# CITY COUNCIL JANUARY 19, 2016 **AGENDA**
REGULAR MEETING 7:00 PM
City Hall, 1001 Bridge St. Vernonia OR 97064

**Mission Statement**
The City of Vernonia pledges to be an ethical and responsive government using community collaboration to foster leadership and a vision for civic improvement while providing a safe, peaceful, economically viable community.

**1. Call to Order and Pledge of Allegiance – Mayor Parrow**

**2. Additions or Removal of Agenda Items**

**3. Mayor Report**
A. Letter from Barbara Peterson……..p.1
B. Library Board Recommendation Letter for Haley Ayres……p.2
C. Committee Member Application for Haley Ayres……..p.3-4

**4. Presentations**

**5. Councilor Committee Meeting Reports**

**6. Topics from the Floor/Audience Participation**

**7. Consent Agenda for Approval**
A. Library Board Meeting Minutes for December 1st, 2015……p.5-6
B. City Council Meeting Minutes for January 4, 2016……p.7-11
C. City Council Work Session Minutes for January 11, 2016……p.12-14

**8. Unfinished Business**

**9. New Business**
A. Approve Contract between COV and IFA……..p.15-34
B. Designating the Certifying Officer for CDBG Project C15008…….....……..……..p.35
C. Adopt City of Vernonia Excessive Force Policy…….……p.36-37
D. Request to Amend Conservation Easement –Lincoln School…….……p. 38-51

**10. Business from Departments**
**Police Department-**Chief Conner
**City Administration-** Josette Mitchell
-City Administrator Report
**City Financial-**Angie Handegard
-Quarterly Report……..……p.52

**11. Ordinances/Resolutions**

**12. Correspondence**

**13. Items from Mayor, Councilors, City Administrator**

**14. Action Items Summary – City Administrator**

**Adjournment**

***AMERICANS WITH DISABILITIES ACT NOTICE***
Please contact the City Recorder, Vernonia City Hall, 1001 Bridge Street, Vernonia, OR 97064 (Phone No. 503-429-5291) at least 48 hours prior to the scheduled meeting time if you need an accommodation. TCC users please call Oregon Telecommunications Relay Service at 1-800-735-2900.

January 7, 2015

RECEIVED JAN 1 1 2016

Mayor Josette Mitchell
Vernonia, Oregon 97064

Mayor Mitchell:

I am trying to understand the credit given to me by the city council for the high water bills I paid for 5 months due to a leak. I discussed this problem when I paid my current bill yesterday.

I spoke with the secretary of the council. She could not tell me why I was only given a $32.30 credit. She showed me how the council determines how much credit they will give. She ran all the numbers and found my water use was 180. She also told me the council normally gives a credit of 50%. She presented the report to the council and their decision was a credit of $32.30. She could not tell me how they came up with that.

I would like to know if the council made a mistake or did they penalize me for some reason. I would appreciate you looking into this for me.

Thank you--

Barbara Peterson

Barbara Peterson
1410 Roseview Hts.
Vernonia, Oregon 97064

Date: January 5, 2016

To: Vernonia City Council

From: Library Board

Re: Recommendation to Library Board

The Library Board, at the January 5, 2016 committee meeting, recommends by majority vote Haley Ayres for the Library Board. The Library Board made a motion on this recommendation after thoroughly reviewing the application and the applicant's qualifications.

Signed,

(Shannon Romtvedt, Committee Secretary)

(Janelle Cedergreen, Committee Chair)

VERNONIA OREGON

Application for Appointment to Library Committee
(Committee or Planning Commission)

**PLEASE PRINT**

Name Ayres (Last) Haley (First)

Home Address [redacted] (Street) Vernonia (City) 97064 (Zip)

Occupation Home Maker / (Place of Employment)

Business Address

Phone No. Cell Phone No. (541) 786-9821

E-mail haleyayres@hotmail.com

1. Do you reside within the Vernonia city limits? X Yes ___ No

2. Are you a registered voter? X Yes ___ No

3. How did you learn about this vacancy?

Newspaper ___ Word of Mouth X
Notice in the Mail ___ Other (Specify) ___

4. At least two meetings a month or more are required plus significant time reading agenda material. Will you be able to attend these meetings? X Yes ___ No

5. Attendance is important for committee work. Do you think you could meet the goal of a 75% minimum attendance rate of each calendar year. X Yes ___ No

6. What experience/training do you have that qualifies you for this particular appointment and what specific contributions do you hope to make?

I have a bachelor's degree in communication studies, and experience as an information assistant for the USFS. I hope to contribute an optimistic and creative perspective to this appointment.

7. Please give a brief description of your involvement in community groups and activities.

I am a new resident to the Vernonia community, my husband and I (and our two young children) bought a home here this past summer. It is my hope to schedule time as a volunteer at the Vernonia Elementary school were my son attends. We greatly enjoy the Vernonia library and attend nearly all story and craft activities.

4. Please list community topics of particular concern to you that relate to this appointment.

A mild concern of mine is that I am not aware of the specific duties I will be presented and responsible to perform. Hopefully after the first meeting, my duties will be specifide.

5. Please list your reasons for wishing to be appointed.

I am hopeful that I can provide an optimistic perspective and outlook relating to library activities and services. I look forward to interacting and forming relationships with other members of the community through discussions and better providing services to Vernonia library patrons.

I enjoy the library a great deal, and hope to bring an optimistic and creative outlook to the library community.

Return completed application to City Hall, 1001 Bridge Street, Vernonia, OR 97064. Applications accepted until positions are filled. Immediate application recommended.

If applicable, you will be advised when the City Council or Planning Commission will conduct interviews of the applicants. The Planning Commission will make a recommendation to the Council. Plan to be present to discuss your application with the Council or Planning Commission. The Council will endeavor to make its selection at that meeting; however, it may wish to take more time to deliberate before making the appointment.

Information on this form is public information.
Thank you for your expression of interest in serving the community.

Haley B. Agnes
Signature of Applicant

12/8/2015
Date

# Vernonia Library Board

## *Meeting Minutes for*

Tuesday, December 1, 2015
701 Weed Ave
Vernonia, OR 97064
10:30 A.M.

I. Regular meeting was called to order at 10:40 am by Shannon Romtvedt.

II. Board members, Lynn Fulgham, Audeen Wagner, Nancy Burch, and Brandi Fennell were present. Library Director Shannon Romtvedt and Council Liaison Randy Parrow were present. Board members Janelle Cedergreen and Grant Williams were excused.

III. Audeen Wagner made a motion to accept the agenda with a date correction, seconded by Brandi Fennell. Motion passed.

IV. Minutes from November 2015, regular meeting were reviewed. Brandi Fennell made a motion to accept the minutes seconded by Lynn Fulgham. Motion passed.

V. No public comments.

VI. Board member reports on items not on the agenda. None.

VII. Old Business

a. Audeen Wagner passed around a draft of the Books on Wheels Rules and Regulations for Board members to review. The draft was revised from the previous meeting with input from similar programs run by Washington County and Multnomah County Libraries. Brandi Fennell made a motion to approve the draft and submit to City Council for review. Nancy Burch seconded. Motion passed.
b. Library Director, Shannon Romtvedt, proposed a Food for Fines event to be held February 1 – 15. For every non-perishable food item donated, $1 in fines will be waived from a patrons account. Both food and money taken in from fines in that period will be donated to Vernonia Cares. Brandi Fennell made a motion to present the Food for Fines proposal to City Council for approval. Lynn Fulgham seconded. Motion passed.
c. Outdoor grounds maintenance discussion was tabled and will be added to the agenda next meeting.

VIII. New Business

a. Board members reviewed Ordinance No. 880, specifically language related to membership. At a previous city council meeting, it was pointed out that city staff cannot be voting members on a city committee. Library Board currently has 2 library staff on the Library Board. The Ordinance states “all members shall serve without compensation.” Consensus was the language of the ordinance was not clear and did not speak specifically to city staff. Library Director will make a recommendation to City

Council to have Brandi Fennell and Nancy Burch finish out their terms. And to revise the language of the ordinance.

b. Library Director asked if the Oregon State Library Annual Statistical Report was to be submitted to the Library Board and City Council. Board members reported that it has been in the past, but not consistently. Library Director will present the Statistical Report at the next meeting.
c. Library Director asked for suggestions to revise the message automatically sent to patrons 14 days before the account is set to expire as it has been confusing patrons. Board members suggested focusing on "contact information needs to be update" in the message.

IX. Director's report
   a. Library Director passed around the Oregon Humanities catalog with a list of topics available next year. The library plans on doing one Oregon Humanities Conversation Program.
   b. Library Director updated members on upcoming programs.
   c. Board members reviewed the current budget.

X. Reports/recommendations to city administrator or city council.
   a. Food for Fines Event
   b. Books on Wheels Rules and Regulations
   c. Recommendation for revising language in Ordinance No. 880, Section 3 Membership and Compensation.

XI. Agenda items suggested for the next meeting on Tuesday, January 5, 10:30 am.
   a. Outdoor Grounds maintenance
   b. Statistical Report
   c. Study Club Funds

XII. Audeen Wagner made a motion to adjourn the meeting. Lynn Fulgham seconded. Meeting adjourned at 11:40 am.

These minutes were approved at the January 19, 2016 City Council meeting.

_____ _____

Stephanie Borst, City Recorder Randall J. Parrow, Mayor

# CITY COUNCIL JANUARY 4, 2016 **MINUTES**
REGULAR MEETING 7:00 PM
City Hall, 1001 Bridge St. Vernonia OR 97064

**Mission Statement**
The City of Vernonia pledges to be an ethical and responsive government using community collaboration to foster leadership and a vision for civic improvement while providing a safe, peaceful, economically viable community.

1. **Call to Order and Pledge of Allegiance – Kim Tierney**
   Councilor Tierney called the meeting to order at 7:02pm
   In attendance: Councilors Tierney, Seager, Hult, and McNair

2. **Additions or Removal of Agenda Items**……..……..……..p. 1
   Councilor Tierney would like to add two letters from Anderson Park campers.
   Councilor McNair made a motion to approve the agenda. Councilor Tierney seconded, motion passed.

3. **Presentations**

**A.** The Preserve America Program – Michael Calhoun.……p. 2-3
Michael was not able to attend the meeting. Councilor McNair suggested we schedule the presentation for the January 19th meeting if Mr. Calhoun is available.

**B.** Open Air market Year in Review – Bill Langmaid……p. 4
Bill asked last spring for permission to take over Adams Street for the open Air market on Saturdays. Throughout the summer about 20 vendors participated in everything from produce, vegetables, coffee, and homemade goods. Bill would like to begin again in May 2016. Councilor McNair would like to know if there is any revenue source for the city. Bill stated that vendors are charged $5 a week and it is used for signage, advertising, and the rest is given to Hands on Art.

3. **Councilor Committee Meeting Reports**
   No new business to report

4. **Topics from the Floor/Audience Participation**
   1. **Amy Cieloha –** Checking in regarding the last city council meeting, Dec 6 tax issue. Looking for any possible responses. Josette responded that Ruben, the city attorney, will be contacting Amy. Amy is also concerned with the intersection of State Avenue and G Street as there is no barrier preventing cars from falling off the side of State Avenue at the slide location. She acknowledged that the road has been repaired and gravel has been added, but would like to know if a barrier can be added. In her opinion G Street is one of the worse streets in Vernonia when the weather is bad as there is nowhere for cars to go in bad weather. Josette responded that there is really nothing to anchor into for a barrier. The city is looking into having poles added by West Oregon Electric. Counselor Tierney noted that they are looking for a solution but will not be immediate.
   2. **David Mile –** Portland resident moving here at the end of January. He is the fellow we have heard about associated with the old school house being used for cannabis. It is his intention to bring jobs and tax income to the city of Vernonia through the Measure 91 excise tax. He envisions the old Lincoln School like a small boutique winery style cannabis business that will include tours. He would like to make Vernonia a destination. This would not be just a grow operation, but a providence marketing business like the wine industry. In Columbia County, 9564 people voted against measure 91. They would like to grow a business that none of those people would be against.
   3. **Jim Tierney –** Flood recovery diagram. Has a request that council members sign his Flood Recovery Diagram. The diagram was created so that people would know the grief of flooding is not theirs alone. His proposal is to give one of the diagrams to a county commissioner as well as to Betsy Johnson. Jim presented a framed copy for the City of Vernonia.

