



# City of Sandy

## Agenda

### City Council Meeting

Meeting Date: Monday, August 3, 2020

Meeting Time: 6:30 p.m.

Page

#### **1. URBAN RENEWAL BOARD EXECUTIVE SESSION**

Pursuant to ORS 192.660(2)(e), the Sandy Urban Renewal Board will meet in executive session to conduct deliberations with persons designated by the governing body to negotiate real property transactions.

#### **2. MEETING FORMAT NOTICE**

The City Council will conduct this meeting electronically using the Zoom video conference platform. Members of the public may listen, view, and/or participate in this meeting using Zoom. Using Zoom is free of charge. See the instructions below:

- To login to the electronic meeting online using your computer, click this link: <https://us02web.zoom.us/j/81509228705>
- If you would rather access the meeting via telephone, dial (253) 215-8782. When prompted, enter the following meeting number: 815 0922 8705
- If you do not have access to a computer or telephone and would like to take part in the meeting, please contact City Hall by Friday July 31 and arrangements will be made to facilitate your participation.

#### **3. CITY COUNCIL WORK SESSION - 6:30 PM**

3.1. **League of Oregon Cities 2021 Legislative Priorities Discussion** 4 - 21

[League of Oregon Cities 2021 Legislative Priorities Discussion - Pdf](#)

3.2. **HWY 211 Jurisdiction Transfer** 22 - 45

[HWY 211 Jurisdiction Transfer - Pdf](#)  
[Jurisdiction Transfer Agreement](#)  
[Exhibit A - Map](#)  
[Exhibit B - Improvement Locations](#)  
[Letter from ODOT](#)

#### **4. CITY COUNCIL REGULAR MEETING - 7:00 PM**

#### **5. PLEDGE OF ALLEGIANCE**

#### **6. ROLL CALL**

## 7. CHANGES TO THE AGENDA

## 8. PUBLIC COMMENT

Please note: there will be opportunities for comment on the following topics later in the agenda:

- 5G Small Cell Code
- Eagle Park Improvements Extension

The Council welcomes your comments on other topics at this time. Please see the instructions below:

- If you are participating online, click the "raise hand" button and wait to be recognized.
- If you are participating via telephone, dial \*9 to "raise your hand" and wait to be recognized.

## 9. CONSENT AGENDA

- 9.1. **City Council Minutes** 46 - 114  
[City Council - 20 Jul 2020 - Minutes - Pdf](#)

## 10. OLD BUSINESS

- 10.1. **5G Code Adoption** 115 - 139  
[5G Small Cell Facilities Staff Report](#)  
[Ordinance 2020-22](#)  
[Resolution 2020-20](#)  
[Resolution 2020-21](#)
- 10.2. **Noise Variance Request** 140 - 158  
NW Natural, Highway 26  
[NW Natural Noise Variance - Pdf](#)

## 11. NEW BUSINESS

- 11.1. **Land Use Application Extension Request** 159 - 163  
Eagle Park Improvements (Land Use File #20-029 EXT)  
[20-029 EXT Eagle Park Improvements Extension - Pdf](#)

## 12. REPORT FROM THE CITY MANAGER

## 13. COMMITTEE /COUNCIL REPORTS

**14. ADJOURN**

**15. CITY COUNCIL EXECUTIVE SESSION**

Pursuant to ORS 192.660(2)(i), the Sandy City Council will meet in executive session to review and evaluate the job performance of a chief executive officer.

**16. CITY COUNCIL REGULAR MEETING**

Following the executive session, the City Council will reconvene in regular session to consider amending the employment contract of the City Manager



## Staff Report

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**Meeting Date:** August 3, 2020

**From** Jeff Aprati, City Recorder

**SUBJECT:** League of Oregon Cities 2021 Legislative Priorities Discussion

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**Background:**

In preparation for the 2021 Oregon Legislature session, the League of Oregon Cities (LOC) is polling its member cities to identify the top policy issues to focus its legislative advocacy agenda.

Several LOC policy committees produced a total of 26 proposed policies. Each city council is being asked to identify its **top four** legislative priorities.

In preparation for this work session discussion, staff prepared an online survey for the Council. Council members were asked to apply a scale from "extremely important" to "not at all important" to all 26 policy proposals. Four Council members responded to the survey. Staff then scored the responses (using a scale of 1 to 5) and calculated weighted averages for each item.

Under this method, the policy issues listed below receiving an averaged score of 4.0 or above (those underlined scored at least 4.5).

D. COVID-19 Economic Recovery Investments

F. Expedited Siting for Shelter and Affordable Housing

H. Housing and Services Investment

**J. Infrastructure Financing and Resilience**

U. Property Tax Reform

W. Right-of-way/Franchise Fees Authority Preservation

**X. State Highway Funds Formula**

**Z. Water Utility Rate and Fund Assistance**



Full explanation and context for the legislative proposals is attached in the agenda packet for your information.

**Recommendation:**

Identify the Council's top four state legislative priorities for 2021.



June 5, 2020

Dear Chief Administrative Official:

For the past three months, seven policy committees have been working to identify and propose specific actions as part of the LOC's effort to develop a pro-active legislative agenda for the 2021 session. They have identified legislative objectives as set forth in the enclosed ballot and legislative recommendation materials. These objectives span a variety of issues and differ in the potential resources required to seek their achievement. Therefore, it is desirable to prioritize them in order to ensure that efforts are focused where they are most needed.

While the attached ballot reflects the top policies developed in each of the policy committees, each undertook a broad look at a range of issues impacting cities. Many issues reflect the LOC's ongoing mission to support cities' work and their home rule authority to develop and use a variety of tools to meet the needs of residents. Each city is being asked to review the recommendations of the policy committees and provide input to the LOC Board of Directors as it prepares to adopt the LOC's 2021 legislative agenda. After your city council has had the opportunity to review the proposals and discuss them with your staff, please return the enclosed ballot indicating the top four issues that your city council would like to see the LOC focus on during the 2021 session. **The deadline for response is August 7, 2020.** The board of directors will then review the results of this survey of member cities, along with the recommendations of the policy committees, and determine the LOC's 2021 legislative agenda.

Your city's participation and input will assist the board in creating a focused set of specific legislative targets that reflect the issues of greatest importance to cities. If you have individual questions about the ballot topics do not hesitate to reach out to committee members who serve on the seven policy committees. Thank you for your involvement, and thanks to those among you who gave many hours of time and expertise in developing these proposals.

Do not hesitate to contact me or Jim McCauley, Legislative Director, with additional questions.

Sincerely,

Mike Cully  
Executive Director

Jim McCauley  
Legislative Director

## **INSTRUCTIONS**

Each city should submit one form that reflects the consensus opinion of its city council on the **top four** legislative priorities for 2021. Here are the ways to submit your ballot. **Ballots in any form must be submitted by August 7, 2020.**

1. Fill out the online survey that has been sent to your city's chief administrative official; or
2. Fill out the attached hard copy form and return it to the LOC at the address or fax number provided below. Simply place an **X or check mark** in the space to the right of the city's top four legislative proposals. The top four do not need to be prioritized.

Return hard copy ballots to:

Jenna Jones  
League of Oregon Cities  
1201 Court St. NE, Suite 200  
Salem, OR 97301  
Fax – (503) 399-4863  
[jjones@orcities.org](mailto:jjones@orcities.org)

**Thank you for your participation.**

City of: \_\_\_\_\_

Please mark 4 boxes with an X or check mark that reflects the top 4 issues that your city recommends be added to the priorities for the LOC's 2021 legislative agenda.

### Legislation

<b>A. Beer and Cider Tax Increase</b>	
<b>B. Broadband Infrastructure and Technical Assistance Funding</b>	
<b>C. Building (Reach) Code – Energy Efficiency Local Option</b>	
<b>D. COVID-19 Economic Recovery Investments</b>	
<b>E. Digital Equity and Inclusion</b>	
<b>F. Expedited Siting for Shelter and Affordable Housing</b>	
<b>G. Green Energy/Renewables – Expanded Local Option</b>	
<b>H. Housing and Services Investment</b>	
<b>I. Increased Budgetary Flexibility During Budgetary Emergency</b>	
<b>J. Infrastructure Financing and Resilience</b>	
<b>K. Local Climate Action Planning Resources</b>	
<b>L. Local Energy Generation Project Support</b>	
<b>M. Local Speed Setting Authority</b>	
<b>N. Long Term Transportation Infrastructure Funding</b>	
<b>O. Low-Income Energy Efficiency and Affordability Programs</b>	
<b>P. Marijuana Tax Local Rate Limitation Increase</b>	
<b>Q. Mental Health Service Delivery</b>	
<b>R. Municipal Broadband and Municipal Pole Protection</b>	
<b>S. New Mobility Services</b>	
<b>T. Photo Enforcement Safety Cameras</b>	
<b>U. Property Tax Reform</b>	
<b>V. Reducing Wastewater Impacts from Wipes and Other “Non-Flushables”</b>	
<b>W. Right-of-way/Franchise Fees Authority Preservation</b>	
<b>X. State Highway Funds Formula</b>	
<b>Y. Tort Liability Reform</b>	
<b>Z. Water Utility Rate and Fund Assistance</b>	

In addition to your ranking of the priorities shown above, please use this space to provide us with any comments (supportive or critical) you may have on these issues, or thoughts on issues or potential legislative initiatives that have been overlooked during the committee process.):

**You are reviewing the hard copy of the ballot. There are hyperlinks in the digital copy that may provide more background information. You can find the digital version with hyperlinks by going to this web address: [https://www.orcities.org/download\\_file/1038/0](https://www.orcities.org/download_file/1038/0). It is best opened in Google Chrome.**

#### **A. Beer and Cider Tax Increase**

**Legislation:**

The League proposes increasing the state taxes on beer and cider to assist with rising public safety costs, improve public health, reduce alcohol consumption by minors, and provide alcohol tax equity with wine and liquor.

**Background:**

Oregon's tax has not been increased since 1978 and is currently \$2.60 per barrel which equates to about 8 cents on a gallon of beer. The tax is by volume and not on the sales price, meaning the tax is less than 5 cents on a six-pack. Oregon has the lowest beer tax in the country, and to get to the middle of the states Oregon would need to raise the tax to \$30.00 per barrel or 54 cents per six pack (a more than 10-fold increase). Given recent challenges to the craft brewing industry tied to bar and restaurant closures it may be appropriate to delay or phase-in the increase. Cities are preempted from imposing alcohol taxes. In exchange, cities receive approximately 34% of the state alcohol revenues, but the state takes 50% of beer and wine taxes off the top prior to this distribution. Cities have significant public safety costs related to alcohol consumption, and the beer tax does not come close to covering its fair share of these costs.

*Presented by the Finance and Taxation Committee*

#### **B. Broadband Infrastructure and Technical Assistance Funding**

**Legislation:**

Seek additional state support and funding for increased broadband infrastructure deployment and technical assistance.

**Background:**

The deployment of broadband and telecommunications networks and services (public and/or private) throughout Oregon is critical to economic development, education, health and safety and the ability of residents to be linked to their governments. Research shows areas of the state either not served or underserved by competitive broadband technology. A significant barrier to the deployment of broadband infrastructure is funding. Cities need additional funding and support from various sources, including the state and federal government, allocated for increased or new, reliable, low latency broadband infrastructure that reaches speeds of at least 25 Mbps download and 3 Mbps upload or any updated speed standards as adopted by the FCC. Many federal grant programs require localities to have a broadband strategic plan in place before they are eligible for funds. Therefore, there is a need for funding sources to help cities with technical assistance as well as infrastructure.

*Presented by the Telecom, Broadband & Cable Committee*

#### **C. Building (Reach) Code – Energy Efficiency Local Option**

**Legislation:**

The LOC will pursue/support legislation to allow communities to adopt the Reach Code as the mandatory residential or commercial building code within the city's jurisdictional boundaries. The Reach Code would represent a building energy code that would be at least 10 percent more efficient than the statewide building code. Under this proposal, cities would be able to adopt the more efficient Reach Code or would continue to use the standard statewide building code as the base code.

**Background:**

Under current state law, cities are preempted from adopting local building codes. Instead, development is subject to statewide codes, including for new residential and commercial development. In 2009, legislation was passed to implement a new, optional code (Reach Code) that would allow developers to exceed statewide codes and streamline the construction of higher-performance buildings through efficiencies gained in the building exterior envelope as well as heating, ventilation, air conditioning, piping insulation and lighting. The Reach Code is optional for builders to use, but a local government can't mandate a builder to use it. This legislative recommendation would allow a city to adopt the Reach Code within their jurisdiction in order to promote additional energy efficiency for new residential and commercial structures. If a city does not wish to adopt the Reach Code, the statewide code would remain in place. The LOC Energy & Environment Committee discussed whether this recommendation would impact housing costs and believes that long-term cost savings may be gained through increased energy efficiency in newly built units. Ultimately, the decision on whether to utilize the standard code or the enhanced (Reach) code would be at the discretion of the city.

*Presented by the Energy and Environment Committee*

**D. COVID-10 Economic Recovery Investments**

**Legislation:**

The League will advocate for continued economic recovery strategies and investments for small business and workforce assistance in response to the economic impacts of the COVID-19 pandemic.

**Background:**

The COVID-19 pandemic has had a devastating impact on Oregon's small businesses and workforce. While the federal government and the state have made recent investments to support small business, these resources have yet to meet current needs and more resources will be needed to support long term economic recovery for Oregon's communities. The League will work in coordination with economic development partners to advocate for continued investments to support long-term recovery and economic development.

*Presented by the Community Development Committee*

**E. Digital Equity and Inclusion**

**Legislation:**

Support legislation and policies that are inclusive and equitable to all, individuals and communities, so that they have the information technology capacity needed for full participation in our society, democracy and economy.

**Background:**

Connectivity is crucial to modern life. It is being relied on more for how people do business, learn, and receive important services like healthcare. As technology has evolved, the digital divide has become more complex and nuanced. It is no longer about the existence of technology in certain places. Now, the discussion of the digital divide is framed in terms of whether a population has access to hardware, to the Internet, to viable connection speeds and to the skills and training they need to effectively use it. The LOC will partner with schools, healthcare, and other stakeholders to ensure technologies are relevant, available, affordable, and accessible to the diverse populous and communities of Oregon. Additionally, the LOC will advocate for digital literacy programs to help learn these new technologies.

*Presented by the Telecom, Broadband & Cable Committee*

## **F. Expedited Siting for Shelter and Affordable Housing**

### **Legislation:**

The League will pursue legislation to expedite the siting of emergency shelter and other affordable housing that follows the intent of the 2020 shelter siting bill (HB 4001) but retains more local decision making in the process. The League will pursue this priority in coordination with affordable housing partners and other land use stakeholders.

### **Background:**

The League worked closely with city and county partners during the 2020 session to gain improvements to HB 4001, which sought to preempt all local siting and zoning regulations and the land use appeals process, for approving the siting of emergency shelters for a one-year period. HB 4001 received strong legislative support in 2020. Draft omnibus legislation for a potential future special session has included the text of HB 4001 and the League expects to see HB 4001 reintroduced in the 2021 session.

This priority will empower cities and counties to proactively introduce alternative legislation, similar to existing statute in California, which requires jurisdictions to identify places where shelters can locate instead of mandating that jurisdictions allow shelters to be sited anywhere. The California model requires cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit and requires cities and counties to treat transitional and supportive housing projects as a residential use of property.

*Presented by the Community Development Committee*

## **G. Green Energy/Renewables – Expanded Local Option**

### **Legislation:**

The LOC will pursue/support policies that increase local control opportunities for cities that want to establish a community-scale green energy program. This program would be optional for cities that choose to pursue it. Cities who choose to, would be allowed to adopt resolutions that would opt-in residential, commercial, and industrial customers to a voluntary renewable energy option if it is provided by an investor owned utility that serves the city and its electric customers. Under this proposed program, a city would be able to pursue a more aggressive green energy portfolio and would better position cities to meet local climate action goals.

### **Background:**

Under current law, customers of investor-owned utilities can opt-in to voluntary renewable energy options for their customers. These options allow customers to invest in additional green energy generation. In 2019, the state of Utah passed legislation (SB 411) that allows cities and counties to opt-in to programs on a community-scale basis, while still allowing individual customers to opt-out. Under this proposal, any city within the territory of an investor-owned utility, would be able to pursue this option for community-scale renewable energy (net-100% renewable).

*Presented by the Energy and Environment Committee*

## **H. Housing and Services Investment**

### **Legislation:**

The League will support increased investments for affordable housing, homeless assistance, and related services including funding for: shelter, homeless services, case management, rent assistance, the development and preservation of affordable housing, and permanent supportive housing.

**Background:**

Cities large and small were facing escalating homelessness rates before the COVID-19 pandemic and the current economic downturn will only increase the number of Oregonians facing eviction or experiencing homelessness. State general fund programs like the Emergency Housing Assistance (EHA) and State Homeless Assistance Program (SHAP) have seen record investments in previous legislative sessions. The legislative emergency board also voted recently to dedicate \$12M in general funds to support rent assistance and safe shelter in response to COVID-19.

Oregon's lack of available housing, high rents and high home prices are causing housing instability and homelessness to increase. The Legislature has made record investments in recent years to fund the LIFT affordable housing program and preserve Oregon's existing affordable housing infrastructure. These programs are funded through general obligation bonds and lottery backed bonds.

Permanent Supportive Housing is a key strategy for ending chronic homelessness that reduces downstream costs to public systems like public safety, emergency health care and corrections. The 2019 Legislature invested over \$50M to stand up a three-pronged permanent supportive housing program that includes 1) development costs to build, 2) rent assistance to keep units deeply affordable, and 3) wrap around services that are key to ensuring residents' long-term stability. The state should continue investing in this model to bring more Permanent Supportive Housing across the state and ensure that the housing developed with the original \$50M continues receive the necessary ongoing funding for rent assistance and supportive services.

*Presented by the Community Development Committee*

**I. Increased Budgetary Flexibility During Budgetary Emergency****Legislation:**

The League proposes relaxing budgetary constraints in state law so that cities may better be able to withstand revenue losses related to natural disasters and public health emergencies. These losses will inevitably force many cities to cut services and lay off staff, the legislature can reduce the effect of losses by increasing flexibility for use of funds during and after a declared emergency.

**Background:**

Cities anticipate a tremendous loss in revenue due to the COVID-19 pandemic. Reduced revenues already include losses to lodging taxes, gas taxes, park fees, development fees, parking fees, utility charges, and so on. Further out, there is widespread concern that there will be impacts to the real estate market going into 2021, and by extension a reduction in 2021-22 property tax revenues. Cities want maximum flexibility in using funds that are subject to statutory limitations but will negotiate terms on individual funding sources including payback requirements if necessary. This flexibility should apply during and after declared emergencies, including both the current pandemic and future natural disasters.

*Presented by the Finance and Taxation Committee*

**J. Infrastructure Financing and Resilience****Legislation:**

The League will advocate for an increase in the state's investment in key infrastructure funding sources, including, but not limited to, the Special Public Works Fund (SPWF), Brownfield Redevelopment Fund, and Regionally Significant Industrial Site loan program. The advocacy will include seeking an investment and set aside through the SPWF for seismic resilience planning and related infrastructure improvements to make Oregon water and wastewater systems more resilient.



**Background:**

Cities continue to face the challenge of how to fund infrastructure improvements (both to maintain current and to build new). Increasing state resources in programs that provide access to lower rate loans and grants will assist cities in investing in vital infrastructure. Infrastructure development impacts economic development, housing, and livability. The level of funding for these programs has been inadequate compared to the needs over the last few biennia and the funds are depleting and unsustainable without significant program modifications and reinvestments. This priority will focus on maximizing both the amount of funding and the flexibility of the funds to meet the needs of more cities across the state to ensure long-term infrastructure investment.

*Presented by the Community Development Committee*

**K. Local Climate Action Planning Resources****Legislation:**

The LOC will seek grant funding and technical assistance resources for cities to pursue, adopt or expand local climate action plans. In addition, the LOC will pursue opportunities to work with the Oregon Climate Change Research Institute (through Oregon State University) to provide cities and counties with local/regional data that can better inform the adoption and implementation of climate adaptation and mitigation at the local level.

**Background:**

According to the Oregon Department of Energy's 2018 Biennial Energy Report (BER), since the early 1990s, major international and U.S. scientific assessments have concluded that both climate change mitigation and adaptation efforts are necessary in response to climate change. The BER goes on to explain that adaptation is often thought of as actions "to prepare for and adjust to new conditions, thereby reducing harm or taking advantage of new opportunities or simply to reduce society's vulnerability to climate change impacts." Local climate action plans, adopted by cities or counties, can help communities better understand how climate change will impact their communities, and can provide localized solutions to help mitigate against the impacts of climate change. The LOC is aware of fourteen cities that have adopted local climate action plans. There are other cities that are interested in doing the same but that do not have the financial and/or staffing resources that are necessary.

*Presented by the Energy and Environment Committee*

**L. Local Energy Generation Project Support****Legislation:**

The LOC will support/pursue funding, technical assistance and other tools that make local energy generation more feasible for cities to pursue.

**Background:**

Local energy generation projects can better position cities to pursue and achieve local climate action goals, address capacity constraints of existing electric transmission lines, and can help cities respond to individual businesses that may be seeking green energy options. The types of local energy generation projects discussed by the committee include, but are not limited to, small-scale hydropower, in-conduit hydropower, methane capture, biomass and solar. Such projects are not intended to conflict with existing low-carbon power purchase agreements but can position cities to pursue local climate action goals and supplement energy needs through renewable generation. Under this recommendation, the LOC will work to identify barriers and potential solutions to local energy generation and will pursue funding assistance for feasibility studies and project implementation.

