLEDGE OF ALLEGIANCE**

*Skipped due to the meeting being held remotely*

**D. CONSENT AGENDA**

1. Regular Meeting – Minutes of Regular Meeting – February 22, 2021, 6:00 PM
2. Minutes from the February 22, 2021, Joint Meeting of the URA/CC

<b>MOTION:</b>	<b>Motion to Approve Consent Agenda</b>
<b>MOVER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>AYES:</b>	Casper, Hinton, Hoagland, Mark, Parsons, Skinner
<b>RESULT:</b>	<b>Passed</b>

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

3. Public Comment

*Mr. Chandler said there was one comment by email from Mark Clarambeau in the packet.*

*Michael Cavato spoke about electric scooters and bringing them to Lincoln City before spring break.*

*Bri Goodwin spoke in support of House Bill 2617; Ms. Goodwin asked that Council also support HB2617.*

**G. PRESENTATIONS****H. PUBLIC HEARING / ORDINANCE****I. PUBLIC HEARINGS / PUBLIC COMMENTS**

*Council called for Public Comments for Resolution 2021-12. No Public Comments were made..*

**J. ORDINANCES****K. RESOLUTIONS**

1. RESOLUTION NO. 2021-12 A RESOLUTION OF THE CITY OF LINCOLN CITY, ESTABLISHING FEES AND CHARGES FOR ADJUSTMENTS UNDER CHAPTER 17.74 (DESIGN STANDARDS)

**MOTION:** Motion to Approve Resolution 2021-12, A Resolution of the City of Lincoln City, Establishing Fees and Charges for a Design Standard Adjustment.

**MOVER:** Anne Marie Skinner, Councilor Ward 2

**SECONDER:** Mitch Parsons, Councilor Ward 1

**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner

**RESULT:** Passed by Roll Call Vote

## L. SPECIAL ORDER OF BUSINESS

### 2. Budget Committee Appointment-Moore

**MOTION:** Motion to Appointment to Budget Committee- Nancy Moore

**MOVER:** Rick Mark, Councilor Ward 3

**RESULT:** Failed for Lack of a Second

### 3. Request for Appointment to Driftwood Public Library Board - Carolyn Wilson

**MOTION:** Motion to Appointment to Library Board - Carolyn Wilson

**MOVER:** Rick Mark, Councilor Ward 3

**SECONDER:** Judy Casper, Councilor Ward 3

**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner

**RESULT:** Passed via Voice Vote

### 4. Request for Re-Appointment to Driftwood Public Library Board - Tamara Ahmuty

**MOTION:** Motion to Re-Appointment to Library Board - Tamara Ahmuty

**MOVER:** Judy Casper, Councilor Ward 3

**SECONDER:** Rick Mark, Councilor Ward 3

**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner

**RESULT:** Passed via Voice Vote

### 5. Request for Appointment to Driftwood Public Library Board - Richard Townsend

**MOTION:** Motion to Approve Appointment to Library Board - Richard Townsend

**MOVER:** Rick Mark, Councilor Ward 3

**SECONDER:** Anne Marie Skinner, Councilor Ward 2

**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner

**RESULT:** Passed via Voice Vote

### 6. Request for Re-Appointment to Driftwood Public Library Board -Sheila Stevens

**MOTION:** Motion to Re-Appointment to Library Board - Sheila Stevens

**MOVER:** Judy Casper, Councilor Ward 3

**SECONDER:** Anne Marie Skinner, Councilor Ward 2

**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner

**RESULT:** Passed via Voice Vote

### 7. FEMA Grant Application Approval

**MOTION:** Motion to Approve FEMA Application  
**MOVER:** Anne Marie Skinner, Councilor Ward 2  
**SECONDER:** Diana Hinton, Councilor Ward 1  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed via Voice Vote

**8. RESOLUTION NO. 2021-13 A RESOLUTION OF THE CITY OF LINCOLN CITY ORDERING THE TEMPORARY CLOSURE OF NW 33rd STREET AT HIGHWAY 101**

*Councilor Parsons asked if the intersection would be improved, Ms. Bradley confirmed that sidewalks would be added.*

*Councilor Mark asked why this item was coming forward at such a late date. Mr. Appicello said that he was just made aware and there are two options; Council approval or City Manager approval. City Manager approval requires a 5-day posting before and has a 10-day appeal period. Council approval of the resolution is effective immediately. Staff decided to take it before Council.*

**MOTION:** Motion to Approve Resolution 2021-13 NW 33rd Street Temporary Road Closure Resolution  
**MOVER:** Diana Hinton, Councilor Ward 1  
**SECONDER:** Anne Marie Skinner, Councilor Ward 2  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed by Roll Call Vote

**9. Water Treatment Plant Generator Award**

**MOTION:** Motion to Approve Water Treatment Plant Generator Award to Bateson Enterprises, in the Amount of \$440,000  
**MOVER:** Diana Hinton, Councilor Ward 1  
**SECONDER:** Mitch Parsons, Councilor Ward 1  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed by Roll Call Vote

**10. Department Report - Public Works**

*Lila Bradley, Public Works Director, gave a departmental report.*

*Councilor Hoagland asked if the new pipe for the Nelscott Force Main is going in the same location on High School Drive. Ms. Bradley said that there is not an economical option available to bypass the location of the Force Main.*

*Councilor Hinton asked who the Consultant was that was hired. Ms. Bradley said that the firm is HBH Consulting. Councilor Skinner asked what kind of time limits we have on the upgrade to the plant. Ms. Bradley said there are about 15-20 years.*

*Councilor Mark asked if the concerns were the temperature and not contaminates. Ms. Bradley stated that is correct. Councilor Mark said that he now has a composting bin, is using his garbage disposal less, and was wondering if that is helpful to the plant. Ms. Bradley said that would help the plant.*

*Councilor Skinner gave the Public Works Department a great big thank you for keeping everything operational. Councilor Mark agrees.*

Councilor Mark inquired about the water source and the City's long-term plan for adequate water supplies. Ms. Bradley said that is in the Water Master Plan..

**11. COVID-19 Update**

Ken Murphy and Abigail Edwards spoke about the plan to receive people into City Hall. Mr. Murphy does not have an exact date when that will happen. Mr. Murphy said that the CDC came out with guidelines for vaccinated people. Mr. Murphy gave an update on departments and staff returning to the workplace. The current Emergency Declaration runs until May 2nd. Ms. Edwards said that there is an Employee Policy in place for a potential exposure plan. Councilor Skinner asked if the Planning Commission and City Council will remain on Zoom. Mr. Murphy recommends at this time that board and committee meetings continue on Zoom.

**12. Echo Mountain Complex Fire Update**

Mr. Murphy said FEMA hosted an event on Saturday at the temporary housing site on Logan Road. FEMA has built 16 custom homes on this site. FEMA is meeting with the families who will occupy these homes to determine their needs. There will be adults only at this site. Mr. Murphy said FEMA should be done this week or at the beginning of next week. FEMA staff will check with residents monthly to determine their progress to permanent housing. Councilor Hinton said that it was an excellent event on Saturday and the warm greetings to Mr. Murphy were nice to see. Councilor Casper said that she arrived later and received a personal tour. Councilor Casper also learned that the residents will be paying for their cable and internet.

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

Mr. Appicello asked if Council would like to schedule an Executive Session for March 22 on the drainage dispute.

<b>MOTION:</b>	<b>Motion to hold an Executive Session on March 22</b>
<b>MOVER:</b>	<b>Riley Hoagland, Councilor Ward 2</b>
<b>SECONDER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>AYES:</b>	Casper, Hinton, Hoagland, Mark, Parsons, Skinner
<b>RESULT:</b>	<b>Passed by Voice Vote</b>

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

<b>MOTION:</b>	<b>Motion to Deliver the Evaluation to the Employee as Amended in the Executive Session and to be Discussed in Future Executive Session with the Employee</b>
<b>MOVER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>AYES:</b>	Casper, Hinton, Hoagland, Mark, Parsons, Skinner
<b>RESULT:</b>	<b>Passed by Voice Vote</b>

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

No Citizens Present

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

*Councilor Hoagland agreed with Councilor Mark; don't dispose, compost. Council Hoagland stated that he walked down the D River Bridge and there was ripped plastic spread out on the banks and in the water.*

*Councilor Casper asked if Council would be interested in supporting Bri Goodwin with House Bill 2617, Polystyrene ban. Council unanimously agreed.*

*Councilor Hinton gave a reminder to change clocks on Saturday. In addition, there will be a shake alert on March 11th at 10 AM. Councilor Hinton also stated that she has said in the past and still thinks that the City should hire a grant writer.*

*Councilor Mark spoke about a Zoom meeting of the Cascades West Area Commission Transportation that he attended. They reviewed the statewide budget and part of that was permanent electronic signage.*

**MOTION:** Motion to Direct Staff to Look at a Beautification Project for the D River Stainless Girders  
**MOVER:** Riley Hoagland, Councilor Ward 2  
**SECONDER:** Diana Hinton, Councilor Ward 1  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed by Voice Vote

**MOTION:** Motion to Direct Staff to Investigate Reinstalling a Bollard at Canyon Drive, to Prevent on the Beach Driving  
**MOVER:** Riley Hoagland, Councilor Ward 2  
**SECONDER:** Rick Mark, Councilor Ward 3  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed by Voice Vote

**MOTION:** Motion to Direct Staff to Look Into a Joint Meeting with Devils Lake Water Improvement District  
**MOVER:** Riley Hoagland, Councilor Ward 2  
**SECONDER:** Mitch Parsons, Councilor Ward 1  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed by Voice Vote

**MOTION:** Motion to Direct Staff to Invite Salmon Drift Creek Watershed Council to Present at City Council Annually  
**MOVER:** Riley Hoagland, Councilor Ward 2  
**SECONDER:** Anne Marie Skinner, Councilor Ward 2  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed by Voice Vote

**MOTION:** Motion to Direct Staff to Bring Back a Report Regarding SE 2nd Street Flooding and Provide Information  
**MOVER:** Riley Hoagland, Councilor Ward 2  
**SECONDER:** Mitch Parsons, Councilor Ward 1  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed by Voice Vote

**MOTION:** Motion to Direct Staff to Replace the Police Plaque within the City Managers Spending Limit  
**MOVER:** Riley Hoagland, Councilor Ward 2  
**SECONDER:** Anne Marie Skinner, Councilor Ward 2  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed by Roll Call Vote

**MOTION:** Motion to Discuss Releasing Public Arts Funds at the Presentation with Niki Price  
**MOVER:** Anne Marie Skinner, Councilor Ward 2  
**SECONDER:** Mitch Parsons, Councilor Ward 1  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed by Roll Call Vote

**MOTION:** Motion to Direct Staff to Look into Permanent Electronic Signs at the Entrances of the City  
**MOVER:** Rick Mark, Councilor Ward 3  
**SECONDER:** Riley Hoagland, Councilor Ward 2  
**AYES:** Casper, Hinton, Hoagland, Mark, Parsons, Skinner  
**RESULT:** Passed by Voice Vote

**Q. ADJOURNMENT**

*The meeting was adjourned at 8:40 p.m.*

\_\_\_\_\_  
JUDY CASPER, COUNCIL PRESIDENT

ATTEST:

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JAMIE YOUNG, CITY RECORDER

## Council Communication

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### Presentation: New Business - Bird Rides, Inc. (Scooters), Michael Covato

Meeting Date: March 22, 2021      Primary Staff Contact: Alison Robertson  
 Department: Economic Development E-Mail: alisonr@lincolncity.org  
 Secondary Dept: Planning Department      Secondary Contacts:  
 Approval: Ronald F Chandler      Estimated Time: 10 Min

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#### Objective:

- 1) To hear presentation from Bird Rides, Inc.
- 2) Provide direction to City staff.

#### Authority: *(emphasis added)*

#### 12.02 Control of public right-of-way.

A. The city has jurisdiction and exercises regulatory control over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way.

B. The city has jurisdiction and regulatory control over each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure, or other means.

C. Except when authorization is granted as provided in this municipal code, ***no person or entity may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use public rights-of-way, by franchises, licenses, concessions and permits.***

D. Fees and charges for franchises, licenses, concessions and permits, including application and ongoing usage fees, shall be established by council resolution based on actual cost, or, when applicable, set by federal authority, or, when applicable, as negotiated and set forth in applicable license or franchise agreements.

**See Also:** LCMC 10.12.040 (prohibiting storage of vehicles / personal property in the right-of-way)

#### Background:

Bird Rides, Inc., a dockless e-scooter business, first contacted the City in November 2020. Staff met with Michael Covato (Member of the Revenue and Partnerships Team with Bird Rides, Inc.) via zoom in a couple of meetings with local economic development stakeholders and city staff, including Directors of Economic Development, Explore Lincoln City, Parks & Recreation, Chamber of Commerce, and the Small Business Development Center.

Mr. Covato provided public comment at the March 8, 2021 City Council Meeting. Council requested a presentation from Bird Rides, Inc. at an upcoming meeting to hear more about the business operations, technology, and have the opportunity for questions.

Bird Rides, Inc. is requesting to enter into a Memorandum of Understanding (draft MOU attached) for use of the public right-of-way necessary for their business operations.

The City uses permits and license agreements, together with a concession agreements to authorize private commercial use of public property, including the right-of-way. [e.g.: Food Trucks operating in a City parks require an exclusive use permit and a concession agreement.] Food trucks are, however, specifically prohibited in the right-of-way. In the area of 51<sup>st</sup> in Taft (an interim park area), staff has designated safe vendor locations (reviewed by ADA coordinator) for concessions associated with special events and food trucks and food carts. This proposal does not appear to include such pre-reviewed locations for use of the right-of-way. The assumption is the scooters will need to be parked in lawful parking spaces.

Lincoln City would be first on the Oregon Coast for this shared use, type of alternative transportation provided by the private sector. Economic Development staff believes this is a market-driven opportunity that should be considered, assuming there is sufficient clarity through a License/ Concession to provide for public safety, per discussions with the Police Department for proper enforcement if needed.

**Bird Rides, Inc. – Additional Info:**

- Website: <https://www.bird.co/>
- Scooters will not be permitted on state highways (or roadways with a speed limit greater than 25 mph), per the State’s Scooter Guide: <https://bikeportland.org/2019/07/08/know-your-rights-portland-law-firm-releases-legal-guide-for-escooter-riders-302140>
- Helmets are required (per State law) for users.
- Scooters would be deployed, rebalanced, and recharged on an ongoing basis throughout the day by local logistics partners, called Fleet Managers. They are

available every day to address the needs of the fleet and will check on the conditions of the scooters multiple times per day.

- Safety notification is done via signage on the scooter, on a required in-app tutorial, and with in-app notification on every ride.

**Potential Motions:**

- 1) Motion to (not to) direct staff to bring back a license and concession with Bird Rides, Inc. to permit lawful operations in the city right-of-way.

**Attachments:**

DRAFT\_MOU\_BirdRidesInc+\_LincolnCity(PDF)

## Memorandum of Understanding

City of Lincoln City will permit Bird Rides, Inc. to provide services under the following terms and limitations. This agreement shall remain in effect until December 31, 2021 unless terminated as set forth below.

### AGREEMENT

- 1) Scope: This Agreement and its terms apply to any proposed deployment of Stand-up electric scooter sharing systems within City of Lincoln City's jurisdictional boundaries.
- 2) Stand-up electric scooters shall be governed by the rules applying to bicycles and are to be ridden on streets, and where available, in bike lanes and bike paths. Stand-up electric scooters are to stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths. Riders of shared electric scooters shall park devices upright on hard surfaces in the furniture zone of the sidewalk, beside a bicycle rack or in another area specifically designated for bicycle parking, or on the street next to an unmarked curb. Users of Stand-up electric scooters shall be 18 or older. Users of Stand-up electric scooters who violate these provisions may be fined by City of Lincoln City consistent with fines for cyclists.
- 3) Bird Rides, Inc. shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each Stand-up electric scooter for members of the public to make relocation requests or to report other issues with devices.
- 4) Hours of operation: Stand-up electric scooters will be made available to rent from 4 a.m. to midnight (local time)
- 5) Bird Rides, Inc. shall provide a minimum of 75 vehicles at launch.
- 6) Safety Education: Bird Rides will provide materials, videos, signage to promote safe riding and educate riders on rider responsibilities and encourage safe and courteous riding and parking.
- 7) Data sharing: Bird Rides, Inc. will provide data to the City of Lincoln City as necessary to assist with monitoring program usage.
- 8) Indemnification: Bird Rides, Inc. agrees to indemnify, defend and hold harmless City of Lincoln City (and City of Lincoln City's employees, agents and affiliates) from and against all actions, damages or claims brought against City of Lincoln City arising out of Bird Rides, Inc.'s negligence or willful misconduct, except that Bird Rides, Inc.'s indemnification obligation shall not extend to claims of City of Lincoln City's (or City of Lincoln City's employees', agents' or affiliates') negligence or willful misconduct. City of Lincoln City expressly acknowledges that in no event shall Bird Rides, Inc. be liable for any special, indirect, consequential or punitive damages. Bird Rides, Inc.'s indemnification obligations shall survive for a period of one (1) year after expiration of this Agreement. Bird Rides, Inc. shall be released from its indemnification obligations under this section if the loss or damage was caused by the City of Lincoln City's negligent construction or maintenance of public infrastructure. City of Lincoln City's right to indemnification shall be contingent on City of Lincoln City notifying Bird Rides, Inc. promptly following receipt or notice of any claim; Bird Ride, Inc. shall have sole control of any

defense; City of Lincoln City shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Bird Ride, Inc.

9) Insurance: Bird Rides, Inc. shall provide City of Lincoln City with proof of insurance coverage exclusively for the operation of Stand-up electric scooters including: (a) Commercial General Liability insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate; (b) Automobile Insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate; and (c) where Bird Rides, Inc. employs persons within the City of Lincoln City, Workers' Compensation coverage of no less than the statutory requirement.

10) Notices: All notices and communications to the City of Lincoln City from Bird Rides, Inc. shall be made in writing (includes electronic communications) and sent to the address below.

11) Either party may terminate this agreement at any time and without cause upon (30) days prior written notice.

12) In carrying out their responsibilities, the parties shall remain independent contractors, and nothing herein shall be interpreted or intended to create a partnership, joint venture, employment, agency, franchise or other form of agreement or relationship.

13) The parties acknowledge that Bird Rides, Inc. may utilize independent business logistics providers to facilitate local operations. Bird's use of these logistics providers does not constitute a transfer or assignment of this Agreement, and Bird Rides, Inc. remains responsible for all obligations and requirements under this Agreement.

14) This agreement shall be governed by and construed in accordance with the laws of the state of Oregon.