**6. Consent Agenda for Approval**

A. City Council Meeting Minutes for December 7th, 2015……...…...…p. 5-13
B. City Council Meeting Minutes for December 8th, 2015……...…….…..…p. 14
Councilor McNair motioned to approve the Consent Agenda Items above as presented. Councilor Seager seconded, motion passed.

**7. Unfinished Business**

A. California Avenue/Photo Solutions Project – Ben Fousek……...…….p.15-24
See attached PowerPoint presentation.

We are revisiting the California Avenue development. In 2013, Council approved the city to get an IFA grant for engineering for the road and utilities for California Avenue. The goal is to keep Photo Solutions in town. There are 2 possible sites, one near the old planer shed and the other is a mound that was a result from the wet lands. Since then they have come up with a new, better project plan. By getting infrastructure to the site, Photo Solutions can rebuild and another possible building site will be created. Spencer hill sewer issues will also be brought up to spec. Emergency management and ODOT have an issue with the current road structure due to no viable bypass in case of a blockage on Hwy 47. The initiative needs to be made to get this project going. Dec.18th flood buyout extension pushes the deadline to March 2017 when the current site needs to be a bare site. Brad, the owner of Photo Solutions, would like to know that the city is still vested in the project.

Councilor Tierney asked if the city wanted approval. City Administrator Mitchell stated that they would like to know if Council is on board. The project partners would like reassurance of city approval. GIS analyst Fousek stated that the city is showing support by showing plans for the 'dream road' and that full build out of the project will be pitched.

Councilor McNair would like to state his excitement for the project and that we are picking up the ball on the project. He is thrilled to see a business in Vernonia with family wage jobs and real economic return. He loves seeing the mill site finally being utilized and that there are several benefits to this project. Councilor Hult and Seager are in agreement as well.

Consensus was to direct staff to bid out for engineering for California Avenue project and contact OTAK to provide estimate for Spencer Hill sewer issue. Council will then direct staff to release SDC funding. Councilor McNair motioned to direct staff to move forward with the three projects. Councilor Seager seconded, motion passed.

B. Anderson park letters

New park hosts are helping to maintain the park. It was found that the park rules were not being enforced. They have started enforcing the rules and everyone is now under a 7 day limit. There are currently 3 monthly spots which will phase out. The majority of the park is in the flood way and FEMA does not like anyone living long term.

Three campers took the floor and addressed Council:

**Rose -** asked permission to be moved after sliding in the flood. Her trailer was towed thru 3 ft. of water and now has water damage. Would like to pay her payment but is on a fixed income. She can either fix her trailer or pay her park fees. Unfortunately, she cannot leave unless it is fixed. She would like some direction on what to do.

**Kim -** Would like leniency as she cannot fix her truck and pay her park fees. She would like it noted that she has been honest about owing and has not been behind in payment until now.

**Tony Guerrero** – Has been there 3 months and usually pays early but doesn't know if he can afford to pay if the rent is increased. Policy is $25 for hookups and $14 for dry camping. He has only been paying $14 and cannot afford the increase.

The city is trying to keep people from losing everything in a flood. In order to do so they need to keep stays short term. The City is trying to send people to Nehalem View but the new owner will not accept RV's older than 2000 and they must be in good condition. The rule at Anderson is the same but has not been enforced.

Two letters from campers who are recovering from surgery and would like leniency were presented. One person had a serious car accident and the other had cancer surgery. They are current on payment and would like to stay thru this month as they recover. In the mean time they will be looking for other residency. All weekly campers at the park are at the 7 day deadline tomorrow, five campers of which are unpaid. City Administrator Mitchell stated that typically when these extensions are given a letter is signed by both parties. Councilor Seager stated that we should grant the extension to the end of the month. Councilor Hult is in agreement. Councilor McNair would like the Council to come to an agreement that Anderson is not a residential camp ground. He would like to see management oversee the park host and enforce the rules. Councilor Seager notified Council that historically long term stays were allowed. Councilor McNair believes that we need to take a stand and follow the rules. We aren't trying to be unreasonable, it is just unsafe. We need to be clear that the rules are rules and they need to be followed. There is an issue in this country with homelessness, but letting people stay at the park long term is not the solution. We, as the council, need to try and solve the homeless population problem.

Councilor Tierney asked if there was any concern if we were to give the end of January deadline to the campers. Administrator Mitchell is concerned about billing and would like to know how staff should handle those who are hundreds of dollars behind. Councilor McNair proposes that we cut off water and power, but leave sewer on. If they are paid up they should keep utilities. He is not concerned about the rent, more that we enforce the deadline. Park Superintendent McMahon is in agreement. Council and Administrator Mitchell are concerned about cutting off power due to weather. Councilor Tierney request to hear positions.

Councilor Seager would like to allow those in good standing to be allowed to stay until the end of the month as well as the two whom submitted letters. The campers who are behind in payment should be asked to leave.

Councilor Hult hopes this problem is corrected with new hosts. She definitely agrees that it isn't exactly fair to treat those who are current the same as those who are not. She doesn't think we should punish the renters for others mistakes. We should keep charging what we are currently charging thru the end of the month.

Councilor Tierney would like to know if we should let people whom brought accounts current, at $14 a day, stay thru the 31st. If they cannot bring accounts current they need to leave per the 48 hour policy.

Councilors Seager and Hult are concerned about those whom are current are paying $25 a day if we allow the others to pay $14. Administrator Mitchell proposed that we make January a $14 a day month as we cannot charge two different fees. And that we should credit those whom have already paid. The Council consensus was to allow those whom are current to stay thru the 31st for $14 a night. Those whom are not current will need to be brought current, or leave within 48 hours. Those whom are on a monthly agreement can be there until they move. At that time the monthly spot will be eliminated.

**8. New Business**

A. Staff Report: Water Leak at 784 Spencer Avenue……...…….……...…….p. 25

City Administrator Mitchell stated that the leak was over a two month period. Over this period, 81,100 gallons were used of which 74,600 was due to the leak. The cost of the leak was $317. This project was not a city project but was funded by the city thru a subcontractor. Councilor McNair is not usually in favor of bill forgiveness but it is obvious that this is the cities issue from lack of oversight at the time of the project. He would like to make sure public works keeps an eye out for any more of these hidden meters. Councilor McNair motioned for forgiveness of the leak charge and adjustment of the raised bill. Councilor Seager seconded, motion passed. Jessica Ray would like the city to look into washed out gravel from the leak. Public Works Foreman Burch will look into repairing the gravel.

B. Discussion with City Legal regarding Marijuana related activities- Ruben Cleaveland

City Administrator Mitchell notified attendees that the question is regarding cannabis clubs and whether or not council would need to enact an ordinance if we didn't want to allow the clubs. Mr. Cleaveland said the Oregon Indoor Clean Air Act really covers that but would like to have a discussion to clarify the OLCC changes that have happened with recreational licenses. Vernonia's natural choice did apply and get sign off for a recreational license.

Councilor Hult would like to allow the gentleman who are looking at the old Lincoln school to chime in. Steve Soleman - This is a new industry and the state does not know how to handle it. He is ready to challenge the city legally. They will not be 'pushed to the back of the bus and ignored'.

Councilor Tierney would like clarity on cannabis clubs and what the laws are. Mr. Cleaveland explained that Measure 91 doesn't address private clubs. The closest is that it decriminalizes smoking marijuana but doesn't address regulations. OLCC has a broad breast of power for regulations and may address clubs. They keep delaying and are now pushed to October 2016 for addressing it. There is an indoor smoking law and under that law, employees have the right a smoke free environment, it would disallow smoking in clubs. All businesses need to comply with the law which now addresses cannabis smoking. This is the most directly related regulation that addresses the clubs.

Also, you cannot have a retail site at the same location as where you grow marijuana, per measure 91. Marijuana clubs would have to be locations where people bring their own marijuana and not a grow site or retail outlet. This is addressed by Measure 91 as modified by the house and senate bills.

Some jurisdictions are banning marijuana and won't allow it in the town at all. The problem with this is that when it is banned, you lose Tax revenue. In order to ban marijuana in Columbia County it would have to be banned by voters. Some eastern counties are banning businesses but ultimately can't ban private use.

Per Measure 91, cities can put reasonable regulations on marijuana businesses. For example, they can regulate how close marijuana businesses are to each other or operating hours. Measure 91 does not address private clubs, more the commercial aspect of it. In consensus, Measure 91 and the Clean Air Act would disallow indoor smoking clubs.

In regards to the Lincoln school building, the conservation easement means that anything that is illegal under federal law cannot occur on that premises. Marijuana is still a schedule 1 illegal substance so cannot occur on that property.

Councilor Tierney would like to mention that at the time, use and manor restrictions were discussed that marijuana businesses could not be more than 1000' from each other but no decision was made. She would like to revisit this in regard to recreation marijuana use.

**9. Business from Departments**

A. Police Department – Chief Conner

There were many weather related accidents. The new police Officer is getting ready to start Police Academy.

Councilor Tierney would like to know what happens when all of the officers are out of town. Chief Conner reiterated that in the event there is no Vernonia Police officer on duty, the sheriff's office will be on duty.

B. City Administrator Report – J. Mitchell

City Administrator Josette Mitchell presented her report.

Council would like to formally welcome new Camp hosts Adam and Melinda.

See attached document for Storm and Flood overview.

City staff would like to have notices sent out to residents to make aware of needed clean up to prevent flooding issues. Councilor Tierney is concerned about flooding of mechanical businesses and could potentially spill hazardous waste. GIS Annalist Fousek said businesses affected this time took initiative and got all hazardous waste up and away from the water.

**10. Ordinances/Resolutions**

A. Ordinance 909: Amendments to Title 3……..……...…….p. 26-27

Motion to adopt Ordinance 909 Amending Title 3 Section 3-06 Livestock and Domesticated Fowl made by Councilor Tierney, All in favor.

**11. Correspondence**

None

**12. Items from Mayor, Councilors, City Administrator**

IFA Grant Work Session scheduled for Monday, January 11, 2016 at 7:00

**13. Action Items Summary – City Administrator**

Council directed staff to move forward with IFA process to procure Engineering for California Avenue

Council directed staff to ask OTAK for a bid for engineering the Spencer Hill sewer issue

Council directed staff to adjust the Ray's account by 317.05 because of water charge from water box breaking the water line

Council directed staff to put in work order for Spencer Avenue washout

Council approved by consensus the rate of 14.00 a night, until Jan. 31st at 12noon, staff will make sure campers are current and have them sign a letter stating they understand the issue and rate and stay limit

Staff will meet with Council on Jan 11th to go over the IFA CDBG grant process

**Adjournment**

Counselor Tierney adjourned the meeting at 9:47pm

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These minutes were approved at the January 19th, 2016 City Council Meeting.

_____ _____

Stephanie Borst, City Recorder Randall J. Parrow, Mayor

CITY COUNCIL JANUARY 11, 2016
WORKSESSION 7:00 PM
City Hall, 1001 Bridge St. Vernonia, OR 97064

**Mission Statement**
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# MINUTES

## 1. Call to Order -- Mayor Parrow

Mayor Parrow called the meeting to order at 7:10pm.
In Attendance: Councilors Seager, Tierney, Hult, and McNair

## 2. Additions or Removal of Agenda Items

There were no additions to the agenda. Councilor McNair motioned to accept the agenda as written, all in favor.