*Presented by the Energy and Environment Committee*

## **M. Local Speed Setting Authority**

### **Legislation:**

Support legislation that provides legislative authority for ODOT to delegate local speed setting authority to Oregon cities that meet state criteria. Improve safety and speed limit consistency in Oregon cities by establishing a clear delegation process that is consistent with recently adopted statewide speed zone rules. (OAR 734-020-0014, 734-020-0015, and 734-020-0016). This will be permissive legislation allowing cities to opt-in and thus will not be a mandate.

### **Background:**

The state of Oregon and cities across the state are all committed to improving safety on our streets. National and international research has shown that setting appropriate speed limits on city streets is a critical tool for improving safety and saving lives. During the 2020 legislative session, HB 4103 gained widespread support for setting up a collaborative process with ODOT and cities that opt into a process for gaining local speed setting authority. Despite strong support, HB 4103 did not pass due to the legislative clock running out. Going forward, LOC will work with safety advocates and cities and use HB 4103 from the 2020 session as a template for legislation in 2021. Delegated authority should be made available to all cities that meet ODOT's criteria; participation by cities is permissive (not required). Cities should be able to determine speeds that are adequate and safe for their communities, working within the OAR speed zone framework. This will improve safety and make speed setting more consistent across local government jurisdictions.

*Presented by the Transportation Committee*

## **N. Long Term Transportation Infrastructure Funding**

### **Legislation:**

Support expansion and consideration of revenue-generating options to fund multimodal transportation infrastructure, which includes state and local facilities. Support state and local projects that are part of the Statewide Transportation Improvement Program.

### **Background:**

Oregon has made two significant state-wide transportation investments in the last 15 years. In 2009 the Jobs and Transportation Act (JTA). This was a successful effort from local governments and the business community to invest in maintenance and capacity building projects state-wide. In 2017, HB 2017 established Oregon's first ever comprehensive, multimodal, transportation investment with what is known as "Keep Oregon Moving," which was a \$5.3 billion package. Although HB 2017 will not have its full funding until 2024 LOC and other transportation advocates will need to constantly explore other sources of revenue including a possible future replacement of Oregon's gas tax with a road user charge system. Oregon has been pioneering a vehicle miles traveled (VMT) tax within the MyOReGo pilot program. The program is voluntary and can provide several benefits to users. Ultimately the long-term structure for transportation investment may well take on a similar structure.

*Presented by the Transportation Committee, endorsed by the Community Development Committee*

## **O. Low-Income Energy Efficiency and Affordability Programs**

### **Legislation:**

The LOC will provide support for programs that seek to expand upon low-income energy and heating assistance programs, including programs targeted to make energy more affordable for rental properties. In addition, the LOC will work to support programs that provide for energy bill payment assistance and expand opportunities for low-income Oregonians to access resources for home weatherization.

**Background:**

According to Oregon Housing & Community Services, approximately 396,182, or about 25 percent of all households, are considered energy-burdened because of their energy-related expenditures (as of 2018). A household is considered energy burdened if six percent or more of its gross income is consumed by energy-related expenses. In recent years, legislation has been introduced in Oregon that would have provided additional assistance to low-income homeowners and renters that struggle with energy affordability. Unfortunately, legislation did not pass. The need for such assistance has increased as a result of the economic hardships resulting from COVID-19. In addition to bill payment assistance, there is a need for programs that will support low-income home weatherization in order to make energy bills more affordable in the long-term.

*Presented by the Energy and Environment Committee*

**P. Marijuana Tax Local Rate Limitation Increase**

**Legislation:**

The League proposes increasing the current 3% cap on local marijuana taxes. This would give local voters greater choice in choosing a rate that reflects their needs or their community.

**Background:**

Retailers licensed by the Oregon Liquor Control Commission (OLCC) are required to charge a state-imposed retail sales tax of 17 percent for all recreational marijuana sold. Cities and counties (unincorporated areas only) may also impose a local retail sales tax of up to 3%, subject to voter approval. Tax rates for recreational marijuana vary widely across the states, but the total Oregon tax burden at a maximum of 20% is the lowest of West Coast states. Washington imposes a 37% state excise tax, but with a state sales tax of 6.5% and local rates of up to 1.9% the total rate can reach over 45%. California has a retail tax of only 15%, but with a state sales tax of 7.5% and local taxes up to 15.25% the total rate can reach up to 37.75%. Oregon consistently ranks among the lowest of the states for marijuana prices. Cities are sensitive to the desire to not push consumers to the black market and will work with the legislature on an increased cap that balances that concern with local revenue needs.

*Presented the Finance and Tax Committee*

**Q. Mental Health Service Delivery**

**Legislation:**

Support the delivery of mental health services in order to reduce negative police interactions and ensure that those in need receive the help they require.

**Background:**

The Committee and the LOC membership have prioritized the delivery of mental health services periodically over the last 5 years. Items contained in this priority have included crisis intervention training for police officer, mobile police and social worker teams to proactively work with people in danger of going into crisis, jail diversion, mental health courts and greater access to care. In the immediate past short session, the LOC worked with its coalition partners to obtain \$9 million in additional funding for aid-and-assist, community care and jail diversion but was unsuccessful due to a lack of quorum.

While the measurements are subjective and not in general agreement, most surveys of behavioral health and alcohol and drug addiction service availability place Oregon near or at the bottom of state rankings. As a result, Oregon ranks third in the nation for alcohol related deaths, and above the national average in suicides. Anecdotally, most police chiefs that have participated in LOC conversations on this topic report a growing number of calls for service stemming from people in mental health crisis. The COVID-19 pandemic has exacerbated some of these issues with Portland Police Bureau reporting a 41% increase in suicide related calls (including attempts and threats) over this time last year. This priority would include but not be limited to:

Investment: The stark truth is that Oregon has never financially supported mental health services at a level commensurate with need. More beds and more capacity will allow for greater delivery. The spending plan may be complicated but many advocates bristle at the idea of “mental health reform” when it’s never been funded as a priority. The League does not have a specific number at this time but is in conversation with partners to develop one.

Decriminalization of Mental Illness: People suffering from mental illness that interact with the criminal justice system typically spend more time incarcerated and suffer a disruption in treatment. Jail diversion has been something the League has advocated for in previous sessions and but will require changes in law, training and investments.

Workgroups Outcomes: There are currently several workgroups developing behavioral health reform plans that have yet to be completed, much of that work has been interrupted by COVID 19. LOC staff can update the Committee on these their work continues but cannot make recommendations on them now.

Alcohol Availability: The prevalence of cheap and potent alcoholic beverages that are produced and sold for the express purpose of achieving rapid intoxication has been a concern for Oregon Recovers, an advocacy group for those recovering from addiction. OLCC sells several 750 ml bottles for under \$10 and some as low as \$5. Creating a minimum price per international unit of alcohol has had an impact on consumption of cheap, potent beverages in Scotland and is believed to have had an impact on consumption there. Raising the price of low cost but high-volume products would also increase city shared revenue and provide additional funding for behavioral health services.

Mental Health Parity: Oregon and the federal government have enacted statutes to ensure that mental health services are treated as a health issues in a manner identical to physical health by health insurers. The legislative intent behind these laws has not been met as evidence by reports of denied coverage. Ensuring effective parity would increase treatment an access.

*Presented by the General Government/Human Resources Committee, endorsed by the Community Development Committee*

## **R. Municipal Broadband and Pole Protection**

### **Legislation:**

Oppose legislative efforts to restrict existing municipal authority to provide broadband services, and own and operate poles in the rights-of-way.

### **Background:**

As the public grows more dependent on the Internet for expanding parts of their lives, community choices for gaining access at a reasonable price, for both consumers and producers, are dwindling. Some municipalities choose to become service providers themselves. Municipal broadband is sometimes the only way to bring high speed internet to a community and it can serve as an access point to neighboring communities. Additionally, municipal broadband adds competition to the market and can help lower prices for community members. As there is a push for more connectivity and bridging the digital the divide, the LOC will protect localities rights to be internet service providers for their own communities. Additionally, as more and more small cell and 5G technology is deployed in the rights-of-way, the LOC will protect the right of municipalities to own, operate and regulate attachments that are allowed on their poles.

*Presented by the Telecom, Broadband & Cable Committee*

## S. New Mobility Services

### **Legislation:**

Support for a variety of new mobility services that promote a safe, sustainable, and equitable multimodal transportation system, while preserving local government's authority to regulate services and ensure they best serve the local context.

### **Background:**

Transportation mobility has been rapidly changing over the last few years. The emergence of ridesharing services such as Transportation Network Companies (TNCs) now provide the public with more options to get from point "a" to point "b." New platforms continue to emerge such as scooters, shared bikes, electric delivery tricycles for package delivery and the possibility of future driverless delivery and vehicle fleets. Cities must have the flexibility to address the impacts of emerging technologies on their communities such as increased congestion and air pollution while protecting consumers and maintaining a safe transportation network that recognizes the unique needs of individual communities.

*Presented by the Transportation Committee*

## T. Photo Enforcement Safety Cameras

### **Legislation:**

Support continuation and expansion of fixed speed and red-light cameras and mobile speed radar state-wide to improve public safety in high-crash corridors. Explore changes that enable more streamlined processing of citations. Allow for local governments to form IGA's with other local governments to facilitate the use of safety cameras and mobile radar in their communities.

### **Background:**

The Oregon Transportation Safety Action Plan sets a goal of no deaths or life-changing injuries on Oregon's transportation system by 2035. In 2015, the Oregon Legislature granted the city of Portland the authority to implement a fixed speed safety camera program (HB 2621). Portland's fixed speed camera systems have been operating on "urban high crash corridors" for the past several years. Data collected at these locations shows a distinct change in driver behavior that has reduced the risk of collisions (See PBOT Report). Under existing statutes, photo radar is allowed in the cities of Albany, Beaverton, Bend, Eugene, Gladstone, Medford, Milwaukie, Oregon City, Portland and Tigard. LOC's goal is to bring this authority state-wide providing all cities with the choice of operating speed radar in their communities to improve safety and reduce the risk of high-speed crashes.

*Presented by the Transportation Committee*

## U. Property Tax Reform

### **Legislation:**

The League of Oregon Cities proposes that the Legislature refer a constitutional measure and take statutory action to reform the property tax system as part of the 2021 session. With the passage of the Corporate Activities Tax Oregon has taken a step towards long term financial stability at the state and school district level, but local budgetary challenges persist and the legislature must take action to allow cities and other local governments to adequately fund the services that residents demand.

### **Background:**

The property tax system is broken and in need of repair due to Measures 5 and 50, which are both now over 20 years old. The current system is inequitable to property owners and jurisdictions alike, is often inadequate to allow jurisdictions to provide critical services, removes all local choice, and is incomprehensible to the majority of taxpayers. Local governments and schools rely heavily on property tax revenues to pay for services and capital expenses. Therefore, the League will take a leadership role in forming coalitions to help draft and advocate for

both comprehensive and incremental property tax reform option packages. The League will remain flexible to support all legislation that improves the system, with a focus on a property tax package that includes, but may not be limited to these elements:

- To restore local choice, a system that allows voters to adopt tax levies and establish tax rates outside of current limits and not subject to compression (requires constitutional referral).
- To achieve equity, a system that has taxpayers' relative share tied to the value of their property, rather than the complex and increasingly arbitrary valuation system based on assessed value from Measure 50 (requires constitutional referral).
- To enhance fairness and adequacy, a system that makes various statutory changes, some of which would adjust the impact of the above changes. For example, as a part of comprehensive reform the League supports a new reasonable homestead exemption (percentage of RMV with a cap) but also supports limiting or repealing various property tax exemptions that do not have a reasonable return on investment.

*Presented by the Finance and Tax Committee, endorsed by the Community Development Committee*

#### **V. Reducing Wastewater Impacts from Wipes and Other “Non-Flushables”**

##### **Legislation:**

The LOC will work with other stakeholders, including the Oregon Association of Clean Water Agencies address challenges resulting from wipes and other non-flushable items. Legislation pursued will likely focus on requirements for manufacturers to clearly label product packaging to indicate that the product should not be flushed, however, the LOC will additionally explore other viable opportunities to address the public health, environmental and economic challenges resulting from improper disposal of these products.

##### **Background:**

In recent years, public wastewater systems have experienced significant increases in sewer line clogs, environmental impacts, infrastructure impacts and costs associated with wipes being flushed down toilets. Most wipes don't break down when flushed, and even wipes that are labeled as “flushable” can clog pipelines and pumps and can cause sewage overflows in residences and the environment. The COVID-19 pandemic has made this challenge even worse due to shortages of toilet paper and increased use of disinfecting wipes. The EPA and other national organizations, as well as statewide and local wastewater agencies, are working to get the message out to avoid costly as well as environmental impacts of wipes in our sewer and treatment systems. In March of 2020, the state of Washington passed legislation requiring manufacturers to label products with a “do not flush” logo if the product does not meet national “flushability” standards (i.e. breaking down in the sewer system).

*Presented by the Water/Wastewater Committee*

#### **W. Right-of-Way/Franchise Fees Authority Preservation**

##### **Legislation:**

Oppose legislation that, in any way, preempts local authority to manage public rights-of-way and cities' ability to set the rate of compensation for the use of such rights-of-way.

##### **Background:**

In its commitment to the protection of Home Rule and local control, the LOC consistently opposes restrictions on the rights of cities to manage their own affairs. From time to time, in the context of public rights-of-way management authority discussions, legislative proposals to restrict this authority arise. Efforts to restrict local authority often include proposals for a statewide right-of-way access policy and compensation system as well as limiting the ability of cities to charge fees of other government entities. This is contrary to local government management authority; the ability to enter into agreements with users of the right-of-way either by agreement/contract or ordinance; to set terms of right-of-way use and to set the rate of compensation. In recent

years the FCC has passed rulemaking through various orders like the Small Cell Orders (FCC 18-133 and FCC 18-111) and the Cable Franchising Order (FCC 19-80) that erode cities' right-of-way and franchising authority. Local governments around the U.S. are fighting these orders in court. There is a fear that the language of these orders will be codified in state legislatures. This would mean if the orders are overturned in court at the federal level, they will still impact cities in states that have passed laws codifying the orders.

*Presented by the Telecom, Broadband & Cable Committee*

## **X. State Highway Funds Formula**

### **Legislation:**

Consider opening the state highway fund distribution formula to allow for an additional percentage to cities. Currently the split is 50-30-20 with the State receiving 50%, Counties receiving 30% and the balance going to Cities 20%.

### **Background:**

Oregon has had a distribution formula for the state highway fund for decades. This fund combines the revenues generated from the state's gas tax, weight-mile tax on heavy trucks, licenses, fees, and bond proceeds. Approximately 77 percent of the total revenue collected by Oregon Department of Transportation (ODOT) is from state sources, while only 23 percent comes from federal sources. During the 2017 session base level funding for the least populated counties was established along with a \$5 million-dollar small city fund for cities under 5,000 in population with a maximum award of \$100,000 and no match requirement. LOC will engage with other transportation interests to determine if there is adequate support to advance legislation that would revisit the current 50-30-20 distribution.

*Presented by the Transportation Committee*

## **Y. Tort Liability Reform**

### **Legislation:**

COVID-19 and existing federal court decisions have added risk exposure to cities in areas where their authority has been limited or have not received adequate support. This priority seeks to ensure that cities are not held liable in these areas.

### **Background:**

CIS has already had a COVID related claim filed against it for a COVID related exposure. While there may be many legitimate reasons for a person to seek damages related to the outbreak, local governments have been hampered by inadequate supplies of PPE, testing capability, direct financial support, and legislative relief.

Additionally, the Boise decision that prevents cities from enforcing no camping rules and ordinances subject cities to additional tort liability. The ruling holds that if a person has no place else to go, a city must allow them to sleep somewhere. While there is a logical basis for the core of the ruling, if a city allows a person to sleep in an area that is not designed for camping, such as a park, the person may seek damages. Please note that recreational users of parks may not seek damages due to Oregon's recreational immunity statute that were corrected in 2017.

Finally, in previous sessions, legislation has been introduced but not passed to require cities to permit shelters in areas where they may not be appropriate and "codify" the Boise decision in state law. This legislation did not include immunity from tort liability while removing city authority.

*Presented by the General Government/Human Resources Committee*



## Z. Water Utility Rate and Fund Assistance

### **Legislation:**

The League will work during the 2021 legislative session to provide water utility funding assistance for ratepayers that are experiencing ongoing or recent economic hardships. In addition, the LOC will work to identify opportunities for additional investments in public infrastructure, including water supply, wastewater treatment, stormwater management, green infrastructure opportunities and resilience for water systems. Finally, the LOC Water & Wastewater Policy Committee has identified a need for additional, targeted grant funding assistance that will benefit smaller communities. This includes additional funding to conduct rate studies, feasibility studies and funding to help communities comply with new regulatory requirements, including the requirement to include a seismic risk assessment and mitigation plan within regular water master plan updates.

### **Background:**

In response to economic impacts associated with the spread of COVID-19, many of Oregon's drinking water and wastewater utility providers have offered additional assistance to ratepayers. The LOC is aware that most water utility providers have temporarily ceased water service shut offs (disconnections) for non-payment or past due bill collection during this period of economic hardship. Impacts associated with residential ratepayer revenue losses and decreased water consumption from businesses that have either closed or limited operations has resulted in revenue losses for many Oregon water utility providers. Some water utilities have outstanding debt from prior infrastructure investments and have expressed concerns that reductions in revenue may impact the ability to make the ongoing debt payments. In addition, the economic hardships that are being experienced by many Oregonians, especially in low-income and minority communities, will be ongoing; highlighting the need for additional ratepayer assistance investments that focuses on equity and our most vulnerable populations.

The LOC will work to identify funding for water utility ratepayer assistance and will work to establish a framework for the distribution of funds and will seek to ensure that this crisis does not exacerbate existing inequities, especially for Black, Indigenous, other Communities of Color and for rural Oregonians.

In addition, while COVID-19 has created unique revenue challenges for water utility providers, a key issue that most cities continue to face is how to fund infrastructure improvements (including maintaining, repairing and replacing existing infrastructure and building new infrastructure to address capacity and regulatory requirements). Increasing resources in programs that provide access to lower-rate loans and infrastructure-specific grants will assist cities in investing in vital infrastructure improvements which will also help bolster economic recovery. Infrastructure development impacts economic development, housing, and livability. The level of funding for these programs has been inadequate compared to the needs over the last few biennia and the funds are depleting and unsustainable without significant program modifications and reinvestments.

The LOC will pursue additional funding through the state's Special Public Works Fund, which provides funding assistance through Business Oregon for a variety of public infrastructure needs and will explore state bonding capacity opportunities for water-specific infrastructure needs. In addition, LOC will pursue funding for small communities that face regulatory and operational challenges. Examples of small-community funding assistance opportunities may include expanded grant opportunities through existing funding programs and additional funding assistance to help communities with regulatory compliance and engage in utility best practices, including rate studies.

*Presented by the Water/Wastewater Committee, endorsed by the Community Development Committee*



## Acknowledgements

*Thank you to all that participated in the policy committee process.*

### **Community Development Committee**

Brian Latta, Dallas (*Chair*)  
Timothy Rippe, Forest Grove (*Vice-Chair*)  
Tom Armstrong, Portland  
Michael Boquist, La Grande  
Barbara Bull, Corvallis  
Steve Clements, La Grande  
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Tim Rosener, Sherwood  
Byron Smith, Hermiston  
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Anne Davies, Pricipal Attorney, Lane Council of Governments  
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Julie Smitherman, Ashland  
Eric Noll, Portland  
Susie Smith, ACWA  
Tracy Rutten, LOC



## Staff Report

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**Meeting Date:** August 3, 2020  
**From** Jordan Wheeler, City Manager  
**SUBJECT:** HWY 211 Jurisdiction Transfer

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### **Background:**

The City and Oregon Department of Transportation (ODOT) have been working on a revised agreement to transfer the jurisdiction control of the portion of highway 211 that is within the city's limits (mile post 4.40 to 5.94). The Council had previously considered the jurisdiction transfer in 2018 as a prior city council goal. The transfer was ultimately not acted on at the time. The City and ODOT renewed discussions regarding the transfer last year.

Transferring the jurisdiction from ODOT to the City of Sandy would give the city direct control and maintenance responsibility of that stretch of Highway 211 from city limits over the portion of the highway in order to plan and construct future pedestrian and safety improvements. The southern area of the city has seen substantial residential growth with neighborhoods such as Cascadia and Bornstedt and the approved development at Ponder Lane. Most of the stretch of highway is lacking sidewalks or safe pedestrian infrastructure especially between the neighborhoods and downtown Sandy. The jurisdiction transfer will also enable the city to manage projects under our rules and processes such as the intersection with the new Gunderson Road.

It is unlikely that improvements such as sidewalks, widened shoulders, lighting, and improved connections over Tickle Creek would be funded and completed by the state in the foreseeable future. Assuming the jurisdiction over this stretch of road will allow the city to incorporate and prioritize the needs into the city's transportation system plan and capital improvement plan.