**City of Lincoln City, Oregon**

**Bird Rides, Inc.**

Signed By:

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

Email: birdlegal@bird.co

## Council Communication

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### Annual Update: Lincoln City Cultural Center

Meeting Date: March 22, 2021      Primary Staff Contact: Alison Robertson  
 Department: Economic Development E-Mail: alisonr@lincolncity.org  
 Secondary Dept: Administration      Secondary Contacts:  
 Approval: Ronald F Chandler      Estimated Time: 15 Min

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#### **Objective:**

The objective of this meeting is to hear the 2021 annual report from the Lincoln City Cultural Center, as part of the lease requirements.

#### **No Action Needed by Council:**

For information only.

#### **Ec Dev Projects Update:**

The Windows Restoration project is nearing completion. The remaining windows on the east side, in addition to the west side upper front entrance window will be replaced, and all windows painted on the exterior/varnished on the interior (to match the west side) by June 30th. Window shades have been purchased. Once the remaining windows are complete, and the shades installed, the last phase of the project (in the upcoming FY21-22 budget request; up to \$10,000) will be to construct custom cornice boxes to frame in the window shades.

Also, a basement floor drain was discovered as needing repair which will be completed by June 30th, as part of the FY20-21 'unplanned capital projects' line item.

In the current FY20-21 budget, due to the pandemic, the project to replace doors (3 exterior and 1 interior) was put on hold and re-budgeted for FY21-22 (up to \$15,000).

In the upcoming budget request FY21-22 is a request (\$15,000) for replacement of the "brains" of the fire suppression system (not the pipes, sprinkler heads, etc.), which is antiquated and spare parts are no longer available. The LCCC pays for operations and maintenance as the tenant although this project will replace a portion of the system that is no longer functioning well.

Lastly, City staff remains in close communication with LCCC, as negotiations continue with Pacific Power regarding use of the property for vehicle access across the LCCC-leased property.

**Link of Cultural Plaza “flyover” provided by LCCC:**

- <https://www.youtube.com/watch?v=jKoho3rWf60>

**Attachments:**

LCCC Update for City Council March 2021 2REDUCED (PDF)

Cultural Plaza Overview & Capital Plan Feb 2021 Final-compressed (PDF)

# Lincoln City Cultural Center

## Annual Report & Plaza Update

Prepared for the Lincoln City City Council

March 22, 2021

# 2021 Programs

	2019	2020
In-person Events	300	128
Online Events	4	90
<b>Total</b>	<b>344</b>	<b>218</b>





	2019	2020
In-person Events	43,884	24,744
Online Events	—	49,714*
Total	43,884	74,458*

# 2021 Participation

# Creative Quarantine

**4,975 art kits**

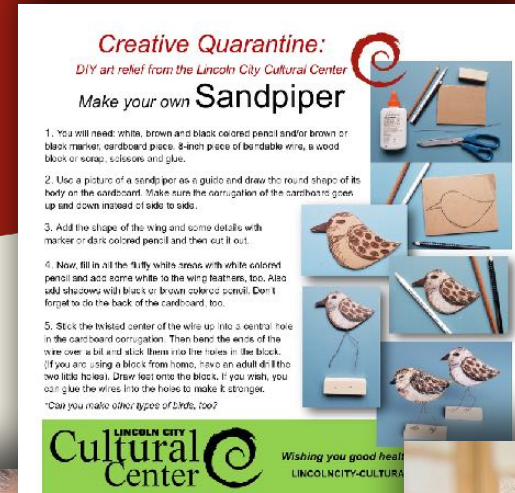
created and distributed in 2020

Drive-Through March-June

By Donation "Store" August-present

**90 online events**

Live, recorded & streamed  
Concerts, studio tours, talks  
and gallery tours



## Creating monthly rentals & COVID-safe public attractions

Gift Shop → Fiber Arts Studio Gallery

Concessions Prep Room → Mosaic Studio

Yoga Studio → Art Packet Pickup Room

Meeting Room → Pop-up Gallery

Former Textiles Workshop → Bravery Center

Former Mosaics Studio → Shared by 3 artists

Art Incubator  
Concept



	2019	2020	Change
Payroll	\$161,485	\$141,325	↓ 12%
Program Expenses	\$145,104	\$58,027	↓ 60%
Utilities & Wifi	\$27,262	\$24,512	↓ 10%
Advertising	\$31,845	\$24,096	↓ 24%
Facility Maintenance	\$11,652	\$8,628	↓ 25%
Furniture & Equip.	\$7,652	\$6,990	↓ 8%
Fundraising	\$12,153	\$6,285	↓ 48%
Supplies & General	\$25,979	\$19,591	↓ 24%
Outside Contractors	\$26,000	\$21,843	↓ 15%
<b>TOTAL</b>	<b>\$449,132</b>	<b>\$311,297</b>	<b>↓ 30%</b>

# Expenses



	2019	2020	Change
<b>Contributions</b>	\$233,380	\$108,754	↓ 53%
<b>Fundraising Events (net)</b>	\$23,654	\$24,481	↑ 3%
<b>Grants</b>	\$373,000	\$146,996	↓ 60%
<b>Program Income</b>	\$200,284	\$77,425	↓ 58%
<b>Rental Income</b>	\$44,834	\$25,755	↓ 42%
<b>Info Center Contract</b>	\$32,000	\$16,000	↓ 50%
<b>TOTAL</b>	<b>\$896,051</b>	<b>\$399,411</b>	<b>↓ 55%</b>

# Revenue

	12/31/19	12/31/20
Operating Funds	\$52,389	\$102,686
Restricted Funds	\$35,151	\$111,134
Chessman Development Fund	\$36,036	\$36,527
Reserves	\$65,479	\$65,867
Plaza Capital Campaign	\$385,696	\$397,410
<b>TOTAL</b>	<b>\$574,751</b>	<b>\$713,624</b>



# Financial Position

# Lincoln City Cultural Plaza

## Invest in Inspiration

Capital Project Update

March 22, 2021

# Highs & Lows

## June 2020

“Invest in Inspiration” campaign goal of \$250,000 in individual contributions reached

## July 2020

State Treasurer cancels the sale of lottery backed bonds and our \$1.5 million award



# Grants Received

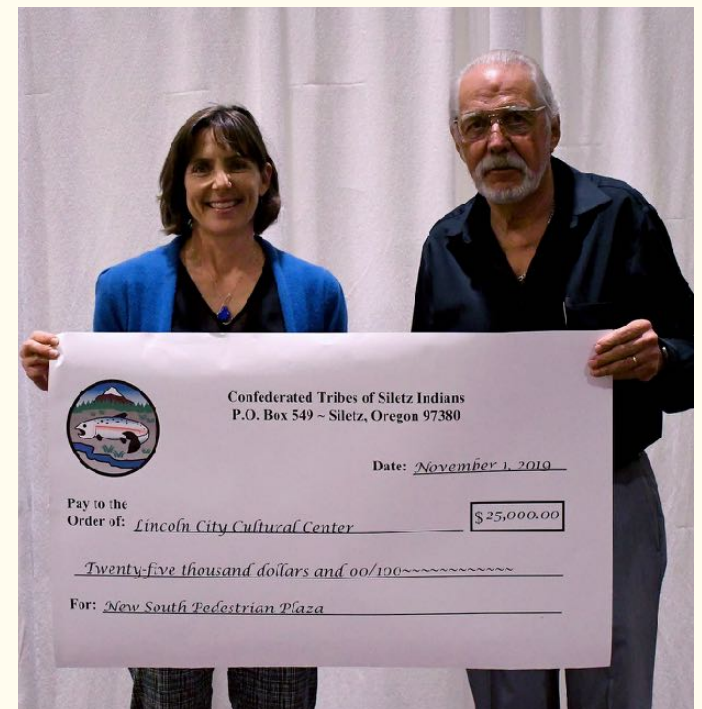
Oregon Cultural Trust (\$31,000)

Siletz Tribal Charitable  
Contribution Fund (\$25,000)

Oregon Community  
Foundation (\$50,000)

Oneatta Fund (\$25,000)

City of Lincoln City (\$200,000)

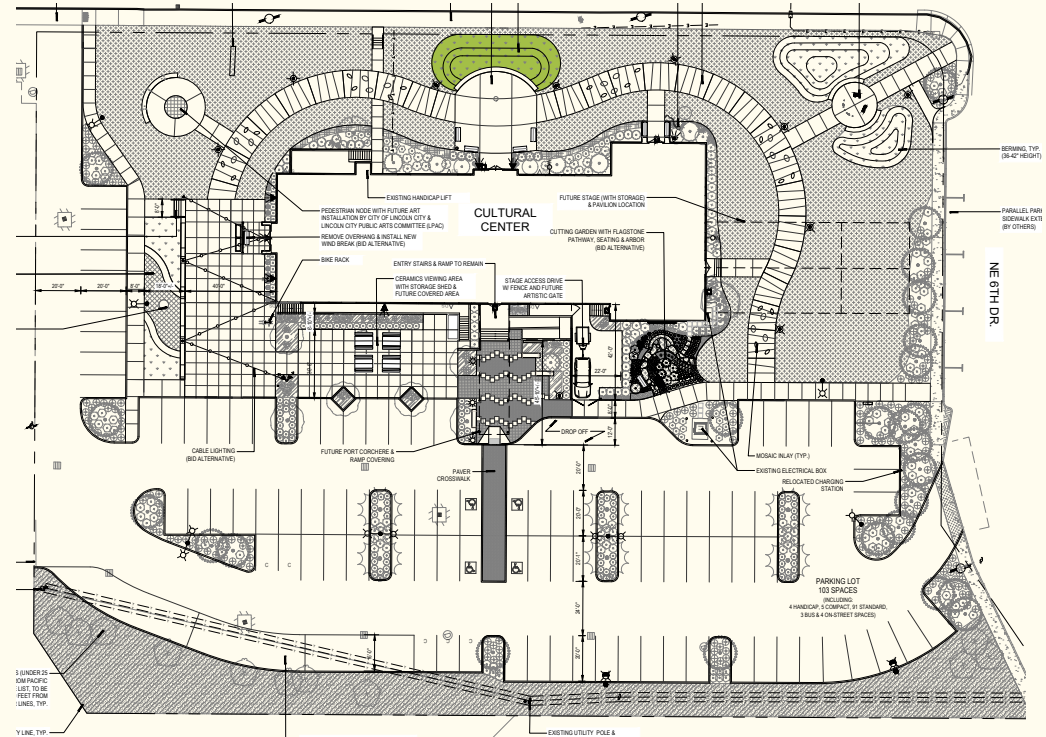


# Partnerships

**Lincoln City Public Art Committee**  
Pete Beeman Commission, SW Corner

**Lincoln City Rotary Club**  
Harmony Park Instruments,  
NW Corner

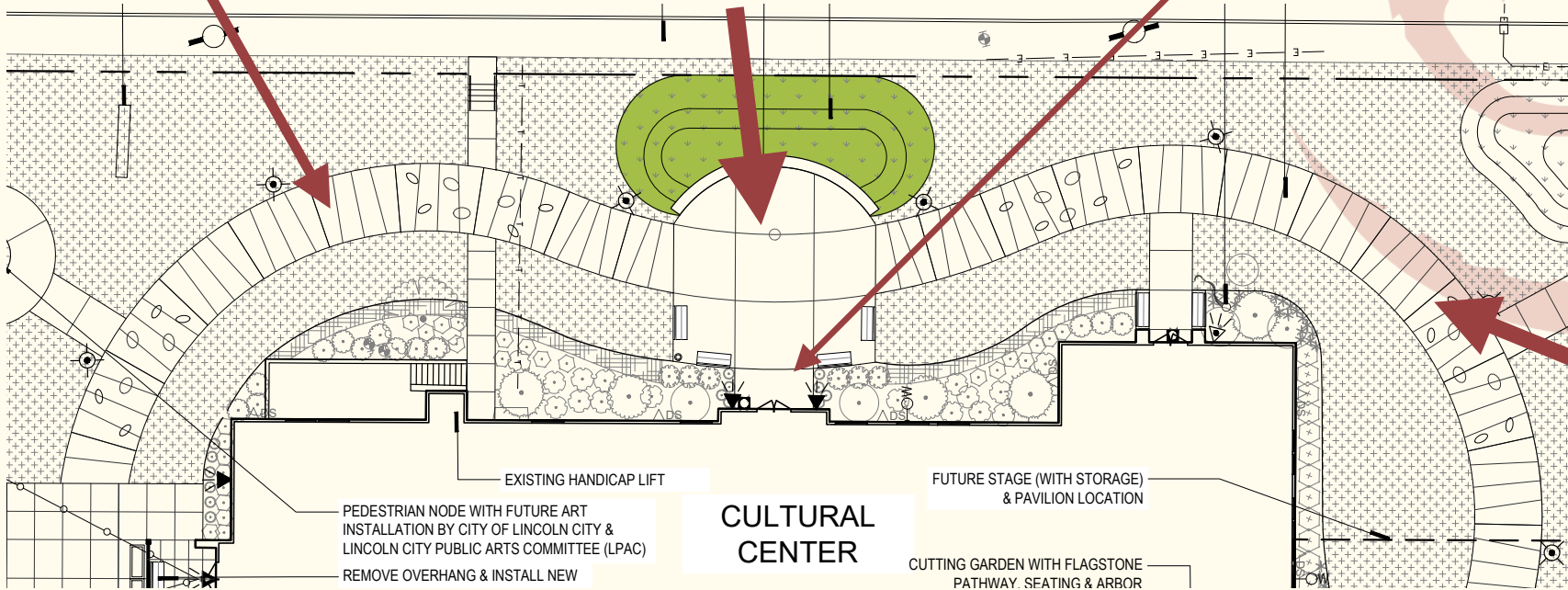
**Kiwanis Club of Lincoln City**  
Children's Patio Project, East Side



Circular Lithomosaic by Robin Brailsford based on public feedback being gathered now.  
Working title: "The Lincoln City Cosmography"

Litho-crete seeded glass in the walkway

Delake School alumni bricks, benches and conifers at the historic west entrance



Sandblasted words and poetry on the meandering path.  
Process led by Oregon Poet Laureate Anis Mojgani

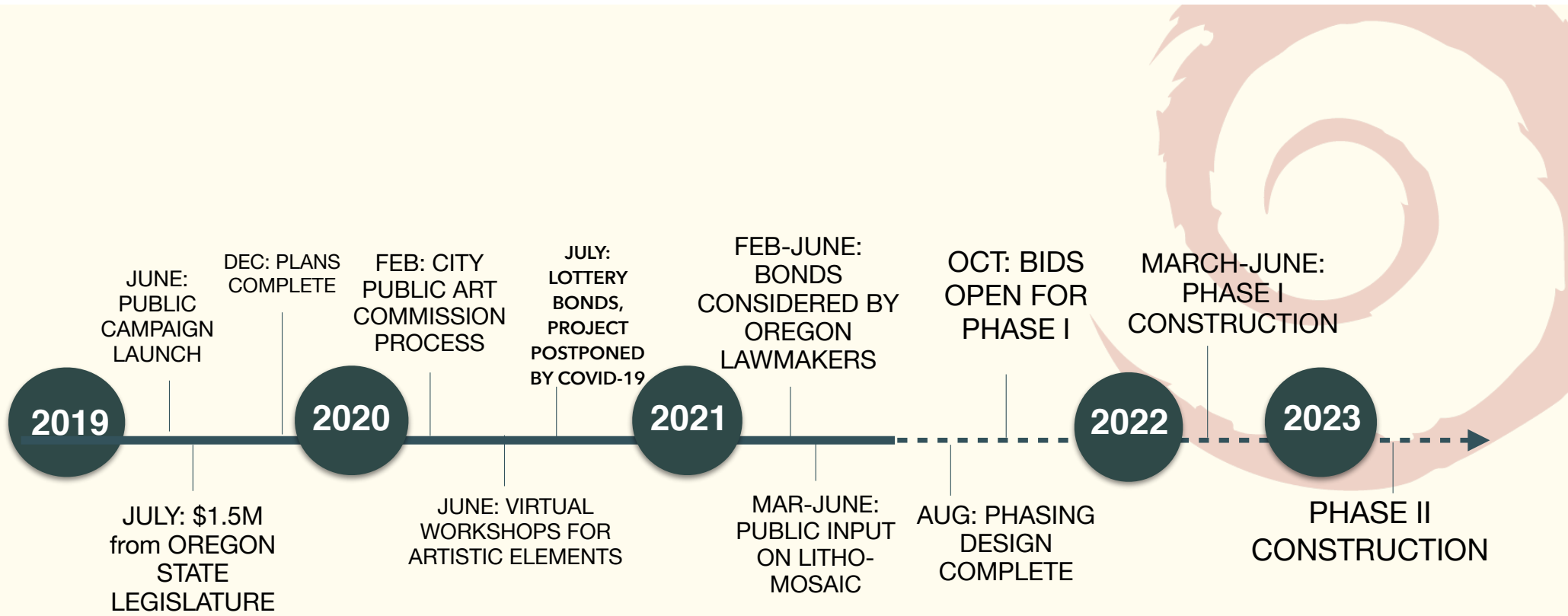
# Artistic Element Design

# New Project Budget



## BUDGET OVERVIEW

PROJECTED COSTS	
Phase 1 – <i>Project design &amp; engineering, west side construction</i>	\$980,000
Phase 2 – <i>East side construction (arts education area and parking)</i>	\$1,545,600
(including inflation, contingency & contractor’s fees) <b>TOTAL PROJECTED COSTS</b>	<b>\$2,525,600</b>
PROJECTED INCOME	
Donations & Grants Raised as of February 2021 (Secured)	\$608,000
Naming & Legacy Contributions (Anticipated)	\$160,000
Additional Foundation Support (Anticipated)	\$257,600
State Lottery-Backed Construction Grant (Anticipated)	\$1,500,000
<b>Fundraising Plan TOTAL</b>	<b>\$2,525,600</b>