## 3. New Business

- Discussion Regarding CDBG Processes – Jim Tierney
  **General process overview** – The contract for the Grant has been received and we have 10 days to review and return it. The Oregon Community Development Block Grant (CDBG) is federally funded and is provided thru the state but is regulated both at the state and federal level. CDBG is going to look very closely at the process and will make sure that we follow the state rules. Jim had stated previously that he thought the state wanted CASA Oregon to be the go to Grant Administrator. He feels that this is too important to go this route and that the application process needs to be made public to keep the Block Grant successful. Grant Administration is there to make sure we are compliance with federal and state law. In years past, CDBG expected the cities to go thru this process on their own. The problem is that this is an awful lot to know, and most cities don't have someone as capable as our City Administrator, Josette Mitchell. That is not the case anymore, CAT (The Community Action Team) is here to provide whatever help the city or county needs. Grant Administration can be provided in house, but the grant will not pay for that expense.
  **Discussion -** Councilor McNair would like confirmation that we have already been awarded the grant and that now all we need to do is administer it. Jim confirmed. Councilor McNair stated that there are many CAT employees in our community and as long as CAT has the capacity to handle this job, he would like to see the money stay in our community. Jim notified Councilor McNair that CAT has already been heavily involved in the application process and will continue to help but will not be doing all of the work. From CATs point of view, this is ideal.
  In addition to the grant administration there are project management needs. They will oversee budget, building processes, etc. This position will need to be appointed via a public process.

The City of Vernonia is the developer of this project and will be responsible for the success. CAT is here to help direct the project as they have already been retained by the Senior Center and the Food Bank to do project management. They will act as a middle man between the City and the project owners (Senior Center & the Food Bank) to assure the project stays on budget and is managed correctly. This service will not cost the city, as they were retained by the project owners.

Councilor Tierney asked if Council could get a chart describing the responsibilities of involved parties. Jim said that it would be very difficult to accurately chart responsibilities as it is not something that can fit on one page. He is more than happy to discuss responsibilities, in detail, with Council.

Susan Wagner has provided an explanation of how the Grant process works (See attached).

The City of Vernonia will need to hire a Grant Administrator, Architect, and a Contractor. The Chief Environmental officer will assure the project complies with Presidential Directives. (IE flood plains, endangered species, etc.). An architect will also need to be hired based on qualifications, not cost. Grant administration is very specific to meeting the requirements of the manual. They will need to assure all aspects of the requirements are met. CAT has provided this service in the past, but has not been hired to provide this service for this project. The City of Vernonia needs to accept bids from those interested in providing Grant Administration (ex: CASA or CAT). The hiring process for these positions is very intricate and needs to be in compliance with state hiring laws.

We will also need to do a fair housing activity. Sue Wagner advised that the first thing we will need to do is order fair housing posters in English. Then HUD will provide options for setting the activity.

Council does not need to take action tonight as the contract will not be presented until the Council Meeting on January 19th. At that time Council will also need to identify who the Chief Environmental Officer will be for the project. Meanwhile Council may want to discuss what processes and qualifications they would like for the bid process. Susan and Jim will stay in touch with the City Administrator to keep her updated on the process.

Jim recommends that Council work with him to come up with a set of qualifications for RFP. Council can set whatever qualifications they would like, for example past CDBG administration experience.

The City Council and Jim Tierney also discussed the process for putting together bid requirements. He recommends that council include options in the bid so that the scope of work can be adjusted depending on how construction is moving along. This will give the city more control over the project.

Councilor McNair raised the question of what the budget was for hiring the discussed positions. It was discussed that although the City Administrator can fill the need for a Grant Administrator, the Grant will only pay for an outside firm to be used. The allowed budget for these positions is $15,000 for Environmental Review, $25,000 for Grant Administration, and $15,000 for Labor Standards Compliance. These positions could be contracted on an hourly basis and any unused moneys could then be requested to be moved to other areas of the budget.

Mr. Tierney and Susan Wagner recommended that Council take some time to look thru the packet that was provided for them and become familiar with the regulations and processes.

**4. Adjournment**

Mayor Parrow adjourned the meeting at 7:57pm.

These Minutes were approved at the January 19th, 2016 City Council Meeting.

| | |
|---|---|
| Stephanie Borst, City Recorder | Randall J. Parrow, Mayor |

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# CITY OF VERNONIA

## CITY COUNCIL AGENDA ITEM

**January 19, 2016**

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From: Josette Mitchell, City Administrator
To: Mayor and City Council
Re: IFA Contract Acceptance

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Agenda Item Summary:

The City applied for a CDBG grant in September of 2015 to fund the building of a new Senior Center and Food Bank for Vernonia citizens. The City was awarded the grant in the amount of 2,000,000 dollars. There are many steps the City needs to take to follow the process required by IFA the funding source for CDBG programs in the State of Oregon. The first element required is for City Council to approve the contract attached and authorize the Mayor to sign it. City legal has reviewed and approved the signing of this contract.

Attachments:

- CDBG Contract letter
- CDBG Contract between the City and IFA
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business oregon

IFA Infrastructure Finance Authority

December 22, 2015

The Honorable Randy Parrow
Mayor of Vernonia
c/o Josette Mitchell, City Administrator
1001 Bridge Street
Vernonia, OR 97064

RE: Oregon Community Development Block Grant, City of Vernonia, Rose Avenue Senior Center Food Bank Design and Construction, Project Number C15008, ($2,000,000)

Dear Mayor Parrow:

Attached to this email are all the financing documents for your project, numbered as follows:

1. **Contract**
2. **Signature Card**, which authorizes cash drawdowns for the project
3. **Deposit Option Notification** form

Please refer to the Checklist of Contract Documents and Instructions on the next page for handling the above documents.

Also attached for future use is a **Disbursement Request** form.

We are anxious for your project to succeed and wish to extend any help you need. Please contact Regional Coordinator Melanie Olson at 503-842-4045 or Melanie.Olson@Oregon.gov if you have any questions.

Sincerely,

Robert Ault, Interim Assistant Director
Infrastructure Finance Authority

Infrastructure Finance Authority/C15008 Vernonia Letter.docx

Recipient: City of Vernonia

Project Number: C15008

# CHECKLIST OF CONTRACT DOCUMENTS AND INSTRUCTIONS

Please use the following checklist to ensure that all documents have been completed, and return all contract documents as soon as feasible, but not later than 60 days.

1. ☐ **Contract** signed and dated by the authorized official. Please return signature page only. (The authorized official must also sign Exhibit B, which is a Certification of Compliance, and, for grants of $100,000 or more, Exhibit C, which is a Certification Regarding Lobbying.)
2. ☐ **Signature Card** with certification by the authorized official. Please return the complete document.
3. ☐ **Deposit Option Notification** form. Please return the complete form. If you choose to have funds electronically deposited in a financial institution (and not the Local Government Investment Pool), please follow the provided link and send a **Direct Deposit Authorization** form (SFMS ACH-1) to the Oregon Department of Administrative Services.

Please let your Regional Coordinator know how you would like to receive the final contract documents, once signed by the IFA.

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Document provided for your future use:

**Disbursement Request Form**. This form is provided in Excel format for you to fill out and submit to your Regional Coordinator as needed once your project is underway.

Later in your project, your Regional Coordinator will provide any necessary report forms.

**STATE OF OREGON**
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
GRANT CONTRACT

"Rose Avenue Senior Center - Food Bank Design and Construction"

This Contract, number C15008, dated as of the Effective Date (as defined below), is made by the State of Oregon, acting by and through its Oregon Infrastructure Finance Authority ("IFA"), and the City of Vernonia, Oregon ("Recipient").

The parties agree as follows:

## SECTION 1 - CONTRACT

This Contract shall include the following, which are by this reference incorporated herein and which, in the event of inconsistency between any of the terms, are to be interpreted in the following order of precedence:

A. this Contract without any Exhibits;

B. Special Conditions of Award, attached as Exhibit A;

C. Recipient's Certification of Compliance with State and Federal Laws and Regulations and Certification Regarding Lobbying, attached as Exhibit B and Exhibit C, respectively;

D. A description of the project approved by IFA (the "Project"), attached as Exhibit D;

E. Approved Project budget showing breakdown of sources of funds, attached as Exhibit F, which supersedes any prior drafts of the Project budget, including, but not limited to, the Project budget that is in Recipient's application dated 2 Nov 2015 ("Application"); and

F. Information Required by 2 C.F.R. § 200.331(a)(1), attached as Exhibit E.

## SECTION 2 - GRANT

In reliance upon Recipient's Application and Certification of Compliance with State and Federal Laws and Regulations and Certification Regarding Lobbying as described in Exhibit B and Exhibit C, respectively, and subject to the terms and conditions of this Contract, IFA agrees to provide Recipient funds in the amount of **$2,000,000**, the use of which shall be expressly limited to the Project and the activities described in Exhibit D. The use of these funds is also limited to the approved Project budget in Exhibit F and subject to the Special Conditions of Award in Exhibit A.

Subject to the terms and conditions of this Contract, including but not limited to the authorization described in Section 3 below, IFA shall disburse the grant funds to Recipient on an expense reimbursement basis after IFA's receipt and approval of disbursement requests from Recipient, each on a disbursement request form provided by IFA.

## SECTION 3 - FURTHER AUTHORIZATION

In addition to the requirement in Section 2 for Recipient to obtain IFA's approval for its disbursement request, which shall be on the form provided by IFA, the obligation or expenditure of funds by Recipient for the approved activities described in this Contract is prohibited without the further express written authorization of IFA, except that such funds may be obligated or expended by Recipient for activities that are exempt as specified in 24 C.F.R. §58.34 (2003), provided that each exempt activity or project meets the conditions specified for such exemption under the cited section.

## SECTION 4 - PROJECT COMPLETION DATE; EFFECTIVE DATE

A. The approved grant activities **must be completed within 36 months** from the Effective Date ("Project Completion Date"). This Contract shall become effective on the date ("Effective Date") this Contract is fully executed and approved as required by applicable law.

B. By the Project Completion Date, all Project activities must be completed (except for the submission of the project completion report on a form provided by IFA), and all disbursement requests (except disbursement requests for audit costs, if applicable) must be submitted. Unless exempt from federal audit requirements, the audit for the final fiscal year of the Project shall be submitted to the Oregon Business Development Department as soon as possible after it is received by Recipient, but in any event no later than December 31 after the Project Completion Date.

## SECTION 5 - RECIPIENT'S COVENANTS - COMPLIANCE WITH LAWS

A. Recipient agrees to comply, and cause its agents, contractors and subgrantees to comply, with all applicable state and federal laws, regulations, policies, guidelines and requirements with respect to the use of and the administration, distribution and expenditure of the funds provided under this Contract, including but not limited to the following:

(1) Title I of the Housing and Community Development Act of 1974, 42 U.S.C. §§5301-5321 (1994) (the "Act") and with all related applicable laws, rules and regulations, including but not limited to Sections 109 and 110 of the Act.

(2) Section 104(d) of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. §5304(d) (1994), and the regulations promulgated pursuant thereto, and 12 U.S.C. §1735b (1994).

(3) Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. §1701u (1994) (employment opportunities to lower income people in connection with assisted projects), and the regulations promulgated pursuant thereto, 24 C.F.R. §135.38 (1997). Recipient shall cause or require the Section 3 clause in 24 C.F.R. §135.38 (1997) to be inserted in full in all contracts and subcontracts exceeding $100,000 for Section 3 covered construction projects receiving more than $200,000 under this Contract.

(4) Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, 42 U.S.C. §§4601-4655 (2005), and the regulations promulgated pursuant thereto, 49 C.F.R. §§24.1-24.603 (2005);

(5) Davis-Bacon Act, as amended, 40 U.S.C. §§3141 to 3144, 3146 and 3147 (2002); 42 U.S.C. §5310 (1994) (applicable to the rehabilitation of residential property by laborers and mechanics in the performance of construction work only if such property contains not less than eight (8) units); and the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§327-333 (1994), and all regulations promulgated pursuant thereto and all other applicable federal laws and regulations pertaining to labor standards.

(6) ORS 279C.815 that in certain cases requires the higher of either the state prevailing wage rates or federal Davis-Bacon Act rates be paid to workers on projects in Oregon. Recipient will obtain applicable rates to be paid to workers and other requirements of ORS 279C.815 from the Oregon Bureau of Labor and Industries.

(7) Hatch Act, 5 U.S.C. §§7321-7326 (1994) (limiting the political activity of <u>some</u> employees).