The city would assume all responsibility for the maintenance of this stretch of the highway and the necessary ADA improvements that will need to be completed by the end of 2027. In consideration of the maintenance and ADA improvement needs, ODOT will pay the city \$500,000 and deposit the funds once the transfer is complete. If the city did not complete the ADA improvements by the deadline, ODOT would complete the work and withhold a proportional share of the city's share of state highway funds.

The transfer agreement also includes the commitment that ODOT will upgrade the traffic signal systems on Highway 26 at the Bluff Road, Strauss Ave, Shelley Ave, Meing Ave, and Ten Eyck/Wolf Road. This was a need identified in previous discussions between the Council and ODOT staff and requested by the Mayor in negotiations with

ODOT senior staff. The signalization upgrades would be installed following the execution and recording of the transfer agreement.

Jurisdiction transfers between cities and the state are now approved by the ODOT Director's Office. Once the Council approves the transfer, and the City signs the transfer agreement, the agreement is submitted to the Director's office approval. Once the Director's office gives approval, the highway jurisdiction & control will immediately transfer to the City. The final step is to record the conveyance documents with Clackamas county. That process is expected to take no more than a couple of months.

**Attachments:**

- Jurisdiction Transfer Agreement
- Exhibit A - Map
- Exhibit B - ADA Improvement Locations
- Letter from ODOT regarding traffic signal improvements on Highway 26

**Recommendation:**

Review the proposed jurisdiction transfer agreement and provide direction to staff for bringing the agreement back for approval.

**Budgetary Impact:**

ODOT will pay the city \$500,000 once the transfer is completed. These funds will be put in the Street Fund to be used for highway 211 improvements.

**JURISDICTIONAL TRANSFER AGREEMENT**  
**M.P. 4.40 - 5.94 Section**  
**Eagle Creek - Sandy Highway, State Highway Number 172**  
**County of Clackamas, Oregon**  
**City of Sandy**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and the City of Sandy, acting by and through its elected officials, hereinafter referred to as "City," both herein referred to individually or collectively as "Party" or "Parties."

**RECITALS**

1. The Eagle Creek - Sandy Highway is under the jurisdiction and control of the Oregon Transportation Commission. The Eagle Creek - Sandy Highway, State Highway number No. 172 is also designated State Route OR 211.
2. OR 211 is part of the federal aid primary system in existence on June 1, 1991 and is subject to the requirements of 23 USC 131 and the Oregon Motorist Information Act, ORS 377.700 to 377.840 and 377.992
3. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting Parties.
4. By the authority granted in ORS 366.395, State may relinquish title to any of its property not needed by it for highway purposes to any other governmental body or political subdivision within the State of Oregon, subject to such restrictions, if any, imposed by deed or other legal instrument or otherwise imposed by State.
5. State maintains a State Route system and a US Route System to assist the traveling public in their travels. Designated routes may be composed of both state highway and local roads. Designation and elimination of state routes are under authority of the Oregon Transportation Commission. US Route designations are administered by the Special Committee on US Route Numbering of the American Association of State Highway and Transportation Officials (AASHTO).
6. The National Highway System (NHS) was adopted by Congress as part of the National Highway System Designation Act of 1995. The Federal Highway Administration (FHWA) administers this program and must approve all changes to the system and is subject to Title 23, Title 49 of the Federal Regulations and

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all applicable FHWA policies, including but not limited to 23 USC 131 and the Oregon Motorist Information Act, ORS 377.700 to 377.840 and 377.992. The Eagle Creek – Sandy Highway is not a part of the NHS.

7. Freight movements on the highway will not be restricted beyond the limits set in the agreement after a highway segment is transferred per ORS 374.329. OR 211 from MP 4.40 to MP 5.94 is located within the city and subject to provision. State and City agree to continue to allow annual permits up to 12 feet wide consistent with ODOT Route Map 2, and Single Trip Permits on a case-by-case basis with traffic control if roadway geometry allows.
8. For the purpose of furthering the development of a state highway system adopted in all particulars to the needs of the people of the State of Oregon, State and City agree to eliminate from the state highway system a portion of the Eagle Creek - Sandy Highway, described in Exhibit A-1 and hereinafter referred to as Unit A.

**NOW THEREFORE**, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

#### **TERMS OF AGREEMENT**

**1. Transfer of Jurisdiction and Control**

State and Agency agree that upon approval of a Jurisdictional Transfer Resolution by the Oregon Transportation Commission (OTC), jurisdiction and control of Unit A as described in Exhibit A-1 and shown on Exhibit A-2, attached hereto and by this reference made a part hereof, shall vest in Agency; and that Agency shall control, operate and maintain Unit A as a part of its city road system as long as needed for the service of persons living thereon or a community served thereby.

**2. Transfer of Property Interests**

State and Agency agree that all property rights, title, interests and access rights in Unit A, including and excluding those rights reserved below, shall be conveyed from State to Agency by recording a Jurisdictional Transfer Conveyance Document after the OTC Commission approves the Jurisdictional Transfer Resolution. The State's interest in Unit A is subject to the rights of any utilities located within Unit A, including but not limited to the right to operate, reconstruct, and maintain their utility facilities.

- a. Agency shall use Unit A for public road purposes. If Unit A is no longer used for public road purposes, it shall revert to State.
- b. State shall retain:

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- authority to enforce the requirements of 23 USC 131 and the Oregon Motorist Information Act, ORS 377.700 to 377.840 and 377.992. In accordance with those laws, State shall continue to conduct surveillance and regulate outdoor advertising signs, along Unit A. Oversight is the responsibility of the Outdoor Advertising Sign Program in the State Right of Way Program Management Unit
- all property acquired for improvements to the Mt. Hood Highway No. 26 (Pioneer Boulevard) at the intersection with the Eagle Creek – Sandy Highway No. 172 as shown in Exhibit A, and
- jurisdiction and control of the traffic control facilities including but not limited to traffic signals and supports, loops, and controllers at the intersection of the Eagle Creek – Sandy Highway No. 172 with the Mt. Hood Highway No. 26 (Pioneer Boulevard) and the intersection of the Eagle Creek – Sandy Highway No. 172 with the Mt. Hood Highway No. 26 (Proctor Boulevard).

### **3. Highway designation**

This section of roadway will retain the State Route OR 211 designation.

### **4. Construction of Improvements**

Unit A shall be transferred to Agency in its current condition.

### **5. Management of Roadway after Transfer**

- a. Freight movements will not be restricted below the levels identified in ODOT's MCTD Freight Mobility Map, located at the following link:  
<https://www.oregon.gov/ODOT/MCT/Documents/FreightMobilityMap.pdf>
- b. Loads allowed by State prior to the transfer must be allowed by the City, including pilot vehicle requirements, once transferred. Prior to transfer, Unit A, allowed loads up to 12 feet wide shall be allowed by annual permit and over 12 feet wide shall be allowed by single trip permit on a case by case basis. Pilot vehicle requirements are identified in the Special Transportation Permit Attachment 82-A and 75-A, and Route Map 2 available through ODOT's Commerce and Compliance Division.
- c. Agency shall maintain any traffic control devices.
- d. In maintaining the transferred facilities, Agency agrees to ensure that sidewalks, curb ramps, and pedestrian activated signals meet the requirements of the ADA.

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- e. Any improvements or modifications to Unit A must adhere to American Association of State Highway and Transportation Officials (AASHTO) Standards. If said improvements or modifications consist of a roundabout on Unit A, City must adhere to Highway Division Directive DES 02, effective 11/09/2012.

**6. Effective Date**

This Agreement becomes effective on the date all required signatures are obtained. The Agreement terminates upon the adoption of the OTC Jurisdictional Transfer Resolution and recording of the Jurisdictional Transfer Conveyance Document or two (2) calendar years after the effective date of the Agreement, whichever is earlier, unless otherwise extended or renewed by a formal amendment executed between the Parties.

**STATE OBLIGATIONS**

1. State shall prepare and present a Jurisdictional Transfer Resolution and Highway Plan Amendment to the OTC to eliminate Unit A from Eagle Creek – Sandy Highway (State Highway number 172) and the state highway system. Jurisdiction, control and maintenance responsibilities of Unit A shall vest with the Agency at the time the OTC approves the Jurisdictional Transfer Resolution. All property rights, title and interest of Unit A as described in Exhibit A-1 and shown in Exhibit A-2, shall be transferred to Agency when the Jurisdictional Transfer Conveyance Document is recorded. If Unit A or any portion of Unit A is no longer used for public road purposes, it shall revert to State.
2. State shall furnish Agency relevant copies of its curb ramp inventory, approved curb ramp design exceptions and written orders to close crosswalks closures, and any maps, records, permits, and any other related data available that may be required to administer the Eagle Creek - Sandy Highway.
3. State agrees to pay \$500,000 as part of the jurisdictional transfer for roadway improvements and ADA upgrades within the City. State will deposit funds with the City upon recording of the Jurisdictional Transfer Document with the county.
4. As additional consideration of the transfer, State agrees to make upgrades to intersection traffic signals systems on Mt. Hood Highway No. 26 at Bluff Rd, Straus Ave, Shelley Ave, and Meinig Ave at Pioneer Blvd, Meinig Ave at Proctor Blvd, and SE Ten Eyck Rd / Wolf Rd. The upgrade work will occur after the transfer and will include all labor and traffic control required to install radar detection equipment and detection loops including adaptive software and signal timing after the execution date of this Agreement

**AGENCY OBLIGATIONS**

1. Upon approval of a Jurisdictional Transfer Resolution by the OTC, Agency agrees to accept jurisdiction and control of Unit A to operate and maintain as (a) portion(s) of its road system as long as needed for the service of persons living thereon or a community served thereby including all traffic signals, signs and illumination and all things and appurtenances within the transferred right of way. In maintaining Unit A, Agency shall ensure that sidewalks, curb ramps, and pedestrian activated signals meet the requirements of the ADA.
  
2. Agency agrees to construct missing curb ramps and upgrade non-compliant curb ramps sidewalks and pedestrian-activated signals identified in Exhibit B no later than Decemeber 31, 2027 so as to make all identified curb ramps, sidewalks and pedestrian signals compliant with ODOT ADA practices. In constucting the improvements identified in Exhibit B, Agency agrees to:
  - a. Use ODOT standards to assess and ensure improvements comply with the ADA and meet current ODOT Highway Design Manual standards;
  
  - b. Follow ODOT's processes for design, modification, upgrade, and construction including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, to provide a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
  
  - c. Send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Traffic Roadway Engineer for each curb ramp constructed, modified, upgraded, impacted, or improved as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:  
<http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/Pages/HwyConstForms1.aspx>
  
  - d. If Agency fails to meet the requirements of this subsection by December 31, 2027, State may construct missing curb ramps or upgrade curb ramps, sidewalks and pedestrian activated signals at these locations and withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred to State to remedy the breach. Agency will be ineligible to receive or apply for any federal funds administered by ODOT until State receives full reimbursement of the costs incurred.
  
3. Agency agrees to accept all State's property rights and interests described in Exhibit A-1 and Exhibit A-2 upon the recording of the Jurisdictional Transfer Conveyance Document. This intent is also memorialized by the signatures in Exhibit C, Acceptance of Jurisdictional Transfer & Quitclaim of Active Right of Way, attached hereto and



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made a part of this agreement. If said property interests are no longer used for public road purposes, it shall revert to State.

4. If the OTC approves the Jurisdictional Transfer Resolution, the rights and obligations of Agency set out in this section of this Agreement shall survive Agreement expiration or termination.

#### **GENERAL PROVISIONS**

1. This Agreement may be terminated by mutual written consent of both Parties. State may terminate this Agreement effective upon delivery of written notice to Agency or at such later date as may be established by State, under any of the following conditions:
  - a. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
  - b. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited, or if State is prohibited from paying for such work from the planned funding source.
  - c. If OTC fails to adopt a Jurisdictional Transfer Resolution to transfer Unit A from the state highway system to Agency.
2. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
3. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
4. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable

considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

5. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
6. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
7. All employers, including State and Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. State and County shall ensure that each of its subcontractors complies with these requirements.
8. Each Party hereby grants the other party authority to enter onto each other's right of way for the purpose of performing the maintenance services.
9. If Agency fails to maintain facilities in accordance with the terms of this Agreement, State, at its option, may maintain the facility and seek reimbursement from Agency, seek an injunction to enforce the duties and obligations of this Agreement or take any other action allowed by law. This section of this agreement shall survive Agreement expiration or termination.
10. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without

City/State  
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limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 as amended by the ADA Amendments Act of 2008 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

11. State and Agency acknowledge and agree that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of State and Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
12. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
13. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
14. This Agreement and attached Exhibits A-1, A-2, B, and C constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary 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 State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

**SIGNATURE PAGE TO FOLLOW**

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**CITY OF SANDY**, by and through its elected officials

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**LEGAL APPROVAL**

By \_\_\_\_\_  
City Counsel

Date \_\_\_\_\_

**City Contact:**

Jordan Wheeler, City Manager  
39250 Pioneer Blvd.  
Sandy, OR 97055  
503-668-5767  
jwheeler@cityofsandy.com

**State Contact:**

Ted Miller, Region 1 Maintenance & Operations  
Manager  
123 NW Flanders Street  
Portland, OR 97209  
503-731-8559  
Theodore.c.miller@odot.state.or.us

**STATE OF OREGON**, by and through its Department of Transportation

By \_\_\_\_\_  
State Right of Way Manager

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Region 1 Manager

Date \_\_\_\_\_

By \_\_\_\_\_  
Region 1 Right of Way Manager

Date \_\_\_\_\_

By \_\_\_\_\_  
District 2C Manager

Date \_\_\_\_\_

By \_\_\_\_\_  
State Traffic-Roadway Engineer

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

By \_\_\_\_\_  
Assistant Attorney General

Date \_\_\_\_\_

City/State  
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### **EXHIBIT A-1- LEGAL DESCRIPTION OF UNIT A**

Unit A is described as follows:

Unit A

All land within the right of way boundaries of the Eagle Creek – Sandy Highway No. 172 beginning at the intersection of said highway with the West line of the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 23, Township 2 South, Range 4 East, W.M., Clackamas County, Oregon, said point of beginning being at Engineer's Station 72+90.5, Mile Point 4.77 on said highway; thence Northeasterly along said highway to the Mt. Hood Highway No. 26 (Pioneer Boulevard); thence continuing on said Eagle Creek - Sandy Highway No. 172 (Meinig Avenue) to the Mt. Hood Highway No. 26 (Proctor Boulevard) and the terminus of said Eagle Creek - Sandy Highway No. 172, said terminus being at mile point 5.94 on said highway, said right of way boundaries lying in Sections 13, 23 and 24, Township 2 South, Range 4 East, Willamette Meridian, Clackamas County, Oregon..

Subject to the rights of the State of Oregon, by and through its Department of Transportation to the right of way boundaries of the Mt. Hood Highway No. 26 (Proctor Boulevard) and the Mt. Hood Highway No. 26 (Pioneer Boulevard) as said boundaries cross said Eagle Creek - Sandy Highway No. 172.

City/State  
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**EXHIBIT C**  
**Acceptance of Jurisdictional Transfer**  
**& Quitclaim of Active Right of Way**

\_\_\_\_\_ **Section**  
\_\_\_\_\_ **Highway**  
\_\_\_\_\_ **County**

The Parties agree that signing this Agreement and Acceptance page serves as an indication of approval, pursuant to ORS 93.808, of the following conveyances from the State to the \_\_\_\_\_ Insert name of County, City or other jurisdiction:

All right, title, and interest, including jurisdiction, maintenance and control, of the \_\_\_\_\_ Section of the \_\_\_\_\_ Highway, state highway No. \_\_\_\_\_ in \_\_\_\_\_ County, Oregon, and the state highway system, in Unit Insert Unit Number, described in Exhibit A-1 and shown on Exhibit A-2, attached hereto and by this reference made a part hereof, shall be conveyed to \_\_\_\_\_ as (a) portion(s) of its Insert name of County, City or other jurisdiction road system as long as needed for the service of persons living thereon or for a community served thereby.

Accepted By:

\_\_\_\_\_ Insert name of County, City or other jurisdiction, by and through its elected officials

By \_\_\_\_\_

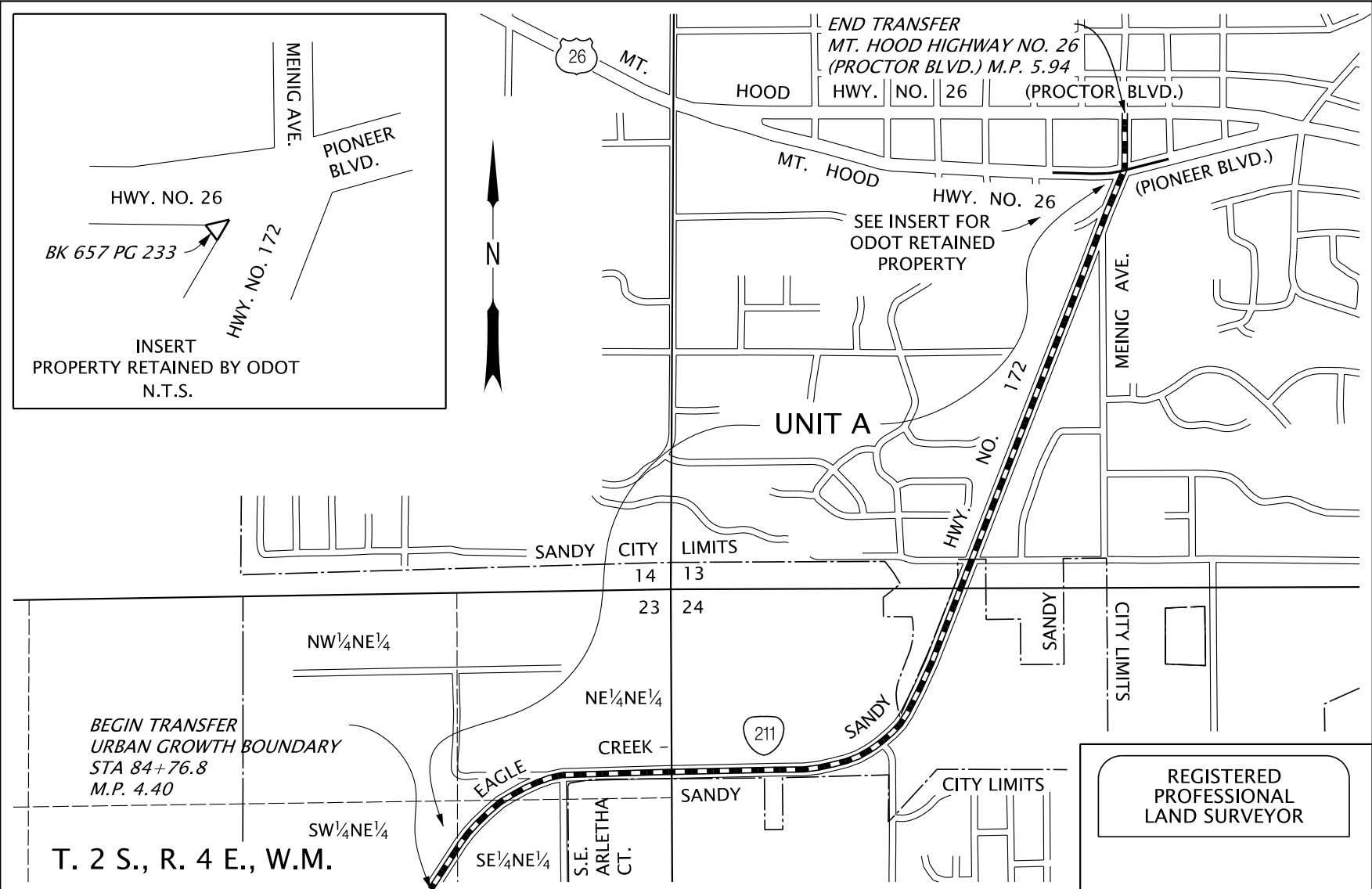
Title \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_



OREGON DEPARTMENT OF TRANSPORTATION  
**JURISDICTIONAL**  
**TRANSFER NO. 816**  
**AGREEMENT EXHIBIT A-2**

SECTION	M.P. 4.40 - M.P. 5.94		
HIGHWAY	EAGLE CREEK - SANDY HIGHWAY NO. 172		
COUNTY	CLACKAMAS COUNTY	SCALE	1" = 800'
SEE DRAWING 6B-18-4		DATE	March, 2019

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

OREGON  
 JUNE 13, 2008  
 MICHAEL RAEY FALLERT  
 78960

RENEWS: 12-31-2021

## EXHIBIT B

# JURISDICTIONAL TRANSFER (NO. 816) EAGLE CREEK - SANDY (HWY 172)

HWY 172 MP 4.40 – MP 5.94  
(SE ARLETHA CT. (SE PONDER LN.) – MEINIG AVE. (HWY 172 MP 5.94))

1. HWY 172 MP 4.77 SE ARLETHA CT. (SE PONDER LN.)
2. HWY 172 MP 4.90 SE VILLAGE BLVD.
3. HWY 172 MP 5.17 SE BORNSTEDT RD.
4. HWY 172 MP 5.22 TUPPER RD.
5. HWY 172 MP 5.39 DUBARKO RD.
6. HWY 172 MP 5.81 MEINIG AVE.
7. HWY 172 MP 5.85 TUPPER RD.

### Location Ratings

- Locations rate MISSING or POOR require remediation.
- Locations rated GOOD or FAIR do not require remediation.
- Locations rated NOT NEEDED do not require remediation.