# Updated Timeline

# Pacific Power

## Everyday Use

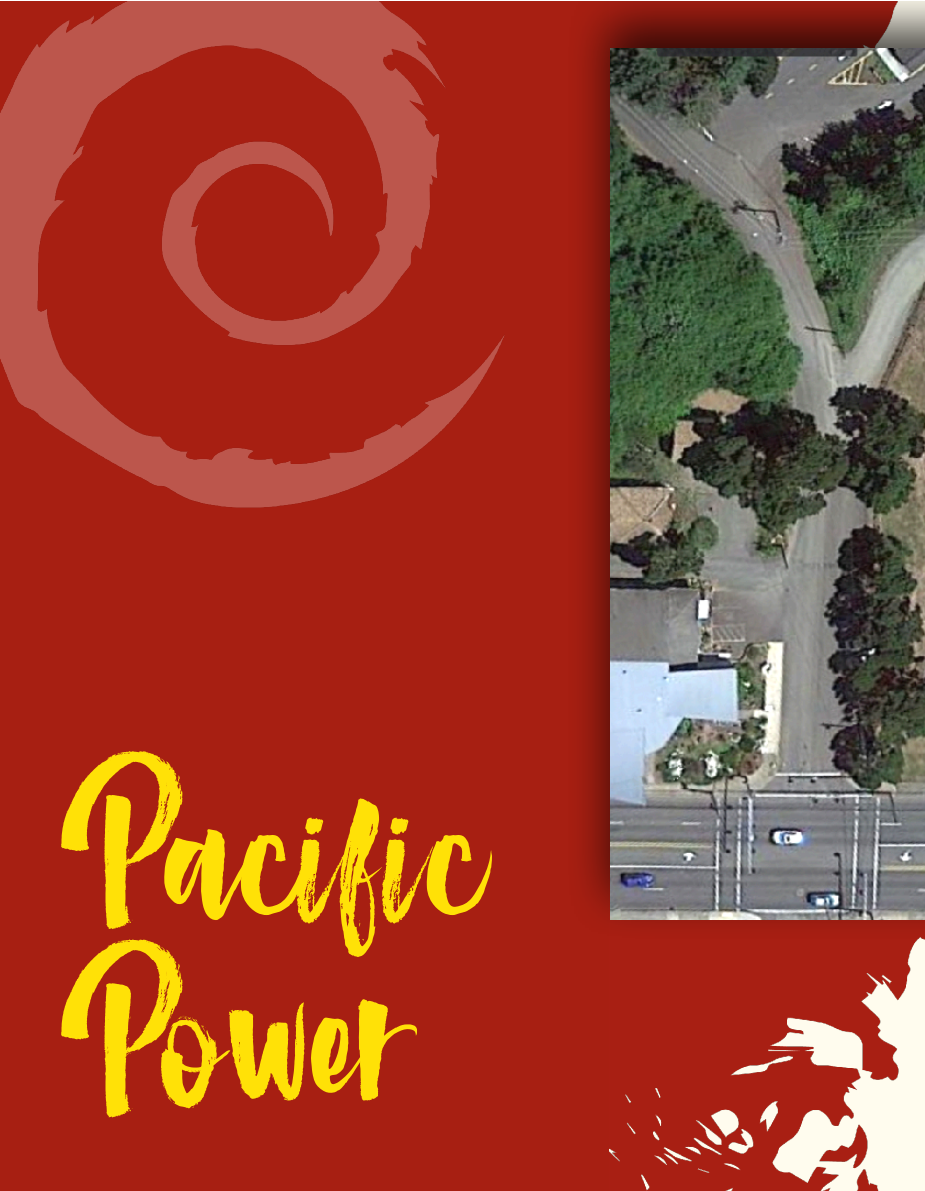
- Enter/Exit Yard
- Loading & Unloading
- Washing Vehicles
- Storing Equipment
- Contractor Staging

## Emergency Use

Heavy duty trucks used  
the entire parking area from  
Sept. 5-20



**The South LCCC Parking Area, Sept. 2020**



# Pacific Power



After the Plaza improvements are complete in 2023, these two operations will become even less compatible than they are today

# Requests for Council



1. Support for the new Plaza Budget and two-phase plan
2. Letter of endorsement to Governor Brown & Speaker Kotek, advocating the reinstatement of bond funding
3. Denial of easement requests from Pacific Power



# Lincoln City Cultural Center

**thank you!**



Mark Your  
Calendars

**March 19-28**

Festival of Illusions  
Spring Break Magic Festival

**April 9**

"Up From the Ashes"  
Echo Mountain Art Exhibit

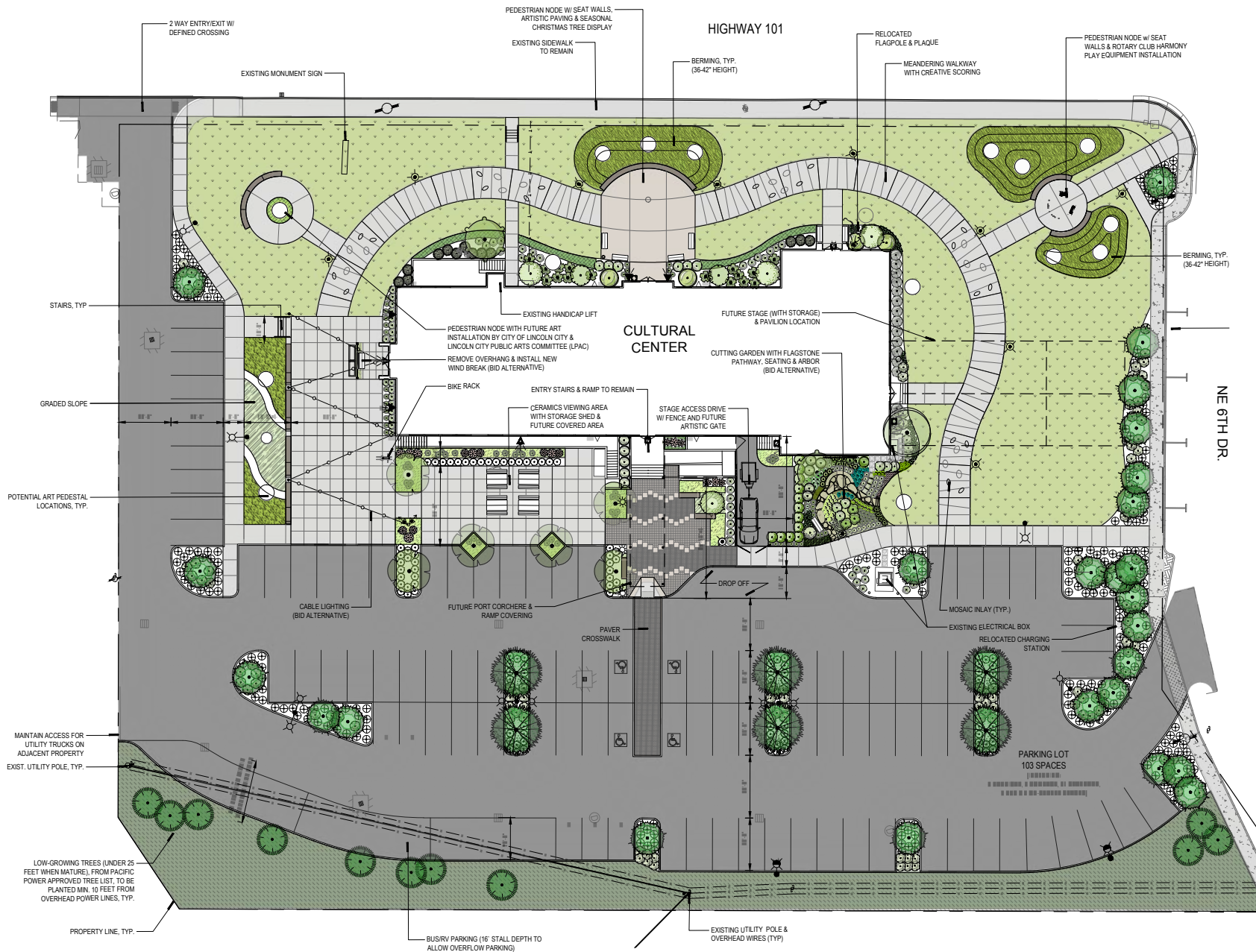
**May 21-23**

Art on the Edge Studio Tour

**July 10**

Delake School Alumni Open House

# Master Plan



Lincoln City Cultural Plaza

# Project Outlook & Capital Plan

The Lincoln City Cultural Plaza project will transform the outdoor space around the historic Delake School into a pedestrian-friendly attraction for residents and visitors to enjoy. Dedicated installments of public art, gathering spaces with seating and patios for outdoor education will be connected by a meandering, accessible pathway. The redesigned traffic plan features new parking areas with islands, adequate lighting for evening safety, and other upgrades required by city code. It will be a showplace of community pride and energy.

The LCCC Board of Directors has been working on the Plaza design since 2017, led by Portland landscape architecture firm Shapiro Didway and Newport-based Civil West Engineering Services. The board used a community based process to gather feedback and design comments from our stakeholders, members, major partners and the general public. We are excited that the finished design will not only be useful, but an artistic and beautiful engine for year-round, arts-based economic vitality.

This project was unfortunately delayed by the economic pressures of COVID-19, but the Cultural Center was not forced to use any Plaza funds for operations in 2020. With the end of the pandemic in sight, the LCCC Board is moving the Plaza forward in two steps: Phase 1 (the pedestrian improvements on the west side) in Spring of 2022, with Phase 2 (parking lot improvements on the east side) in 2023.



## BUDGET OVERVIEW

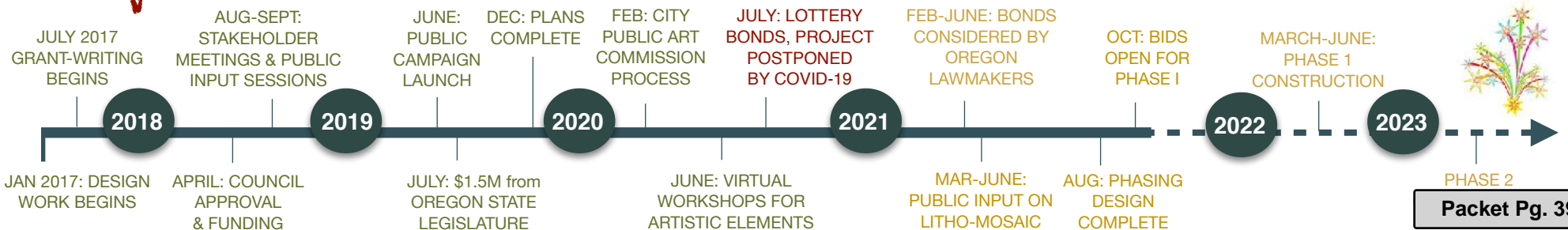
### PROJECTED COSTS

Phase 1 — <i>Project design &amp; engineering, west side construction</i>	\$980,000
Phase 2 — <i>East side construction (arts education area and parking)</i>	\$1,545,600
(including inflation, contingency & contractor's fees) <b>TOTAL</b>	<b>\$2,525,600</b>

### PROJECTED INCOME

Donations & Grants Raised as of February 2021 (Secured)	\$608,000
Naming & Legacy Contributions (Anticipated)	\$160,000
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State Lottery-Backed Construction Grant (Anticipated)	\$1,500,000
<b>Fundraising Plan TOTAL</b>	<b>\$2,525,600</b>

# Project Timeline



## Council Communication

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### Mural Art in Parks - Public Art Donation

Meeting Date: March 22, 2021      Primary Staff Contact: Jeanne Sprague  
 Department: City Council      E-Mail: JSprague@lincolncity.org  
 Secondary Dept: Visitor and Convention Bureau      Secondary Contacts:  
 Approval: Ronald F Chandler      Estimated Time: 15 mins

---

#### Question:

Should the City Council accept or deny the 6 proposed mural art donations for our City Parks, following the Public Arts Plan: Section 7 Public Art Donations and Memorials Policy?

#### Recommendation:

This proposal was presented to both the Parks and Recreation Committee and the Public Arts Committee. The Committees recommend the Council accepts the 6 mural art donations for the Community Center wall, Josephine Young Park, NW 26<sup>th</sup> Beach access, 51<sup>st</sup> St/Taft, Wecoma Park, and Kids Park.

#### Authority:

City Council, per Public Arts Plan:  
[https://www.lincolncity.org/vertical/sites/%7BDDBC39B4D-9F7A-4251-AEA0-F594E7F89DDB%7D/uploads/LC Public Art Plan REV 6-27-18 NP.pdf](https://www.lincolncity.org/vertical/sites/%7BDDBC39B4D-9F7A-4251-AEA0-F594E7F89DDB%7D/uploads/LC%20Public%20Art%20Plan%20REV%206-27-18%20NP.pdf)

### 12.16.090 Donations of functional items and volunteer projects.

A. The city will accept cash donations for the purchase of functional items (e.g., a city standard bench) for placement on city park and open space properties in locations to be determined in the sole discretion of the director, after review and recommendation by the parks and recreation board. The donor will be acknowledged with a small commemorative plaque on the functional item.

B. Donations of nonstandard items or proposed donations of materials and labor for proposed volunteer improvement projects must be approved and accepted by city council prior to any work or placement. Such projects must be reviewed by city staff for

consistency with city code, have approved plans and permits if required, and reviewed by the parks and recreation board for a recommendation to council. The parks and recreation board may establish criteria and policies for such review. Any such nonstandard donation or volunteer improvement project must further the public interest, be durable and safe, and shall not result in any lien or encumbrance against the city property.

## **Background:**

In the winter of 2021, Crystal Akins, founder of Oregon Children’s Music Festival and Director of Community Arts Project, approached the Lincoln City Parks and Recreation Dept about hosting a second ‘Community Mural Project’ in Lincoln City. This project includes working with local and diverse artists, to collaborate with community members in painting ground murals in 6 of our public park/ space locations.

Following the guidelines of 2018 Public Arts Plan, and the LC Parks and Recreation 2016 System Plan, Crystal presented her ideas to both the LC Parks and Recreation Board (on 3/17/21) and Public Arts Committee (on 3/17/21) to gain their approval. They all approved, and made a recommendation to the LC Parks & Recreation Director, who also approved. The final step in this process is the City Manager and City Council approval.

### Public Arts Master Plan, 7.3 Review Criteria

The following criteria apply to the review of potential gifts of public art:

1. Artistic Excellence - Accepted works of art shall be of exceptional quality and enduring value as judged by the arts committee.
2. Appropriateness to the City’s Public Art Collection - Proposed gifts will be reviewed in relationship to existing goals for the public art collection, such as diversity of media, artists represented, styles, and geographic representation.
3. Appropriateness to Site - Relationship of the artwork to the site shall be considered in respect to its social, cultural, historical and physical context.
4. Maintenance Provisions - Maintenance concerns are a primary consideration. Adequate provision must be made for future needs. Donors must provide the arts committee with detailed maintenance instructions for the work(s) of art, copies of which shall be forwarded to city staff. Funds for future maintenance shall be deposited into the Public Art Fund.
5. Adherence to Existing Master Plans - All works of art should comply with the master plans of existing jurisdictions including but not limited to the Lincoln City Parks and Recreation Department and the Lincoln City Urban Renewal Agency. The arts committee will help City staff review any proposed gift for compliance with existing master plans.

## **Council Options:**

Approve the donated art murals to be painted in our public parks/ spaces.

Reject the donated art murals.

**Financial Impact**

Very limited. The paint materials to be used are long lasting, and this art is expected to naturally fade away. Crystal Akins will work with LC Parks and Recreation to assess murals yearly and repair if needed.

**Potential Motions:**

1. Move to approve the 6 donated art murals from the Community Mural Project in our public parks/spaces at: the Community Center wall, Josephine Young Park, NW 26<sup>th</sup> Beach access, 51<sup>st</sup> St/Taft, Wecoma Park, and Kids Park.
2. Move to reject the art murals.

**Attachments:**

Activate Arts PP 2021 Public Art Donation (PPTX)

# Activate Arts Public Art Donation



# Community Partners

- Lincoln City Parks and Recreation
- Activate Arts
- Oceana Family Literacy
- Lincoln City Cultural Center
- Lincoln County Youth Shelter

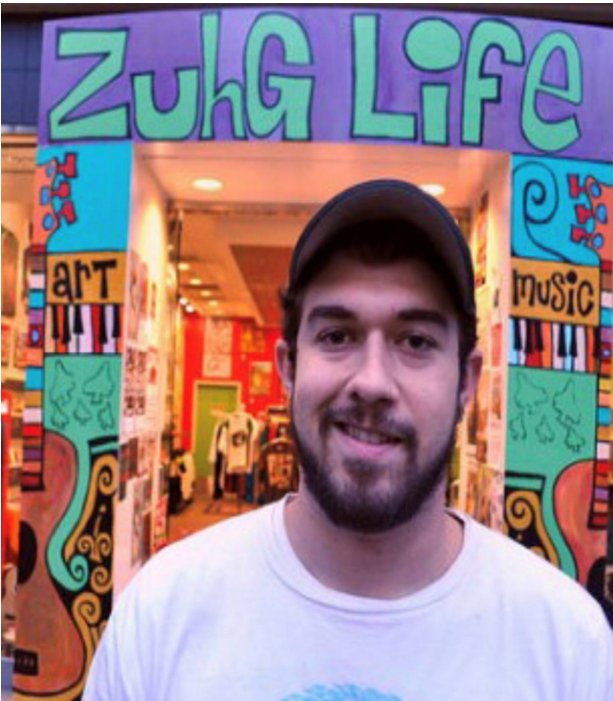
# Public Art Mural Lincoln City Community Center Artist Krista Eddy



# Public Art Ground Mural Josephine Young Park Artist Katia Kyte



# Public Art Ground Mural NW 26<sup>th</sup> Street Beach Access Artist Bryan Nichols



# Public Art Murals Wecoma Park, Kids Park & Siletz Bay Near Mo's Artist Crystal Akins



# Benefits of Public Art Murals

- Accessibility to the Arts
- Builds Community Relationships
- Tourism

# Value of the Murals

- Murals are funded by private donors and grants
- The cost of each mural is \$7,000

## Future Care and Maintenance of Murals

- Care and maintenance of the murals will be overseen and funded by Lincoln City Parks and Recreations and Activate Arts.
- Street murals have a life span of 10-15 years without maintenance.
- Our maintenance plan is to assess murals yearly and repair.

# Public Art Mural Process

- A mural will require a 5 day permit.
- Power washing surface and taping off mural area.
- Artist lays down the grid.
- Artist meet with community members and painting begins
- Mural dry time and clean up is one day

# Next Steps

- Review of criteria and insure the, Community Mural Project complies with the master plans of jurisdictions including the Lincoln City Parks and Recreation Department 2016 System Plan and the Lincoln City Urban Renewal Agency.
- City Council and the Arts Committee accept proposal.
- Arts Committee makes suggestions in their review of concepts.
- June 2021 mural drafts are approved by Arts Committee
- Murals are created in August 2021
- Crystal Akins needs approval by April 2021 to commission artists, organize funds, organize community outreach, and execute the media plan.

# Project Vision

- This is the second phase of a three year project plan.
- 2020 (4 Murals), 2021 (6 murals), and in 2022 (5 murals)
- After all 15 murals are installed Activate Arts will be working with Travel Oregon to create a Central Oregon Coast Mural Brochure.
- This project aims to create arts access to youth, create an artistic cultural identity, and have a positive economic impact through tourism.