(8) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d (1994), and the regulations promulgated pursuant thereto, 24 C.F.R. §§1.1-1.10 (1997). Recipient will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of federal financial assistance extended to Recipient, this assurance shall obligate Recipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

(9) Title VIII of the Civil Rights Act of 1968, as amended, popularly known as the Fair Housing Act, 42 U.S.C. §§3601-3631 (1994), *as amended by* Pub. L. 104-76, §§1-3 109 Stat. 787 (1995); Pub. L. 104-66, Title I, §1071(e), 109 Stat. 720 (1995); Pub. L. 90-284, Title VIII, §814A, as added Pub. L. 104-208, Div. A, Title II, §2302(b)(1), 110 Stat. 3009-3421 (1996); Pub. L. 104-294, title VI, §604(b)(15), (27), 110 Stat. 3507, 3508 (1996)

(10) Exec. Order No. 11,063, 46 F.R. 1253 (1962), *reprinted as amended in* 42 U.S.C. §1982 (1994) and the regulations promulgated pursuant thereto, 24 C.F.R. §§107.10-107.65 (1997).

(11) Exec. Order No. 11,246, 30 F.R. 12319 (1965), *as amended by* Exec. Order No. 11,375, 32 F.R. 14303 (1967), *reprinted in* 42 U.S.C. §2000e (1994), and the regulations promulgated pursuant thereto, 41 C.F.R. §§60-1.1 to 60-999.1 (1997)

(12) Age Discrimination Act of 1975, 42 U.S.C. §§6101-6107 (1994).

(13) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (1994).

(14) Section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. §4822 (1994), and the regulations promulgated pursuant thereto, 24 C.F.R. §§35.1-35.98 (1997).

(15) Architectural Barriers Act of 1968, 42 U.S.C. §§4151-4157 (1994).

(16) Copeland Anti-Racketeering Act, 18 U.S.C. §1951 (1997).

(17) ORS §§294.305-294.565 and other applicable state laws for county and municipal administration.

(18) Special program and grant administration requirements imposed by IFA related to the acceptance and use of funds provided under this Contract (which requirements have been approved in accordance with the procedures set forth in the Grant Management Handbook, and IFA's 2015 Program Guidelines (Method of Distribution), which includes requirements regarding "Outcome Performance Measurement Reporting" by Recipient.

(19) Economic benefit data requested by IFA from Recipient on the economic development benefits of the Project, from the Effective Date of this Contract until six (6) years after the Project Completion Date. Upon such request by IFA, Recipient shall, at Recipient's expense, prepare and file the requested data within the time specified in the request. Data shall document specific requested information such as any new direct permanent or retained jobs resulting from the Project and other information to evaluate the success and economic impact of the Project.

B. When procuring property or services to be paid for in whole or in part with Community Development Block Grant ("CDBG") funds, Recipient shall comply with the Oregon Public Contracting Code (ORS Chapters 279A, 279B, and 279C, as applicable), Chapter 137 (Divisions 046, 047, 048 and 049) of the Oregon Administrative Rules, and ORS Chapter 244, as applicable. The State of Oregon model rules for public bidding and public contract exemptions shall govern procurements under this Contract if Recipient or its public contract review board does not adopt

those, or similar, rules. If Recipient or its public contract review board has adopted similar rules, those rules shall apply.

All employers that employ subject workers who under this Contract in the State of Oregon shall comply with ORS §656.017 and provide the required Worker' Compensation coverage, unless such employers are exempt under ORS §656.126. Contractor shall insure that each of its subcontractors comply with these requirements.

C. Federal audit requirements. The Loan is federal financial assistance, and the Catalog of Federal Domestic Assistance ("CFDA") number and title is "14.228 Community Development Block Grant."

(1) If Recipient receives federal funds in excess of $750,000 in the Recipient's fiscal year, it is subject to audit conducted in accordance with the provisions of 2 C.F.R. part 200, subpart F. Recipient, if subject to this requirement, shall at its own expense submit to IFA a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to IFA the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Contract.

(2) Audit costs for audits not required in accordance with 2 C.F.R. part 200, subpart F are unallowable. If Recipient did not expend $750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the funds received under this Contract.

(3) Recipient shall save, protect and hold harmless IFA from the cost of any audits or special investigations performed by the Federal awarding agency or any federal agency with respect to the funds expended under this Contract. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and the State of Oregon.

## SECTION 6 - OTHER COVENANTS OF RECIPIENT

A. The activities undertaken in this grant must meet one of three national objectives established by the U.S. Congress. Recipient covenants the activities it will undertake with the grant will meet the following national objective (check one):

(X) (1) Activities primarily benefitting low- and moderate-income persons; (24 C.F.R. 570.483(b))

( ) (2) Activities which aid in the prevention or elimination of slums and blight; (24 C.F.R. 570.483(c))

( ) (3) Activities designed to meet community development needs having a particular urgency; (24 C.F.R. 570.483(d))

B. No employee, agent, consultant, officer, or elected or appointed official of Recipient, or any subrecipient receiving CDBG funds who exercises or has exercised any functions or responsibilities with respect to CDBG activities assisted by the grant made pursuant to this Contract or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have, shall have any interest, direct or indirect, in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, for themselves or those with whom they have family or business ties, during his or her tenure or for one year thereafter.

Recipient shall also establish safeguards to prohibit employees from using their position for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

C. Recipient shall incorporate, or cause to be incorporated, in all purchase orders, contracts or subcontracts regarding the procurement of property or services paid for in whole or in part with CDBG funds any clauses required by federal statutes, executive orders and implementing regulations.

Recipient shall, and shall cause all participants in lower tier covered transactions to include in any proposal submitted in connection with such transactions the certification that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation from the covered transaction.

D. Recipient shall insert a clause in all documents prepared with the assistance of grant funds acknowledging the participation of federal and state CDBG funding.

E. Recipient shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles for state and municipal corporations established by the National Committee on Governmental Accounting in a publication entitled "Governmental Accounting, Auditing and Financial Reporting (GAAFR)." In addition, Recipient shall maintain any other records pertinent to this Contract in such a manner as to clearly document Recipient's performance. For fair housing and equal opportunity purposes, and as applicable, Recipient's records shall include data on the racial, ethnic and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program. Recipient acknowledges and agrees that IFA and the Oregon Secretary of State's Office and the federal government (including but not limited to U.S. Department of Housing and Urban Development ("HUD"), the Inspector General, and the General Accounting Office) and their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of CDBG funds and necessary to facilitate such reviews and audits in order to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all such books, accounts, records, reports, files, and other papers, or property for a minimum of three (3) years from closeout of the grant hereunder, or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

Recipient shall provide citizens with reasonable access to records regarding the past use of CDBG funds consistent with state and local requirements concerning the privacy of personal records.

F. The grant made pursuant hereto shall be conducted and administered in conformity with the Civil Rights Act of 1964, 42 U.S.C. §§2000a-2000e (1994), and the Fair Housing Act, and Recipient will affirmatively further fair housing.

G. Recipient will not attempt to recover any capital costs of public improvements assisted in whole or part with CDBG funds by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

(1) such funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under the Act; or

(2) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, Recipient certifies to HUD that it lacks sufficient CDBG funds to comply with the requirements of (1).

H. Recipient will assume all of the responsibilities for environmental review, decision-making and action pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. §4321-4370(d) (1994) ("NEPA"), and such other provisions of law that the applicable regulations specify that would otherwise apply to HUD federal projects, in accordance with Section 104(g) of the Act, 42 U.S.C. §5304(g) (1994). Recipient shall provide such certification as required by the Secretary of HUD. Recipients will perform reviews in accordance with 24 C.F.R. §58 (2003) and the other federal authorities listed at 24 C.F.R. §§58.5 (2003).

I. All non-exempt Project activities must be reviewed for compliance with 36 C.F.R. §§800.1-800.15 (Protection of Historic Properties) and Exec. Order No. 11,988, 42 Fed. Reg. 26951 (1997), *reprinted as amended in* 42 U.S.C. §4321 note (1994) (Floodplain Management), and Exec. Order No. 11,990, 42 Fed. Reg. 26961 (1997), *reprinted as amended in* 42 U.S.C. §4321 note (1994) (Protection of Wetlands).

J. Recipient has adopted and will enforce (1) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations and (2) a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction in accordance with Section 104(l) of the Act.

K. Recipient shall execute, and shall cause its first tier contractors or subrecipients receiving subcontracts exceeding $100,000 to execute and file with Recipient, the certification set forth in Exhibit C hereof.

L. No lead-based paint will be used in residential units.

M. Recipient shall provide to IFA documentation of Recipient's efforts and results in meeting the performance measures contained in IFA's 2015 Program Guidelines (Method of Distribution). Recipient's accomplishment of such performance measures or its failure to do so will be considered by IFA when awarding future grants.

## SECTION 7 - DETERMINATION

IFA has made the determination that Recipient is a subrecipient, in accordance with 2 CFR § 330. Recipient agrees to monitor any local government or non-profit organization subrecipient to whom it may pass funds.

## SECTION 8 - TERMINATION

A. IFA reserves the right to terminate this Contract immediately upon notice to Recipient:

(1) if Recipient fails to perform or breaches any of the terms of this Contract; or

(2) if Recipient is unable to commence the Project within four (4) months following the Effective Date of this Contract; or

(3) if IFA, the Oregon Business Development Department or the Oregon Community Development Block Grant Program fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to carry out the terms of this Contract; or

(4) if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the grant made pursuant to the terms of this Contract or payments to be made hereunder are prohibited.

B. IFA may impose sanctions on Recipient for failure to comply with provisions of this Contract or OAR Chapter 123, Division 80. When sanctions are deemed necessary, IFA may withhold unallocated funds, require return of unexpended funds, require repayment of expended funds, or cancel the Contract and recover all funds released prior to the date of notice of cancellation.

## SECTION 9 - MISCELLANEOUS

A. IFA's obligations are subject to receiving, **within 60 days of receipt**, this Contract, duly executed by an authorized officer of Recipient, and such certificates, documents, opinions and information that IFA may reasonably require.

B. IFA and Recipient are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

C. Except as otherwise expressly provided in this Contract, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, certified or registered mail, postage prepaid, to IFA or Recipient at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section 9.C. Any notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against IFA, such facsimile transmission must be confirmed by telephone notice to the IFA/Oregon Business Development Department at 503-986-0123. Any notice by personal delivery shall be deemed to be given when actually delivered.

D. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

   Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

   Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

E. This Contract and attached exhibits (which are by this reference incorporated herein) constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. No waiver, consent, modification or change of terms of this Contract shall bind either party unless in writing and signed by both parties and all necessary state approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of IFA to enforce any provision of this Contract shall not constitute a waiver by IFA of that or any other provision.

Recipient, by the signature below of its authorized representative, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

**STATE OF OREGON**
acting by and through its
Oregon Infrastructure Finance Authority

775 Summer Street NE, Suite 200
Salem, OR 97301-1280
Phone 503-842-4045

By: _____
Robert Ault, Interim Assistant Director

Date: _____

**CITY OF VERNONIA**

1001 Bridge Street
Vernonia, OR 97064
Phone 503-429-5291

By: _____
The Honorable Randy Parrow
Mayor of Vernonia

Date: _____

**APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:**

/s/ Cynthia Byrnes, as per email dated 16 Dec 2015
Cynthia Byrnes, Assistant Attorney General

Exhibit A: Special Conditions of Award
Exhibit B: Certification of Compliance
Exhibit C: Certification Regarding Lobbying
Exhibit D: Project Description
Exhibit E: Information Required by 2 C.F.R. § 200.331(a)(1)
Exhibit F: Project Budget

## EXHIBIT A - SPECIAL CONDITIONS OF AWARD: COMMUNITY FACILITY GRANT

Special conditions for a CDBG grant are set forth below, applicable as determined by the nature of the Project.