None of the rated locations require pedestrian activated signal remediation.

### Count of Locations Requiring Remediation

Each rated location requiring remediation consists of 2X ramps, except for locations at MP 5.85 Tupper Rd:

2X Ramps @ MP 4.77 SE Areltha Ct. (SE Ponder Ln.) - POOR

2X Ramps @ MP 4.90 SE Village Blvd. - POOR

6X Ramps @ MP 5.39 Dubarko Rd. - POOR

2X Ramps @ MP 5.85 Tupper Rd. - POOR

2X Ramps @ MP 5.85 Tupper Rd. – MISSING

14X Ramps Total

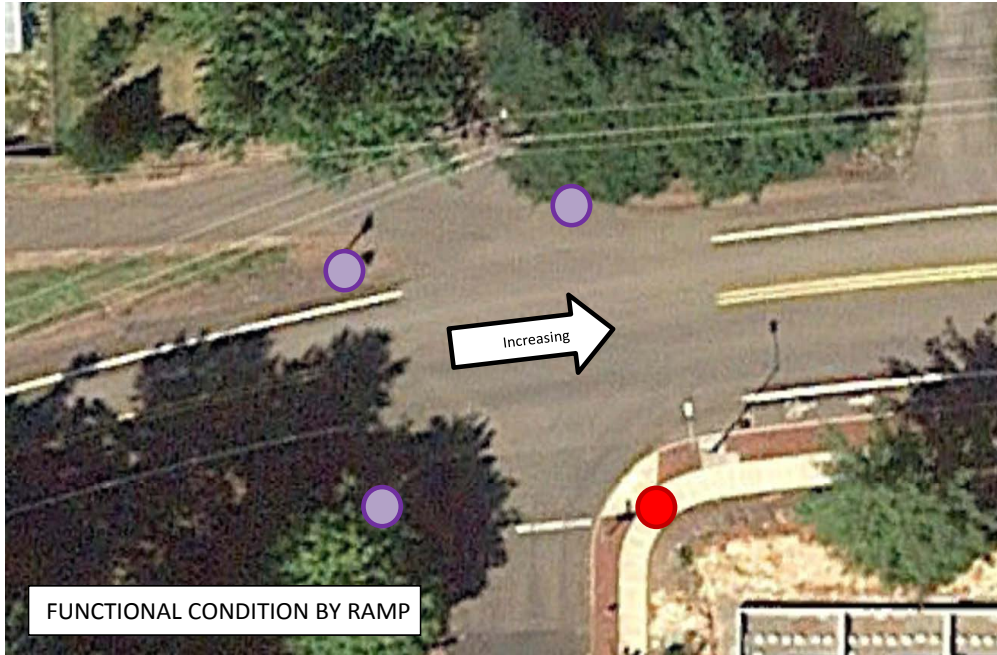


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1. HWY 172 MP 4.77 SE ARLETHA CT. (SE PONDER LN.)

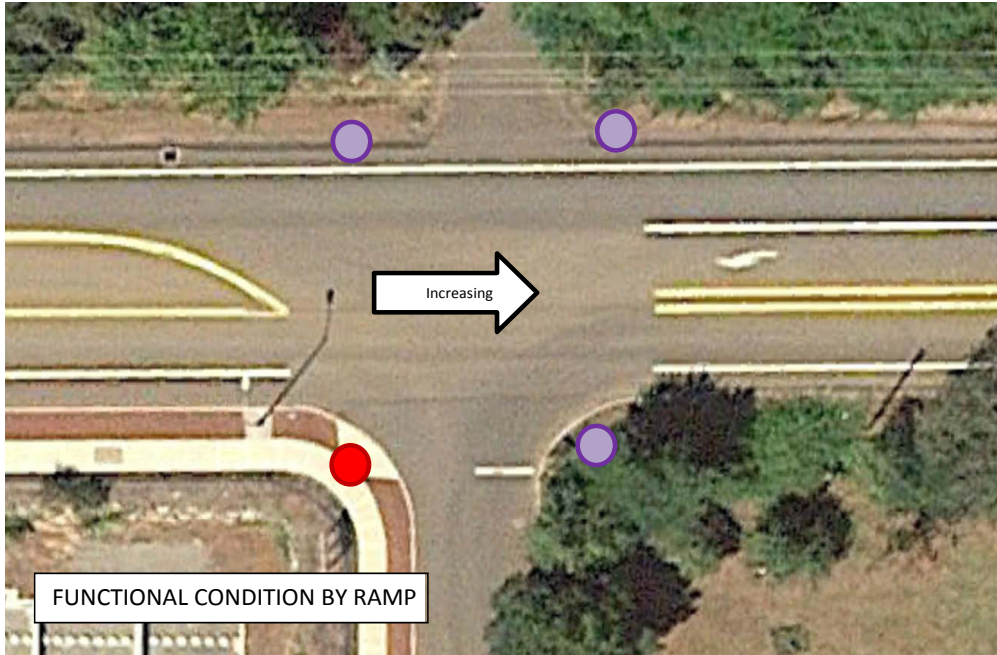


HWY 172 MP 4.77 SE ARLETHA CT. (SE PONDER LN.) AERIAL



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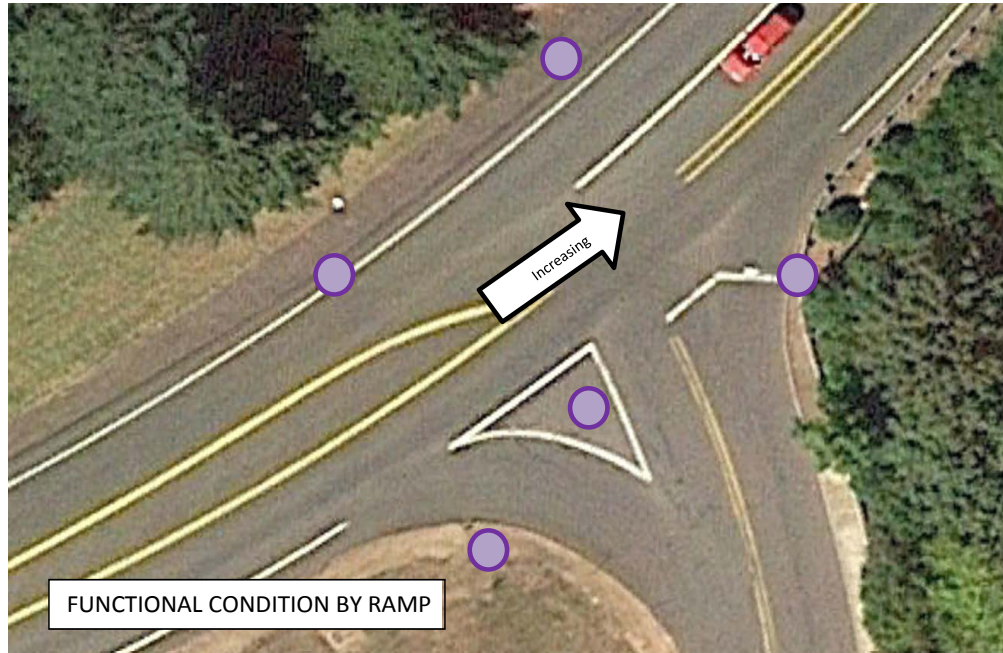
2. HWY 172 MP 4.90 SE VILLAGE BLVD.



HWY 172 MP 4.90 SE VILLAGE BLVD. AERIAL

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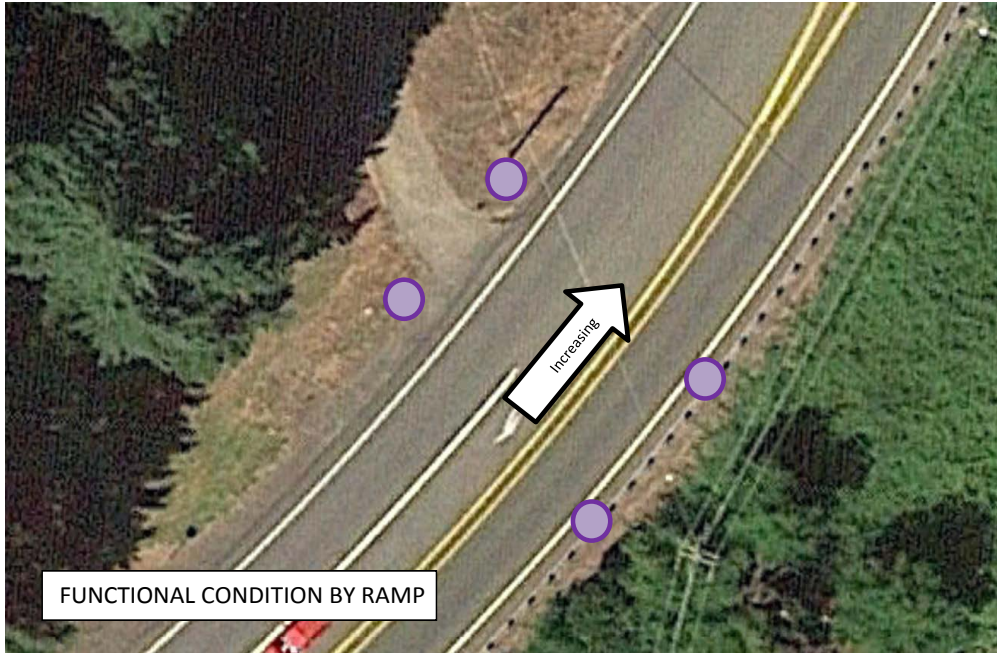
3. HWY 172 MP 5.17 SE BORNSTEDT RD.



HWY 172 MP 5.17 SE BORNSTEDT RD. AERIAL

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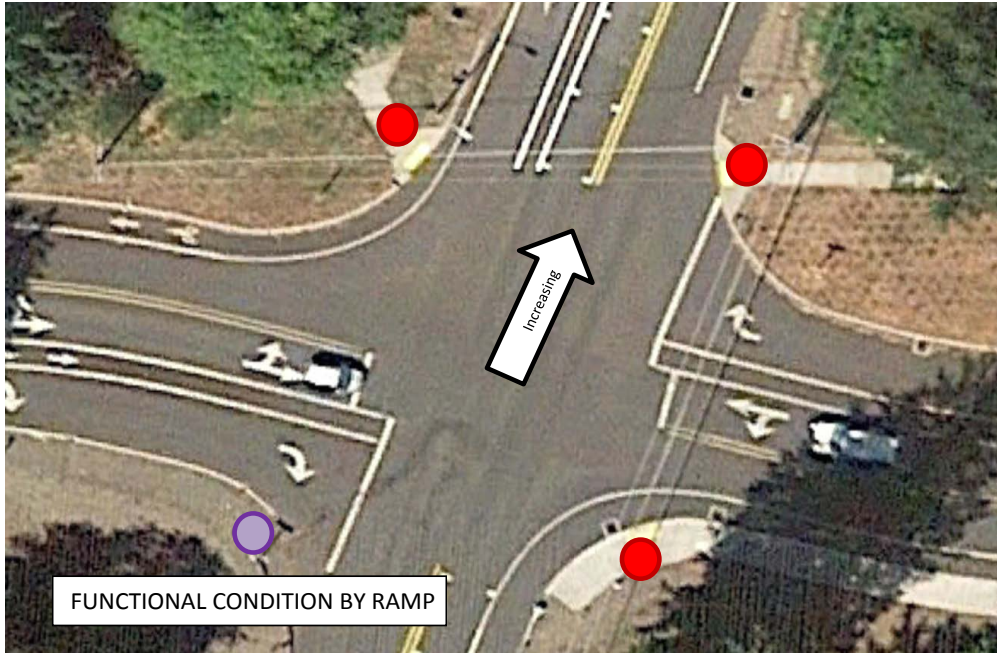
4. HWY 172 MP 5.22 TUPPER RD.



HWY 172 MP 5.22 TUPPER RD. AERIAL

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5. HWY 172 MP 5.39 DUBARKO RD.

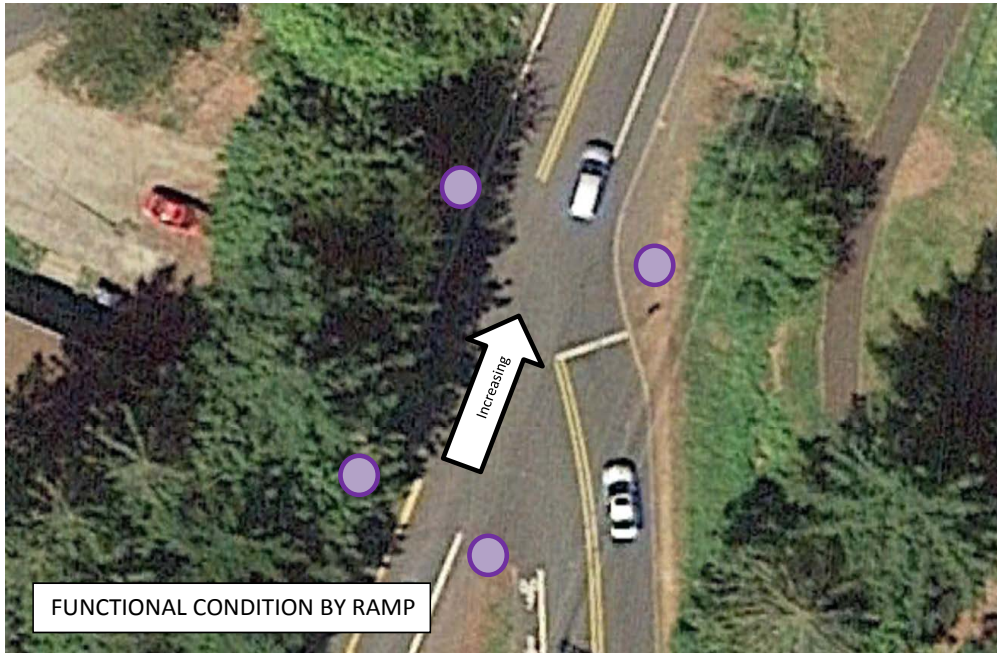


HWY 172 MP 5.39 DUBARKO RD. AERIAL



City/State  
Agreement No. 816

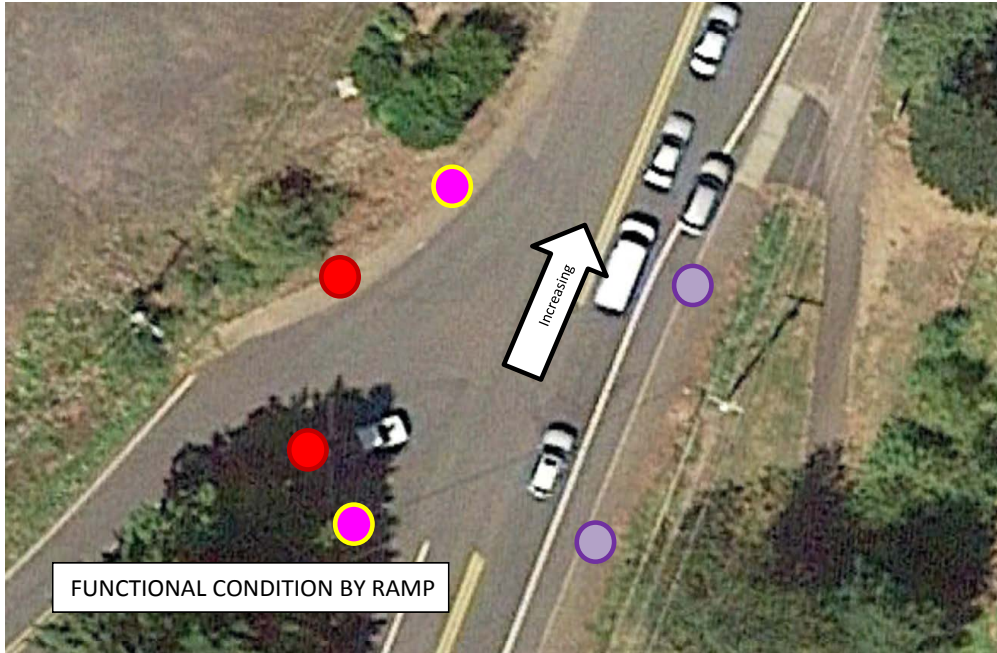
6. HWY 172 MP 5.81 MEINIG AVE.



HWY 172 MP 5.81 MEINIG AVE. AERIAL

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7. HWY 172 MP 5.85 TUPPER RD.



HWY 172 MP 5.85 TUPPER RD. AERIAL





Oregon

Kate Brown, Governor

Department of Transportation

Region 1 Headquarters  
123 NW Flanders St  
Portland, OR 97209  
p. 503.731.8200

March 18, 2020

Mayor Stan Pulliam  
City of Sandy  
39250 Pioneer Boulevard  
Sandy, OR 97055

RE: OR-211 JTA 816/ US-26 Adaptive Traffic Management System

Mayor Pulliam,

ODOT is pleased to be working with you to transfer jurisdiction of a portion of OR-211 to the City to facilitate housing development and the accompanying improvements.

In addition to the commitments ODOT has already made in the draft inter-governmental transfer agreement, ODOT is prepared to further commit to installing an adaptive traffic management system on US-26 signals at the intersections of Bluff Rd, Strauss Ave/ Junker St, Shelley Ave/ Alt Ave, Meinig Ave at Pioneer Blvd, Meinig Ave at Proctor Blvd, and SE Ten Eyck Rd/ Wolf Rd. This adaptive traffic management system will be capable of changing signal timing in real-time to respond to changing traffic conditions and improve operations.

The adaptive traffic management system upgrade work, in addition to the signal controller installations we've previously discussed, will now include adaptive software, radar detection equipment, detection loops, installation and calibration. ODOT has already begun installing the modern ATC controllers, which will allow for more detailed data collection and monitoring.

The jurisdictional transfer agreement will include specific language obligating ODOT to this commitment. ODOT will perform the upgrade work following execution of the agreement.

Regards,

Rian Windsheimer  
ODOT Region 1 Manager



**MINUTES**  
**City Council Meeting**  
**Monday, July 20, 2020 6:00 PM**

**COUNCIL PRESENT:** Stan Pulliam, Mayor, Jeremy Pietzold, Council President, John Hamblin, Councilor, Laurie Smallwood, Councilor, Jan Lee, Councilor, and Carl Exner, Councilor

**COUNCIL ABSENT:** Bethany Shultz, Councilor

**STAFF PRESENT:** Jordan Wheeler, City Manager, Tanya Richardson, Community Services Director, David Doughman, City Attorney, Ernie Roberts, Police Chief, Mike Walker, Public Works Director, Tyler Deems, Finance Director, Shelley Denison, Associate Planner, Greg Brewster, IT/SandyNet Director, Angie Welty, HR Manager, Andi Howell, Transit Director, and David Snider, Economic Development Manager, Spencer Parsons, City Attorney's Office

**MEDIA PRESENT:** Sandy Post

**1. MEETING FORMAT NOTE**

The Council conducted this meeting electronically using the Zoom video conference platform. A video recording of the meeting is available on the City's YouTube channel: [https://www.youtube.com/channel/UCbYEclgC6VW\\_mV2UJGyvYfg](https://www.youtube.com/channel/UCbYEclgC6VW_mV2UJGyvYfg)

**2. URBAN RENEWAL BOARD MEETING - 6:00 PM**

**Note:** Chief Phil Schneider and Executive Director Khrys Jones were present for the SURA Board meeting.

**2.1. Growing Together Mural Discussion**

Staff Report - 0305

**Mayor Pulliam** noted that community members have recently voiced concerns about the mural project, both on social media and via email. He stated this meeting is an opportunity for the SURA Board to check in and assess whether any additional steps are warranted. He stated that **Councilor Shultz** indicated before the meeting that she still supports the project as previously approved.

**Councilor Exner** stated that the mural project has gone through several opportunities for public comment and input in multiple venues. He noted that

the input events were lightly attended. He stated that a private individual approached Ms. Hawley at the outset, and the two agreed on the idea for a community-centered mural. He stated that the Arts Commission's desire is not to force the project through; he stated that they are interested in a way to garner comments and find ways to bring community members into the conversation, including the possibility of reopening the process for further input. He noted the intent of the mural was to bring people together, not to be divisive.

**Mayor Pulliam** expressed support for gathering more public feedback.

**Councilor Lee** agreed that taking additional time to ensure the community is on board with the project would be beneficial. She noted that having an evening meeting would enable more people to attend.

**Mayor Pulliam** reiterated that the Arts Commission had made considerable efforts to reach out to the public on this topic; the decision to reopen the project to more input should not be construed to imply a lack of such effort. He commended the Arts Commission on their commitment to the community.

**Council President Pietzold** stated that the quality of art is in the eye of the beholder. He noted that multiple public meetings and comment opportunities have occurred for this project. He supports reopening this project for input, but he cautioned about the slippery slope of revisiting decisions that have already been made.

**Councilor Lee** indicated that the public concerns she heard were through personal communication, not social media.

## 2.2. **Urban Renewal Project Prioritization**

13 - 32

Staff Report - 0295

The **City Manager** delivered a presentation providing background and context to inform prioritization of urban renewal projects. The presentation included an overview of the SURA, how the SURA is funded, renewal plan activities, a mid-biennium financial update, successfully completed projects, and items to consider during the prioritization discussion. The presentation slides are attached to these minutes.

**Mayor Pulliam** asked how maximum indebtedness is calculated based on future property valuation. The **City Manager** stated that informed estimates are made based on the zoning of the property.