# Public Art Can Transform A Space



# Public Art Can Connect A Community



# Public Art Can Create Equity and Culturally Affirming Experiences



# Links and Resources

- Activate Arts <https://www.activateartsnow.com/media.html>
- Katia Kyte <https://www.dailypaintworks.com/artists/katia-kyte-3587>
- Bryan Nichols <https://www.zuhglifesurfshop.com/>
- Krista Eddy <https://lincolncity-culturalcenter.org/chessman-gallery/>

# Activate Arts Thanks You For Your Support



# Contact Activate Arts

Founder & Executive Director Crystal Akins

[www.ActivateArtsNow.com](http://www.ActivateArtsNow.com)

[ActivateArtsNow@gmail.com](mailto:ActivateArtsNow@gmail.com)

(503) 358-6143

## Council Communication

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### Last Words Art Installations - Public Art Donation

Meeting Date: March 22, 2021      Primary Staff Contact: Jeanne Sprague  
 Department: City Council      E-Mail: JSprague@lincolncity.org  
 Secondary Dept: Visitor and Convention Bureau      Secondary Contacts:  
 Approval: Ronald F Chandler      Estimated Time: 15 minutes

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#### Question:

Should the City Council accept or deny the 5 proposed public art installation donations for our City Parks, following the Public Arts Plan: Section 7 Public Art Donations and Memorials Policy?

#### Staff Recommendation:

This proposal was presented to both the Parks and Recreation Committee and the Public Arts Committee. The Committees recommend the Council accepts the 5 Last Word public art installations at 5 sites (it was agreed these site locations can change per Council decision): Siletz Bay Park, Josephine Young Park, Friends of the Wildwoods Open Space, Nesika Park, The Knoll.

#### Authority:

City Council, per Public Arts Plan:

[https://www.lincolncity.org/vertical/sites/%7BDDDC39B4D-9F7A-4251-AEA0-F594E7F89DDB%7D/uploads/LC Public Art Plan REV 6-27-18 NP.pdf](https://www.lincolncity.org/vertical/sites/%7BDDDC39B4D-9F7A-4251-AEA0-F594E7F89DDB%7D/uploads/LC%20Public%20Art%20Plan%20REV%206-27-18%20NP.pdf)

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B. Donations of nonstandard items or proposed donations of materials and labor for proposed volunteer improvement projects must be approved and accepted by city council prior to any work or placement. Such projects must be reviewed by city staff for consistency with city code, have approved plans and permits if required, and reviewed

by the parks and recreation board for a recommendation to council. The parks and recreation board may establish criteria and policies for such review. Any such nonstandard donation or volunteer improvement project must further the public interest, be durable and safe, and shall not result in any lien or encumbrance against the city property. (Ord. 2014-25 § 1)

## **Background:**

In the winter of 2021, Crystal Akins, founder of Oregon Children's Music Festival and Director of Community Arts Project, approached the Lincoln City Parks and Recreation Dept about hosting a Last Word public art installation in Lincoln City. This project is a piece of interactive art that supports the living's grief and loss by communicating with their dead through letter writing, via these art installations.

Following the guidelines of 2018 Public Arts Plan, and the LC Parks and Recreation 2016 System Plan, Crystal presented her ideas to both the LC Parks and Recreation Board (on 3/17/21) and Public Arts Committee (on 3/17/21) to gain their approval. They all approved, and made a recommendation to the LC Parks & Recreation Director, who also approved. The final step in this process is the City Manager and City Council approval.

### Public Arts Master Plan, 7.3 Review Criteria

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5. Adherence to Existing Master Plans - All works of art should comply with the master plans of existing jurisdictions including but not limited to the Lincoln City Parks and Recreation Department and the Lincoln City Urban Renewal Agency. The arts committee will help City staff review any proposed gift for compliance with existing master plans.

## **Council Options:**

Approve the donated art installations in our public parks/ spaces.

Reject the donated art installations.

**Financial Impact**

Very limited. This art is expected to naturally fade away or be taken down when needed. Crystal Akins will work with LC Parks and Recreation to assess installations and repair if needed.

**Potential Motions:**

1. Move to approve the 5 Last Word donated art installations in our public parks/spaces at 5 sites (or any proposed sites by Council): Siletz Bay Park, Josephine Young Park, Friends of the Wildwoods Open Space, Nesika Park, The Knoll. Move to reject the art murals.

**Attachments:**

Microsoft PowerPoint - Last Words PP Presentation LC [Read-Only] (PDF)

# Last Words

Community Greif and Loss Support Through Art

# Last Words

*Last Words* is an interdisciplinary project that addresses isolation caused by death, grief, and loss through music, art, and death doula care.

*Last Words* is a concert series, an album of legacy songs, and public art installations.

*Last Words* is a fundraiser to raise funds for the first death doula end of life care space for houseless terminal people in Oregon called, *Embrace Space*.

# Last Words Art Installations

- Crystal Akins is asking for approval to install 5 public art installations in Lincoln City's Parks.
- *Last Words Mailbox Altars*
- April-June 2021

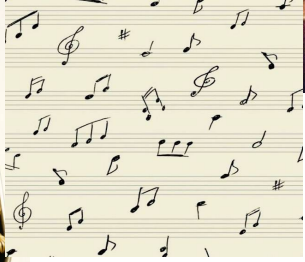
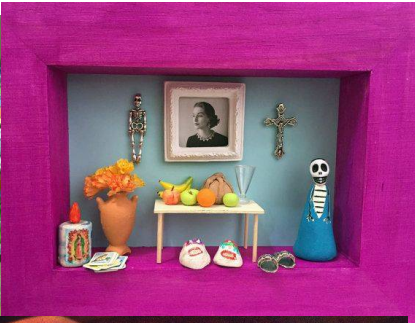
# What is a Last Words Mailbox Alter?

A *Last Words Mailbox Alter* is a piece of art that supports the living's grief and loss by communicating with their dead through letter writing.

The *Last Words Mailbox Alter* is inspired by folk art, Day of the Dead altars, mini altars, and Japan's art instillation "The Phone of the Wind"



# Images of Inspiration for the Last Words Mailbox Altars



# Last Words Mail Box Alter Locations

- Siletz Bay Park
- Josephine Young Park
- Friends of the Wildwood Open Spaces
- Nesika Park
- The Knoll



# How does the public interact with the Instillations?

- The public will be asked to write a letter to their loved one who has died.
- Three prompt questions will be asked: 1) What were the last words spoken with your loved one? 2) Do you wish you could of said something different? 3) If yes, what would you say?
- Then they will go on their personal pilgrimage to place their letter in the *Last Words Mailbox Altar*. They can also add a symbol to the altar as an offering. The *Last Words Mailbox Altar* is a transforming piece of art as each person interacts with it.
- Crystal Akins collects the letters and turns them into songs that raise funds for the, *Embrace Space*.
- Crystal Akins is providing block printed stationary at each site for people who stumble access the *Last Words Mailbox Altars*.

# Benefits of the Last Words Mailbox Altar

- Offers a safe space for people to express their grief and loss.
- Offers time for reflection, mediation, and prayer to cope with the isolating feelings of death.
- Supports homeless terminal people in Oregon die a good death.
- Encourages conversations about death, grief, and loss during the COVID-19 Pandemic.
- Inspires the community to share the stories of their loved ones through art, story, and song.

# Resources and Links

- The Phone of the Wind <https://allthatsinteresting.com/phone-of-the-wind>
- The Phone of the Wind Video [https://youtu.be/3\\_kvZ500l08](https://youtu.be/3_kvZ500l08)
- Art and Grief <https://arttherapyresources.com.au/case-study-grief/#:~:text=Art%20therapy%20can%20help%20clients%20by%20unlocking%20repressed,of%20control%20over%20our%20relationships%20can%20be%20destabilising.>
- Music Therapy and Death <http://www.hospicemusictherapy.org/>
- Death Doula <https://www.doulagiversinstituteofhl.com/death-doula-resources/>
- Using Imagination to Cope with Death <https://www.headspace.com/blog/2017/04/18/grief-creativity-together/>

# Next Steps

- Review of criteria and insure the, *Last Words Mailbox Altar Instillations* comply with the master plans of jurisdictions including the Lincoln City Parks and Recreation Department 2016 System Plan and the Lincoln City Urban Renewal Agency.
- City Council and the Arts Committee accept proposal.
- Arts Committee makes suggestions in their review of concepts.
- Images of the public art instillations are approved by Arts Committee in March.
- Crystal Akins needs approval by March 2021 to have instillations ready in April and to follow through with media plan.

# Last Words Thanks You



## Council Communication

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### Funding on Hold - Percentage of Public Arts Fund

Meeting Date:	March 22, 2021	Primary Staff Contact:	Ronald F Chandler
Department:	Administration	E-Mail:	RChandler@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	

---

At the start of the COVID-19 pandemic some the City put on hold the funding for various budgets, expenses and projects. This hold included art purchases in the "Percentage for Art" fund.

During the March 1, 2021 budget committee training session, Councilor Skinner asked about removing the hold on this budget item. This budget item was placed on hold by the City Council and it is therefore presented to the City Council to release these funds.

The FY2021 budgeted amount for art purchases is \$123,388.

Possible motions:

I move to release the hold for art purchases (account number 193-000-6301101) expenditure in the Percentage for Art Fund.

# Council Communication

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## Arbor Day 2021 Proclamation

Meeting Date:	March 22, 2021	Primary Staff Contact:	Jeanne Sprague
Department:	City Council	E-Mail:	JSprague@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	5 mins

---

### Question:

Should the City Council proclaim April 30, 2021 as Arbor Day 2021 in the City of Lincoln City and invite all citizens to join in its celebration of the city's efforts to support healthy trees and forest ecology for the well-being of this and future generations?

### Staff Recommendation:

Staff recommends the Council proclaim April 30, 2021 as Arbor Day 2021 in the City of Lincoln City, so that we may continue with our 'TreeCity USA' designation for 2021, via the Arbor Day Foundation.

### Authority:

TreeCity USA Program via the Arbor Day Foundation.

### Background:

The OR Dept of Forestry oversees the TreeCity USA program. One of their 4 mandatory standards for a City to be designated as a TreeCity USA is for the Mayor/City Council to proclaim a City 'Arbor Day'. Lincoln City has been a designated TreeCity USA for 13 years. Lincoln City Parks and Recreation will be hosting a public Arbor Day event on 4/30/21 at the Community Center, in partnership with Driftwood Public Library.

TreeCity USA recognition in Lincoln City has many benefits. It is such a source of community pride for our City, and tells our many visitors and tourists that we are a City that cares about trees and the environment. It presents the ideal environmental image that we want citizens to have when thinking of Lincoln City as a place to work, live and play. It also encourages better care of our forests by our residents and visitors. Lastly, it increases public awareness of the social and economic benefits in having urban forests and forestry practices.

**Council Options:**

Approve the proclamation of 4/30/21 as Lincoln City Arbor Day.

Reject the proclamation of 4/30/21 as Lincoln City Arbor day.

**Financial Impact**

Very limited staff time. One to two hours of the Parks & Recreation Director compiling application data for the Arbor Day Foundation.

**Potential Motions:**

1. Move to approve the proclamation establishing 4/18/21 as Arbor Day 2021 for Lincoln City, to celebrate trees and continue with our TreeCity USA designation.
2. Move to reject the proclamation.

**Attachments:**

PROCLAMATION Arbor Day 2021 (PDF)

# TREE CITY USA

## 2021 ARBOR DAY PROCLAMATION

Whereas, Lincoln City celebrates Arbor Day every year to honor the important role trees play in our daily lives, and to maintain our TreeCity USA status, 13 years and counting; and

Whereas, Lincoln City residents have demonstrated their extraordinary support for trees in many ways, including a \$3 million bond issue passed in 1998 for the purpose of preserving forests and other sensitive land within the city limits, and efforts in the past 9 years to improve forest health in the city's open spaces; and

Whereas, on this Arbor Day, the city celebrates renewed efforts in our Parks and Open Spaces to educate the public on the importance of trees by offering naturalist-lead hikes and interpretive signage, along with two successful thinning projects in Agnes Creek Open Space, conducted in 2013 and 2014, the completion of the Spyglass thinning project in 2016, the planting of the Spyglass trees and shrubs in 2017, and the current selective thinning of SE 3<sup>rd</sup> and Keel Park.

Whereas, Lincoln City continues to improve the ecological health of the forests in the city's open spaces through removal of invasive species, restoration of native vegetation and tree-planting, with the successful partnerships of many local non-profits and volunteers. This raises public awareness and opportunities for passive recreation through trail creation and maintenance;

Now, therefore, I, Judy Casper, Council President, do hereby proclaim the date of April 30, 2021 as Arbor Day 2021 in the City of Lincoln City and invite all citizens to join in its celebration and the city's efforts to support healthy trees and forest ecology for the well-being of this and future generations.

Dated this 22<sup>nd</sup> day of March 2021.

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Judy Casper, Council President

## Council Communication

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### Order Approving Real Property Lease- McKays Building

Meeting Date:	March 22, 2021	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Administration	Secondary Contacts:	Alison Robertson
Approval:	Ronald F Chandler	Estimated Time:	5 minutes

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#### Question:

Should the City Council approve [by Order] a real property lease for the McKay's Market Building? (Lessee- current occupant – McKay's Market)

#### Staff Recommendation:

Staff recommends Council find that the lease furthers the public interest and approve [by Order] the proposed lease agreement.

#### Authority:

**271.360 Lease requirements.** *Every lease entered into pursuant to ORS 271.310 shall be authorized by ordinance or order of the body executing the same and shall provide terms and conditions as may be fixed and determined by the governing body executing the lease. The lease may provide that the lessee shall pay ad valorem taxes assessable against the leased property, or that the political subdivision shall pay these taxes, in which latter event the anticipated amount of taxes shall be taken into consideration in fixing the rental charge.*

**271.310 Transfer or lease of real property owned or controlled by political subdivision; procedure in case of qualified title; notice; rules.**

*(1) Except as provided in subsection (2) of this section and subject to subsection (3) of this section, whenever any political subdivision possesses or controls real property not needed for public use, or whenever **the public interest may be furthered**, a political subdivision may sell, exchange, convey or lease for any period not exceeding 99 years all or any part of the political subdivision's interest in the property to a governmental body or private individual or corporation. The consideration for the transfer or lease may be cash or real property, or both.*

\*\*\*

*(4) Unless the governing body of a political subdivision determines under subsection (1) of this section that the public interest may be furthered, real property needed for public use by any political subdivision owning or controlling the property may not be sold, exchanged, conveyed or leased under the authority of ORS 271.300 to 271.360, except that it may be exchanged for property that is of equal or superior useful value for public use. Any such property not immediately needed for public use may be leased if, in the discretion of the governing body having control of the property, the property will not be needed for public use within the period of the lease.*

*(5) The authority to lease property granted by this section includes authority to lease property not owned or controlled by the political subdivision at the time of entering into the lease. A lease under this subsection shall be conditioned upon the subsequent acquisition of the interest covered by the lease.*

Note: ORS 221.725 public hearing requirements do not apply to leases that do not contain options to purchase:

### **Background:**

To lease real property the Council must find under ORS 271.310 that **the public interest is furthered** or alternatively, that the property is not needed for public use at this time (and for the period of the lease).

Staff recommends that the Council find that the public interest is furthered by the lease. In short, the lease furthers the public interest as follows:

- Economic Generator: Job creation at McKay's Market is considerable and benefits the public interest. The patrons of the grocery similarly have an impact on area restaurants, shops, hotels and short term rentals. Grocery markets have been an essential business during the pandemic and are vital for providing necessary groceries and supplies to area residents.

### **Council Options:**

1. Approve the Lease by Order.
2. Postpone consideration to a future meeting.

**Potential Motions:**

*Council:*

1. Motion to approve Order authorizing the Lease of the McKay's Market Building to the current occupant.
2. Motion to continue consideration of the lease to April 12, 2021.






**Attachments:**

Exhibit A - McKays Lease Map (PDF)

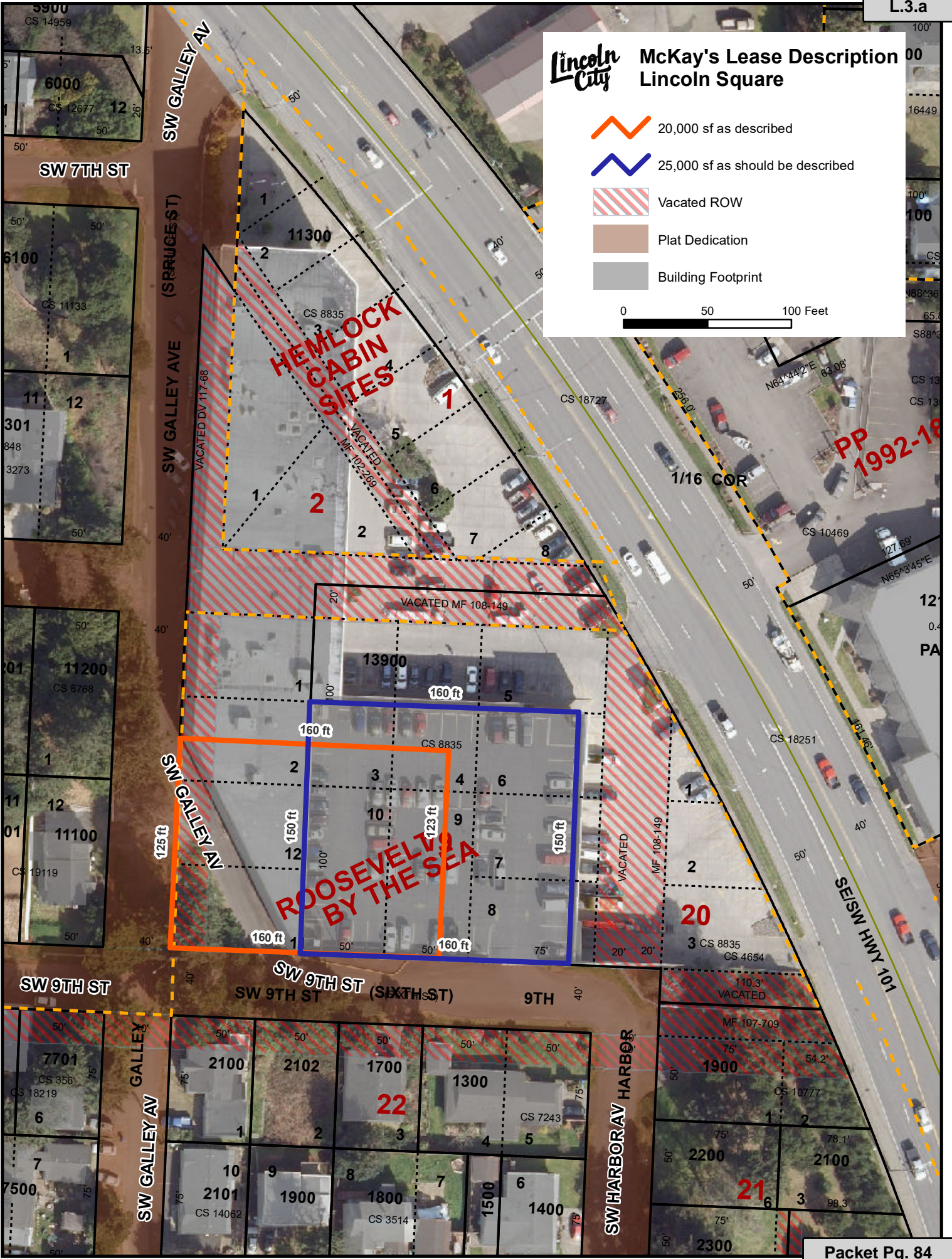
March 2021 McKays Lease. clean 3-15-21 419pm (DOC)



### McKay's Lease Description Lincoln Square

-  20,000 sf as described
-  25,000 sf as should be described
-  Vacated ROW
-  Plat Dedication
-  Building Footprint

0 50 100 Feet



## LEASE AGREEMENT

Date: March 22, 2021

Between: City of Lincoln City ("Landlord")  
801 SW Highway 101  
P.O. Box 50  
Lincoln City, Oregon 97367

And: K. E. McKay's Market of Coos Bay, Inc. dba "McKay's Market" ("Tenant")  
P.O. Box 1080  
Coos Bay, Oregon 97420

Landlord leases to Tenant and Tenant leases from Landlord the property described in the following Section 1.4 (the "Premises") on the terms and conditions stated below:

### Article 1

#### LEASE TERMS

**1.1 Date of Lease:** April 16, 2020

**1.2 Tenant:** K. E. McKay's Market of Coos Bay, Inc. dba "McKay's Market"

Premises Address: [portion of] 801 SW Hwy 101, Lincoln City, Oregon 97367

Notice Address: P.O. Box 1080, Coos Bay, Oregon 97420

**1.3 Landlord:** City of Lincoln City

Notice Address: 801 SW Highway 101 [P.O. Box 50] Lincoln City, Oregon 97367

Address for Payment of Rent:

Attn: Lincoln City Finance Department P.O. Box 50, Lincoln City, Oregon 97367

**1.4 Premises:** Super Market Building containing 25,500 square feet and being part of the Land, the Lincoln City Complex (aka "Lincoln Square," 801 SW Hwy 101, Lincoln City, Oregon 97367; the leased Premises is legally described and shown on the Site Plan of Lincoln Square attached hereto as **Exhibit A**.