1. All matching funds must be secured in writing within four (4) months following the Effective Date of this Contract or the Contract may be terminated. In any case, IFA will not disburse CDBG funds until Recipient provides IFA with evidence that all Project matching funds have been received by Recipient.
2. All Project-related contracts must be received by IFA ten (10) days before they are signed. This includes all Project-related contracts between Recipient and any person or entity who will be administering the grant or performing services under a personal services contract. All Project-related bid documents must be received by IFA at least ten (10) days before they are advertised.
3. Where the approved Project budget includes local funds and CDBG funds for a specific line item activity, those local funds must be expended before Recipient can request CDBG funds for the activity, unless otherwise authorized by IFA.
4. Any local funds remaining in an approved non-construction budget line item when that line item activity is completed shall be transferred to the construction line item and shall be expended in accordance with paragraph 3 hereof.
5. Prior to the approval of the first drawdown of grant funds for this Project, Recipient shall provide the following to IFA:
    a. Copy of an adopted Fair Housing resolution and evidence that this resolution has been published within six (6) months prior to the grant drawdown.
    b. Copy of a completed self-evaluation checklist required by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (1994) or the Americans with Disabilities Act of 1990, 42 U.S.C. §§12111-12213 (1994).
6. Prior to approval of the first disbursement of grant funds for a construction line item of this Project, Recipient shall provide the following to IFA:
    a. Evidence that all contractors have been informed of the applicable labor standards requirements for this Project. If the Project has a general contractor, notes or minutes of the preconstruction conference or meeting signed by the general contractor will be required. If Recipient is acting as general contractor and no preconstruction conference is held, Recipient shall submit a preconstruction checklist signed by each specialty contractor.
    b. Notice of the Start of Construction which includes the Project name and location, date of bid opening, date of award, name of general contractor, and the number of the applicable federal Davis-Bacon wage decision included in the construction contract. If there is no general contractor, a notice shall be completed for each specialty contract.
    c. Copies of the required certified payroll reports from the general contractor and subcontractors whose work is covered by the disbursement request on a form provided by IFA.
7. If Recipient has received more than one CDBG grant per program year or has more than one open grant, Recipient must undertake at least one activity, in addition to adopting and publishing a Fair Housing resolution, to promote fair housing opportunities in its community.

8. a. Change of Use Requirements.

The following condition shall be in effect until five (5) years following the date of issuance by IFA of a Certificate of Completion for this Project:

(1) The real property or facility acquired or improved in whole or in part under this Contract shall be operated and maintained for the purposes described in Exhibit E or for other purposes which meet one of the national objectives of the Community Development Block Grant Program and which are eligible under Section 105 of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. §5305 (1994).

(2) Any change in use of the facility or disposition of property acquired or improved with CDBG funds must be made in accordance with the standards provided in 24 C.F.R. 570.489(j) (1997).

(3) In the case where Recipient is not and will not be the owner of the real property or facility being improved with grant funds hereunder, Recipient is responsible for ensuring that the owner of the real property or facility complies with paragraphs 8.a.(1) and (2) above. As a condition of using grant funds under this Contract to improve any such real property or facility, Recipient shall cause the owner of such real property or facility to duly execute and record a trust deed against such real property in favor of Recipient, which trust deed shall be in form and substance satisfactory to IFA.

b. The following language must be included in any contract which transfers the property from Recipient to another party:

"It is understood and agreed that this conveyance is made and accepted, and the realty is transferred, on and subject to the covenant, condition, restriction, and reservation that the realty must continue to be used for [INSERT THE APPROVED USE OF THE PROPERTY] or for another eligible use under Title I of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. §§5301-5321 (1994).

This covenant, condition, restriction, and reservation shall apply to and run with the conveyed land. If the realty is not used for the above purposes, then all the right, title, and interest in and to the described property and to the improvements on such property, shall revert to and revest in [Recipient NAME] or its successors and assigns, as fully and completely as if this instrument had not been executed.

No reversion shall render invalid or operate in any way against the lien of any mortgage or deed of trust given with respect to the conveyed realty in good faith, and for value; and on any such reversion [Recipient NAME] shall take title to the conveyed realty subject to any such mortgage or deed of trust. Provided, however, that should any such mortgage or deed of trust be foreclosed, then the title acquired by such foreclosure, and the person or persons who thereby and thereafter become the owner or owners of the conveyed realty, shall be subject to and bound by all the restrictions contained in this instrument; and further provided, that [Recipient NAME] may enforce any covenant, condition, and restriction by any other appropriate action at its sole option."

c. The following language must be included in any deed that transfers the property from Recipient to another party:

"This deed is subject to all covenants, restrictions, and agreements of record that are made a part of this deed by reference, including the [INSERT NAME OF DOCUMENT OF SALE OR TRANSFER] which by this reference is incorporated herein, as though such covenants, restrictions, and agreements were fully set forth in this deed. Should any mortgage or deed of trust be foreclosed on the property to which this instrument refers, then the title acquired by such foreclosure, and the person or persons who thereby and thereafter become the owner or owners of such property, shall be subject to and bound by all the restrictions, conditions, and covenants set forth in this instrument."

9. Recipient shall obtain as-built drawings for buildings that will be available for use by the public.

10. Recipient shall collect and maintain documentation satisfactory to IFA that the community facility meets the national objective of principal benefit to low- and moderate-income persons. Such documentation shall be:

    a. Evidence that shows that the primary use of the facility is by persons who are presumed under HUD regulations for the Community Development Block Grant Program to be principally low and moderate income (e.g., elderly or handicapped persons, abused children, battered spouses, homeless persons, illiterate persons or migrant farm workers), or

    b. Data showing the size and annual income of the immediate family of each person benefitting from the facility so that it is evident that at least 51 percent of the clientele are low and moderate income, or

    c. Income eligibility requirements which limit the benefits of the facility exclusively to low- and moderate-income persons, or

    d. Evidence that the benefits of the facility are available to ALL the residents in a particular area and that at least 51 percent of those residents are low and moderate income.

11. The Recipient must submit a grant administration plan to IFA with its return of the Contract to IFA. IFA's obligations are conditioned upon approval of such a plan, and Recipient may not conduct Project activities unless IFA has approved such plan.

## EXHIBIT B - RECIPIENT'S CERTIFICATION OF COMPLIANCE WITH STATE AND FEDERAL LAWS AND REGULATIONS

Funds for the Oregon Community Development Block Grant Program are provided through a grant to IFA from the U.S. Department of Housing and Urban Development, under Title I of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. §5301 (1994). These funds are subject to various federal statutes and regulations as well as state laws and administrative rules.

Recipient hereby represents, warrants and certifies that:

1. it has complied with all relevant federal and state statutes, regulations, executive orders, policies, guidelines and requirements with respect to the application for and acceptance and use of Oregon Community Development Block Grant funds, including but not limited to the Act;
2. it possesses legal authority to apply for and accept the terms and conditions of the Grant and to carry out the proposed Project;
3. its governing body has duly authorized the filing of the application, including all understandings and assurances contained therein;
4. the person identified as the official representative of Recipient in the application and the Contract is duly authorized to act in connection therewith and to provide such additional information as may be required. Recipient's official representative has sufficient authority to make all certifications on its behalf;
5. the Contract does not and will not violate any provision of any applicable law, rule, regulation or order of any court, regulatory commission, board or administrative agency applicable to Recipient or any provision of Recipient's organic laws or documents; and
6. the Contract has been duly executed by Recipient's highest elected official and delivered by Recipient and will constitute the legal, valid and binding obligations of Recipient, enforceable in accordance with their terms.

Recipient further represents, warrants and certifies that it is following a detailed citizen participation plan which:

1. provides for and encourages citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used;
2. provides citizens with reasonable and timely access to local meetings, information, and records relating to Recipient's proposed use of funds, as required by applicable regulations, and relating to the actual use of funds under the Act;
3. furnishes citizens information concerning the amount of funds available in the current fiscal year and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income, and the proposed activities likely to result in displacement and the plans of Recipient for minimizing displacement of persons as a result of activities assisted with such funds and for relocating persons actually displaced as a result of such activities;
4. provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals, with the level and type of assistance to be determined by Recipient;

5. provides for a minimum of two public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after reasonable notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;
6. identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate;
7. provides reasonable advance notice of and opportunity to comment on proposed activities in a grant application to IFA or as to grants already made substantial changes from Recipient's application to IFA to activities; and
8. provides the address, phone number and times for submitting complaints and grievances and provides for a timely written answer to written complaints and grievances, within 15 working days where practicable.

Recipient represents, warrants and certifies that:

1. it has complied with its obligations as described in Section 6.F of this Contract; and
2. it is following the State of Oregon Residential Antidisplacement and Relocation Assistance Plan unless it adopts and makes public its own plan which complies with 24 C.F.R. 42.325 (1997). Recipient also certifies that it will minimize the displacement of persons as a result of activities assisted with Oregon CDBG funds.

Recipient further represents, warrants and certifies that:

1. the grant will be conducted and administered in conformity with the Civil Rights Act of 1964, 42 U.S.C. §§2000a-2000e (1994), and the Fair Housing Act, and Recipient will affirmatively further fair housing; and
2. no lead-based paint will be used in residential units.

Recipient further represents, warrants and certifies that:

1. it has carried out its responsibilities as described in Section 6.H of the Contract;
2. the officer executing this certification is its chief executive officer (or other designated officer of Recipient who is qualified under the applicable HUD regulations):
3. such certifying officer consents to assume the status of a responsible federal official under NEPA and other laws specified by the applicable HUD regulations, 24 C.F.R. §§58.1-58.77 (2003); and
4. such certifying officer is authorized and consents on behalf of Recipient and himself/herself to accept the jurisdiction of the federal courts for the purpose of enforcement of his/her responsibility as such an official.

City of Vernonia

Signed _____

Title _____

Date _____

## EXHIBIT C - CERTIFICATION REGARDING LOBBYING (CDBG Awards exceeding $100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

City of Vernonia

Signed _____

Title _____

Date _____

## EXHIBIT D - PROJECT DESCRIPTION

The Recipient shall, with the assistance of an Oregon licensed engineer and/or architect, design and construct an approximately 8,600-square-foot combination senior center and food bank facility on property owned by the City of Vernonia. The Recipient may also procure services for grant administration, environmental review, and labor standards compliance.

## EXHIBIT E - INFORMATION REQUIRED BY 2 C.F.R. § 200.331(A)(1)

Federal Award Identification:

(i) Subrecipient name (which must match registered name in DUNS): VERNONIA, CITY OF

(ii) Subrecipient's DUNS number: 01-181-6576

(iii) Federal Award Identification Number (FAIN): B-15-DC-41-0001

(iv) Federal Award Date: 22 Jul 2015

(v) Sub-award Period of Performance Start and End Date: 36 months from Contract execution

(vi) Total Amount of Federal Funds Obligated by this Agreement: $2,000,000

(vii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this Agreement: $2,000,000

(viii) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: $2,000,000

(ix) Federal award project description: The FFY 2015 State Community Development Block Grant Program funds will be awarded through a competitive application process to rural communities in Oregon for the following project types: Public Works Projects, Community Facilities, Owner-occupied Housing Rehabilitation and Microenterprise Assistance. CDBG projects will meet the national objective of benefitting low- and moderate-income persons or an urgent need.