The **City Manager** reviewed multiple possible urban renewal opportunities, including public improvement projects; preservation, rehabilitation, development, and redevelopment opportunities; property acquisition and disposition; design plans; and plan administration.

**Councilor Exner** asked about the control exercised by other entities such as ODOT and PGE that could potentially be in conflict with the goals of the City. The **City Manager** stated that other governmental entities like ODOT typically have a process through which issues can be resolved. Other entities like PGE can be subject to undergrounding requirements, though this can be expensive. He noted that partnering and property ownership considerations should be factored into project prioritization.

The **Finance Director** provided a summary of the \$8.8 million SURA budget for the 2019-2021 biennium. Currently budgeted projects for this biennium include City Hall improvements at \$400,000; Sandy Community Campus at \$3,000,000; streetscape and civic areas at \$200,000; and Facade and Tenant Improvement grants at \$360,000. He reviewed revenue collection and spending levels to date. He noted that \$2.96 million has yet to be spent from the \$10 million bond issued in 2017, and that over \$40 million in total debt capacity remains. He reviewed property tax revenue projections and estimated that approximately \$11 million in full faith and credit bonds could be issued currently.

It was noted that the return on investment for some projects should be measured in terms of quality of life rather than the degree to which it increases the tax base of the district.

The **City Manager** reviewed a list of projects that have been completed in recent years. He mentioned several options for future prioritization of urban renewal projects.

**Council President Pietzold** stressed the need to prioritize projects that will increase the value of the Urban Renewal District, which can then be leveraged into future projects.

**Councilor Lee** pointed to the importance of investing in the Community Campus.

**Councilor Exner** warned against putting off major projects because of the challenges or impediments that may be encountered.

**Mayor Pulliam** stressed the need to weigh the anticipated benefits of a project against its impact to the budget.

[Project Prioritization Slides](#)

### 3. WORK SESSION - 6:30 PM

#### 3.1. Mid-Biennium Financial Update

33 - 42

Staff Report - 0296

The **Finance Director** provided an overview of the City's finances at the mid point of the biennium. Presentation slides are attached to the minutes.

**Councilor Lee** asked about state reimbursement of the grants provided to businesses earlier in the spring. The **Finance Director** stated he is optimistic about reimbursement in the second phase of CARES Act payments.

**Councilor Exner** asked whether commercial non-payments of utility accounts were indicative of businesses closing. Staff noted that outstanding balances stay with the property, even in the case of a foreclosure, and that it may be possible to provide additional grant opportunities later in the year.

The **Finance Director** noted that some revenue streams have been significantly impacted by COVID-19, such as lodging tax, recreation fees, and gas tax.

**Mayor Pulliam** asked how revenue declines could affect bonding capacity for future projects. Staff responded that this remains to be seen, but that gas tax revenue seems to have rebounded from the March and April low.

**Councilor Exner** asked whether other cities have seen similar revenue trends. Staff responded that budget impacts in other cities depend on the structure of their budgets and their relative reliance on different revenue sources.

The **Finance Director** stated the City will be seeking \$106,000 in CARES Act reimbursement in July. He noted that the Public Safety Fee has resulted in approximately \$23,000 in revenue per month, which is on track to result in \$503,000 by the end of the biennium. He stated that the increased sewer rates have resulted in the anticipated increase in revenue. Upcoming finance-related projects include updating internal service charge calculations and developing a budget tracking dashboard for added transparency.

**Council President Pietzold** commended the Finance Director for his work.  
**Councilor Exner** concurred.

The **Finance Director** suggested another budget update in January.  
[Mid-Biennium Financial Update Slides](#)

**4. REGULAR MEETING - 7:00 PM**

**5. Pledge of Allegiance**

**6. Roll Call**

**7. Changes to the Agenda**

**8. Public Comment**

Vicky James, 17920 Landry Drive: stated she is pleased with the meeting so far and intends to view future meetings. She thanked the Council for their service.

**9. Presentation**

**9.1. NW Natural Pipeline Project Update**

*Nina Carlson, NW Natural*

Nina Carlson and Andrea Kuehnel with NW Natural discussed plans for their upcoming project. They will be installing new infrastructure along the eastbound lanes of Highway 26 from Kelso Road to University Avenue, and through to Meeker Street. Construction is anticipated to be completed by early October, and will occur mainly at night to avoid traffic impacts (7:00 p.m. - 5:00 a.m.). The portion of the construction along University and Meeker is slated to begin in September.

**Council President Pietzold** asked where precisely in the roadway construction would occur, asked whether any transmission facility structures would be constructed, and asked whether a noise variance would be sought for the work. Ms. Kuehnel responded that work would occur on the south side of Hwy. 26 for portions, and in the center median at other points. She stated there would be a noise variance application for the residential portion of the project. She mentioned there would be a station on the east side of University to reinforce distribution. She stated there are no plans at the current time to continue the work eastward following this project. Ms. Carlson stated residents in the immediate vicinity of the work have received a notice in the mail with contact information, and agreed to provide a copy of the notice to the City.

**Councilor Exner** asked about crossing the westbound lanes of Hwy 26 when the work proceeds north onto University. Ms. Kuehnel stated that only one lane at a time would be closed during this portion, and that measures would be taken to provide notice and mitigate impacts.

**10. Consent Agenda**

**10.1. City Council Minutes**

**10.2. Transit Vehicle Replacement Grant Agreement**

Staff Report - 0297

**Moved by John Hamblin, seconded by Jeremy Pietzold**

Staff Report - 0297

***Adopt the consent agenda.***

**CARRIED. 6-0**

Ayes: Stan Pulliam, Jeremy Pietzold, John Hamblin, Laurie Smallwood, Jan Lee, and Carl Exner

Absent: Bethany Shultz

**11. Resolutions**

**11.1. Resolution 2020-19**

Condemning Racism and Affirming the City of Sandy's Commitment to Equity

Staff Report - 0298

The **City Manager** stated the resolution was one of the outcomes from the Council's recent listening session on racism. He applauded the Council's consideration of this action. The **City Recorder** noted that the proposed resolution drew upon similar resolutions passed by the cities of Hillsboro, Beaverton, Warrenton, Milwaukie, Lake Oswego, Ashland, Hermiston, McMinnville, and Independence. **Mayor Pulliam** thanked the Council for their input into the resolution.

**Councilor Exner** asked whether the Sandy Stand Up group has offered the reading list discussed at the listening session. **Mayor Pulliam** stated he would follow up on the matter.



**Councilor Hamblin** asked for the resolution to be read aloud into the record.  
**Mayor Pulliam** read the resolution aloud.

**Moved by John Hamblin, seconded by Jan Lee**

Staff Report - 0298

**Adopt Resolution 2020-19**

**CARRIED. 6-0**

Ayes: Stan Pulliam, Jeremy Pietzold, John Hamblin, Laurie Smallwood, Jan Lee, and Carl Exner

Absent: Bethany Shultz

11.2. **Resolution 2020-17**

Solid Waste Disposal Rate Adjustment

Staff Report - 0294

The **City Manager** noted the Council considered this issue at its work session on July 6th. The recycling market has experienced significant disruption in recent years, and Hoodview Disposal has requested a phased rate increase. Hoodview has also proposed a personalized cleanup day service.

**Mayor Pulliam** asked about changing the process for future rate changes; employing a look-ahead model rather than retrospective. The **City Manager** suggested this should be pursued in the near future.

**Council President Pietzold** indicated his preference for the cleanup day service to begin this year.

**Moved by Jeremy Pietzold, seconded by Laurie Smallwood**

Staff Report - 0294

**Adopt Resolution 2020-17**

**CARRIED. 6-0**

Ayes: Stan Pulliam, Jeremy Pietzold, John Hamblin, Laurie Smallwood, Jan Lee, and Carl Exner

Absent: Bethany Shultz

11.3. **Resolution 2020-18 - PUBLIC HEARING**

Adopting Findings to Support a Modified Construction Manager / General



Contractor Procurement Method for the 2020-21 Wastewater Collection  
System Rehabilitation Project

Staff Report - 0292

Abstentions: none

Conflicts of Interest: none

Staff Report:

The **Public Works Director** stated that approval of this resolution would enable usage of the Modified Construction Manager / General Contractor (CM/GC) procurement method for the 2020/21 Wastewater Collection System Rehabilitation Project. This method would combine some of the inspection and design steps, allowing the Owner and Contractor to select from a jointly developed 'menu' of rehab methods for each of the sites. The time savings realized allow the work to begin this Fall and be completed in the summer of 2021 where a conventional design, bid, build method might not even be able to advertise for bids until next spring.

The **City Attorney** noted his office will assist in developing the RFP. He has completed such work for other clients as well.

**Councilor Exner** asked why the City was rushing the process rather than starting earlier and going through the traditional bid method. The **Public Works Director** responded that the funding received from the state required substantial environmental review, and that preliminary work had been required to identify the basins with the highest inflow and infiltration rates. **Councilor Exner** stressed the importance of performing necessary contract review to guard against any potential contract problems. The **Public Works Director** noted staff's experience with similar processes, and the City Manager stated that the CM/GC method is become much more common.

Public Comment: none

Staff Recommendation: Approval of Resolution 2020-18

**\*\*The Public Hearing was closed at this point - see motion below\*\***

**Moved by Jeremy Pietzold, seconded by Laurie Smallwood**

***Close the public hearing***

**CARRIED. 6-0**

Ayes: Stan Pulliam, Jeremy Pietzold, John Hamblin, Laurie Smallwood, Jan Lee, and Carl Exner

Absent: Bethany Shultz

**Moved by Jan Lee, seconded by Laurie Smallwood**

Staff Report - 0292

***Adopt Resolution 2020-18***

**CARRIED. 6-0**

Ayes: Stan Pulliam, Jeremy Pietzold, John Hamblin, Laurie Smallwood, Jan Lee, and Carl Exner

Absent: Bethany Shultz

**12. New Business**

**12.1. 5G Small Cell Code Amendment Discussion**

43 - 56

Staff Report - 0299

The **Associate Planner** presented background information regarding 5G cell facility regulation, as well as draft design standards. Presentation slides are attached. She stated that the proposed language is designed to exert as much control over the placement of such facilities in the city's rights of way as possible, within the limitations imposed by the Federal Communications Commission. The proposed application fee for placement on existing structures is \$500 for up to 5 sites, and \$100 for each additional site. The fee for each facility with a new support structure would be \$1,000. She noted that while some people have health concerns regarding 5G technology, the overwhelming scientific consensus is that no such effects exist.

**Councilor Exner** stated concern about health effects of 5G that exist in the community. He emphasized the need to consider the communications approach on this issue; he asked whether there is a way to ensure such facilities will be safe and cautioned about the use of the word 'stealth.' The **Associate Planner** noted that the City is limited by the Federal Government in its ability to regulate 5G. **Mr. Parsons** with the **City Attorney's Office** provided further explanation of the legal limitations facing local government regulation of 5G.

**Councilor Lee** asked whether companies could share facilities or whether they would need their own. The **Associate Planner** stated they would each need their own facility, possibly leading to visual clutter. **Mr. Parsons** stated the industry claims that proximity to other facilities may lead to signal interference.

**Council President Pietzold** reiterated that the City is preempted from taking regulatory actions outside the limits imposed by the FCC. He agreed that companies have indicated they will not share facilities, and noted that they are attempting to preempt actions from states, not only cities. He indicated that they are unlikely to lease the City's fiber network and will prefer to install their own. He stated that the draft regulations are a good start but will need to evolve over time.

**Councilor Exner** expressed a desire to have equipment from previous generations of cell technology removed if it is no longer needed.

[5G Small Cell Code Slides](#)

#### 12.2. **Pay Equity and Compensation Study Implementation**

57 - 69

Staff Report - 0302

The **Finance Director** summarized the results of the pay equity and compensation study conducted by LGPI, and the recommended adjustments to the City's pay structure. The changes would bring Sandy into compliance with state pay equity requirements, and would position the City to be more competitive with other similar jurisdictions in terms of attracting and retaining talent. Presentation slides are attached.

The **Finance Director** noted that a compensation study conducted in 2014 found that 44% of the City's positions were below market, though no changes were made at the time. The new proposed pay structure would include 14 grades, each with 7 steps with a 4.5% difference between steps. Other elements include changes to the health insurance premium cost share structure, moving to an 85 - 15% split and discontinuation of the opt-out benefit (per CIS requirements), and a 2.9% COLA effective July 1, 2020. The total cost of the changes in the current budget would be \$162,739.

**Mayor Pulliam** stressed the need to consider the compensation levels of entities like MINET Fiber, which although it is larger and has a different governance structure, could compete with SandyNet for talent. He thanked staff for their effort on the study, and stated his support for compensating

employees in a competitive manner that reflects the excellent work they do.

**Councilor Hamblin** stated that performing such a study, identifying shortcomings in the pay structure, and then not addressing the problems would be highly problematic for employee morale. He expressed support for paying employees at a level reflecting their worth.

**Council President Pietzold** indicated he has supported making such changes for a number of years; he believes it is the right thing to do and wants to make sure the City does not lose talent.

[Pay Equity and Compensation Study Slides](#)

**13. Report from the City Manager**

The **City Manager** stated that Council Members would have an opportunity to designate legislative priorities for the League of Oregon Cities. He indicated that 30% design for the 362nd / Bell Street project will be received very shortly. He stated that the City is preparing to apply for additional WIFIA funding; an updated financial model for the wastewater utility has been received. The preliminary design report on the wastewater treatment plant will be completed soon; discharge alternative analysis work is proceeding. Port-a-potties will be made available at three parks; restrooms will be open and cleaned once daily (with requisite signage). The Council will need to consider how to use additional COVID-19 relief funding, given the parameters involved.

**14. Committee /Council Reports**

**Councilor Exner:** the restored Roger Cooke mural will be unveiled on August 8th. He encouraged more communication with local watershed groups to provide education on the City's wastewater project efforts. The **City Manger** offered to facilitate such communication. **Councilor Exner** asked about the status of efforts to adjusting the traffic signals on Highway 26. **Mayor Pulliam** indicated this is part of the ongoing negotiations with ODOT on the Highway 211 jurisdiction transfer issue.

**Councilor Lee:** met recently with the Student Alliance for Equality group, which will be organizing a rally on the 25th. Police Department officials were invited. She noted that Congress will not be providing CARES Act direct support to local governments. She assisted in recent interview processes for new police officers. She indicated that Sandy Connect would like City support for their effort to make shower facilities available for homeless individuals.

**Councilor Hamblin:** commended the **Finance Director** for his assistance on the city manager performance evaluation process. He also thanked **Councilor Lee** and the **City Recorder** for their work on the resolution denouncing racism; he stressed the

importance of follow-up actions to achieve the goals stated in the resolution and suggested quarterly reports on the City's progress.

**Councilor Smallwood:** asked whether any project delays should be anticipated given ODOT's budget challenges. The **City Manager** stated he does not anticipate any delays at this point.

**Council President Pietzold:** reiterated the need to address the weeds in the islands in Highway 26. He expressed support for taking action to move forward on the Gateway Plan to improve the appearance and attractiveness when entering the city. He proposed the idea of making a bottle return facility available.

**Mayor Pulliam:** expressed strong support for installing a sign at the corner of Meinig and Proctor Avenues advising drivers that left turns on red are permitted.

**15. Staff updates**

15.1. [Monthly Reports](#)

**16. Adjourn**

**17. CITY COUNCIL EXECUTIVE SESSION**

Pursuant to ORS 192.660(2)(i), the Sandy City Council met in executive session to review and evaluate the job performance of a chief executive officer.

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Mayor, Stan Pulliam

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City Recorder, Jeff Aprati



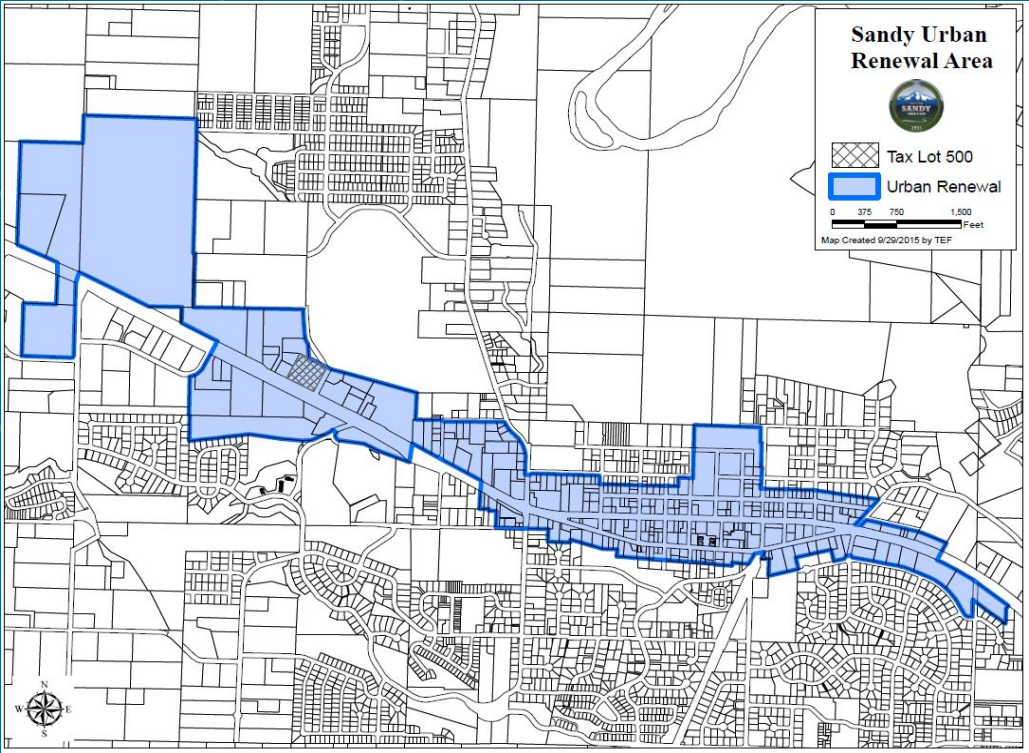
**Sandy Urban Renewal Board  
Monday, July 20, 2020**

# Urban Renewal Project Prioritization

# Work Session Outline and Purpose

1. Review urban renewal plan activities and project goals
2. Receive a financial update on urban renewal fund
3. Begin to develop a list of potential projects to consider for a urban renewal project plan
4. Discuss project prioritization

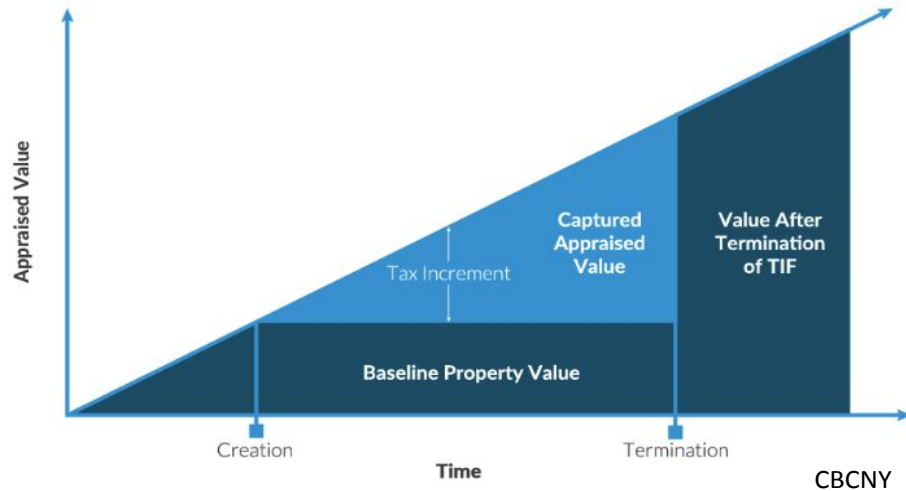






# Urban Renewal Funding

## Tax Increment Financing



# Urban Renewal Plan Activities

## A. Public Improvements

- B. Preservation, Rehabilitation, Development and Redevelopment
- C. Property Acquisition and Disposition
- D. Design Plans
- E. Plan Administration



# Public Improvements

1. Traffic Signalization
2. Public Parking Facilities
3. Public Open Spaces
4. Street, Curb, and Sidewalk Improvements
5. Fire Protection Improvements (10% of indebtedness)
6. Streetscape and Civic Area Projects
7. Street Lighting
8. Placing Utilities Underground
9. Pedestrian, Bike, and Transit Connectivity
10. Aquatic/Recreation Center (Sandy Community Campus)
11. 362nd Drive extension north of Highway 26
12. City Hall Improvements



# Public Improvements Project Opportunities

- Pleasant Street Master Plan implementation (\$10 million in three to four phases)
- 362nd Drive extension north of Highway 26
- 362nd Drive utilities and civic spaces
- Downtown Walkability Improvements (walkability plan)
- Sidewalk improvements and Safe Routes to School (SRTS) program
- Downtown streetscape improvements and alterations to existing streets to add parking and landscaping in downtown (Revenue, Smith, Bruns, Hoffman)
- Aquatic/Recreation Center (Sandy Community Campus)
- City Hall remodel with Sandy Style facade improvements
- Downtown parking lot construction
- Beautification (Gateway Plan, monument signage, etc.)