**1.5 Permitted Use of Premises:** Grocery Store. (Grocery store fits under the definition of "Convenience service / Retail uses", which is a permitted use in the General Commercial Zoning District.

**1.6. Common Areas:** All exterior areas of the Land including parking areas under the Lincoln City city offices but excluding the parking areas located on the roof of the leased supermarket building.

**1.7. Initial Term of Lease: Ten (10) years.**

Lease Commencement Date: March 22, 2021

Lease Expiration Date: March 22, 2031

Option to Renew See 2.6 below: Two successive terms of five (5) years each.

Rent Commencement Date: April 16, 2020

**1.8. Initial Base (Guaranteed Minimum) Rent:**

\$176,177.40 per year (includes \$4500/year for emergency power see Section 4.2.1)

\$14,681.45 per month

**1.9 Adjustment of Base Rent:**

Beginning 3-22-2022 – Rent increases each year based upon National December (prior year) CPI-U values

**1.10 Additional Rent:** Varies depending upon Sales and Maintenance expenses.

**1.11 Security Deposit:** None required, unless an assignment is requested.

**1.12 Base Year:**

Real Property Taxes: Landlord is exempt. Tenant has sole responsibility for taxes to leased Premises and proportionate share of taxes, if any for common areas.

**1.13 Parking:** Non-exclusive shared spaces only.

**1.14 Exhibits:**

**Exhibit A** – Site Plan with legal description showing the grocery store building portion of the Land, (Lincoln Square) leased to Tenant, also referred to as "Premises".

THIS GROCERY STORE LEASE is made and entered into between Landlord and Tenant on the Date of Lease set forth in Section 1.1. The defined terms used in this Lease ("Lease Terms") have the meanings and definitions given them in Article 1. The Lease Terms, the Exhibits, and

this Grocery Store Lease agreement are and will be construed as a single instrument and are hereinafter referred to as the "Lease."

**Now, therefore, for valuable consideration, Landlord and Tenant covenant and agree as follows:**

**Article 2  
LEASE OF PREMISES**

**2.1 Lease.** Subject to the terms and conditions of this Lease, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises.

**2.2 Term.** The Initial Term of this Lease is set forth in Section 1.7.

**2.3 Delivery of Possession and Commencement.** Landlord is the owner of the leased Premises and has the right to lease the Premises, free from all encumbrances, except those of record. Landlord has previously delivered the premises to Tenant and Tenant is currently in possession of the Premises under the terms of the prior Lease. The Lease will commence on the date specified in Section 1.7. Tenant acknowledges (i) that Tenant accepts the Premises "AS IS, WHERE IS" and as suitable for Tenant's intended use, in good and sanitary operating order, condition, and repair, and without representation or warranty by Landlord of the condition, use, or occupancy that may be made thereof; and (ii) that the area of the Premises is as set forth in Section 1.4 and 1.14.

**2.4 Common Areas.** Tenant will have the nonexclusive right (in common with the other tenants of the Building, Landlord, and any other person granted use by Landlord) to use the specified Common Areas.

**2.5 Parking.** Parking at the ground level of the leased Premises is available for employees and patrons of the Landlord and Tenant. City Employees are directed to park on the second floor roof lot; no parking use is granted to Tenant to the second floor roof parking lot which is located above the leased Premises.

**2.6 Renewal Option.** As long as Tenant is not in default under this Lease beyond the applicable cure period, if any, at the time of exercise, Landlord hereby grants Tenant two option(s) to extend the initial term of this Lease for an additional period of five (5) years each. (the "Option(s)") on the same terms, covenants, and conditions of this Lease, except that the Rent will be determined as stated later in this Section 2.6. Tenant will exercise each Option, if at all, by giving Landlord written notice (the "Option Notice") at least 180 days before the expiration of the Initial Term or Option period then in effect. Each renewal term shall commence the day following the date of termination of the preceding term. Rent for each Option period will be the then fair market rent at the time of renewal.

If the parties are unable to agree on rent for an Option period within 60 days after receipt of the Option Notice, rent will be determined by a mutually selected qualified, independent real-

property appraiser with at least five (5) years of experience in the Lincoln County area familiar with commercial rental values in the area. If the parties cannot agree to an appraiser, then each shall select an appraiser, and the appraisers so selected shall by their agreement select a third party qualified, independent real property appraiser to determine the then fair market rent. Within 30 days after appointment, the appraiser will return a decision, which will be final and binding on both parties. The cost of the appraisal will be borne equally by the parties.

### **Article 3 RENT PAYMENT**

**3.1 Rent.** Tenant will pay to Landlord all Rent for the Premises without demand, deduction, or offset. The term "Rent" as used in this Lease includes Base Rent, Additional Rent (as defined in Section 3.3), and all other sums due under the Lease. Rent is payable by Tenant in advance on the first day of each month commencing on the Rent Commencement Date. Rent for any partial calendar month will be prorated based on a 30-day month for the number of days during that partial month the Premises are occupied by Tenant.

**3.2 Rent Escalation.** Except as provided for Option periods, the Base Rent as set forth in Article 1 will increase on the first day of each Lease Year after the Base Year the National December (prior year) CPI-U value.

**3.3 Additional Rent.** The term "Additional Rent" means amounts set forth under this Section 3.3 and any other sums payable by Tenant to Landlord under this Lease.

In addition to the payment of the guaranteed minimum rent as above provided, Lessee shall pay to Lessor in the manner and upon the conditions and at the times hereinafter set forth, a sum equal to one and one-half percent (1 ½%) of Lessee's "gross sales" as the term gross sales is herein defined, less the total of the guaranteed minimum monthly rent paid by Lessee for the applicable calculation period. Additional rent shall be calculated twice a year by taking the average gross sales over the applicable six-month calculation period (April through September) or (October through March) the subtracting the guaranteed minimum monthly rent for that same period. During the term of this lease, and any extension or renewal of the term of this lease, the Lessee shall, on or before the 30th day of April (for the October – March period) or the 30<sup>th</sup> day of October (for the April through September period), deliver to Lessor a written statement by Lessee, signed and certified under penalty of perjury and false swearing as being true and correct, setting forth the amount of Lessee's gross sales for the immediately preceding calculation period. The full balance of the additional rent payment, if any, shall be submitted with the gross sales statement. No additional rent need be calculated or paid for the January 1 – March 22 period of the final lease year. The term "gross sales" as used in this lease is hereby defined to be the aggregate selling price of all merchandise and services sold in, upon, or from the leased premises by Lessee, its licensees and concessionaires, if any, or from any vending or coin operated or token operated device whether for cash or on credit excluding therefrom only the following:

- (a) All credits, returns and refunds made to customers of Lessee at the premises for merchandise returned or exchanged.
- (b) All settlements and claims received in settlements for loss of merchandise from leased premises.
- (c) The amount of any sales tax, so-called luxury tax, consumer excise tax, gross receipts tax, and other similar taxes now or hereafter imposed upon the sale of merchandise or services, or both, whether such taxes are added separately to the selling price thereof and collected from customers or paid by Lessee and included in the retail selling price.
- (d) Sales canceled, but only to the extent of the purchase price not retained by Lessee.

The cost or value of any trading stamps, premiums, advertising or other promotional devices shall not be deducted or excluded from Lessee's gross-sales or be otherwise deducted as a discount, refund, allowance or credit hereunder.

**3.3.1 Operating Expenses.** For purposes of this Lease, the term "Operating Expenses" means all expenses paid or incurred by Landlord (or on Landlord's behalf) as reasonably determined by Landlord as necessary or appropriate for the operation, maintenance, and repair of, and to insure the Property, Common Areas, Building, and Premises.

**3.3.2 Taxes / Insurances.** Landlord is a tax exempt legal entity. Lessee shall pay, before delinquency, any and all taxes, assessments, license fees and public charges levied, assessed or imposed and which become payable during the term upon Lessee's fixtures, furniture, appliances, equipment and personal property installed or located in the leased premises. Lessee shall be solely responsible for and shall pay its taxes for the leased Premises and its proportionate share of common areas, assessed or levied by any lawful public authority against Lincoln Square during the term of this Lease or any renewal thereof. Landlord shall separately bill Tenant for its proportionate share of the insurance costs and property taxes for the leased premises, including shared common areas. Tenant agrees to pay Landlord insurance and taxes when due, but in no case later than 30 days after demand. The term "Taxes" includes (a) all ad valorem and other real-property taxes and assessments and personal-property taxes, charges, rates, user fees, duties, and assessments rated, levied, or imposed by any governmental authority with respect to the Land, the Building, and any improvements, fixtures, and equipment located therein or thereon, and with respect to all other property of Landlord, real or personal, located in or on the Land or the Building and used in connection with the operation of the Building; (b) any tax in lieu of a real-property tax; (c) any tax or excise levied or assessed by any governmental authority on the rentals payable under this Lease or rentals accruing from the use of the Land or the Building; and (d) any tax or excise imposed or assessed by or against Landlord that is measured or based in whole or in part on the capital employed by Landlord to improve the Land and construct the Building. Taxes do not include federal or state, corporate- or personal-income taxes. In addition to the foregoing, Tenant will pay before delinquency all

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taxes, assessments, licenses, fees, and charges assessed, imposed, or levied on (i) Tenant's business operations, (ii) all trade fixtures, (iii) leasehold improvements, (iv) merchandise, and (v) other personal property in or about the Premises.

**3.3.3 Operating Year.** The term "Operating Year" means each calendar year of the Term. If the Lease Commencement Date or the Expiration Date occurs on any date other than the first day of the calendar year, the calculations, costs, and payments referred to herein will be prorated for that calendar year.

**3.3.4 Tenant's Proportionate Share.** The 3 percent "Management Fee" assessed under the prior lease (see Second Amendment) is not being imposed as part of this new lease. Tenant remains responsible for payment of its proportionate share of taxes and insurance, including leasehold and shared common areas as assessed by the taxing entity and all areas leasehold areas insured by the City.

**3.4 Late Charge; Interest.** Rent not paid when due will bear interest until paid at the lesser of nine percent (9%) per annum. Landlord may impose a late charge of the greater of (i) nine (9%) percent of Rent then due or (ii) \$50 for each payment of Rent made more than 10 days late (the "Late Charge"). Tenant agrees that late payment by Tenant to Landlord of any Rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, that the exact amount of such costs are extremely difficult and impracticable to ascertain, and that the Late Charge is not a penalty but represents a fair and reasonable estimate of the costs that Landlord will incur by reason of any such late payment.

**3.5 Prepaid Rent.** Not Applicable.

**3.6 Security Deposit.** None required, except in the case of an assignment.

#### **Article 4 USE OF PREMISES**

**4.1 Permitted Use.** Tenant may use the Premises for Tenant's Permitted Use (Grocery Store) consistent with existing land use approvals, and for no other purpose without Landlord's written consent. Tenant will not use the Premises in a manner that obstructs, annoys, or interferes with the rights of other occupants of the Building. Tenant will not cause any nuisance nor permit any objectionable fumes, electromagnetic waves, vibration, noise, light, or radiation to be emitted from the Premises.

**4.2 Equipment.** Tenant will install only such equipment in the Premises as is customary for the Permitted Use and will not overload the floors or electrical circuits of the Premises or Building. Tenant shall not change the wiring or plumbing of the Building or Premises without Landlord's prior written consent. Any equipment, cables, wiring, conduit, additional dedicated circuits, and any additional air conditioning required because of any such

equipment installed by Tenant will be installed, maintained, and operated at Tenant's sole expense and in accordance with Landlord's requirements.

**4.2.1 Use of Standby Generator.** Landlord has installed an emergency generator to provide emergency power to City Hall emergency operations in the event of an outage. Tenant acknowledges Western State Electric determined the size of the generator based upon both Landlord's and Tenant's operations. In the event of an outage, Tenant may obtain emergency power from the City generator, to the extent power is available. Tenant will pay the amount set forth in Section 1.8 above for the availability of the emergency power supply, supplied on an "as is" basis, until such time as the generator is no longer in use, or removed and not replaced. Landlord will use reasonable efforts, (including regular maintenance and sufficient fuel) to keep the generator in service, but cannot guarantee a specific level of performance or priority of use for any particular purpose. Tenant assumes all liability for any use of the generator, including any loss sustained in the event of a power outage, and whether Tenant obtains backup electrical power from the generator at any particular time. Tenant waives any and all claims against Landlord for claims, suits or any loss to goods or equipment or lost profit, as a result of the emergency generator. Tenant is solely responsible to obtain and maintain insurance sufficient to insure against loss of goods or damage to equipment caused by power loss or fluctuations in power, including loss caused by or attributed to use of Landlord's generator. Tenant will reimburse Landlord for its pro-rata share of fuel used during outages during the calendar year within 30 days of invoice from landlord.

**4.3 Compliance with Laws.** Both parties will give prompt notice to the other of any notice it receives of the violation of any law or requirement of any public authority with respect to the Premises or the use or occupancy thereof. Tenant will, at Tenant's expense, comply with all laws and requirements of any public authorities ("Laws") that, in respect of the Premises or the use and occupancy thereof, or the abatement of any nuisance in, on, or about the Premises, impose any violation, order, or duty on Landlord or Tenant, arising from (a) Tenant's use of the Premises; (b) the manner of conduct of Tenant's business or operation of its installations, equipment, or other property therein; (c) any cause or condition created by or at the instance of Tenant; or (d) breach of any of Tenant's obligations hereunder.

**4.3.1 ADA Compliance.** Landlord and Tenant acknowledge that the provisions of the Americans with Disabilities Act (the "ADA") allow allocation of responsibility for compliance with the terms and conditions of the ADA in this Lease. Responsibility for compliance with the ADA is allocated as set forth in this Section 4.3.1. Tenant is responsible for compliance with the applicable provisions of the ADA with respect to all improvements within the leased Premises, except that Landlord represents that any improvements designed by Landlord's Public Works Department and installed by Landlord or its contractors under this Lease will conform to the requirements of the ADA Standards for Accessible Design in effect as of the date of substantial completion of the work. Landlord is responsible for compliance with the provisions of Title III of the ADA with respect to the Lincoln Square Building and the Land, except the leased premises, including sidewalks and walkways and the like, together with all entrances, lobbies, elevators, common restrooms, and the other common areas of the Lincoln Square Building. Neither

Landlord nor Tenant is obligated to supervise, monitor, or otherwise review the compliance activities of the other. References in this Lease to "Laws" are deemed to include the ADA.

**4.3.2 Environmental Law Compliance.** For purposes of this Section 4.3.2, the term "Hazardous Substances" means and includes all hazardous and toxic substances, waste, or materials; and any pollutant or contaminant, including, without limitation, PCBs, asbestos, asbestos-containing materials, and raw materials that are included under or regulated by any Environmental Laws. For purposes of this Lease, the term "Environmental Laws" means and includes all federal, state, and local statutes, ordinances, regulations, and rules presently in force or hereafter enacted relating to environmental quality, contamination, and clean-up of Hazardous Substances. References in this Lease to "Laws" are deemed to include Environmental Laws. Landlord represents that to the best of its current actual knowledge, the Building is in compliance with all Environmental Laws respecting Hazardous Substances, and that Landlord has received no notice of any pending or threatened lien, action, or proceeding respecting any alleged violation of Environmental Laws affecting the Building.

**4.3.3 Indemnity Regarding Legal Violations.** Tenant will indemnify and hold harmless Landlord and its and their respective partners, directors, officers, agents, and employees from and against any and all claims arising from or in connection with the violation of Laws including but not limited to the ADA and Environmental Laws, occurring in, at, or about the Building and the Land due to the acts or omissions of Tenant or its partners, directors, officers, agents, and employees, together with all costs, expenses, and liabilities incurred or in connection with each such claim, action, proceeding, or appeal, including, without limitation, all attorney fees and expenses. Landlord will indemnify and hold harmless Tenant and its partners, directors, officers, agents, and employees from and against any and all claims arising from or in connection with the violation of Laws, including but not limited to the ADA and Environmental Laws, occurring in, at, or about the Building and the Land due to the acts or omissions of Landlord or its partners, directors, officers, agents, and employees, together with all costs, expenses, and liabilities incurred or in connection with each such claim, action, proceeding, or appeal, including, without limitation, all attorney fees and expenses.

## **Article 5 MAINTENANCE AND REPAIR**

**5.1 Landlord Repairs.** Landlord will repair, maintain, and replace, when necessary, the roof, foundation, exterior walls, door, windows, all structural components, and all systems such as mechanical, electrical, HVAC, and plumbing of the Premises and shall further perform all repair, maintenance, and replacement of all Common Area improvements. Tenant expressly waives the benefits of any statute now or later in effect that would otherwise give Tenant the right to make repairs at Landlord's expense and deduct that cost from Rent owing to Landlord.