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:

(a) Name of Federal awarding agency: U.S. Department of Housing and Urban Development

(b) Name of pass-through entity: Oregon Infrastructure Finance Authority

(c) Contact information for awarding official of the pass-through entity: Robert Ault, Program Services Division Manager, 503-551-0917

(xi) CFDA Number and Name: 14.228 Community Development Block Grant

Amount: $2,000,000

(xii) Is Award R&D? No

(xiii) Indirect cost rate for the Federal award: N/A

# Exhibit F: Project Budget

| | IFA Funds | Other / Matching Funds |
|---|---|---|
| Activity | Approved Budget | Approved Budget |
| Land | | $120,000 |
| Architectural / Engineering | 150,000 | |
| Construction | 1,759,948 | |
| Construction Contingency | 15,052 | 159,948 |
| Labor Standards Compliance | 15,000 | |
| Environmental Review | 15,000 | |
| Grant Administration | 25,000 | |
| Legal | | 3,000 |
| Furnishings | | 70,000 |
| Project Management | | 80,000 |
| Soils Test and Surveys | | 14,500 |
| Finishing Survey | | 2,000 |
| Soft Contingency | | 2,852 |
| Municipal Charges and Permits | 20,000 | 22,700 |
| | | |
| Total | $2,000,000 | $475,000 |

| Authorized Signature Card for Cash Payments on Infrastructure Finance Authority Awards | |
|---|---|
| **Recipient**<br>**City of Vernonia** | **Project Number**<br>**C15008** |
| **Signatures of Delegated Authorized Individuals to Request Payments**<br>(Two signatures are required to request disbursement of funds) | |
| Typed Name, Title and Signature<br>(Highest Elected Official must **not** sign here)<br>**Angie Handegard, Financial Administrator**<br>(1) a _____ | Typed Name, Title and Signature<br>(Highest Elected Official must **not** sign here)<br>**Josette Mitchell, City Administrator**<br>(1) b _____ |
| **Additional Signatures (if desired)** | |
| Typed Name, Title and Signature<br>(Highest Elected Official must **not** sign here)<br>**Kim Harris Tierney, City Councilor**<br>(1) c _____ | Typed Name, Title and Signature<br>(Highest Elected Official must **not** sign here)<br>**Type Name, Title here**<br>(1) d _____ |
| **I certify that the signatures above are of the individuals authorized to draw funds for the cited project.**<br>**1/19/2016, Randall J. Parrow, Mayor of Vernonia**<br>(2) _____<br>Date, typed name, title and signature of Highest Elected Official or duly authorized official for the Recipient (Must **not** be listed in item (1) a through (1) d above) | **Approved: Infrastructure Finance Authority**<br>(3) _____<br>Date and Signature of Manager |

Infrastructure Finance Authority/Authorized Signature Card

**Preparation of the Authorized Signature Card Form:** If a mistake is made, or a change is necessary during the preparation of the signature card form, please prepare a new form, since erasures or corrections of any kind will not be acceptable. If you want to change individuals authorized to draw funds from the project, then please submit a new signature card. Any updated signature card will replace the previous one, so please be sure to include the names of all authorized individuals.

| **Item #** | **Explanation** |
|---|---|
| (1) a-d | Type the names and titles, and provide the signatures of the officials of your organization who are authorized to make draws on project funds. (Note: **Two** signatures are required. We recommend showing three or four signatures to allow adequate signature coverage.) |
| (2) | Enter the date, typed name, title and signature of the Highest Elected Official, or other official duly authorized by the governing body of the Recipient, certifying the authenticity of the signatures of individuals listed in Item (1) a through (1) d. The person signing here **must not be listed in Item (1) a through d.** |
| (3) | Leave blank—Infrastructure Finance Authority will sign here. |

Complete one form and return it to: Infrastructure Finance Authority
775 Summer Street NE, Suite 200
Salem, OR 97301-1280

# CITY OF VERNONIA

CITY COUNCIL AGENDA ITEM

**January 19th, 2016**

---

From: Josette Mitchell, City Administrator
To: Mayor and City Council
Re: **Designating the Certifying Officer for the CDBG Grant**

---

Agenda Item Summary:

An entity receiving CDBG funding (Responsible Entity-(RE)) must designate a "Certifying Officer." The Certifying Officer is attesting to the RE's compliance with HUD's environmental review procedures and will be held legally responsible for defending the environmental clearance if it is challenged. The responsibilities of the certifying officer are described in 58.13.

The Certifying Officer is the RE's chief elected official. If any person other than the chief elected official is the Certifying Officer, the City Council or County Board must officially designate a person, such as the city manager, city administrator, city recorder, or county administrator. A copy of the resolution designating someone other than the chief elected official and or the minutes from the meeting that describe the designation must be submitted to the department.

Suggested Motion:

"I move that Randall J. Parrow, Mayor of Vernonia be the Certifying Officer for the CDBG grant Project C15008."

# CITY OF VERNONIA

CITY COUNCIL AGENDA ITEM

**January 19th, 2016**

---

From: Josette Mitchell, City Administrator
To: Mayor and City Council
Re: **City of Vernonia Excessive Force Policy**

---

Agenda Item Summary:

The IFA CDBG requirements require the City of Vernonia to adopt an Excessive Force Policy. Attached is the excessive force policy language that outlines the City's responsibility in regards to civil rights protests and demonstrations. In order to access the CDBG funding the City needs to adopt the attached policy.

Attachments:

- City of Vernonia Excessive Force Policy

Suggested Motion:

"I move that the City Council adopt the excessive force policy as outlined in front of us."

# City of Vernonia Excessive Force Policy

"It is the policy of the City of Vernonia that

(1) Its law enforcement personnel shall not use excessive force against any individuals engaged in nonviolent civil rights demonstrations, and

(2) Applicable state and local laws that prohibit physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction shall be enforced."

This policy has been installed by a vote of the Vernonia City Council on this 19th day of January 2016. This policy will become effective immediately.

Vote _____Ayes _____Nays _____Absent

_____ _____

Randall J. Parrow, Mayor Date

Attest: _____ _____

Stephanie Borst, City Recorder Date

# CITY OF VERNONIA

## CITY COUNCIL AGENDA ITEM

**January 19th, 2016**

---

From: Josette Mitchell, City Administrator
To: Mayor and City Council
Re: Request to Amend Conservation Easement

---

Agenda Item Summary:

The City has received two letters requesting the City Council agree to amend the Conservation Easement for the Lincoln School property. The first letter is from the Attorney representing the property owner Bud Dow, the second letter is from the Attorney representing David Mile of Vernonia Brand LLC. I am including the signed Conservation Easement for you review. The City attorney has been asked by staff to respond in letter form to Council to outline potential risks to amending the easement, see attached.

Attachments:

- Original Conservation Easement
- Letter from Attorney Ross Day
- Letter from Attorney Vincent Sliwoski
- Memo from Ruben Cleaveland

**After recording, return to:**
City of Vernonia
1001 Bridge Street
Vernonia, Oregon 97064

**Until Requested Otherwise, Send All Tax Statements to:**
Warren Dow
P.O. Box 203
Vernonia, Oregon 97064

**With a copy to:**
Ross Day
Day Law Group, P.C.
15055 SW Sequoia Parkway, Suite 170
Portland, Oregon 97224

Space reserved for recorder's use

COLUMBIA COUNTY, OREGON **2015-004849**
DEED-EAS
Cnt=1 Pgs=11 HUSERB **06/18/2015 11:31:42 AM**
$55.00 $11.00 $20.00 $5.00 $10.00 **= $101.00**

**00201849201500048490070111**

I, Elizabeth E. Huser, County Clerk for Columbia County, Oregon certify that the instrument identified herein was recorded in the Clerk records.

Elizabeth E. Huser - County Clerk

## DEED OF CONSERVATION EASEMENT

This Conservation Easement (herein "Conservation Easement") is granted by **Warren Dow** (herein "Grantor") to the City of Vernonia, a political subdivision of the state of Oregon (herein "Grantee"). Grantor and Grantee are collectively referred to as the "Parties." This Conservation Easement is executed by Grantor and accepted by Grantee on May 4th, 2015 (herein the "Effective Date").

## RECITALS

A. Grantor is the owner of the real property described as Tax Lot 03000 of Map 4N4W05 Section AC (herein "the Property"). The Property, approximately 1.14 acres, is located in Columbia County, Oregon.

B. Located on the Property is a building known as the "Lincoln Elementary School Building" (herein "Building"). The Building is not designated as a historical landmark on any local, state or federal registries. However, the Building is a local landmark that the Grantee and its citizens wish to preserve in substantially the same condition as it currently exists. The purpose of this Conservation Easement is to preserve the Building.

C. The Building is located in a residential neighborhood and has become a part of the character of the neighborhood. By this Conservation Easement, the Parties desire to preserve the character of the surrounding neighborhood while allowing the Building to be used for the commercial purposes specified herein.

D. Grantee is a political subdivision of the state of Oregon.

E. The Building possesses unique cultural, aesthetic, educational, historical and recreational values (collectively "Conservation Values") of importance to Grantee, and the citizens of the City of Vernonia.

## AGREEMENT

1. **Grant of Easement.** The Grantor, for and in consideration of the mutual covenants, terms, conditions and restrictions and in consideration of the approval of Ordinance 903 voluntarily conveys, warrants and grants to Grantee, its heirs, successors and assigns this perpetual and irrevocable Conservation Easement and rights of access over the Property. This Conservation Easement is created and implemented under applicable state and federal law, including Oregon Revised Statutes (ORS) 271.715 to 271.795. The Property is free and clear of encumbrances.

2. **Conservation Values**. The Building, in its existing state has cultural, aesthetic, educational, historical and recreational values (collectively "Conservation Values") which contribute to the quality of life in the surrounding neighborhood and the City of Vernonia.

   The Building was one of two elementary schools in the City of Vernonia. Most, if not all, citizens who grew up in the city of Vernonia attended the Lincoln Elementary School. For this reason, the Building itself houses important cultural, educational and historical memories for the citizens of Vernonia.

   The Building has been used by the community of Vernonia for other purposes. For instance, in the historic floods of 2007, the Building was used as a shelter for those citizens of Vernonia who were displaced by the flood waters.

   The Building is a combination wood-brick building that was built in 1923. It is one of the oldest structures in the city of Vernonia. The Building itself is estimated to be approximately 10,000 square feet in size.

3. **Purpose.** The purpose of this Conservation Easement (herein "the Purpose" or "Purpose") is to preserve the Conservation Values associated with the Building over time, with said preservation to be achieved in a manner consistent with the intent, terms and conditions of this Conservation Easement.

4. **Prohibited Uses**. Any activity on or use of the Building inconsistent with the Purpose of this Conservation Easement is prohibited and Grantor shall not engage in, or permit, any such activity or use. Without limiting the foregoing, the Parties intend that uses of the Building will be consistent with the Purpose of this Conservation Easement, as this Conservation Easement may only be revised from time to time by the Parties in a separate writing signed by both parties.

   "**Prohibited Uses**" means:

   a. Demolition. Any total removal of the Building from the Property. However, in the event the Building becomes a Hazard to the health and safety of the public, as determined by a licensed civil engineer, the Grantor, its successors or assigns, shall have the right to

remove the Building from the Property. For purposes of this subsection of this Conservation Easement, "Hazard" means any irreparable condition of the Building that presents a risk to the health and safety of anyone who enters the Building, as determined by a licensed civil engineer. In the event Grantee disagrees with a determination that a Hazard exists, the Grantee shall have the right to have a licensed civil engineer inspect the Building (at the sole expense of the Grantee). If the licensed civil engineer hired by the Grantee determines the Building is not a Hazard, the Grantor and the Grantee shall jointly select (at the expense of both the Grantee and Grantor) a licensed civil engineer who will perform an inspection of the Building, and the determination of the jointly selected licensed civil engineer shall be final.

b. Destruction. Any damage done to the Building (aside from damage done by natural events or events that are outside the control of the Grantor(s) or any successor-in-interest) which substantially reduces a substantial number of the Conservation Values of the Building.

c. Renovation. Any improvement, renovation or remodeling of the Building that eliminates a substantial number of the Conservation Values of the Building, not including additions, refurbishments, and restorations, agreed to in writing by both Parties prior to the commencement of any renovation work on the Building.

d. Hazardous Substances. Release of Hazardous Substances in the Building. "**Hazardous Substances**" includes any material or substance that is defined as a "hazardous substance" under any federal, state or local law such as non-food grade oil, asbestos fertilizers, herbicides, pesticides, or their residues. "**Release**" includes any intentionally spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including abandoning or discarding barrels, containers or other closed receptacles containing any hazardous substance, but excludes the proper application of fertilizers, herbicide, and pesticide in accordance with all product and manufacturer instructions as to use and application rate and all applicable laws, rules, and permits. Release does not include any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including abandoning or discarding barrels, containers or other closed receptacles caused by natural events or events that are outside the control of the Grantor or any successor-in-interest.

   i EXCEPTION: On information and belief, there may be asbestos in the Building. In the event there is asbestos in the Building, for purposes of this subsection of this Conservation Easement, it is not a violation of this subsection of this Conservation Easement if any asbestos currently in the Building at the time of the execution of this Conservation Easement is removed from the Building in accordance with federal, state and/or local law.

e. Public Access. This Conservation Easement does not grant Public Access to the Building beyond access to the Building consistent with any commercial or residential uses on the Property or in the Building.

f. Applicable Law. Any activity not in compliance with any federal, state, and local law, regulation, or requirement applicable to the Building.

g. Liens or Easements. Granting or otherwise permitting any lien or easement to encumber or attach to the Property, which lien or easement would allow activities that would have a materially adverse impact on the Conservation Values. This prohibition does not apply to liens on the Property created by a mortgage, civil judgment, tax deficiency or any other lien securing a financial obligation of the Grantor(s).