# Urban Renewal Plan Activities

- A. Public Improvements
- B. Preservation, Rehabilitation, Development and Redevelopment**
- C. Property Acquisition and Disposition
- D. Design Plans
- E. Plan Administration



## **Preservation, Rehabilitation, Development and Redevelopment Opportunities**

- Smith Building site at intersection of Pioneer Blvd. and Highway 211
- Old La Bamba site at intersection of Pioneer Blvd. and Scales Ave
- Sandy Community Campus - Pleasant Street gravel parking lot
- West Sandy Commercial Properties (362nd Drive & Bell St.)
- Community Center building and property
- Facade and Tenant Improvement (TI) grants
- Heritage Square parking lot repaving



# Urban Renewal Plan Activities

- A. Public Improvements
- B. Preservation, Rehabilitation, Development and Redevelopment
- C. Property Acquisition and Disposition**
- D. Design Plans
- E. Plan Administration



# Urban Renewal Plan Activities

- A. Public Improvements
- B. Preservation, Rehabilitation, Development and Redevelopment
- C. Property Acquisition and Disposition
- D. Design Plans**
- E. Plan Administration





# Urban Renewal Plan Activities

- A. Public Improvements
- B. Preservation, Rehabilitation, Development and Redevelopment
- C. Property Acquisition and Disposition
- D. Design Plans
- E. Plan Administration**



# SURA BN 19-21 Budget Summary

	BN 13-15 Actual	BN 15-17 Actual	BN 17-19 Budget	BN 19-21 Proposed
Beginning Balance	122,910	1,493,848	8,130,114	5,089,533
Property Taxes	2,750,336	2,999,792	3,081,900	3,620,000
Interest	10,420	69,215	27,000	75,000
Loan Proceeds	-	10,000,000	-	-
<b>Total Resources</b>	<b>2,883,666</b>	<b>14,562,855</b>	<b>11,239,014</b>	<b>8,784,533</b>
Personnel Services	142,963	159,545	120,470	247,200
Materials & Services	41,749	25,151	101,550	162,720
Capital Outlay	284,724	4,334,930	8,033,956	3,960,000
Debt Service	3,202,575	1,753,445	1,868,490	-
Transfers	-	12,503	18,899	1,793,540
Contingency	-	-	1,095,649	2,621,073
<b>Total Requirements</b>	<b>3,672,011</b>	<b>6,285,575</b>	<b>11,239,014</b>	<b>8,784,533</b>



## BN19-21 Budgeted Urban Renewal Projects

Major Projects/Programs	BN 19-21
City Hall Improvements	400,000
Sandy Community Campus	3,000,000
Streetscape and Civic Areas	200,000
Facade and Tenant Improvement (TI) Program	360,000



# SURA FY20 Financial Update

Resources	BN 19-21 Budget	FY20 Actuals	% of Budget
Beginning Balance	5,089,533	5,311,254	104.36%
Property Taxes	3,620,000	1,804,903	49.86%
Interest	75,000	114,993	153.32%
Miscellaneous	-	18,246	-
<b>Total Resources</b>	<b>8,784,533</b>	<b>7,249,396</b>	<b>82.52%</b>

Requirements	BN 19-21 Budget	FY20 Actuals	% of Budget
Personnel services	247,200	125,635	50.82%
Materials & Services	162,720	104,516	64.23%
Capital Outlay	3,960,000	244,262	6.17%
<b>Total Requirements</b>	<b>4,369,920</b>	<b>474,413</b>	<b>10.86%</b>

*\*FY20 actuals are unaudited numbers*



### Urban Renewal Financial Analysis

Maximum Indebtedness: \$67,000,000

Entire Agency		Fire District (10% of total)	
1998	-	1998	-
1999	-	1999	-
2000	25,424	2000	-
2001	81,430	2001	-
2002	287,539	2002	-
2003	98,228	2003	-
2004	312,350	2004	93,966
2005	170,178	2005	96,000
2006	341,316	2006	79,000
2007	944,701	2007	101,766
2008	3,366,060	2008	86,386
2009	649,759	2009	36,561
2010	1,849,430	2010	192,436
2011	2,546,530	2011	41,541
2012	974,177	2012	79,304
2013	195,105	2013	-
2014	255,619	2014	-
2015	259,051	2015	-
2016	429,443	2016	268,391
2017	4,090,184	2017	1,169,163
2018	4,281,480	2018	2,977,078
2019	640,634	2019	76,700
2020	483,365	2020	-
Total:	22,282,002	Total:	5,298,293
Remaining:	44,717,999	Remaining:	1,401,707
Debt not yet spent: 2,964,300 * Remainder of the 2017 bond			
Remaining:		<b>40,351,991</b>	

Maximum Indebtedness **\$67,000,000**  
 Indebtedness Remaining  
**\$40,350,000**

Remaining funds from 2017 \$10 million  
 Bond: **\$2.96 million**

- \$3 million for purchase of Cedar Ridge
- \$3.5 million for fire district
- \$3.5 million for Community Campus

# Property Tax Revenue Projection

BN 19-21 Budget	BN 21-23 Estimate	BN 23-25 Estimate	BN 25-27 Estimate
3,620,000	3,749,297	3,963,975	4,202,336

- Annual Assessed Value (AV) increase of 3%
- 90% collection rate
- Prior five years have averaged 6.3% annual growth in revenue

**Possibly issue approximately \$11 million in FFC bonds**



# Major Projects Completed

- Undergrounding Utilities (i.e. electric, cable, phone)
- Downtown Streetscape improvements on Proctor Blvd.
- Facade Improvements and Tenant Improvement (TI) grants
- Derelict Building removal (7 buildings to date)
- Pioneer Parking Lot (behind Otto's Ski) construction
- Centennial Plaza construction
- Police Station construction
- Cedar Ridge (Sandy Community Campus) purchase
- Fire Station construction
- City Hall Phase I improvements



# Project List and Prioritization Process

- **Develop a Project Plan for Urban Renewal**
  - Project List
  - Rough Cost Estimates
  - Road Map/Schedule
- **Economic Development Committee Input**
- **Walking tour**
- **Prioritize Projects in Plan**
- **TIF and Financial Projections Update**





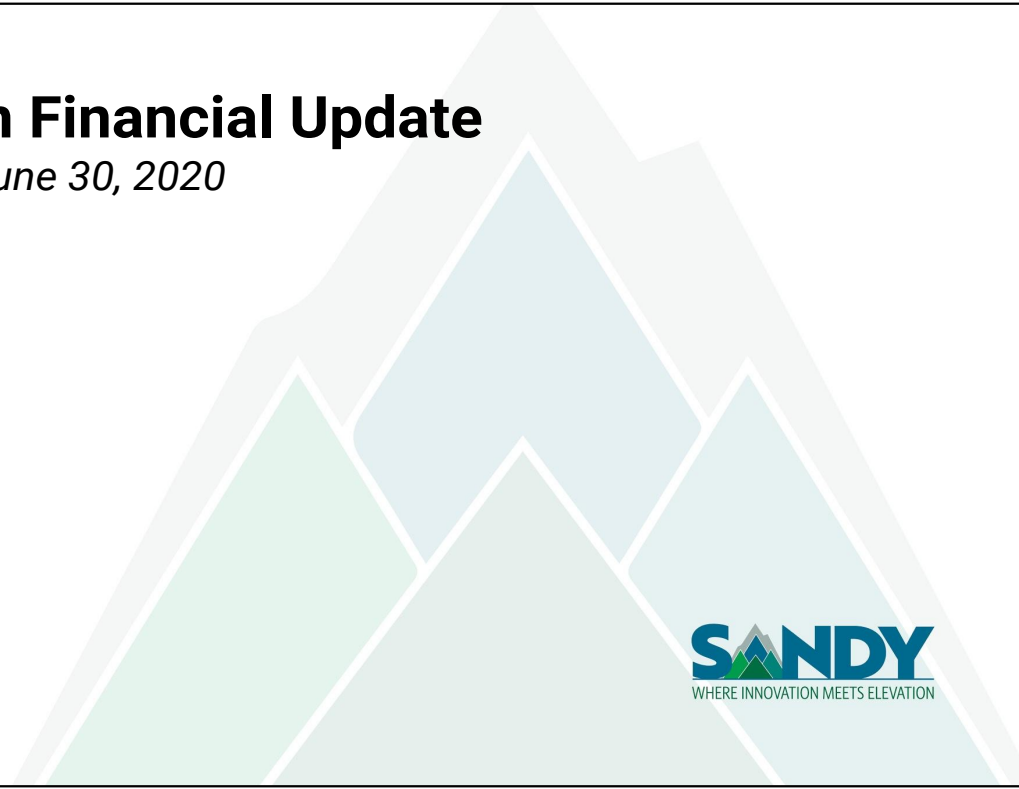
## Prioritization Consideration

- Does the project increase value in the urban renewal district? (return on investment)
- What is the readiness of the project?
- What is the community benefit?
- If the project is redevelopment on private property or buildings - is there a willing property owner/developer/partner?
- What other funding is available?
- How does the project achieve the goals of the urban renewal plan?
- What is the total anticipated cost of the project relative to the district's maximum



# Mid-Biennium Financial Update

*Fiscal Year Ended June 30, 2020*



## Fiscal Year 2020 Highlights

- Completed Pay Equity & Compensation Study
- Completed Facility Assessment & Space Needs Analysis
- Implemented Public Safety Fee and hired 2 officers
- Adopted Sewer rate increases for WW improvements
- Special district analysis and community survey and voter poll for Sandy Community Campus/P&R District
- 93 Employees



# Budget vs Actual

Resources	BN 19-21 Budget	FY20 Actuals*	% of Budget
Beginning Balances	14,427,310	14,342,143	99%
Property Taxes	7,140,500	3,574,127	50%
Franchise Fees	1,275,000	617,014	48%
Fines, Fees, & Assessments	18,050,480	9,546,164	53%
Inter-governmental	5,211,000	3,024,426	58%
Interest	326,900	290,816	89%
Grants	3,834,236	965,652	25%
Miscellaneous	145,000	257,793	178%
<b>Total Resources</b>	<b>50,410,426</b>	<b>32,618,136</b>	<b>65%</b>

*\* unaudited numbers*

Requirements	BN 19-21 Budget	FY20 Actuals*	% of Budget
Personnel Services	16,177,639	8,069,928	50%
Materials & Services	11,548,874	6,039,414	52%
Capital Outlay	16,548,867	2,960,465	18%
<b>Total Requirements</b>	<b>44,275,380</b>	<b>17,069,807</b>	<b>39%</b>

*\* unaudited numbers*



# Financial Analysis

- Property Taxes keeping pace with budget
  - County Assessor projects a 4.5% - 5% increase in assessed value for Tax Year 2020
- Personnel Services keeping pace with budget
  - Budget numbers do not include Pay Equity and Comp Study adjustments
- Capital Outlay will likely increase in FY21
  - Bus Barn & Transit Improvements
  - Water System Improvements
  - Sewer System Improvements



## COVID-19 Impacts

- Paused Water shut offs for nonpayment of utility account
  - Loss of \$1,600 per month
- Increase in delinquent accounts
  - 316 residential, 16 commercial
- Cancelled Recreation programming
  - Loss of \$5,250 per month compared to prior year
- Paused Library late fees and lost/damaged fees
  - Loss of \$2,100 per month compared to prior year

Reimbursement for COVID-19 related expenditures is limited to expenses incurred specifically related to the managing of the pandemic. These reimbursements do not factor in lost revenue.



# COVID-19 Impacts

Revenue Source	BN 19-21 Budget	FY20 Actuals	% of Budget
Lodging Tax	70,000	28,688	41%
Recreation Fees	188,800	48,062	25%
Planning Fees	254,250	249,929	98%
Building Fees	619,730	466,603	75%
Gas/Fuel Tax	520,000	227,842	44%
Transit Tax	1,200,000	621,335	52%

\* unaudited numbers

It's not all bad news! Some departments have yet to see any negative impact to their budgets related to COVID-19.



## COVID-19 Reimbursements

- Reimbursed with CARES Act funds through Oregon's Department of Administrative Services
- \$325,000 allocated to Sandy
- June 2020 - Received \$23,783 (March 1 - May 15 expenses)
- July 2020 - Requesting approximately \$106,000 (May 16 - June 30 expenses)
  - Includes the \$75,000 Small Business Grant Program
- Monthly reimbursements going forward, through December 2020





## Public Safety Fee

BN 19-21 Budget	FY20 Actuals	% of Budget
520,000	227,842	44%

- Implemented September 2019
- \$4.50 per residential unit, \$10.50 per commercial unit
- Approximately \$23,000 per month
- Biennium total projected to be \$503,000



# Sewer Rates

## Sewer Charges

	January	February	March	April	May	June	Total
2019	118,468	109,967	108,982	116,677	135,694	121,529	711,317
2020	266,519	223,025	227,643	254,174	251,794	238,494	1,461,649
% Increase	125%	103%	109%	118%	86%	96%	105%

- Implemented in January 2020
- 105% revenue increase in 2020 compared to the same timeframe in 2019
- 34 approved for Utility Assistance Program (UAP)
- \$7,500 in total assistance provided



## Fiscal Year 2021

- Update the Internal Service Charge calculations
- Implement budget tracking dashboard for additional transparency and functionality





# 5G Small Cell Code Adoption

City Council, 7/20/2020



## Background

- 5G cellular technology uses “small cell” or “stealth” facilities.
- League of Oregon Cities released sample code language.
- The FCC’s Small Cell Order requires cities to allow 5G installations, but cities can have regulatory design standards for these facilities so long as they are:
  - Reasonable
  - No more burdensome than those applied to other types of infrastructure deployments
  - Objective
  - Published in advance



Example of small cell wireless facility versus a traditional macro tower.



Additional examples of small cell facilities



**Small Cell Code  
Regulations**



**Title 12**  
(Streets, Sidewalks,  
and Public Property)





## **Purpose of Code Addition (Chapter 12.20)**

“The purpose of this Chapter is to establish reasonable and nondiscriminatory policies and procedures for the placement of small wireless facilities in the right-of-way within the City’s jurisdiction, consistent with and to the extent permitted by federal and state law, in order to provide public benefit consistent with the preservation of the integrity, safe usage, and reasonable aesthetic qualities of the City rights-of-way and the City as a whole.”



## Intent of Code Addition

- (1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- (2) prevent the creation of obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (3) prevent interference with the facilities and operations of facilities lawfully located in rights-of-way or public property;
- (4) protect against environmental damage, including damage to trees;
- (5) preserve the character of the community, Historic Districts or areas with Decorative Poles; and
- (6) facilitate technology advancements, such as deployment of small wireless facilities, to provide the benefits of wireless services.



## Key Points

- Definitions
- Application requirements
- Special design requirements
- Removal, relocation, and modification
- Collocation



## Fees

- The application fee for siting SWF on existing infrastructure, as they involve both access to City ROW and vertical infrastructure located in the City ROW, **shall be \$500.00 for up to 5 sites and \$100.00 for each additional site.**
- The application fee for siting SWF on new support structures proposed to be installed in the City ROW, or for the replacement or modification of existing support structures to allow for the siting of SWF, **shall be \$1,000.00 per new, replacement or modified support structure.**



## Health Implications

- Concerns about increases in electromagnetic fields (EMFs) associated with the introduction of 5G.
  - High exposure to EMFs can have thermal effects on organic tissue.
  - Concerns about cancer.
  - Coronavirus.
  - Other potential biological effects, such as changes to permeability in cell membranes.



## Health Implications

U.S. Agencies	International Agencies	Independent Agencies
FCC	WHO	ICNIRP
FDA	IARC	NCRP
		IEEE



## Health Implications

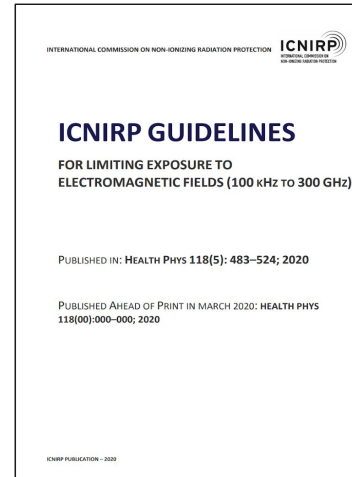
U.S. Agencies	International Agencies	Independent Agencies
FCC	WHO	ICNIRP
FDA	IARC	NCRP
		IEEE

**Scientific consensus is that 5G does not emit the necessary EMF to cause adverse health outcomes.**



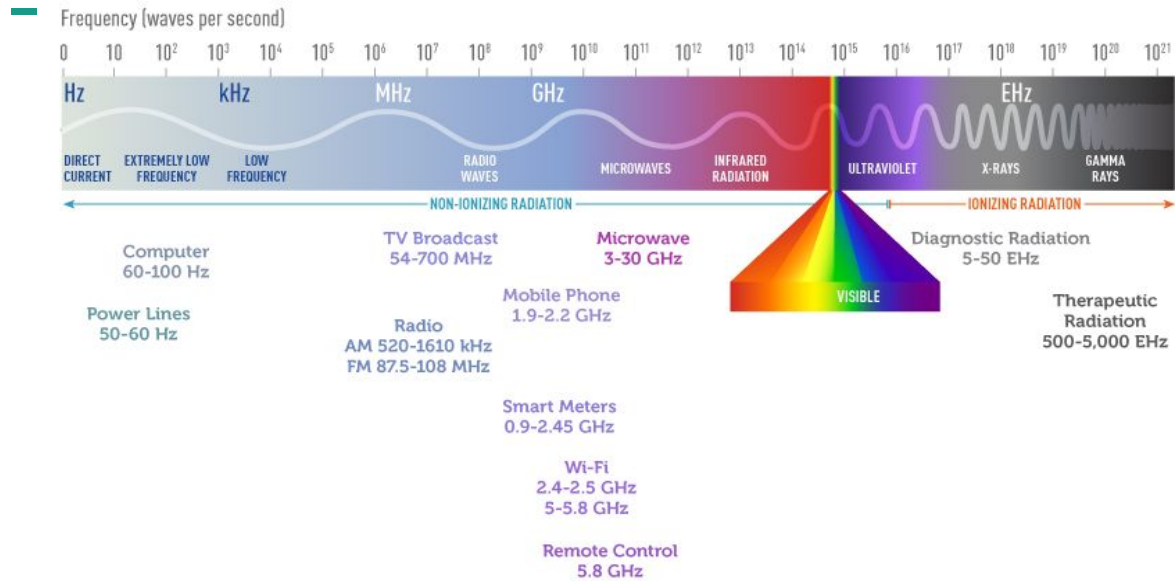
# Health Implications

March 2020 report from ICNIRP concludes that EMF emission from 5G is within acceptable ranges to protect health.





# ELECTROMAGNETIC SPECTRUM



## Pay Equity and Compensation Study

- Pay Equity Analysis
- Market Survey and Class and Compensation Study
- Proposed Health Insurance Changes
- Implementation



## Pay Equity

- 2017 Legislation - unlawful for an employer to pay any employee different wages or compensation for work of comparable character.

## LGPI Internal Pay Equity Analysis

- Position analysis questionnaires and current job descriptions for all non-represented positions
- PAQ's were reviewed by supervisors and verified prior to being forwarded to LGPI.
- Completed a point factor job evaluation on each applicable job (11 factors); scoring based upon required experience, training, job complexity, supervision received, impact of errors, contact with others, confidential data, manual dexterity, working conditions, and character and scope of supervision.
- Provided the scoring and relative ranking of jobs as determined through the point factor analysis, for internal equity.

LGPI's Position Evaluation Plan is a national, validated job evaluation plan, used by cities, counties, educational institutions, hospitals, special districts, and private sector businesses. The Plan is statistically validated to ensure the factors, degrees, and weight assigned to the factors are appropriate measures of a position's relative worth as evidenced by a continued strong correlation to the marketplace.



## Pay Equity Analysis

- Questionnaire, job descriptions, reviews -> point-factor analysis
- 30 employees in 25 positions that need to be adjusted to comply with Pay Equity Act

## Classification and Compensation Study

- Market Survey
- New Class and Comp Plan
- Benefit Comparison



## Market Survey

- The Dalles, St. Helens, Cornelius, Gladstone, Silverton, Newport, Monmouth, Molalla
  - Comparable populations
  - Comparable positions
- Most positions below average and median
  - Prior studies indicated that 44% of positions were below market - no changes were made



## Class & Comp Plan

- Current: 14 grades, 6 steps with 5% (includes City Manager)
- Proposed: 14 grades, 7 steps with 4.5% (excludes City Manager)
  - Positions being grouped differently than they currently are



## Proposed Health Insurance Premium Cost Share & Benefit Changes

- Recommended effective date January 1, 2021
- Opt Out Benefit discontinued (CIS ruling)
- 85/15% split for premium regardless of coverage selection
  - Employee Only: Pays approx. \$111 per month
  - Employee + Family: Saves approx. \$327 per month



## Implementation - Recommendation

1. Adopt new class and comp plan to resolve the pay equity issues, effective July 1, 2020
2. Apply 2.9% COLA effective July 1, 2020 to the existing and new compensation plan
3. Move employees to nearest range of pay to existing salary, effective July 1, 2020
4. Sunset the opt-out of health insurance benefit effective December 31, 2020
5. Implement new health insurance premium cost share (85%/15%) effective January 1, 2021



# Implementation

Action	Effective Date
Pay Equity Adjustments	July 1, 2020
New Class & Comp Plan	July 1, 2020
COLA: 2.9%	July 1, 2020
Benefit Cost Share: 85%/15% split	January 1, 2021
Total FY20-21 Cost of changes	\$162,739



## Above Market Positions

- Four positions (seven employees)
- Freeze at current wage, no negative financial impact
  - One-on-one meetings occurring with impacted staff
- One to three years to “adjust”



# Cost Impact

Fund	Increase/(Decrease)
General Fund	\$155,453
Transit Fund	(7,522)
Aquatic & Recreation Fund	(4,814)
Water Fund	(1,156)
Sewer Fund	2,626
Street Fund	7,897
Stormwater Fund	(5,305)
SandyNet Fund	12,379
Urban Renewal Fund	3,181

General Fund Department	Increase/(Decrease)
Administration	\$54,658
Municipal Court	(14,684)
Finance	12,999
Library	15,376
Police	32,425
Recreation	14,824
Senior Services	(5,679)
Parks, Buildings, & Grounds	25,671
Planning	4,692
Building	10,622
IT	3,377
Economic Development	1,171



## Next Steps

- Staff communications
  - Email has gone out to all staff outlining the recommendation
- Pay Equity issues need to be corrected immediately
  - Unable to do so with current salary structure
- Ensure pay/benefits are competitive, equitable, and motivating
- Recruit and retain talented employees



## Staff Report

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**Meeting Date:** August 3, 2020  
**From** Shelley Denison, Associate Planner  
**SUBJECT:** 5G Small Cell Facilities

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**Background:**

New cellular technology has developed with the addition of new wireless technologies such as 5G. Rather than requiring cell towers, 5G can be deployed using small cell wireless facilities. These facilities can be sited on existing utility poles within a city. Because of this, cities are given some degree of legal leeway to regulate the siting and franchising of small cell facilities in our public rights of way. However, pursuant to an order from the FCC, cities are required to allow these facilities to be installed in the public right of way.