**5.2 Tenant's Repairs.** Except for Landlord Repairs set forth in Section 5.1, Tenant will:

- (a) maintain all portions of the Premises and fixtures situated within the Premises in good order and repair;

- (b) maintain, repair, and replace, if necessary, all special equipment and decorative treatments installed by or at Tenant's request and that serve the Premises only;
- (c) make all necessary repairs and replacements to all portions of the Premises and pay Landlord for the repairs or replacements to the Building if any such repairs or replacements are needed because of Tenant's misuse or primary negligence; and
- (d) not commit waste to the Premises, Building, Common Areas, or Property. If Tenant fails to perform Tenant's obligations under this Section 5.2 or under any other section of this Lease, after 10 business days' written notice to Tenant, except in an emergency when no notice will be required, Landlord may enter the Premises, perform the obligations on Tenant's behalf, and recover the cost of performance, together with interest at the rate of 9 percent per year, as Additional Rent payable by Tenant with the next installment of Base Rent, as long as that rate does not exceed the maximum rate then allowed by Law.

**5.3 Costs of Repair.** Tenant will reimburse Landlord on demand for the cost of repair incurred by Landlord for damage caused by the negligent or intentional acts or caused by any breach of this Lease by Tenant, its employees, contractors, agents, or invitees.

## **Article 6 ALTERATIONS**

**6.1 Alterations by Landlord.** As long as the modification, alteration, or change does not materially interfere with the operation by Tenant of its business in the Premises, Landlord may modify, alter, or change any improvements in the Building, the parking area, and other Common Areas.

**6.2 Alterations by Tenant.** Tenant will not make any alterations, additions, or improvements to the Premises that require a local government building permit, nor modify the color of the interior of the Premises, nor install any wall or floor covering therein without obtaining Landlord's prior written consent, which consent Landlord shall not unreasonably withhold. If Landlord consents in writing to any proposed alteration of the Premises, Tenant will (a) contract only with a state and city licensed and bonded contractor for the performance of the alterations, (b) obtain all necessary governmental permits and approvals and deliver copies thereof to Landlord, and (c) cause all alterations to be completed in compliance with approved plans and specifications with all due diligence. All alterations will be performed in a manner that minimizes any interference with the quiet enjoyment of other occupants of the Lincoln Square Building. Except for removable machinery and unattached movable trade fixtures, all improvements, alterations, wiring, cables, or conduit installed by Tenant will immediately become part of the Premises, with title vested in Landlord. Landlord may require that Tenant remove any such improvements, alterations, wiring, cables, or conduit installed by or for Tenant and restore the Premises to good condition and repair upon expiration or earlier termination of this Lease. Any contractor used by Tenant for any work in the Premises will be subject to review (for appropriate state and local licensure) by Landlord, and Landlord may post notices of non-responsibility in connection with any work being performed in the Premises by or at the request of Tenant. All work in the Premises by or at Tenant's request must comply with all applicable

Laws. Tenant will not permit any liens to attach to the Building or Tenant's interest in the Premises as a result of any work performed by or at Tenant's request.

#### **Article 7 UTILITIES AND SERVICES**

**7.1 General.** Tenant agrees to supply at its sole cost and expense, its own lights, air, water, power, gas, janitorial service, telephone service and all and every other convenience and service for the leased premises. Interruption of any service or utility will not render Landlord liable to Tenant for damages, relieve Tenant from performance of Tenant's obligations under this Lease, or be deemed an eviction or disturbance of Tenant's use and possession of the Premises.

**7.2 Minimum Maintenance of Services.** Lessee shall be required to maintain power, water, gas (heat) to the premises to guarantee the premises is not subjected to waste or damage due to lack of utilities.

**7.3 Security.** Landlord may, but will have no obligation to, provide security service or adopt any security measure concerning the Premises and the Building, and Tenant will abide by all reasonable security measures adopted by Landlord.

#### **Article 8 SIGNS AND OTHER INSTALLATIONS**

No signs, awnings, or other apparatuses will be painted on or attached to the Premises or anything placed on any glass or woodwork of the Premises or positioned to be visible from outside the Premises, including any window covering (e.g., shades, blinds, curtains, drapes, screens, or tinting materials) without Landlord's written consent, and Landlord's approval of design, size, location, and color. All signs installed by Tenant will comply with Landlord's standards for signs and all applicable codes. All signs and sign hardware will be removed by Tenant, at Tenant's sole cost and expense, upon termination of this Lease, with the sign location restored to its former state unless Landlord elects to retain all or any portion thereof.

#### **Article 9 INSURANCE**

Tenant, at its expense, will maintain at all times during the Term of this Lease, commercial general liability insurance on the Premises and the conduct or operation of business therein, naming Landlord and its managing agent, if any, as additional insureds, with a combined single limit of not less than \$2,000,000. All such insurance will insure the performance by Tenant of the indemnity agreement with regard to liability for bodily injury to, illness of, or death of persons and damage to property set forth in this Lease. Tenant will deliver to Landlord and any additional insured the fully paid-for policies or certificates of insurance, in form reasonably satisfactory to Landlord, issued by the insurance company or its authorized agent, at

least 10 days before the Lease Commencement Date. Tenant will procure and pay for renewals of the insurance from time to time before the expiration thereof, and Tenant will deliver to Landlord and any additional insured the renewal policy at least 30 days before the expiration of any existing policy. All the policies will contain a provision prohibiting cancellation or modification unless Landlord and any additional insured are given at least 30 days' prior written notice of the cancellation or modification. All insurance policies required to be carried by Tenant hereunder will be issued by responsible insurance companies authorized to issue insurance in the State of Oregon and rated B+ VIII or higher by A.M. Best's insurance rating service.

**Article 10  
INDEMNITY**

**10.1 By Tenant.** Tenant will indemnify, defend, and hold harmless Landlord, its officers and employees from any claim, liability, damage, or loss, or any cost or expense in connection therewith (including reasonable attorney fees), whether suffered directly or from a third-party claim arising out of (a) any damage to any person or property occurring in, on, or about the Premises; (b) use by Tenant or its agents, invitees, or contractors of the Common Area and the Premises; or (c) Tenant's breach or violation of any term of this Lease.

**10.2 Survival.** The provisions of this Article 10 will survive the termination of this Lease.

**Article 11  
EMINENT DOMAIN**

If the entire Premises or any portion of the Premises is permanently taken under any right of eminent domain, or any transfer in lieu thereof, and the taking renders the Premises unsuitable for Tenant's use, then either party may terminate this Lease by giving 30 days' prior written notice to the other party, and the termination will be effective on the date possession of the Premises is delivered to the condemning authority. If this Lease is not so terminated, Landlord will repair and restore the Premises, and this Lease will continue, but, commencing with the date on which Tenant is deprived of the use of any portion of the Premises or of any rights under this Lease, Base Rent will be proportionately abated or reduced, based on the extent to which Tenant's use of the Premises is impaired. Any and all awards payable by the condemning authority in connection with a taking will be the sole property of Landlord; however, nothing contained herein will prevent Tenant from prosecuting a separate claim for the value of its interest, as long as that award does not diminish the award that Landlord would otherwise be entitled to as a result of the taking.

**Article 12  
FIRE OR CASUALTY**

**12.1 Major Damage.** In case of Major Damage, Landlord or Tenant may elect to terminate this Lease by notice in writing to the other party within 30 days after the date of the Major Damage. "Major Damage" means damage by fire or other casualty to the Premises (a) that

causes the Premises or any substantial portion of the Premises to be unusable, (b) the repair of which will cost more than 25 percent of the replacement value of the Premises, or (c) that is not required under this Lease to be covered by insurance. If neither Landlord nor Tenant terminates this Lease after any Major Damage, or if damage occurs to the Premises that is not Major Damage, Landlord will promptly restore the Premises to the condition existing immediately before the damage, and this Lease will continue in full force and effect. In the event of any damage to the Premises from a fire or other casualty, Tenant will promptly repair and restore all tenant improvements or alterations installed or paid for by Tenant or pay the cost of the restoration to Landlord if Landlord performs the restoration. If the Premises are damaged by any casualty, Rent will be reduced in proportion to the unusable portion of the Premises from the date of damage until the date restoration work to the Premises is substantially complete.

**12.2 Waiver of Subrogation.** Both parties will secure an appropriate clause in, or an endorsement on, each property insurance policy obtained by it and covering or applicable to the Premises or the personal property, fixtures, and equipment located therein or thereon, under which the insurance company waives subrogation or permits the insured, before any loss, to agree with a third party to waive any claim it might have against the third party without invalidating the coverage under the insurance policy. The waiver of subrogation or permission for waiver of any claim will extend to the parties and their respective agents and employees. Each party releases the other and its agents and employees in respect of any claim (including a claim for negligence) that it might otherwise have against the other party or its agents or employees for loss, damage, or other casualty (including rental value or business interest, as the case may be) occurring during the Term of this Lease and normally covered under a special form property insurance policy in the form normally used for similar property in Portland, Oregon.

### **Article 13 ASSIGNMENT AND SUBLETTING**

Tenant will not assign, transfer, or encumber its interest under this Lease or sublet all or any portion of the Premises without having first obtained Landlord's written consent.

### **Article 14 DEFAULT**

**14.1 Events of Default.** Each of the following is an Event of Default by Tenant under this Lease:

**14.1.1** Failure by Tenant to pay Rent or any other charge due under this Lease within five days after receipt of written notice from Landlord that the same is then due.

**14.1.2** Failure by Tenant to comply with any other obligation of this Lease within 20 days following written notice from Landlord specifying the failure; however, if the nature of Tenant's default requires more than 20 days to correct, Tenant will not be deemed in default of this Lease as long as Tenant commences the cure of the failure within the 20-day period and

thereafter proceeds in good faith and with all diligence to complete the cure as soon as possible but in no event later than 90 days after the date of Landlord's notice of default.

**14.1.3** Tenant's abandonment of the Premises or failure by Tenant to occupy the Premises within 20 days after notice from Landlord.

**14.1.4** Assignment or subletting by Tenant in violation of Article 13.

**14.1.5** Tenant's failure to timely execute and deliver to Landlord the documents described in Article 18 or Article 22 within 10 days of written notice from Landlord.

**14.1.6** Tenant's insolvency, business failure, or assignment for the benefit of its creditors. Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain dismissal of any petition filed against it under such laws within the time required to answer, or the appointment of a receiver for all or any portion of Tenant's properties or financial records, also constitutes an Event of Default.

**14.2 Remedies for Default.** Upon the occurrence of an Event of Default described in section 14.1, Landlord may exercise the following remedies as well as any other remedies at law or in equity, by statute or as set forth in this Lease:

**14.2.1** Landlord may terminate this Lease, reserving all rights to damages resulting from Tenant's breach. Whether or not Landlord terminates this Lease, Landlord may retake possession of the Premises by any legal means including self-help, and any relet or use of the Premises by Landlord will not be deemed a surrender or waiver of Landlord's right to damages. If Landlord retakes possession of the Premises, Landlord's mitigation efforts will be deemed sufficient if Landlord follows standard procedures otherwise used by Landlord for locating tenants for the Premises and otherwise complies with Law.

**14.2.2** Tenant will be liable to Landlord for all damages caused by Tenant's default, including, but not limited to, an amount equal to all unpaid and future Rent, lease commissions incurred for this Lease, and the unamortized cost of all improvements to the Premises installed or paid for by Landlord. Landlord may periodically sue Tenant to recover damages as they accrue, and no action therefor will bar a later action for damages accruing thereafter. Landlord may elect in any one action to recover both accrued damages as well as damages attributable to the remaining term of the Lease. Any damages attributable to the remaining term of the Lease will be equal to the difference between the Rent under this Lease and reasonable rental value of the Premises (including Additional Rent) for the remainder of the term, discounted at the prevailing interest rate on judgments to the date of the judgment.

**14.3 Landlord's Right to Cure Default.** Landlord may, but will not be obligated to, make any payment or perform any obligation under this Lease that Tenant has failed to perform, as and when required hereunder. Tenant will pay Landlord for all expenditures and costs incurred by Landlord in performing any obligation of Tenant, upon demand, with interest

thereon at nine percent (9%), but in no event at a rate in excess of that allowed by Law. Landlord's right to cure any Tenant default is for the sole protection of Landlord, and in no event will Tenant be released from any obligation to perform all of Tenant's obligations and covenants under this Lease. The contents of this Section 14.3 will not be deemed a waiver by Landlord of any other right that Landlord may have arising from any default of this Lease by Tenant, whether or not Landlord exercises its rights under this Section.

**14.4 Landlord's Default.** Landlord will not be deemed to be in default of the performance of any obligation required to be performed by Landlord hereunder unless and until Landlord fails to perform the obligation within 20 days after written notice by Tenant to Landlord specifying the nature of Landlord's alleged default; however, if the nature of Landlord's alleged default is such that more than 20 days are required for its cure, then Landlord will not be deemed to be in default if Landlord commences performance within the 20-day period and thereafter diligently prosecutes the same to completion. In the event of any default by Landlord, Tenant may exercise any and all rights and remedies available at law or in equity.

**14.5 Dispute Resolution.**

**14.5.1 Disputes Subject to Mediation and Arbitration.** Any dispute between the parties relating to the interpretation of their rights and obligations under this Lease or in which the amount in controversy is a liquidated sum of less than \$10,000 will be resolved solely by mediation and arbitration in accordance with the provisions of this Section 14.5.

**14.5.2 Initial Mediation.** With respect to any dispute between the parties that is to be resolved by arbitration as provided in Section 14.5.3 in which the amount in controversy is less than \$10,000.00 the parties will attempt in good faith first to mediate the dispute and use their best efforts to reach agreement on the matters in dispute. If the parties are unable to resolve the dispute or controversy within 30 days of the date a controversy arises, either party may, by delivering five days' written request to the other party, employ the services of a third person mutually acceptable to the parties to conduct and commence mediation within 15 days of the employment. If the parties are unable to agree on such a third person, or, if on completion of such mediation, the parties are unable to agree and settle the dispute, then the dispute will be referred to arbitration in accordance with Section 14.5.3.

**14.5.3 Arbitration.** Any dispute between the parties that is to be resolved by arbitration as provided in this Section 14.5.3 will be settled and decided by arbitration conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as then in effect (the "Arbitration Rules"), except as provided below. Any such arbitration will be held and conducted in the city or county in which the Building is located, before one arbitrator who will be selected by mutual agreement of the parties; if agreement is not reached on the selection of an arbitrator within 15 days of receipt of a written demand for arbitration as set forth in Section 14.5.3.1, then an arbitrator will be appointed by the presiding judge of the Circuit Court of the County in Oregon in which the Premises is located. The

provisions of the Arbitration Rules will apply and govern the arbitration subject, however, to the following:

**14.5.3.1** Any demand for arbitration must be in writing and must be made within 90 days after the claim, dispute, or other matter in question has arisen. The arbitration proceeding must commence within 30 days of appointment of the arbitrator, and all document exchange and other discovery of evidence must be completed within 20 days of the appointment.

**14.5.3.2** The arbitrator appointed must be a former or retired judge or practicing attorney with at least 10 years' experience in real property and commercial matters.

**14.5.3.3** The arbitrator will resolve the controversy in accordance with the Arbitration Rules, applicable Law, and the terms and conditions of this Lease. Thereafter, the arbitrator will prepare in writing and provide to the parties his or her decision, including factual findings and reasons on which the decision is based.

**14.5.3.4** The arbitration proceeding must be conducted and completed within five days after its commencement, and the decision of the arbitrator must be made within 60 days from the date of receipt of the written demand for arbitration.

**14.5.3.5** The prevailing party will be awarded reasonable attorney fees, expert and non-expert witness costs and expenses, and other costs and expenses incurred in connection with the arbitration, unless the arbitrator, for good cause, determines otherwise.

**14.5.3.6** Costs and fees of the arbitrator will be borne by the non-prevailing party.

**14.5.3.7** The decision of the arbitrator, which may include equitable relief, will be final, and judgment may be entered on the decision in accordance with applicable Law in any court having jurisdiction over the matter.

## **Article 15 NOTICES**

All notices, demands, consents, approvals, and other communications provided for herein will be invalid unless set forth in a writing and delivered by facsimile transmission, overnight courier, personal delivery, or registered or certified U.S. mail with return receipt requested to the appropriate party at its address as set forth in Section 1.2 for Tenant and Section 1.3 for Landlord.

Addresses for notices may be changed from time to time by written notice to all other parties. Any communication given by facsimile transmission must be confirmed within 48 hours by overnight courier. If any communication is given by mail, it will be effective on the earlier of (a) 48 hours after deposit in the U.S. mail, with postage prepaid; or (b) actual receipt, as

indicated by the return receipt, if given by facsimile, when sent. If communication is given by personal delivery or by overnight courier, it will be effective when delivered.

**Article 16**  
**ACCESS; MOVING PROCEDURES**

**16.1 Access.** Tenant will have access to the Premises 24 hours per day, 7 days per week, and 52 weeks per year. During times other than normal Building hours, Landlord may require that Tenant's employees, officers, and invitees identify themselves or display Building passes to enter the Landlord's Building and may regulate elevator access. Subject to any federal or state security regulations, Landlord will not be liable to Tenant for permitting or refusing to permit access to the Premises by anyone. After reasonable notice to Tenant, Landlord may enter the Premises with its passkey or other reasonable means to assess compliance with this Lease; perform required or necessary services, maintenance, repairs, alterations, or services to the Premises; show the Premises to potential buyers of the Premises; post appropriate notices; and during the last three months of the Lease Term, show the Premises to any potential future tenant. Except in case of emergency, all entry to the Premises will be at times and in a manner that minimizes interference with Tenant's use of the Premises.

**16.2 Moving Furniture and Bulky Articles.** Following at least 24 hours' written notice to Landlord, Tenant may move furniture and bulky articles in and out of the Building and make independent use of any elevators in accordance with the Rules and at times approved by Landlord (which approval Landlord will not unreasonably withhold).

**Article 17**  
**NONRECOURSE LEASE**

Tenant will look only to Landlord's estate and property in the Land and the Building (or the proceeds thereof) for the satisfaction of Tenant's remedies, including the collection of an arbitration award, a judgment, or another judicial process requiring the payment of money by Landlord in the event of any default by Landlord hereunder, and no other property or assets of Landlord or its partners or principals, disclosed or undisclosed, will be subject to levy, execution, or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Landlord and Tenant hereunder, or Tenant's use or occupancy of the Premises.