**5. Grantor's Reserved Rights.**

Grantor reserves, for himself and his successors and assigns, the right to use the Property and the Building in any and all ways, including:

a. Conveyance. Grantor may sell, give, mortgage, or otherwise convey the Property, provided that such conveyance, encumbrance, lien, or lease is subject to and subordinate to this Conservation Easement. A reference to this Conservation Easement shall be included in any conveyance document.

b. Maintenance and Replacement of Grantor Improvements. The Grantor may maintain, repair and replace existing improvements on the Property.

c. Commercial Uses. Commercial and recreational uses including overnight bed and breakfast accommodations, restaurant dining, brew pub, bicycle repair and storage, and related retail and professional business may be undertaken without further permission from Grantee. These reserved rights shall be broadly construed in favor of allowing commercial uses in the Building and on the Property; however, all uses must be in compliance with all applicable laws, rules, regulations and ordinances of all federal, state, county, municipal and other public authorities having or claiming jurisdiction. Dogs may accompany Grantor or Grantor's invitees or guests during the commercial or recreational uses allowed in this Section.

d. Other Uses. Grantor may request authorization for uses not contemplated under the Reserved Rights of Grantor. Said requests shall be made in writing to Grantee. Grantor may make a written request under this subsection of the Conservation Easement by filing an application with the Grantee. Grantor's written request must describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to judge whether the activity is consistent with the Purpose of this Conservation Easement. Any request for the proposed activity which requires quasi-judicial or city council review, shall be either approved or denied within ninety (90) days of receiving the request, otherwise Grantor's request shall be deemed approved. For requests that do not require quasi-judicial or city council review, Grantee must either approve or deny the request in writing for the proposed activity within ten (10) business days of receiving the written request, otherwise Grantor's request shall be deemed approved.

**6. Rights of Grantee**. To accomplish the Purpose of this Conservation Easement, Grantor grants to Grantee certain rights, and Grantee may undertake actions identified in this Conservation Easement to preserve the Conservation Values of the Building. In exercising said rights, Grantee shall not interfere with Grantor's use and quiet enjoyment of the

Building or the Property, except to the extent authorized under this Conservation Easement. Specific rights granted, and actions that the Grantee may take are:

a. The right to preserve the Conservation Values of the Building, including but not limited to making decisions regarding preservation of the Conservation Values of the Building, pursuing funding for the preservation of the Conservation Values, and executing contracts and agreements for said funding.

b. The right to enter the Building: (i) with at least ten (10) business days' notice to the owner of the Building to monitor Grantor's compliance with and otherwise enforce this Conservation Easement; or (ii) without notice if Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Conservation Easement.

c. The right to proceed at law or in equity to enforce the provisions of this Conservation Easement, to stop or prevent the occurrence of any activity that is inconsistent with the Purpose of this Conservation Easement, including Prohibited Uses, and to require the restoration of areas or features of the Building that may be damaged by any activity inconsistent with the Purpose of this Conservation Easement.

7. **Duration, Burdens, and Benefits.** This Conservation Easement binds the Grantor, his successors and assigns, and runs with the Property in perpetuity. The benefits of this Conservation Easement are in gross. The donation of this perpetual conservation easement gives rise to a property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that the perpetual conservation easement at the time of the gift, bears to the value of the Property as a whole at that time.

8. **Violations and Remedies.**

a. Notice of Violation; Corrective Action. If Grantee claims that Grantor (or Grantor's employees, agents, contractors, licensees, invitees or guests) has committed a violation of this Conservation Easement or that a violation is threatened to occur, then Grantee may give written notice to Grantor of the violation and may:

i. Demand corrective action sufficient to cure the violation within 30 days; and

ii. Require restoration of the injured portion of the Building to its prior condition.

b. Legal Action. If Grantor fails to cure a violation by Grantor's (or Grantor's employees, agents, contractors, licensees, invitees or guests) of the terms of this Conservation Easement within 30 days after receipt of notice from Grantee, or, if the violation cannot reasonably be cured within 30 days, fails to begin curing the violation within the 30-day period, Grantee may enforce this Conservation Easement by temporary or permanent injunction, and require the restoration of the Building to the condition that existed prior to the violation or to the condition otherwise required by this Conservation Easement or

c. Equitable Relief. Grantor acknowledges that Grantee acquired this Conservation Easement to protect the Conservation Values of the Building. Grantor acknowledges that an award of money damages will likely not cure an injury to the Conservation Values of

the Building. Grantor understands and acknowledges that Grantee's remedies at law for any violation of the terms of this Conservation Easement will likely be inadequate. Therefore, Grantor understands and acknowledges that Grantee may pursue equitable relief, such as an injunction or a declaration, or seek other equitable relief as appropriate, in order to protect the Conservation Values of the Building.

d. Acts Beyond Grantor's Control. Nothing in this Conservation Easement entitles Grantee to bring any action against Grantor for any injury(ies) to or change(s) in the Building or Property resulting from causes beyond Grantor's control. In addition, Grantor is not responsible for any prudent action Grantor takes under emergency conditions to prevent, abate, or mitigate significant injury to the Building resulting from such causes.

e. Mediation of Disputes. Notwithstanding anything to the contrary herein, the Parties shall attempt to amicably resolve any disputes or disagreements through informal discussions, and may enter into non-binding mediation, prior to resorting to any litigation. The Parties shall select a mutually acceptable qualified third party mediator and each party shall share the costs of the mediator equally; each party shall bear its own costs for preparing for and attending the mediation. Binding arbitration is not contemplated under this Conservation Easement.

9. **Joinder in Actions Against Third Parties.** Upon request by Grantee, Grantor may join with Grantee in any action Grantee reasonably deems necessary or prudent to bring against third parties to protect the Conservation Values of the Building.

10. **Notice and Approval.**

a. Notice. Notices shall be provided to any party entitled to notice under this Conservation Easement by personal delivery or by mailing by First Class Mail to the last-known address of the party entitled to notice. Service is complete after the earlier of delivery or 2 business days after depositing the properly addressed notice with the U.S. Postal Service with sufficient postage.

11. **Maintenance, Repair and Taxes.**

a. Maintenance and Repair. Grantor shall be responsible for reasonable maintenance and repair of the Building. Grantor shall maintain the Building in a condition consistent with the purpose of this Conservation Easement.

b. Taxes. Grantor shall pay the real property taxes, except any taxes attributable to improvements by Grantee or on any personal property of Grantee.

12. **Indemnification and Insurance**. Grantor and Grantee hereby mutually indemnify and hold each other harmless against all losses and liabilities arising out of or relating to this Conservation Easement, including, but not limited to, the activities of Grantor and Grantee or their officers, employees, agents, contractors, licensees, invitees, or guests anywhere on the Property.

**13. Grantor's Representations.** Grantor represents that, after reasonable investigation and to the best of his knowledge:

a. No Hazardous Substances have been released, generated, treated, stored, used, disposed of, deposited, abandoned, or transported in, on, from, or across the Building.
   i. EXCEPTION: On information and belief there may be asbestos in the Building although Grantor has never had the Building inspected for asbestos. Accordingly, it is possible there is asbestos in the Building.

b. As of the Effective Date there are no underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.

c. Grantor and the Building/Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Building and its use.

d. There is no pending or threatened litigation in any way affecting, involving, or relating to the Building.

e. No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Building or the Property or their use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

f. The Building and the Property are free and clear of any and all encumbrances and restrictions.

**14. Severability.** If any term of this Conservation Easement conflicts with governing law or if any provision is held to be invalid or unenforceable by a court of competent jurisdiction, the Parties intend (i) that the term be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and (ii) that the remaining terms of this Conservation Easement remain in full force and effect.

**15. Assignment or Conveyance.**

a. This Conservation Easement is not assignable by Grantee.

**16. Modification.** Amendments to this Conservation Easement are valid when in writing and signed by the Parties. Grantor or Grantee shall record each amendment within 15 days from the last party's signature.

**17. Condemnation**. If all or any part of the Building and/or Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, Grantor and Grantee shall act jointly to defend the

Building and the Conservation Values associated with it. In the event that said efforts are unsuccessful, Grantor and Grantee shall take all appropriate actions to recover the full value of the taking and all incidental or direct damages resulting from the taking. Disagreements regarding the appropriate response under this Section shall be resolved in accordance with the Mediation of Disputes provision in this Conservation Easement.

18. **Governing Law.** This Conservation Easement is subject to the laws of the State of Oregon, without regard to conflict of law principles. Venue for any action brought under this Conservation Easement shall be Columbia County, Oregon.

19. **As-Is.** Except for the express representations and warranties provided for in this Conservation Easement, Grantor and Grantee each hereby acknowledge that Grantee is acquiring this Conservation Easement described herein "AS IS" without warranties of any kind as to the condition of the Building.

20. **Attorney Fees and Costs.** Grantor and Grantee agree that each party shall pay its own attorney's fees in any dispute regarding this Conservation Easement, or any transaction or other agreement contemplated thereby, whether the dispute is resolved through mediation, arbitration or litigation and regardless of the outcome. No prevailing party in any such action shall be entitled to recover from any losing party any part of its costs, attorney's fees, or expenses.

21. **Definitions.** Unless otherwise specifically defined herein, the following terms shall have the meaning described below:

    a. **Grantor.** Grantor shall mean the original grantor (or grantors) of this Conservation Easement, as well as all subsequent owners, successors and/or assigns of the Property and/or Building.

    b. **Party(ies).** Party shall mean either the Grantor or the Grantee, as applicable. Parties shall refer collectively to the Grantor(s) and the Grantee.

Signatures on Following Page

It is so AGREED this 16th day of June, 2015

**GRANTOR**

Warren "Bud" Dow

Oct. 16 - 2015

Date

**GRANTEE**

Josette M Mitchell

City of Vernonia

By:

Josette M. Mitchell

(Print Name)

Its:

City Recorder

(Title)

6-15-15

Date

STATE OF OREGON )
) ss.
County of Columbia )

SUBSCRIBED and SWORN to me this 15th day of June, 2015, that I did personally witness Warren Dow, by his hand, affix his signature to this document.

Brian P Franck

NOTARY PUBLIC

OFFICIAL STAMP
BRIAN P. FRANCK
NOTARY PUBLIC-OREGON
COMMISSION NO. 933030
MY COMMISSION EXPIRES OCTOBER 14, 2018

STATE OF OREGON )
) ss.
County of Columbia )

SUBSCRIBED and SWORN to me this 15th day of June, 2015, that I did personally witness Josette Mitchell, by his/her hand, affix his/her signature to this document.

OFFICIAL STAMP
BRIAN P. FRANCK
NOTARY PUBLIC-OREGON
COMMISSION NO. 933030
MY COMMISSION EXPIRES OCTOBER 14, 2018

Brian P Franck

NOTARY PUBLIC

Ross A. Day*
Matthew Swihart†

Day Law & Associates, P.C.
ATTORNEYS AT LAW

* LICENSED IN OREGON AND WASHINGTON
† LICENSED IN OREGON AND FLORIDA

January 12, 2016

***Via facsimile (*503.429.4232*) and first-class mail***

Vernonia City Council
c/o Josette Mitchell
1001 Bridge Street
Vernonia, Oregon 97064

RE: Amending the Conservation Easement on 1462 Bridge Street

Dear Members of the Vernonia City Council:

I represent Warren "Bud" Dow, the owner of the property located at 1462 Bridge Street in Vernonia (herein "Property"). Thank you in advance for considering this request.