Similar to other Oregon cities, Sandy's municipal code does not currently contain any regulatory language related to small cell facilities. In response, many cities have or are adopting new code language and design standards to regulate the facilities. The League of Oregon Cities worked with cities and representatives from the industry to draft a model ordinance and design standards that are consistent with FCC regulations. With assistance from the City Attorney's office and using the model ordinance, staff has developed and proposes adding a new section to Chapter 12 of the municipal code to regulate and license wireless facilities in the right of way.

The purpose of the proposed Chapter 12.20 is to establish reasonable and nondiscriminatory policies and procedures for the placement of small wireless facilities in the right-of-way within the City's jurisdiction. The regulations would be consistent with and to the extent permitted by federal and state law, in order to provide public benefit while preserving the integrity, safe usage, and reasonable aesthetic qualities of the City rights-of-way and the City as a whole.

To get further feedback on the proposed code and design standards, staff presented the draft ordinance and design standards to the Planning Commission on June 30. The Planning Commission recommended that the code is adopted but additional rules addressing the undergrounding of related cabinets and equipment should be researched. Staff also presented the draft ordinance and design standards to City Council on July 30.

**Recommendation:**

Approve Resolution 2020-20; Resolution 2020-21; and Ordinance 2020-22



NO. 2020-22

**AN ORDINANCE AMENDING TITLE 12 OF THE SANDY MUNICIPAL CODE BY CREATING A NEW CHAPTER 12.20 ADDRESSING SMALL WIRELESS FACILITIES IN THE RIGHTS-OF-WAY.**

**WHEREAS**, the City of Sandy (“City”) desires to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of small wireless facilities, while enabling the City to promote the management of the rights-of-way in the overall interests of the public health, safety and welfare; and

**WHEREAS**, the City recognizes that small wireless facilities are needed to deliver wireless access and capacity to advanced technology, broadband and first responder services to homes, and businesses, as well as health care, public safety and educational services providers within the City; and

**WHEREAS**, the City recognizes that the wireless industry needs small wireless facilities, including facilities commonly referred to as small cells, deployed in the public rights-of-way; and

**WHEREAS**, the City further recognizes that the City must balance the benefits from small cell infrastructure with its aesthetic impact on the community in order to mitigate or avoid adverse visual impacts, encourage the deployment of infrastructure consistent with the surrounding built and natural environment, and preserve the City’s historic and environmental resources to the extent feasible; and

**WHEREAS**, the City intends to adopt a new code consistent with local, state and federal laws, standards and requirements;

**NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS:**

1. Title 12 of the Sandy Municipal Code is hereby amended to include a new Chapter 12.20 as provided in Exhibit “A” attached hereto and incorporated herein by this reference.
2. This Ordinance shall become effective on the 30th day after its adoption.

This ordinance is adopted by the Common Council of the City of Sandy and approved by the Mayor this 03 day of August 2020

#2020-22





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Stan Pulliam, Mayor

ATTEST:



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Jeff Aprati, City Recorder

#2020-22

## Exhibit A

### 12.20 SMALL WIRELESS FACILITIES

#### 12.20.010 – Purpose and Scope

- (A) Purpose. The purpose of this Chapter is to establish reasonable and nondiscriminatory policies and procedures for the placement of small wireless facilities in the right-of-way within the City’s jurisdiction, consistent with and to the extent permitted by federal and state law, in order to provide public benefit consistent with the preservation of the integrity, safe usage, and reasonable aesthetic qualities of the City rights-of-way and the City as a whole.
- (B) Intent. In enacting this Chapter, the City is establishing uniform standards consistent with federal law to address the placement of small wireless facilities and associated poles in the rights-of-way, including without limitation, to manage the public right of way in order to:
- (1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
  - (2) prevent the creation of obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
  - (3) prevent interference with the facilities and operations of facilities lawfully located in rights-of-way or public property;
  - (4) protect against environmental damage, including damage to trees;
  - (5) preserve the character of the community, Historic Districts or areas with Decorative Poles; and
  - (6) facilitate technology advancements, such as deployment of small wireless facilities, to provide the benefits of wireless services.

#### 12.20.020 - Definitions

(A) “Antenna” means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded, which defines the term to mean an apparatus designed for the purpose of emitting radiofrequency (RF) emission, to be operated or operating from a fixed location pursuant to Federal Communication Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

~~(A)~~(B) “Antennaeccessory eEquipment” means the sameantenna-equipment as defined in 47 C.F.R. § 1.6002(c), as may be amended or superseded, which defines the term to mean equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with

an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.<sup>1</sup>

- ~~(B) “Antenna” means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded, which defines the term to mean an apparatus designed for the purpose of emitting radiofrequency (RF) emission, to be operated or operating from a fixed location pursuant to Federal Communication Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.~~
- (C) “Antenna facility” means the same as defined in 47 C.F.R. § 1.6002(d), as may be amended or superseded, which defines the term to mean an antenna and associated accessory equipment.<sup>2</sup>
- (D) “Applicable codes” means, ~~without limitation,~~ uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or state or local amendments to those codes that are of general application and consistent with state and federal law.
- (E) “Applicant” means any person ~~who duly authorized to submit~~ an application as or on behalf of a wireless provider.
- (F) “Application” ~~or “applications”~~ means a request(s) submitted by an applicant: i) for permission to collocate small wireless facilities; or ii) to approve the installation, modification or replacement of a structure on which to collocate a small wireless facility in the rights-of-way, where required on an existing, modified, new or replacement structure.
- (G) “City structure” means a structure located in the rights-of-way within the City’s boundary that is owned, managed or operated by the City or any subdivision or instrumentality thereof, including, municipal electric utilities. Includes, but is not limited to streetlights, traffic signals, utility poles buildings and other structures.

<sup>1</sup> The FCC uses the term “antenna equipment” to mean the non-antenna accessory equipment associated with a small cell. The City finds this term confusing because using “antenna equipment” to describe equipment that is not antenna appears contrary to term on its face. In fact, the FCC’s full definition of “antenna equipment” refers to 47 C.F.R. § 1.320(d), which includes a definition for “antenna” that is essentially a combination of “antenna” and “antenna equipment” as defined in 47 C.F.R. § 1.6002. The reference to § 1.320(d) has been omitted from the definition and the City uses “accessory equipment” in this Chapter 12.20 to avoid confusion.

<sup>2</sup> As written, the definition uses the term “accessory equipment” in lieu of “antenna equipment” for the reasons stated in the previous footnote.

- (H) “Collocate” or “collocation” means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended or superseded, which defines that term to mean (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure. “Collocation” has a corresponding meaning.
- (I) “Day” means calendar day. For purposes of the FCC shot clock, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day.
- (J) “Decorative pole” means a city structure that is specially designed and placed for aesthetic purposes.
- (K) “Historic district” means a group of buildings, properties, or sites that are either: (1) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register in accordance with Section VI.D.1a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C; or, (2) a locally designated historic district existing when an application is submitted.
- (L) “Permissions” means those authorizations needed for deployment of Small Wireless Facilities.
- (M) “Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.
- (N) “Pole” means a type of structure in the rights-of-way that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities consistent with applicable codes; provided, such term does not include a tower, building or electric transmission structures.
- (O) “Right-of-way” means the same as provided in Chapter 12.02.050.
- (P) “Routine maintenance” means inspections, testing, repair, and modifications subject to Section 6409(a) that maintain functional capacity, aesthetic and structural integrity of a small wireless facility and/or the associated pole or structure. ~~Any work on a small wireless facility that would not require a permit (e.g., a traffic control permit, building permit, encroachment permit, etc.) qualifies as routine maintenance. As an illustration and not a limitation, routine maintenance would include, without limitation, one for one antenna or accessory equipment replacements but would not include technology upgrades that alter or add to the RF emissions from the antenna facility. Similarly, routine maintenance would include, without limitation, the installation of minor brackets or braces to harden an antenna facility but would not include the replacement or reinstallation of the underlying support structure.~~

- (Q) “Small wireless facility” means a facility that meets each of the following conditions per the 47 C.F.R § 1.6002(l), as may be amended or superseded:
- (1) The facilities (i) are mounted on structures 50 feet or less in height including the antennas, or (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and
  - (2) Each antenna associated with the deployment, excluding associated accessory equipment, is no more than three cubic feet in volume; and
  - (3) All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; and
  - (4) The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).
- (P) “Structure” means the same as defined in 47 C.F.R. § 1.6002(m), as may be amended or superseded, which defines that term as “a pole, tower, or base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).”
- (Q) ~~“Technically feasible” means that the proposed placement, location or design for a small wireless facility can be implemented without a material reduction in the intended service objective of the small wireless facility.~~ “Wireless Infrastructure Provider” means any person, including a person authorized to provide communications service in the state, that builds or installs wireless communications transmission equipment, wireless facilities, but that is not a wireless services provider.
- ~~(R) —~~ (R) — “Wireless Provider” means a wireless infrastructure provider or a wireless services provider either (1) any person who provides “personal wireless services”, as defined in 47 U.S.C. § 332(e)(7)(C)(i), as may be amended or superseded; or (2) any person, including a person authorized to provide communications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities, but does not provide personal wireless services.

~~(R)~~(S) “Wireless Services Provider” means a person who provides personal wireless services (whether or not it is commingled with other services).

**12.20.030 – Permitted Use; AuthorizationsApplications and Fees**

(A) Permitted Use. The following uses within the rights-of-way shall be a permitted use, subject to compliance with the city’s applicable design standards, administrative review only and issuance of a permit as set forth in this Chapter:

(1) Collocation of a small wireless facility; and

(2) Placement of a new, modified or replacement pole to be used for collocation of a small wireless facility.

~~(A)~~(B) AuthorizationsApplication Required. Except as otherwise provided in this Chapter, no person shall place any small wireless facility in the right-of-way without first filing an application for the facility and obtaining all permits necessary for the installation.

~~(B)~~(C) Application Requirements.

An application filed pursuant to this Chapter shall be made by the wireless provider or its duly authorized representative on forms provided by the City and, at a minimum, shall contain the following:

- (1) The applicant’s name, address, telephone number, and e-mail address;
- (2) The names, addresses, telephone numbers, and e-mail addresses of all duly authorized representatives and consultants, if any, acting on behalf of the applicant with respect to the filing of the application;
- (3) A general description of the proposed small wireless facility and associated pole, if applicable. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed;
- (4) Site plans and engineering drawings to scale that identify the proposed small wireless facility;
- (5) A statement or other demonstration that the small wireless facility shall comply and maintain compliance with all applicable codes, regulations and standards, including a certification in a form acceptable to the City that the small wireless facility will comply with applicable FCC regulations for human exposure to RF emissions.

- (6) The application requirements~~applicant~~ shall not be ~~required to provide~~ more ~~burdensome information to obtain a small wireless facility permit~~ than for similarly situated small wireless facilities~~is required of other entities who install small wireless facilities in the rights of way.~~

(D) Routine Maintenance and Replacement. An application shall not be required for: (1) routine maintenance; or (2) the replacement of a small wireless facility that is the same or smaller in size and weight and height. The City may require one or more permits for work within the right-of-way. It shall be the applicant's responsibility to ascertain with the City which additional permits are required, given the proposed work, and obtain all such permits before commencing work. ~~Routine maintenance in connection with an existing small wireless facility shall be permitted, subject only to any traffic control, encroachment or other regulatory authorizations as may be required for the specific scope of work.~~ Notwithstanding anything to the contrary in this chapter, the applicant and/or wireless provider~~permittee~~ conducting routine maintenance shall not be relieved of its obligations to comply with all generally applicable health and safety regulations.

(E) Information Updates. Any amendment to non-material information contained in an application shall be submitted in writing to the City within thirty (30) days of the change.

~~(D)~~(F) Application Fees. Application fees in accordance with applicable state and federal law shall be set by resolution of the City Council.

#### **12.20.040 – Decisions; Notice of Decision**

- (A) Findings for Denial. The City must process all applications on a nondiscriminatory basis and may deny an application subject to this Chapter if the proposed small wireless facility:
- (1) Materially and demonstrably interferes with the safe operation of traffic control equipment;
  - (2) Materially and demonstrably interferes with sight lines or clear zones for transportation or pedestrians;
  - (3) Materially fails to comply with the Americans with Disabilities Act or similar federal, state, or local laws, standards and regulations regarding pedestrian access or movement;
  - (4) Fails to comply with applicable codes, standards and regulations, including the City's design standards; or
  - (5) Fails to comply with the provisions in this Chapter.

- (B) Time for Final Action; Notice of Final Action. The City ~~must~~shall act on an application within the applicable shot clock and advise the applicant in writing ~~if~~if its application is denied~~final action~~. If the final action is to deny the application,<sup>3</sup> ~~the~~the written notice shall state the reasons for denial, with reference to specific code provisions, ordinance, application instructions or otherwise publicly-stated procedures on which the denial was based, and ~~be sent~~the notice to the applicant within five (5) days after the City denies the application or before the applicable shot clock expires, whichever occurs first.
- (C) Batched Applications. Applicants may submit ~~batched~~batched applications as provided under applicable law, and the City shall act on such applications as provided in 12.20.040 (B) and consistent with applicable law. A ~~batched~~batched application that includes only collocations on existing structures shall be subject to a 60-day timeline. A ~~batched~~batched application that includes only new support structures shall be subject to a 90-day timeline. A ~~batched~~batched application that includes both collocations and new support structures shall be subject to a 90-day timeline

#### **12.20.050 – Special Design Requirements**

- (A) Decorative Poles. Subject to the City’s discretion, a wireless provider may be permitted to collocate on or replace a decorative pole when necessary to collocate a small wireless facility; provided that any such replacement pole shall, to the extent feasible, replicate the design of the pole being replaced.
- (B) Underground Accessory Equipment Districts. ~~The City has worked to underground all overhead utilities in the following areas over several years:~~

**INSERT AREA DESCRIPTIONS**

This work has included placing all possible utilities in the right-of-way underground in these areas. Therefore, the City seeks to avoid new above ground utilities on these areas to the maximum extent practicable. If these locations are critical for small wireless facilities, City staff shall first work with applicants to find locations adjacent to identify appropriate locations for the installation of wireless facilities. If alternate locations are not technically feasible, the City shall allow Small Wireless Facilities in these areas, subject to the other requirements of this Chapter.

Wiring and cable connections between the antennas and ground equipment shall be internal to the support structure or shrouded so it is not visible. Shrouding and all visible hardware shall match the color of the support structure. All accessory equipment in these areas shall be located underground in a vault. Wiring and cable connections between the base of the support structure and the vault shall be underground. Vaults shall be located and constructed so as not to impede other uses of the right-of-way such as use by pedestrians, bicycles, and vehicles. Where an applicant establishes that underground

<sup>3</sup> ~~Note that a “final action” for the purposes of federal regulations is not the same as a “final decision” for the purposes of Oregon state law.~~



vaulting is not technically feasible, ground mounted equipment boxes shall be allowed subject to the other requirements of this Chapter.

~~[NOTE: ACCORDING TO THE FCC ORDER, UNDERGROUNDING REQUIREMENTS ARE SUBJECT TO THE SAME CRITERIA AS OTHER AESTHETIC STANDARDS. AESTHETIC REQUIREMENTS (INCLUDING UNDERGROUNDING) MUST BE (1) REASONABLE; (2) NO MORE BURDENSOME THAN REQUIREMENTS IMPOSED ON OTHER INFRASTRUCTURE DEPLOYMENTS; (3) OBJECTIVE; AND (4) PUBLISHED IN ADVANCE.~~

~~IN THIS REGARD, A REQUIREMENT THAT ALL ELEMENTS OF ALL WIRELESS FACILITIES BE DEPLOYED UNDERGROUND WOULD AMOUNT TO AN EFFECTIVE PROHIBITION GIVEN THE PROPAGATION CHARACTERISTICS OF WIRELESS SIGNALS EMITTED FROM ANTENNAS. CITIES ARE ENCOURAGED TO REVIEW CURRENT UNDERGROUNDING REQUIREMENTS AND WORK WITH THEIR ATTORNEYS/ROW SPECIALISTS TO MAKE SURE THOSE REQUIREMENTS ARE NOT IN CONFLICT WITH THE FCC ORDER.]~~

~~(B)(C)~~ Historic District. Small wireless facilities or poles to support collocation of small wireless facilities located in Historic Districts shall be designed to have a substantially similar appearance, including coloring and design elements, if technically feasible, of other poles in the rights-of-way within 500 feet of the proposed installation.

#### **12.20.060 – Effect of Construction/Work Permit**

- (A) Authority Granted. A permit from the City authorizes an applicant to undertake only certain activities in accordance with this Chapter and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the rights-of-way.
- (B) Permit Duration.
- (1) The ~~build-out period for a~~ permit for construction granted pursuant to this Section shall be valid for a period of **[one year]** after issuance unless extended for an equal amount of time by the City for good cause.
  - ~~(2) The permit authorizing the use shall be coterminous with the applicable right-of-way license, franchise or other agreement granting the applicant access to the rights-of-way.~~
  - ~~(3)~~(2) The installed facility is subject to applicable relocation requirements, termination for material non-compliance after notice and a reasonable opportunity to cure, and an applicant's right to terminate a permit at any time.

#### 12.20.070 – Removal, Relocation or Modification of Small Wireless Facility in the ROW

- (A) Notice. The City shall provide the ~~applicant~~permittee reasonable advance written notice, but no less than 30 days whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way (collectively, “City work”). Within the time specified in the written notice from the City, the wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities within the rights-of-way in order to accommodate the City work. ~~The City shall specify a reasonable time for such removal, relocation, change or alteration in its notice, taking into account the nature and scope of the work involved and the urgency of the City’s need for such work to be performed. Within the time specified in the written notice from the City, the permittee shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities within the rights-of-way in order to accommodate the City work.~~
- (B) Emergency Removal or Relocation of Facilities. The City retains the right and privilege to cut or move any small wireless facility located within the rights-of-way of the City in the event of an emergency, as the City may determine to be necessary, appropriate or useful in response to any imminent danger to public health, safety, or property. If practicable under the circumstances, the City shall notify the ~~wireless provider~~permittee and provide the ~~wireless provider~~permittee an opportunity to move its own facilities prior to cutting or removing a facility and shall notify the ~~permittee~~wireless provider promptly when practicable after cutting or removing a small wireless facility.
- (C) Abandonment of Facilities. Within 90 days after a small wireless facility is abandoned, the ~~permittee~~wireless provider shall completely remove the small wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable codes. In the event that the ~~permittee~~wireless provider does not complete the obligations under this condition, or cause them to be completed, within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the ~~permittee~~wireless provider shall be liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.
- (D) Damage and Repair. The City may require a ~~wireless provider~~permittee to repair all damage to the rights-of-way directly caused by the activities of the ~~wireless provider~~permittee or third parties acting under the ~~wireless provider~~permittee’s direction and restore the rights-of-way to its the condition that existed before the damage occurred. All such repair work shall be performed in accordance with applicable laws and to the

City Public Works Director's satisfaction. If the wireless provider~~permittee~~ fails to make the repairs within **[30]** days after written notice, the City shall have the right (but not the obligation) to affect those repairs, and the wireless provider ~~permittee~~ shall be liable for all costs and expenses incurred by the City in connection with such repairs.