**Article 18**  
**SUBORDINATION; NOTICE TO SUPERIOR LESSORS AND MORTGAGEES**

**18.1 Subordination.** Any mortgage, deed of trust, or ground lease to which this Lease is, at the time referred to, subject and subordinate is called a "Superior Mortgage," and the holder of a Superior Mortgage, or its successor in interest, at the time referred to, is called a "Superior Mortgagee." This Lease, and all rights of Tenant, will be subject and subordinate to all mortgages that may now or hereafter affect the Land and the Building, whether or not the mortgages also cover other lands and buildings; to each and every advance under such

mortgages; and to all renewals, modifications, replacements, and extensions of such mortgages. This Section 18.1 is self-operative, and no further instrument of subordination will be required. In confirmation of the subordination, Tenant will promptly execute, acknowledge, and deliver any instrument that Landlord or any Superior Mortgagee may reasonably request to evidence the subordination.

**18.2 Notice.** If any act or omission of Landlord would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant will not exercise the right: (a) until it has given written notice of the act or omission to Landlord and each Superior Mortgagee whose name and address previously has been furnished to Tenant, and (b) until a reasonable period of time for the parties to cure the condition has passed.

**18.3 Attornment.** For the purposes of this Section 18.3, the term "Successor Landlord" means the Superior Mortgagee if the same succeeds to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, or any third party that succeeds to the rights of Landlord under this Lease by virtue of having purchased the Land and the Building at a foreclosure sale. The Successor Landlord will accept Tenant's attornment, assume Landlord's obligations under the Lease, and will agree in writing not to disturb Tenant's quiet possession of the Premises. Tenant will attorn to and recognize the Successor Landlord as Tenant's Landlord under this Lease, and Tenant and the Successor Landlord will promptly execute and deliver an instrument reasonably acceptable to the parties to evidence the attornment and nondisturbance. Upon the attornment, this Lease will continue in full force and effect as a direct lease between the Successor Landlord and Tenant on all of the terms, conditions, and covenants as are set forth in this Lease except that the Successor Landlord will not: (a) be liable for any previous act or omission of Landlord under this Lease; (b) be subject to any offset, deficiency, or defense that has accrued to Tenant against Landlord; (c) be bound by any previous modification of this Lease or by any previous prepayment of more than one month's Base Rent, unless the modification or prepayment has been expressly approved in writing by the Superior Mortgagee; or (d) be liable for the return of any security deposit that was not actually transferred to the Successor Landlord.

## **Article 19 SURRENDER; HOLDOVER**

Upon expiration or earlier termination of this Lease, Tenant will surrender the Premises and, at Landlord's option, all improvements and alterations therein, vacuumed, swept, and free of debris and in good and serviceable condition, subject to ordinary wear and tear. Tenant will remove all of its personal property and any conduits, wiring, cables, or alterations if required by this Lease and will repair all damage to the Premises and the Building resulting from that removal. If Tenant fails to remove any such personal property or alterations, those items will be deemed abandoned, and Landlord may remove or dispose of the items without liability to Tenant or others. Upon demand, Tenant will reimburse Landlord for the cost of such removal.

If Tenant fails to surrender the Premises and remove all its personal property as set forth herein, Landlord may either: (a) recognize Tenant as a month-to-month tenant at sufferance, and such tenancy will be subject to all terms of this Lease, except that Rent will be one hundred twenty (120%) percent of the total Rent for the last month being charged, and all options or other rights regarding extension of the term or expansion of the Premises will automatically terminate; or (b) evict Tenant from the Premises and recover all damages resulting from Tenant's wrongful holdover.

**Article 20**  
**HAZARDOUS MATERIALS**

Neither Tenant nor Tenant's agents or employees will cause or permit any Hazardous Material, as hereinafter defined, to be brought, stored, used, generated, released into the environment, or disposed of on, in, under, or about the Premises, Building, or Common Areas, except reasonable quantities of cleaning supplies and Grocery Store supplies and inventory necessary to or required as part of Tenant's business that are generated, used, kept, stored, or disposed of in a manner that complies with all laws regulating any such Hazardous Materials and with good business practices. Tenant covenants to remove from the Premises (or the Building or Common Areas, if applicable), upon the expiration or sooner termination of this Lease and at Tenant's sole cost and expense, any and all Hazardous Materials brought, stored, used, generated, or released on, in, or into the environment by Tenant or its agents, employees, or invitees during the term of this Lease. To the fullest extent permitted by law, Tenant hereby agrees to indemnify, defend, protect, and hold harmless Landlord, Landlord's managing agent, their respective agents and employees, and their respective successors and assigns, from any and all claims, judgments, damages, penalties, fines, costs, liabilities, and losses that arise during or after the term directly or indirectly from the use, storage, disposal, release, or presence of Hazardous Materials by Tenant or its agents, employees, or invitees on, in, or about the Premises, the Building, or the Common Areas that occurs during the term of this Lease.

To the fullest extent permitted by law, Landlord hereby agrees to indemnify, defend, protect, and hold harmless Tenant, Tenant's agents and employees, and Tenant's respective successors and assigns, from any and all claims, judgments, damages, penalties, fines, costs, liabilities, and losses that arise during or after the term directly or indirectly from the use, storage, disposal, release, or presence of Hazardous Materials by Landlord or its agents, employees, or contractors on, in, or about the Premises, the Building, or the Common Areas. Tenant will promptly notify Landlord of any release of Hazardous Materials in, on, or about the Premises, the Building, or Common Areas that Tenant, or Tenant's agents or employees, becomes aware of during the Term of this Lease, whether caused by Tenant, Tenant's agents or employees, or any other persons or entities.

As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste that is or becomes regulated by any local governmental authority, the state of Oregon, or the United States government. The term "Hazardous Material" includes, without limitation, (a) any material or substance that is defined as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," "hazardous substance," "hazardous material," or "waste" under any federal, state, or local law; (b) petroleum; and (c) asbestos. The provisions of

this Article 20, including, without limitation, the indemnification provisions set forth herein, will survive any termination of this Lease.

**Article 21**  
**ATTORNEY FEES**

If suit or action is instituted in connection with any controversy arising out of this Lease, including any bankruptcy proceeding and arbitration proceeding, the prevailing party will be entitled to recover, in addition to costs, such sums as the court may adjudge reasonable as attorney fees at trial and on all appeals or petitions for review arising out of the suit or action. If Landlord engages a collection agency to pursue any delinquent amounts owed by Tenant, Tenant will pay all collection agency fees charged to Landlord, in addition to all other amounts payable under this Lease.

**Article 22**  
**ESTOPPEL**

At any time and from time to time upon not less than 10 days' prior notice from either party, the other party will execute, acknowledge, and deliver to the requesting party a certificate certifying that this Lease is in full force and effect and unmodified or, if there are any modifications, that the Lease is in full force and effect as modified; that Tenant is in possession of the Premises; the dates to which Rent has been paid in advance and the amount of any Security Deposit or prepaid Rent; and such other matters as may be reasonably requested.

**Article 23**  
**QUIET ENJOYMENT**

Landlord warrants that as long as Tenant complies with all terms of this Lease, Tenant will have quiet and peaceful possession of the Premises free of disturbance by Landlord or others claiming by or through Landlord.

**Article 24**  
**FORCE MAJEURE**

If the performance by either party of any provision of this Lease (other than the payment of rent) is prevented or delayed by any strikes, lockouts, labor disputes, acts of God, government actions, civil commotions, fire or other casualty, or other causes beyond the reasonable control of the party from whom performance is required, the party will be excused from such performance for the period of time equal to the time of that prevention or delay up to a maximum of 180 days.

**Article 25**  
**BROKERS**

[Deleted as Not Applicable]

**Article 26**

## **GOVERNING LAW**

This Lease will be construed and interpreted and the rights of the parties determined in accordance with the laws of the state of Oregon (without reference to the choice-of-law provisions of Oregon law). Regarding matters of law concerning the internal corporate affairs of any corporate entity that is a party to or the subject of this Lease, the law of the jurisdiction under which the entity derives its powers will govern.

### **Article 27 NONWAIVER**

No delay by either party in promptly enforcing any right or remedy set forth in this Lease will be deemed a waiver thereof, and that right or remedy may be asserted at any time after the delaying party becomes entitled to the benefit of the right or remedy notwithstanding the delay.

### **Article 28 CAPTIONS**

The article and section headings of this Lease are for descriptive purposes only and in no way define, limit, or describe the scope, intent, or meaning of this Lease.

### **Article 29 CONSENT**

Except when otherwise specifically provided in this Lease to the contrary, whenever a party's consent is required under this Lease, the party will not unreasonably withhold its consent.

### **Article 30 TIME OF THE ESSENCE AND HOLIDAYS**

Time is of the essence of each and every provision hereof. If the final date of any period of time set forth herein occurs on a Saturday, Sunday, or legal holiday, then the expiration of the period of time will be postponed to the next day that is not a Saturday, Sunday, or legal holiday.

### **Article 31 COMPLETE AGREEMENT; NO IMPLIED COVENANTS**

This Lease and the attached exhibits and schedules, if any, contain the entire agreement of Landlord and Tenant concerning the Premises, Building, Common Areas, and Land, and all prior written and oral agreements and representations between the parties are void. Landlord and Tenant agree that there are no implied covenants or other agreements between the parties except as expressly set forth in this Lease. Neither Landlord nor Tenant is relying on any representations of the other party except those expressly set forth herein.

**Article 32  
SUCCESSORS**

This Lease will bind and inure to the benefit of the parties, their respective heirs, successors, and permitted assigns. IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Lease:

LANDLORD:  
City of Lincoln City

TENANT:  
K. E. McKay's Market of Coos Bay,  
Inc. dba "McKay's Market"

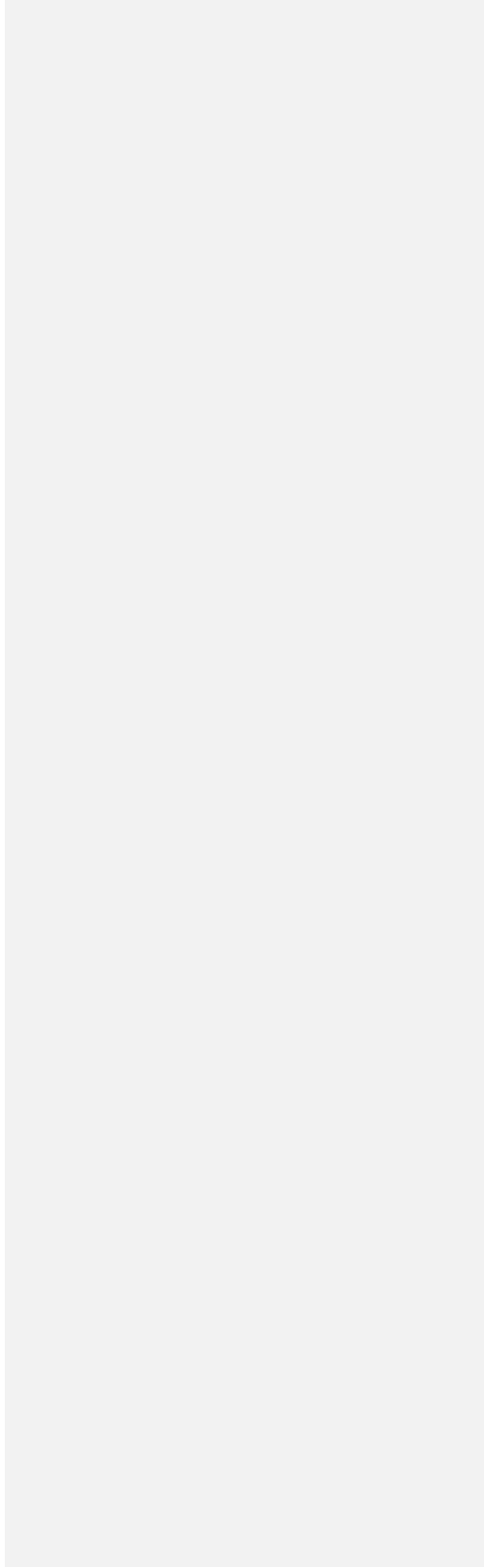
\_\_\_\_\_  
By: Judy Casper  
Title: Council President  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: William Caldwell  
Title President of the Corporation  
Date: \_\_\_\_\_

Authorized by Order of the  
City Council on \_\_\_\_\_, 2021

**EXHIBIT A**

[*Site Plan*] with legal description of Premises



## Council Communication

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### One-Year Rollover Agreement--AFSCME Union Contract

Meeting Date:	March 22, 2021	Primary Staff Contact:	Abigail Edwards
Department:	Human Resources	E-Mail:	ADonowho@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	5 minutes

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#### Background:

The City of Lincoln City received a request from the AFSCME Union to consider a one-year rollover of the current collective bargaining agreement (CBA).

On December 14, 2020 the City Council moved to propose a one-year rollover provision.

The following proposed Letter of Agreement (LOA) enacts a rollover of all current provisions, continuing the current contract's 2% annual COLA wage increase on July 1, 2021.

The CIS benefit plans associated with the AFSCME contract have been discontinued by the carrier as of January 1, 2021. Collective bargaining implications announced by CIS in 2020 state: "Anyone with contracts in effect as of February 2019 with expiration dates after January 1, 2021 can continue current benefits until the contract expires." This agreement makes note of the updated benefit plan names from CIS. These are the equivalent offerings from CIS to those discontinued.

#### Potential Motions:

**A motion to accept the Letter of Agreement Between the City of Lincoln City and American Federation of State, County, and Municipal Employees Local 3499, extending the current contract for one year as described in the Letter of Agreement, and authorizing the City Manager to sign.**

#### Attachments:

LOA Lincoln City CBA Rollover (DOCX)

Letter of Agreement

Between

The City of Lincoln City

and

American Federation of State, County, and Municipal Employees

Local 3498

The above names entities are parties to a collective bargaining agreement (CBA) which expires on June 30, 2021. That CBA will be extended for an additional one year. Pursuant to this extension agreement, the provisions of the July 1, 2018- June 30, 2021 CBA will remain in effect and unchanged with the following exceptions:

- 1. Effective the first day of July 2021 the wage rates for all employees will be increased by 2%.
- 2. CIS insurance plan A is no longer offered so plan E will replace it.
- 3. Willamette Dental plan will now be called Willamette Dental A.
- 4. VSP 1 plan will now be VSP A plan.

Agreed on this \_\_\_\_ day of March, 2021

City of Lincoln City

American Federation of State, County and Municipal Employees (AFSCME)

\_\_\_\_\_

\_\_\_\_\_

Ron Chandler

Nicole Meck

For the City of Lincoln City

For AFSCME

# Council Communication

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## City Hall HVAC Construction Award

Meeting Date:	March 22, 2021	Primary Staff Contact:	Lila Bradley
Department:	Public Works	E-Mail:	LBradley@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	

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### Question:

Should the City Council award the City Hall Heating, ventilation, and air conditioning (HVAC) construction contract to Point Monitor Corp?

### Staff Recommendation:

Staff recommends the Council award the City Hall Heating, ventilation, and air conditioning (HVAC) construction contract to Point Monitor Corp.

### Authority:

LCMC 2.05 Public Contracts

### Background:

The City Hall HVAC controls system is 20 years old and needs replacement. The City worked with Energy Trust of Oregon (ETO) over the last four years to develop a new, energy efficient HVAC schedule. We have been offered incentives to implement the project.

### Project Description

This project is to replace Lincoln City's City Hall HVAC controls system with a new, energy-efficient building automation control network (BACnet) and schedule. The City has decided to replace the system by using a Best-Value proposal method of contracting. Staff prepared contract documentation based off the requirements outlined in the Technical Analysis Study (TAS) completed by ETO and current HVAC control technologies.

### Proposals

The Public Works Department advertised the "Invitation to Submit Proposals" on January 15, 2021. Public Works Department received four proposals on February 18, 2021:

<b>Proposer</b>
-----------------

Comfort Flow Heating
Point Monitor
Sunbelt Controls
Robert Lloyd Sheet Metal

The proposals were reviewed by city staff and scoring assigned based on Contractor Experience/Qualifications, Project Schedule, Enhanced Value, and Total Project Cost. The selection committee selected Point Monitor, with Comfort Flow Heating and Sunbelt Controls tying for second with the same total scoring.

### Project Budget and Costs

Point Monitor submitted a proposal to complete the project for \$176,593.00. Energy Trust of Oregon is currently updated the city's incentive offer; this was previously valued at \$73,737.00 for implementing the recommended energy efficiency measures. This would result in an estimated net construction cost of \$102,856.00. The contracted work includes project design, installation, programming, and staff training.

The adopted budget for Building Improvements (261-000-6330201) for FY20-21 was \$530,000.00. \$200,000 of this was dedicated for the HVAC Controls Upgrade project. The following table shows design costs incurred in FY2020-21 and the estimated cost to construct and complete the project in FY2020-21.

Item	Project Cost in FY20-21	Estimated Cost to Complete FY2020-21
Bid Advertisement	\$865.88	
Bureau of Labor and Industries		\$250.00
Construction Bid		\$176,593.00
Art (1/2 of one percent of the construction bid)		\$882.97
Construction Contingency		\$17,700.00
<b>Total</b>	<b>\$865.88</b>	<b>\$195,425.97</b>

### Recommendation

Staff recommends the HVAC construction contract be awarded to Point Monitor Corp in the amount of \$176,593.00 with a ten percent contingency of \$17,700.00 for a total amount of \$194,293.00.

**Council Options:**

Approve the selection of Point Monitor.

Not approve selection of Point Monitor.

**Potential Motions:**

Award the HVAC construction contract to Point Monitor Corp in the amount of \$176,593.00 with a ten percent contingency of \$17,700.00 for a total amount of \$194,293.00.

## Council Communication

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### Input for Private Security Contract for 4th of July

Meeting Date:	March 22, 2021	Primary Staff Contact:	Jerry Palmer
Department:	Police	E-Mail:	JPalmer@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	10 minutes

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#### Question:

Does the City Council have input for the city manager as regards the scope of work for services by TCB Security for up to 5 unarmed security guards at designated beach access points during 4<sup>th</sup> of July hours?

#### Staff Recommendation:

Staff recommends the Council provide input, if any, as regards the scope of work for preparation of a contract to be signed by the City manager.

#### Authority:

LCMC 2.05 (Public Contracting Code) Personal Services Contract exemption.

#### Background:

Council has directed staff to inquire about costs for hiring uniformed security guards to be a visible deterrent for illegal fireworks on the beaches during 4<sup>th</sup> of July holiday.

LCPD could deploy up to five security guards at beach accesses in the Roads End area between the hours of 12:00 noon and 12:00 Midnight on the 4<sup>th</sup> of July.

These would be unarmed, uniformed security personnel contracted from TCB Security in Newport, Oregon.

The initial plan does not provide for them to take enforcement action, observation only.

If the City Council desires these security personnel to have enforcement capacity, it would have to be determined how to deputize them under cloak of LCPD and the extent

of their enforcement authorization. This option may require hiring 'armed' personnel. This option would also require that LCPD be able to conduct a background check on the designated TCB personnel, and also train them prior to the event.