By way of background, I was involved with the land use application (File No. PAZC 14-01) which made a comprehensive plan/zoning map amendment to the Property. The amendment, which was ultimately approved by the City, changed the zoning of the Property from Residential (R) to General Commercial (GC).

My client's intent for seeking the rezoning of the Property was to allow him to market the Property as commercial property, thereby encouraging use of the existing Lincoln Elementary School building as a unique commercial venue. Without the zone change, my client pointed out during the hearings, the only other choice my client had was to tear down the school building and build homes.

During the hearings, members of the public and members of the City Council expressed concern about maintaining the existing Lincoln Elementary School building on the property, and protecting the building from being removed. Many people were concerned that a zone change in-and-of-itself would not protect the building from being removed, which my client agreed was a very valid point. He realized he could sell the property but not guarantee that a subsequent purchaser would not tear down the building.

My client purchased the Property in 2007 in large part because of the threat that the old elementary school would be torn down. As a long-time member of the Vernonia community, my client understands the significance the school building has to the citizens of Vernonia. Accordingly, in order to protect the building, my client agreed to the placement of a conservation easement on the Property in order to protect the school building.

After a considerable amount of work by both myself and the city's counsel Ruben Cleaveland, we came up with a conservation easement that accomplished the goals of both my client and the city of Vernonia.

15055 SW SEQUOIA PARKWAY, SUITE 170, PORTLAND, OREGON 97224
TEL: 503.747.2705 • FAX: 503.624.7599 • WEB: WWW.DAYLAWPC.COM

I now understand the Property in now under a lease agreement, but the lessee wants to use the property for a cannabis-related business. I also understand that the city is generally supportive of this use, but is concerned that using the Property for this purpose may violate the terms of the conservation easement, specifically Section 4.(f) of the conservation easement which defines "prohibited uses" to include:

> Any activity not in compliance with any federal, state, and local law, regulation, or requirement applicable to the Building.

Again, by way of background, this language is called "boilerplate language". That is, this is language that is commonly used by attorneys when drafting documents. As "boilerplate language", the provisions have certain meanings or interpretations based upon their common usage. In the instance of the above-cited provision of the conservation easement, the purpose of this language (read in context) is meant to protect the conservation values of the building (i.e. protect the building from damage, environmental violations), not restrict uses of the building that would not have an impact on the Conservation Values of the Property.

Given that the use of the building proposed by the lessee is permitted under state and local law, but not permitted under federal law, arguably the above-cited provision of the conservation easement could prohibit the lessee's intended use of the Property and/or building. But the point of this provision of the conservation easement – at least from my client's perspective – was not to limit uses of the Property and/or building in this manner.

Section 16 of the conservation easement allows for modification of the conservation easement upon written agreement of the parties. I would propose modifying the conservation easement to make the intent of the conservation easement clear. I would suggest adding a new section to the conservation easement that would read as follows:

> **Section 22. Conflict Between State/Local and Federal Law.** To the extent a use or activity is allowed by state and local law, but not allowed by federal law, such use shall not be prohibited by Section 4.(f) or Section 5.(c) of this Conservation Easement, so long as the use or activity does not damage the Conservation Values of the Property and/or Building.

Thank you for your consideration. I look forward to working with the city of Vernonia towards a rational resolution to this matter.

Very truly yours,

Ross Day

DocuSign Envelope ID: 37F2C296-E8FD-4056-B6FC-6A86987D9E2F

HARRIS | MOURE

January 12, 2016

*Via email and regular mail*

Vernonia City Council
c/o Josette Mitchell
1001 Bridge Street
Vernonia, OR 97064

Re: Amendment to Conservation Easement for 1462 Bridge Street

Dear Vernonia City Council Members:

I represent Vernonia Brands LLC, the lessee of the property located at 1462 Bridge Street in Vernonia, and commonly known as the Lincoln Elementary School (the "Property").

My client wishes to produce marijuana at the Property in accordance with state and local law. Currently, the Property is subject to the enclosed Deed of Conservation Easement (the "Easement"), which arguably prohibits this use. The purpose of this letter is to join in the request of the owner of the Property, Bud Dow, that the Easement be amended to allow for the Vernonia Brands use.

My conversations with Mr. Dow, Josette Mitchell and the attorneys who drafted the Easement, Ruben Cleaveland and Ross Day, all have confirmed the boilerplate language at Sections 5(c) and 16 and was not instated with the intention of prohibiting my client's proposed use of the Property. Instead, the language was intended to protect the Property from damage and environmental violations.

Vernonia Brands is committed to preserving the Lincoln Elementary School and putting this unproductive Property to use. Vernonia Brands also is committed to being a good community partner and acting in accordance with state and local law, including any time, place and manner strictures the city of Vernonia may adopt with respect to marijuana. In all, my client expects that the proposed business will generate significant revenues and goodwill for the City.

We respectfully request that the City join Mr. Dow and amend the Easement as proposed by Mr. Dow and his counsel, and vote to do so at the upcoming meeting of January 19. Please do not hesitate to contact me with thoughts or questions.

Very truly yours,

DocuSigned by:
Vincent Sliwoski
B63953A07B504C4...
Vincent Sliwoski

Cc: Ruben Cleaveland
Ross Day

Harris Moure, LLC
1435 NW 19th Avenue
Suite 101
Portland, OR 97209
503-207-7313
firm@harrismoure.com
harrismoure.com



SEATTLE | PORTLAND | LAS VEGAS | CHICAGO

**Memorandum**

To: **City Council and Administrator**

From: **Ruben D. Cleaveland, Asst. City Attorney**

Re: **Conservation Easement for 1462 Bridge Street**

Date: **January 14, 2016**

---

**Background:** I received a letter from Vincent Sliwoski, the attorney for Vernonia Brands LLC. He contacted you in a letter regarding the Conservation Easement for the Lincoln Elementary School. In the few conversations I have had with Mr. Sliwoski about this matter, he has been cordial and open about the issues regarding the School and the Easement. It is clear he would like the City to agree to modify the Easement. I have some thoughts for the Council to consider regarding his letter.

**Analysis:** My views regarding the School and the Easement are as follows:

1. The language in the Easement regarding use and prohibitions is not boilerplate. The restrictions on use are set out in large font, are meaningful terms to the agreement, and related to the conservation values the document is supposed to protect.

2. The language used and reasoning for the Conservation Easement was in response to concerns directly related to the use of the property. There was significant consideration into how a given commercial activity would affect the neighborhood. It was not merely to protect against damage and environmental acts. According to the Easement document, "the Parties desire to preserve the character of the surrounding neighborhood while allowing the Building to be used for the commercial purposes specified" in the document. Those commercial purposes are limited, and those commercial purposes must comply with federal law according to Sections 4(f) and 5(c) of the Easement.

3. Mr. Sliwoski is correct that Section 16 of the Easement allows the Parties to modify the Easement; however, that must be upon agreement of the Parties. Thus, the Easement cannot be unilaterally amended and it would take the agreement of Council to cause such an amendment.

**Conclusion:** The purpose of this memo is not to advocate for a particular position regarding the request to modify the Easement. It is merely to point out that while Council has the ability to modify the Easement, there are no apparent legal obligations requiring a modification at this time.

## Quarterly Finance Report through 12/31/2015

***Quarter 1 income totals include beginning cash on hand***

| | Budget | Q1 | Q2 | Actual to Date | % used | Rollup | | |
|---|---|---|---|---|---|---|---|---|
| **Admin** | | | | | | | | |
| Income | 1,061,450.00 | 196,651.00 | 652,965.00 | 849,616.00 | 80.04% | | $592,721 property tax | |
| Payroll | 185,324.00 | 41,053.00 | 34,524.00 | 75,577.00 | 40.78% | | revenue received Q2 | |
| Expense | 430,345.00 | 65,213.00 | 99,180.00 | 164,393.00 | 38.20% | **38.98%** | | |
| **Police** | | | | | | | | |
| Income | 6,650.00 | 4,191.00 | 2,355.00 | 6,546.00 | 98.44% | | | |
| Payroll | 442,132.00 | 88,149.75 | 106,901.00 | 195,050.75 | 44.12% | | | |
| Expense | 68,018.00 | 25,110.02 | 9,535.00 | 34,645.02 | 50.94% | **45.03%** | | |
| **Library** | | | | | | | | |
| Income | 4,050.00 | 1,652.00 | 1,896.00 | 3,548.00 | 87.60% | | | |
| Payroll | 70,902.00 | 17,630.00 | 17,741.00 | 35,371.00 | 49.89% | | | |
| Expense | 26,365.00 | 5,504.85 | 5,239.61 | 10,744.46 | 40.75% | **47.41%** | | |
| **Gen Fund** | | | | | | | | |
| Income | 1,072,150.00 | 202,494.00 | 657,216.00 | 859,710.00 | 80.19% | | | |
| Payroll | 698,358.00 | 146,832.75 | 159,166.00 | 305,998.75 | 43.82% | | | |
| Expense | 406,134.00 | 95,827.87 | 113,954.61 | 209,782.48 | 51.65% | **18.99%** | | |
| **Ending Fund Balance** | | | | | | | 343,928.77 | |
| **Airport** | | | | | | | | |
| Income | 9,253.00 | 4,502.00 | 1,262.00 | 5,764.00 | 62.29% | | | |
| Expense | 9,253.00 | 2,757.77 | 2,190.00 | 4,947.77 | 53.47% | **53.47%** | | |
| **Ending Fund Balance** | | | | | | | 816.23 | |
| **Cemetery** | | | | | | | | |
| Income | 24,641.00 | 17,767.39 | 1,350.00 | 19,117.39 | 77.58% | | | |
| Payroll | 7,000.00 | 1,442.01 | 876.00 | 2,318.01 | 33.11% | | | |
| Expense | 17,413.00 | 5,984.15 | 1,468.00 | 7,452.15 | 42.80% | **40.02%** | | |
| **Ending Fund Balance** | | | | | | | 9,347.23 | |
| **Parks** | | | | | | | | |
| Income | 250,896.00 | 70,851.00 | 64,617.00 | 135,468.00 | 53.99% | | | State parks grant disbursement |
| Payroll | 45,271.00 | 18,050.00 | 12,226.00 | 30,276.00 | 66.88% | | | received 1/13 for $64,571.42 |
| Expense | 205,625.00 | 67,955.80 | 79,724.34 | 147,680.14 | 71.82% | **70.93%** | | |
| **Ending Fund Balance** | | | | | | | -42,488.14 | |
| **Water** | | | | | | | | |
| Income | 552,635.00 | 240,241.12 | 106,775.34 | 347,016.46 | 62.79% | | | |
| Payroll | 186,668.00 | 45,510.27 | 47,551.74 | 93,062.01 | 49.85% | | | |
| Expense | 365,970.00 | 40,500.61 | 43,885.05 | 84,385.66 | 23.06% | **32.11%** | | |
| **Ending Fund Balance** | | | | | | | 169,568.79 | |
| **Sewer** | | | | | | | | |
| Income | 565,853.00 | 268,403.53 | 100,381.76 | 368,785.29 | 65.17% | | | |
| Payroll | 139,291.00 | 31,841.35 | 34,128.65 | 65,970.00 | 47.36% | | | |
| Expense | 426,562.00 | 31,816.53 | 31,075.57 | 62,892.10 | 14.74% | **22.77%** | | |
| **Ending Fund Balance** | | | | | | | 239,923.19 | |
| **Streets** | | | | | | | | |
| Income | 183,807.00 | 98,895.23 | 30,570.19 | 129,465.42 | 70.44% | | | |
| Payroll | 45,682.00 | 8,107.92 | 8,145.78 | 16,253.70 | 35.58% | | | |
| Expense | 138,125.00 | 18,585.66 | 15,016.94 | 33,602.60 | 24.33% | **27.12%** | | |
| **Ending Fund Balance** | | | | | | | 79,609.12 | |