Another option would be to temporarily designate TCB personnel as "City enforcement officers" under LCMC 1.16.030, which would allow for issuance of violation citations – but no criminal enforcement.

### **Council Options:**

Provide input on available options:

- contract with TCB for unarmed security at beach access points with no enforcement authority.
- contract with TCB for security personnel with enforcement authority.
- contract with TCB for security personnel with violation level enforcement authority only.
- Decline contracting with TCB for these services.

### **Financial Impact**

Currently TCB has stated personnel costs are \$36.25/hour per person for holiday hours. 5 persons for 12 hours would be approximately \$2,175.00.

TCB will need to sign a city standard personal services contract with a scope of work prepared by the City.

### **Potential Motions:**

Motion to direct staff to

- contract with TCB for unarmed security at beach access points with no enforcement authority.
- contract with TCB for security personnel with enforcement authority.
- contract with TCB for security personnel with violation level enforcement authority only.
- Decline contracting with TCB for these services.

### **Attachments:**

City of Lincoln City 4th of July Coverage - Sheet1 (PDF)

	<h3>4th of July Coverage</h3>					
	<b>5 Officers, 12 Hour Shifts</b>					
	<b>Position</b>	<b>Start Time</b>	<b>End Time</b>	<b>Hourly Rate</b>	<b>Daily Total</b>	
	Unarmed Officer	12:00 PM	12:00 AM	\$36.25	\$435.00	
	Unarmed Officer	12:00 PM	12:00 AM	\$36.25	\$435.00	
	Unarmed Officer	12:00 PM	12:00 AM	\$36.25	\$435.00	
	Unarmed Officer	12:00 PM	12:00 AM	\$36.25	\$435.00	
	Unarmed Officer	12:00 PM	12:00 AM	\$36.25	\$435.00	
	<b>Total:</b>				<b>\$2,175.00</b>	
	<b>Holiday Hourly Rate</b>			<b>\$36.25</b>		
	<b>Non Holiday Rate</b>			<b>\$24.25</b>		

## Council Communication

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### ATV Purchase

Meeting Date:	March 22, 2021	Primary Staff Contact:	Jerry Palmer
Department:	Police	E-Mail:	JPalmer@lincolncity.org
Secondary Dept:		Secondary Contacts:	Jerry Palmer
Approval:	Ronald F Chandler	Estimated Time:	10 minutes

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#### Question:

Should the City Council authorize the purchase of four new Polaris Ranger ATV's for the Police Department?

#### Staff Recommendation:

Staff recommends the Council not go forward with the purchase. Currently we have 3 ATV for deployment. New ATV's are currently quoted for delivery 5 months after they are ordered.

#### Authority:

<Insert info Here>

#### Background:

Council directed LCPD to look into the cost for purchasing four new Polaris Ranger ATV's for beach patrol and use during emergencies. Polaris quoted \$38,428.89 per vehicle, delivered equipped for police, not including a police radio.

Four mobile radios installed would add approximately \$1000.00 per unit.

Total cost, including a police radio, would be \$157,715.56.

Insurance premiums will probably be about \$800.00 a year or \$200.00 per year, per vehicle.

Polaris also advised that currently order deliveries are projected to take 5 months after the order is placed, due to vendor parts delays because of COVID. We would not expect to have these vehicles on hand until August of 2021.

Council should also be aware that storage of the ATV's may have additional cost, depending on whether the city has any available space to store them inside.

**Council Options:**

Option 1: Authorize the Police Department to make the purchase.

Option 2: Decline the purchase at this time.

**Financial Impact**

\$157,715.56 for four new ATV's equipped for Police use.

**Potential Motions:**

# Council Communication

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## Canyon Park Bollard information

Meeting Date:	March 22, 2021	Primary Staff Contact:	Jeanne Sprague
Department:	City Council	E-Mail:	JSprague@lincolncity.org
Secondary Dept:	Police	Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	15 minutes

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Chief Jerry Palmer and LCP&R Director Jeanne Sprague looked into the Council request for information on placing a bollard at Canyon Park to deter drivers on the beach. Currently, this access has a sign at the entrance stating "Motor Vehicles Prohibited".

### Background:

Chief Palmer pulled complaint stats for vehicles on the beach reports at Canyon Park. For 2019-2020-2021, we had 7 reports of vehicles on the beach:

- 1 vehicle stuck during a surf event where they were allowed to be there to launch water craft.
- 5 complaints where the offenders were located with 3 cited and 2 warned.
- 1 complaint where we were unable to locate the vehicle.

We used to have a bollard there, but due to intense coastal weather, it would rust shut and the emergency crews would not be able to remove it, so they'd have to run it over. Parks has retrieved numerous broken bollards from this access and 51<sup>st</sup> & Taft. Even with routine maintenance, the bollards rust shut. With the support of the NLFRD and OPRD, the decision was made not to continue re-installing as the bollards created lost time and effort during a life saving measure.

### Our group recommendation:

We spoke with NLFRD Chief and OR State Parks, and both LCPD and LCP&R support their stance to not place a bollard in this emergency vehicle access driveway. It will only slow emergency response and in a water rescue situation, seconds and minutes matter. The activity level does not warrant a bollard and LCPD appears to be addressing offenders adequately.

1. This Canyon Park access is one of the several emergency vehicle access points to the beach. Putting an obstacle to prevent vehicle access would slow down emergency response.
2. To stop or slow any non-emergency vehicles, OR State Parks has posted signage. (see attached)
3. If the public observes non-emergency vehicles in prohibited areas (Canyon Park), they should call our Dispatch Center and LCPD will respond as soon as possible.

# Council Communication

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## Comprehensive Plan Update - Schedule

Meeting Date:	March 22, 2021	Primary Staff Contact:	Sungman Kim
Department:	City Council	E-Mail:	SKim@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	

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## COMPREHENSIVE PLAN UPDATE SCHEDULE

1. APPLICATION/INITIATION
  - a. January 8, 2021 – January 28, 2021: The 1<sup>st</sup> Draft was created by the staff of Planning & Community Development Department.
  - b. January 29, 2021 – February 3, 2021: The 2<sup>nd</sup> Draft was created on the basis of the 1<sup>st</sup> Draft through the planning director's review.
  - c. February 2, 2021: The work has been formally initiated through the City County & Planning Commission Joint Workshop.
  
2. STAFF – DRAFT ORDINANCE
  - a. February 4, 2021 – February 8, 2021: The 3<sup>rd</sup> Draft was created with further input from the staff of Planning & Community Development Department.
  
  - b. February 9, 2021 – February 22, 2021: Multi-Department reviewed the 3<sup>rd</sup> Draft and provided their input.
  
  - c. February 23, 2021 – March 26, 2021: The Internal Staff Draft, a rough draft for future discussion will be created.
  
3. SUBMIT TO PLANNING COMMISSION AT PUBLIC MEETING
  - a. April 6, 2021 – Introduction
  
4. NOTICE TO THE DLCD
  - a. April 7, 2021 – 45 Days prior to the Planning Commission Public Hearing
  
5. April 6, 2021 – May 22, 2021: Committee discussions and workshops that are not public hearings. We will have the details of the draft discussed at citizen committee meetings, including budget committee (if they have a time), library board, parks & recreation board, public arts committee, sustainable committee, explore Lincoln city committee, board of adjustments, and planning commission, etc. The 5<sup>th</sup> Draft will be created.

6. NOTICE: PUBLISHED, TO NEWS MEDIA
  - a. May 20, 2021, 10 Days prior to the Planning Commission Public Hearing
7. PLANNING COMMISSION PUBLIC HEARING
  - a. June 1, 2021 – Public Hearing
8. PLANNING COMMISSION MOTION TO CITY COUNCIL
  - a. TBD
9. NOTICE: PUBLISHED, TO NEWS MEDIA
  - a. TBD, 10 Days prior to the City Council Hearing
10. CITY COUNCIL MOTION
  - a. TBD, Read Ordinance and Adopt.

### **Authority:**

Lincoln City Resolution No. 91-02, approved by the City Council on January 14, 1991, designated the Planning Commission as the Committee for Citizen Involvement (CCI).

### **Citizen Involvement Program**

Each city and county comprehensive plan includes a Citizen Involvement Program (CIP), which describes how the public can participate in each phase of the planning process. Local governments must periodically evaluate their efforts to involve citizens, and if necessary, update their programs. These requirements are established in Goal 1 Citizen Involvement (attached):

1. A Committee for Citizen Involvement (CCI) must be established to monitor citizen involvement.
2. A Citizen Involvement Program (CIP) must be adopted, providing for involvement in all phases of the planning process.
3. The CIP must be reviewed periodically to assure that opportunities continue to be provided.

Contact your local government planning department to learn about the citizen involvement plan for your community.

## **Chapter 2.14**

### **COMMITTEE FOR CITIZEN INVOLVEMENT (CCI)**

Sections:

**2.14.010 Established – Purpose.**

**2.14.020 Membership.**

**2.14.030 Powers and duties**

**Code reviser's note:** Pursuant to LMC 2.08.015, the planning commission is selected to serve as the CCI.

### **2.14.010 Established – Purpose.**

The committee for citizen involvement is hereby established and shall function to assist the city council in monitoring and evaluating city responsibility regarding Goal 1 of Oregon's Statewide Planning Goals and Guidelines: Citizen Involvement. (Ord. 2017-05 § 5)

### **2.14.020 Membership.**

The committee for citizen involvement is hereby established and shall consist of seven members. Membership should be broadly representative of geographic areas and interests related to land use and land use decisions. The governing body shall appoint two members who are qualified electors from each ward of the city and one qualified elector of the county who resides in the urban growth boundary of the city, but does not reside within the city limits. (Ord. 2017-05 § 5)

### **2.14.030 Powers and duties.**

The CCI shall be directly responsible to the city council and shall have the following powers and duties:

A. Responsibility for assisting the city council with the development of a citizen involvement program that promotes and enhances citizen involvement in land use planning, assisting in the implementation of the citizen involvement in land use planning, assisting in the implementation of the citizen involvement program, and evaluating the process being used for citizen involvement.

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. (Ord. 2017-05 § 5)

#### **Attachments:**

goal01 (PDF)

# Oregon's Statewide Planning Goals & Guidelines

## GOAL 1: CITIZEN INVOLVEMENT

### OAR 660-015-0000(1)

**To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.**

The governing body charged with preparing and adopting a comprehensive plan shall adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the on-going land-use planning process.

The citizen involvement program shall be appropriate to the scale of the planning effort. The program shall provide for continuity of citizen participation and of information that enables citizens to identify and comprehend the issues.

Federal, state and regional agencies and special-purpose districts shall coordinate their planning efforts with the affected governing bodies and make use of existing local citizen involvement programs established by counties and cities.

The citizen involvement program shall incorporate the following components:

**1. Citizen Involvement -- To provide for widespread citizen involvement.**

The citizen involvement program shall involve a cross-section of affected citizens in all phases of the planning process. As a component, the program for citizen involvement shall include an officially recognized committee for citizen involvement (CCI) broadly

representative of geographic areas and interests related to land use and land-use decisions. Committee members shall be selected by an open, well-publicized public process.

The committee for citizen involvement shall be responsible for assisting the governing body with the development of a program that promotes and enhances citizen involvement in land-use planning, assisting in the implementation of the citizen involvement program, and evaluating the process being used for citizen involvement.

If the governing body wishes to assume the responsibility for, development as well as adoption and implementation of the citizen involvement program or to assign such responsibilities to a planning commission, a letter shall be submitted to the Land Conservation and Development Commission for the state Citizen Involvement Advisory Committee's review and recommendation stating the rationale for selecting this option, as well as indicating the mechanism to be used for an evaluation of the citizen involvement program. If the planning commission is to be used in lieu of an independent CCI, its members shall be selected by an open, well-publicized public process.

**2. Communication -- To assure effective two-way communication with citizens.**

Mechanisms shall be established which provide for effective communication between citizens and elected and appointed officials.

**3. Citizen Influence -- To provide the opportunity for citizens to be involved in all phases of the planning process.**

Citizens shall have the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan, and Implementation Measures.

**4. Technical Information -- To assure that technical information is available in an understandable form.**

Information necessary to reach policy decisions shall be available in a simplified, understandable form. Assistance shall be provided to interpret and effectively use technical information. A copy of all technical information shall be available at a local public library or other location open to the public.

**5. Feedback Mechanisms -- To assure that citizens will receive a response from policy-makers.**

Recommendations resulting from the citizen involvement program shall be retained and made available for public assessment. Citizens who have participated in this program shall receive a response from policy-makers. The

rationale used to reach land-use policy decisions shall be available in the form of a written record.

**6. Financial Support -- To insure funding for the citizen involvement program.**

Adequate human, financial, and informational resources shall be allocated for the citizen involvement program. These allocations shall be an integral component of the planning budget. The governing body shall be responsible for obtaining and providing these resources.

**GUIDELINES**

**A. CITIZEN INVOLVEMENT**

1. A program for stimulating citizen involvement should be developed using a range of available media (including television, radio, newspapers, mailings and meetings).

2. Universities, colleges, community colleges, secondary and primary educational institutions and other agencies and institutions with interests in land-use planning should provide information on land-use education to citizens, as well as develop and offer courses in land-use education which provide for a diversity of educational backgrounds in land-use planning.

3. In the selection of members for the committee for citizen involvement, the following selection process should be observed: citizens should receive notice they can understand of the opportunity to serve on the CCI; committee appointees should receive official notification of their selection; and

committee appointments should be well publicized.

## **B. COMMUNICATION**

Newsletters, mailings, posters, mail-back questionnaires, and other available media should be used in the citizen involvement program.

## **C. CITIZEN INFLUENCE**

**1. Data Collection** - The general public through the local citizen involvement programs should have the opportunity to be involved in inventorying, recording, mapping, describing, analyzing and evaluating the elements necessary for the development of the plans.

**2. Plan Preparation** – The general public, through the local citizen involvement programs, should have the opportunity to participate in developing a body of sound information to identify public goals, develop policy guidelines, and evaluate alternative land conservation and development plans for the preparation of the comprehensive land-use plans.

**3. Adoption Process** – The general public, through the local citizen involvement programs, should have the opportunity to review and recommend changes to the proposed comprehensive land-use plans prior to the public hearing process to adopt comprehensive land-use plans.

**4. Implementation** - The general public, through the local citizen involvement programs, should have the opportunity to participate in the development, adoption, and application of legislation that is needed to carry out a comprehensive land-use plan. The

general public, through the local citizen involvement programs, should have the opportunity to review each proposal and application for a land conservation and development action prior to the formal consideration of such proposal and application.

**5. Evaluation** - The general public, through the local citizen involvement programs, should have the opportunity to be involved in the evaluation of the comprehensive land use plans.

**6. Revision** - The general public, through the local citizen involvement programs, should have the opportunity to review and make recommendations on proposed changes in comprehensive land-use plans prior to the public hearing process to formally consider the proposed changes.

## **D. TECHNICAL INFORMATION**

1. Agencies that either evaluate or implement public projects or programs (such as, but not limited to, road, sewer, and water construction, transportation, subdivision studies, and one changes) should provide assistance to the citizen involvement program. The roles, responsibilities and timeline in the planning process of these agencies should be clearly defined and publicized.

2. Technical information should include, but not be limited to, energy, natural environment, political, legal, economic and social data, and places of cultural significance, as well as those maps and photos necessary for effective planning.

**E. FEEDBACK MECHANISM**

1. At the onset of the citizen involvement program, the governing body should clearly state the mechanism through which the citizens will receive a response from the policy-makers.

2. A process for quantifying and synthesizing citizens' attitudes should be developed and reported to the general public.

**F. FINANCIAL SUPPORT**

1. The level of funding and human resources allocated to the citizen involvement program should be sufficient to make citizen involvement an integral part of the planning process.

# Council Communication

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## Department Update: Economic Development

Meeting Date: March 22, 2021      Primary Staff Contact: Alison Robertson  
Department: Economic Development      E-Mail: alisonr@lincolncity.org  
Secondary Dept:      Secondary Contacts:  
Approval: Ronald F Chandler      Estimated Time: 10 Min

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### **Objective:**

Staff will provide background and an update on City Economic Development efforts.

# Council Communication

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## COVID-19 Update

Meeting Date:	March 22, 2021	Primary Staff Contact:	Ronald F Chandler
Department:	Administration	E-Mail:	RChandler@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	

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1. Promise of more vaccine doses moves up eligibility timeline. Oregon Health Authority Director Patrick Allen last week shared that Oregon expects to get more COVID-19 doses from the federal government in the coming weeks. That means everyone 16 and older will be eligible for COVID-19 vaccinations by May 1. The state will continue to make equity the center of our vaccine distribution efforts, ensuring that seniors, people with underlying conditions, frontline workers, and the Oregonians most vulnerable to COVID-19 have the opportunity for vaccinations as soon as possible.
2. On March 23, 2021 Governor Brown will update County risk level determinations
3. Under the direction of Governor Kate Brown, outdoor capacity limits have been updated for outdoor recreation and fitness as well as outdoor entertainment for Oregon counties. As of March 17, all Oregon counties may allow the following:
 

Lower risk: Maximum 50% occupancy

Moderate risk: Maximum 25% occupancy

High risk: Maximum 15% occupancy

Extreme risk: Maximum 50 people
4. According to data from US Senator Merkley's office, it looks like the estimated federal stimulus allocation Lincoln City is scheduled to receive approx \$1.87M in federal stimulus funds. Eligible uses of funds include:
  - Responding to the COVID-19 public health emergency;
  - Providing premium pay to essential workers;
  - Offsetting lost revenues to provide essential government services;
  - **For water, sewer and broadband infrastructure;**
  - Excludes reducing taxes by legislation, regulation, or administration;

- Excludes deposits into pension funds.

Additionally, Lincoln County will also receive a direct federal allocation of \$9.69M that it might make available for local government projects, so you might want to reach out to your County contacts to request more information.

# Council Communication

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## Echo Mountain Complex Emergency Update

Meeting Date:	March 22, 2021	Primary Staff Contact:	Ronald F Chandler
Department:	Administration	E-Mail:	RChandler@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	

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1. The temporary FEMA Direct Housing site on Logan road is now fully operational and approved applicants have been moving into the trailers since March 8, 2021.
2. Efforts continue in removing burned and dangerous trees throughout the fire area and removal of smaller debris.
3. FEMA has distributed \$1,940,040 for housing assistance and \$459,033 for other needs assistance in Lincoln County.
4. Clean up efforts of hazardous material, ash, and other debris continue throughout the fire area.
5. On March 15, 2021 the City Council met in a work session to discuss the priorities and tasks of three of FY2022 goals. One of the goals discussed is Emergency Preparedness – Maintain and Expand Emergency Preparedness for the Safety of our community. These goals/priority/tasks will be presented to the City Council for their approval on April 12, 2021.