#### **12.20.080 – Collocation on City Structures in the ROW**

- (A) Collocation on City Structures. Small wireless facilities may be collocated on city structures in the rights-of-way pursuant to this Chapter. No person will be permitted an exclusive arrangement or an arrangement which excludes otherwise qualified applicants to attach to city structures in the rights-of-way. A person who purchases or otherwise acquires a City structure is subject to the requirements of this section.
- (B) Make-Ready. The rates, fees, terms and conditions for the make-ready work to collocate a small wireless facility on a pole owned or controlled by the City must be nondiscriminatory, competitively neutral, comply with this Chapter and be subject to the following:
- (1) The City or any person owning, managing, or controlling the poles owned by the City will provide a good faith estimate for any make-ready work reasonably necessary to make a specific city pole suitable for attachment of the requested small wireless facility, including pole replacement if necessary, within 60 days after receipt of a completed request. Make-ready work including any pole replacement shall be completed within 60 days of written acceptance of the good faith estimate by the applicant.
  - (2) The City or any person owning, managing, or controlling the poles owned by the city shall not require more make-ready work than required to meet applicable codes or may be reasonably necessary to avoid interference with other attachments on the pole. Fees for make-ready work shall not include costs related to pre-existing or prior damage and non-compliance, unless such fees are necessary to accommodate the proposed attachment on the pole. Fees for make-ready work including any pole replacement shall not exceed actual and direct costs, or the amount charged to others for similar work and shall not include any contingency based consultant fees or expenses of any kind.

#### **12.20.090 – Rates for ROW and Collocation on City Structures in the ROW**

- (A) The recurring rate for use of the ROW and attachment of small wireless facilities to a City structure in the ROW shall be subject to the following requirements:
- (1) Annual Rate. A person-wireless provider authorized to place small wireless facilities and any related pole in the rights-of-way will pay to the City compensation for use of the rights-of-way and collocation on city structures in the

ROW a rate in accordance with applicable state and federal law and set by resolution of the City Council.

- (2) Cease Payment. A wireless provider~~person authorized to use the ROW and/or city structures for a small wireless facility~~ may remove one or more of its wireless facilities at any time from the rights-of-way and city structures in the ROW with the required permits, ~~and~~The wireless provider will cease ~~owing~~paying the City compensation as of the date of the complete removal of the facilities and restoration of the site to the condition that existed prior to the deployment, for such removed facilities.



NO. 2020-20

**A RESOLUTION OF THE SANDY CITY COUNCIL ADOPTING DESIGN STANDARDS FOR SMALL WIRELESS FACILITIES IN THE CITY RIGHTS OF WAY.**

**WHEREAS**, the City of Sandy ("City") has Constitutional and Charter authority to manage its rights-of-way ("ROW"); and

**WHEREAS**, Sandy Municipal Code Title 12 imposes public works standards and regulates public works and utilities, including City management of the ROW and utilities operating in the ROW; and

**WHEREAS**, the City Council finds that the installation of Small Wireless Facilities ("SWF") in the City ROW, which is a limited asset, should be regulated by standards that specifically address SWF-specific issues; and

**WHEREAS**, the City Council desires to establish by resolution SWF design standards applicable in addition to the requirements imposed by Title 12 of the Sandy Municipal Code;

**NOW, THEREFORE, THE CITY OF SANDY RESOLVES AS FOLLOWS:**

**Section 1.** The City of Sandy Small Wireless Facilities Design Standards, attached hereto as Exhibit "A" is hereby adopted.

**Section 2.** This Resolution is and shall be effective immediately upon its adoption by the City Council.

This resolution is adopted by the Common Council of the City of Sandy and approved by the Mayor this 03 day of August 2020

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Stan Pulliam, Mayor

ATTEST:

#2020-20

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Jeff Aprati, City Recorder

#2020-20

## EXHIBIT “A”

### Small Wireless Facility Design Standards

#### A. Definitions

“**Antenna**” means the same as defined in 47 C.F.R. § 1.6002(b), as may be amended or superseded, which defines the term to mean an apparatus designed for the purpose of emitting radiofrequency (RF) emission, to be operated or operating from a fixed location pursuant to Federal Communication Commission authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

“**Antenna equipment**” means the same as defined in 47 C.F.R. § 1.6002(c), as may be amended or superseded, which defines the term to mean equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

“**Antenna facility**” means the same as defined in 47 C.F.R. § 1.6002(d), as may be amended or superseded, which defines the term to mean an antenna and associated accessory equipment.

“**Applicable codes**” means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or state or local amendments to those codes that are of general application and consistent with state and federal law.

“**Applicant**” means any person who submits an application as or on behalf of a wireless provider.

“**Application**” means requests submitted by an applicant: (i) for permission to collocate small wireless facilities; or (ii) to approve the installation, modification or replacement of a structure on which to collocate a small wireless facility in the rights-of-way, where required.

“**Collocate**” or “**collocation**” means the same as defined in 47 C.F.R. § 1.6002(g), as may be amended or superseded, which defines that term to mean (1) mounting or installing an antenna facility on a preexisting structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

“**Day**” means calendar day. For purposes of the FCC shot clocks, a terminal day that falls on a holiday or weekend shall be deemed to be the next immediate business day.

“**Decorative pole**” means a city structure that is specially designed and placed for aesthetic purposes.

“**Historic district**” means a group of buildings, properties, or sites that are either: (1) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of

the National Register in accordance with Section VI.D.1a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C; or, (2) a locally designated historic district.

“Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

“**Pole**” means a type of structure in the rights-of-way that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or similar function, or for collocation of small wireless facilities consistent with applicable codes; provided, such term does not include a tower, building or electric transmission structures.

“**Rights-of-way**” or “**ROW**” means the same as provided in Chapter 12.02.050.

“**Small wireless facility**” means a facility that meets each of the following conditions per the 47 C.F.R § 1.6002(l), as may be amended or superseded:

1. The proposed facilities meet one of the following height parameters:
  - a. are mounted on structures 50 feet or less in height including their antennas as defined in 47 C.F.R. § 1.1320(d), or
  - b. are mounted on structures no more than 10 percent taller than other adjacent structures, or
  - c. do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater.
2. Each antenna or antenna enclosure shall not exceed three cubic feet in volume; and
3. The total volume of accessory equipment external to the pole (including, but not limited to cabinets, vaults, boxes, radios, panels and ) shall not exceed twenty-eight (28) cubic feet. This maximum applies to all equipment installed at the time of original application and includes any equipment to be installed at a future date. Antennas and antenna enclosures are excluded. If equipment exceeds this maximum, the installation will be redefined as a “Macro” site installation and all the applicable standards, procedures and rates for Macro installations will be applied.
4. The facilities, as demonstrated by an applicant, do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in the FCC’s Rules and Regulations [47 C.F.R. § 1.1307(b)].

“**Structure**” means the same as provided in 47 C.F.R. § 1.6002(m), as may be superseded or amended, which defines the term as a pole, tower, base station, or structure, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of service).

## **B. General Requirements.**

{00724156; 3 }



1. Ground-mounted and equipment in the right-of-way is discouraged, unless the applicant can demonstrate that pole-mounted equipment is not technically feasible, or the electric utility requires placement of equipment on the ground (such as an electric meter). If ground-mounted equipment is necessary, then the applicant shall conceal the equipment in a cabinet, in street furniture or with landscaping.

In addition, both ground-mounted and pole-mounted antenna equipment (not including antennas) is discouraged in areas where utilities have been undergrounded, unless the applicant can demonstrate that undergrounding such antenna equipment is not technically feasible. If ground-mounted equipment is necessary, then the applicant shall conceal the equipment in a cabinet, in street furniture or with landscaping.

2. Replacement poles, new poles and all antenna equipment shall comply with the Americans with Disabilities Act (“ADA”), city construction and sidewalk clearance standards and city, state and federal laws and regulations in order to provide a clear and safe passage within, through and across the right-of-way. Further, the location of any replacement pole, new pole, and/or antenna equipment must comply with applicable traffic requirements, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect public health, safety or welfare.
3. Replacement poles shall be located as near as feasible to the existing pole. The abandoned pole must be removed within 30 days.
4. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section H, below.
5. No advertising, branding or other signage is allowed unless approved by the Public Works Director as a concealment technique or as follows:
  - a. Safety signage as required by applicable laws, regulations, and standards; and
  - b. Identifying information and 24-hour emergency telephone number (such as the telephone number for the operator’s network operations center) on wireless equipment in an area that is visible.
6. The total volume of any individual antenna on one structure shall not exceed three cubic feet unless additional antenna volume is requested and approved pursuant to Section H, below.
7. The total volume of all other associated equipment shall not exceed 28 cubic feet in volume.
- 8.
- 9.

10.

11. Antennas and accessory equipment shall not be illuminated except as required by municipal, federal or state authority, provided this shall not preclude deployment on a new or replacement street light.

12. Small wireless facilities may not displace any existing tree or landscape features unless:  
(a) such displaced tree or landscaping is replaced with native and/or drought-resistant trees, plants or other landscape features approved by the City and (b) the applicant submits and adheres to a landscape maintenance plan.

**C. Small Wireless Facilities Attached to Wooden Poles and Non-Wooden Poles with Overhead Lines.** Small wireless facilities located on wooden utility poles and non-wooden utility poles with overhead lines shall conform to the following design criteria:

1. Proposed antenna and related equipment shall meet:

- a. The City's design standards for small wireless facilities;
- b. The pole owner requirements; and
- c. National Electric Safety Code ("NESC") and National Electric Code ("NEC") standards.

2. The pole at the proposed location may be replaced with a taller pole or extended for the purpose of accommodating a small wireless facility; provided that the replacement or extended pole does not exceed 50 feet in height or 10 percent taller than adjacent poles, whichever is greater. The replacement or extended pole height may be increased if required by the pole owner, and such height increase is the minimum necessary to provide sufficient separation and/or clearance from electrical and wireline facilities. Such replacement poles may either match the approximate color and materials of the replaced pole or shall be the standard new pole used by the pole owner in the City.

3. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached, or adjacent poles located within the contiguous right-of-way. Near matches may be permitted by the City when options are limited by technical feasibility considerations, such as when high-frequency antennas cannot be placed within an opaque shroud but could be wrapped with a tinted film.

4. Antennas which are mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.

5. No antenna shall extend horizontally more than 20 inches past the outermost mounting point (where the mounting hardware connects to the antenna) unless additional antenna space is requested and approved pursuant to Section H, below.

6. Antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves, and conduit, which is mounted on poles shall be mounted as close to the pole as technically feasible and allowed by the pole owner.
7. Antenna equipment for small wireless facilities must be attached to the pole, unless required by the City to be undergrounded. Antenna equipment may be ground mounted only if required by the pole owner or otherwise permitted to be ground-mounted [pursuant to subsection (B)(1), above]. Any ground mounted equipment must be placed in an enclosure reasonably related in size to the intended purpose of the facility.
8. All cables and wiring shall be covered by conduits and cabinets to the extent that it is technically feasible, if allowed by the pole owner. The size and number of conduits shall be minimized to maximum extent technically feasible.

**D. Small Wireless Facilities Attached to Non-Wooden Light Poles and Non-Wooden Utility Poles without Overhead Utility Lines.** Small wireless facilities attached to existing or replacement non-wooden light poles and non-wooden utility poles without overhead lines shall conform to the following design criteria unless a deviation is requested and approved pursuant to Section H, below:

**1.**

1. **External Equipment.** The antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible and must be reasonably related in size to the intended purpose of the facility and reasonable expansion for future frequencies and/or technologies, not exceed the volumetric requirements described in Section A, above. If the equipment enclosure(s) is mounted on the exterior of the pole, the applicant is encouraged to place the equipment enclosure(s) behind any decorations, banners or signs that may be on the pole. Conduit and fiber must be fully concealed within the pole.
2. **Concealed Equipment.** All equipment (excluding disconnect switches), conduit and fiber must be fully concealed within the pole. The antennas must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible.
3. Any replacement pole shall substantially conform to the material and design of the existing pole or adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section H, below.
4. The height of any replacement pole may not extend more than 10 feet above the height of the existing pole, unless required in writing by the pole owner.

**E. New Poles.** The City prefers that applicants proposed small wireless facilities on existing or replacement poles to mitigate the impact of new vertical structures in the rights-of-way. To the extent that no existing or replacement pole would be technically feasible, small wireless

facilities may be attached to new poles that are not replacement poles under Section C or D, installed by the wireless provider, subject to the following criteria:

1. Antennas, antenna equipment and associated equipment enclosures (excluding disconnect switches), conduit and fiber shall be fully concealed within the structure. If such concealment is not technically feasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the structure or mounted as close to the pole as feasible, and must be reasonably related in size to the intended purpose of the facility, not to exceed the volumetric requirements for small wireless facilities as provided in Section (A), above.
2. To the extent technically feasible, all new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of adjacent poles located within the contiguous right-of-way unless a different design is requested and approved pursuant to Section H, below.
3. **Overall Height.** New poles shall be no more than fifty (50) feet in height or the height of adjacent structures in the right-of-way, whichever is less, unless additional height is requested and approved pursuant to Section H, below..
4. **Existing or Replacement Poles Preferred.** The city prefers that wireless providers install small wireless facilities on existing or replacement poles instead of installing new poles, unless the wireless provider can document that installation on an existing or replacement pole is not technically feasible or otherwise not possible (due to safety considerations, or other reasons acceptable to the Public Works Director).

**F. Historic District Requirements.**

Small wireless facilities or poles to support collocation of small wireless facilities located in Historic Districts shall be designed to have a similar appearance, including material and design elements, if technically feasible, of other poles in the rights-of-way within 500 feet of the proposed installation. Any such design or concealment measures may not be considered part of the small wireless facility for purpose of the size restrictions in the definition of small wireless facility.

**G. Strand Mounted Equipment.** Strand mounted small wireless facilities are permitted, subject to the following criteria:

1. Each strand mounted small wireless facility shall not exceed 3 cubic feet in volume, unless a deviation is requested and approved pursuant to Section H, below.
2. Only 2 strand mounted wireless facility is permitted between any two existing poles.
3. Strand mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner.

{00724156; 3 }

4. No strand mounted device will be located in or above the portion of the roadway open to vehicular traffic.
5. Strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than original strand) to meet the technological needs of the facility.

**H. Deviation from Design Standards.**

1. An applicant may obtain a deviation from these design standards if compliance with the standard: (a) is not technically feasible; (b) impedes the effective operation of the small wireless facility; (c) impairs a desired network performance objective; (d) conflicts with pole owner requirements; or (e) otherwise materially inhibits or limits the provision of wireless service. Applicants requesting such deviations shall specifically document the underlying reason for the deviation requested.
2. When requests for deviation are sought under subsections (H)(1)(a-e), the request must be narrowly tailored to minimize deviation from the requirements of these design standards, and the Public Works Director must find the applicant's proposed design provides similar aesthetic value when compared to strict compliance with these standards.
3. The Public Works Director may also allow for a deviation from these standards when they find the applicant's proposed design provides equivalent or superior aesthetic value when compared to strict compliance with these standards.
4. The small wireless facility design approved under this Section H must meet the conditions of 47 C.F.R. § 1.6002(l).
5. [The Public Works Director] will review and may approve a request for deviation to the minimum extent required to address the applicant's needs or facilitate a superior design.



NO. 2020-21

**A RESOLUTION OF THE SANDY CITY COUNCIL ESTABLISHING FEES FOR THE PLACEMENT OF SMALL WIRELESS FACILITIES IN THE RIGHT OF WAY.**

**WHEREAS**, the City of Sandy (“City”) has Constitutional and Charter authority to manage the public right-of-way in the City (“ROW”); and

**WHEREAS**, Resolution 2020-20 regulates the placement of Small Wireless Facilities (“SWF”) in the ROW; and

**WHEREAS**, the City Council finds that all utilities placing SWF in the ROW should compensate the City for the privilege of such ROW use, which is a limited public asset; and

**WHEREAS**, the City Council further finds that the City should be compensated for the costs, impacts and burdens related to such use; and

**WHEREAS**, the City has authority under State and Federal law to establish by resolution fees related to such use; and

**WHEREAS**, the City Council desires to adopt uniform SWF application and usage fees;

**NOW, THEREFORE, THE CITY OF SANDY RESOLVES AS FOLLOWS:**

**Section 1.** The application fee for siting SWF on existing infrastructure, as they involve both access to City ROW and vertical infrastructure located in the City ROW, shall be \$500.00 for up to 5 sites and \$100.00 for each additional site, unless the City’s actual cost of processing such applications exceeds the otherwise applicable fee, in which case the fee shall be adjusted to an amount equal to the City’s actual cost for processing the application. The application fee for siting SWF on new support structures proposed to be installed in the City ROW, or for the replacement or modification of existing support structures to allow for the siting of SWF, shall be \$1,000.00 per new, replacement or modified support structure, unless the City’s actual cost of processing such applications exceeds the otherwise applicable fee, in which case the fee shall be adjusted to an amount equal to the City’s actual cost for processing the application. In those cases where the City’s processing costs exceed the otherwise applicable application fee, the fee paid shall cover all reasonable costs incurred by the City in securing outside expertise necessary to evaluate such applications.

#2020-21

**Section 2.** The annual usage fee for SWF shall be \$270.00 per facility sited in the City ROW, unless the City's actual cost for administering and making the City ROW available for the subject attachment(s) exceeds the otherwise applicable fee, in which case the annual fee shall be adjusted to an amount equal to the City's actual cost for administering and making the City ROW available for the subject attachment(s). In those cases where the City's annual per-attachment cost exceeds the otherwise applicable usage fee, the actual usage fee paid shall cover all reasonable costs incurred by the City in securing outside expertise necessary to administer and make the City ROW available for the subject attachment(s).

**Section 3.** This Resolution shall be effective immediately upon its adoption by the City Council.

This resolution is adopted by the Common Council of the City of Sandy and approved by the Mayor this 03 day of August 2020

\_\_\_\_\_  
Stan Pulliam, Mayor

ATTEST:

\_\_\_\_\_  
Jeff Aprati, City Recorder

#2020-21



## Staff Report

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**Meeting Date:** August 3, 2020  
**From** Thomas Fisher,  
**SUBJECT:** NW Natural Noise Variance

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**Background:**

The attached letter from Andrea Kuehnel, NW Natural Transmission Engineer requests a noise variance from City Council to allow construction work outside the City's authorized work hours this summer. This is part of the NW Natural's Sandy Feeder Reinforcement Project to replace a gas line along Highway 26. The noise variance is for HDD (horizontal directional drilling) at the intersection of University Ave and Hwy 26.

Staff sent out notices on July 29th to all residents within 200 feet of the work site notifying them of this request and the opportunity to provide comments to the Council on the request.

Section 8.20.020.B(7) of the Municipal Code prohibits "unnecessary noise" between the hours of 6:00 PM and 7:00 AM unless authorized by a permit granted by the City Council. There is no objective standard for maximum noise levels in the Code. Instead, certain activities presumed to be noisy are prohibited between these hours, construction among them

The letter from Ms. Kuehnel indicates that night work will take place between August 16th and September 4th between the hours of 7:00 PM and 5:30 AM. The letter further details the equipment to be used along with estimated sound levels. The City Council may wish to add conditions regarding notification, public meetings, etc.

I have also attached a table showing dBA values for common noises to provide some perspective on the numbers provided by NW Natural.

**Recommendation:**

Direct staff to issue a noise variance permit to NW Natural for the duration of work from August 16th to September 4th between the hours of 6:00 PM and 7:00 AM including any conditions deemed necessary by the City Council.

**Budgetary Impact:**

None



Andrea Kuehnel, PE  
July 27, 2020

City of Sandy  
39250 Pioneer Blvd  
Sandy, OR 97055  
Attention: Thomas Fisher, EIT

RE: US26 and University Ave Night work - Sandy Feeder Reinforcement Project

Dear Mr. Fisher,

NW Natural is currently constructing a gas main project on US26 to reinforce the supply for the City of Sandy and surrounding area. NWN has secured permits with Oregon Department of Transportation (ODOT) Permit No. 2CM39396 for work within the US26 Right-of-Way and the permit conditions require night work hours. The City of Sandy issued Permit 20-019 for work within the University Avenue and Meeker Street Rights of Way, which can be constructed during daytime work hours.

The gas main will be located within the center median and will cross the Westbound US 26 lanes to University Street. We understand that a Noise Variance approved by City Council is required for the work in this area due to the proximity to residential structures. The work includes multiple operations including: 1) horizontal direction drilling (HDD), 2) open trench, and 3) pavement restoration. This Noise Variance request is specifically for the HDD work. However, we have included information for the other activities for information and reference.

- Work Location:
  - On US HWY 26 at University Avenue
    - Approx. Hwy Mile Post 23.58 to 23.65
  - HDD work in center median
  - Trench crossing at westbound travel lanes
  - Pavement restoration of center median and trench crossing
- Scope of Work:
  - Direction drill for trenchless pipe installation
  - Trench excavation for approximately 250 linear feet of pipe installation
  - Pipe welding
  - Trench backfill and compaction
  - Paving restoration – grinding, asphalt placement and compaction
- Schedule:
  - ODOT Work Hours: 7 PM to 5:30 AM
  - **Proposed HDD Work dates Sunday, August 16 to Friday, September 4**
  - Trench operations – about 8 shifts between 9/13 – 10/3
  - Paving Restoration – about 3 shifts between 10/20/20 to 11/6/20

- Construction Equipment:
  - Horizontal Direction Drill rig
  - Vacuum excavation truck
  - Trackhoe excavator(s)
  - Dump trucks and support vehicles (equipped with back-up warning alarms)
  - Hoe pack and jumping jack/wacker for trench compaction
- Estimated Sound Levels:
  - HDD rig – 82-90 dB
  - Crew truck (up to 30 MPH) – 66 - 83 dB
  - Vac truck or arc welder (on truck) – 85-95 dB
  - Hoe pack/wacker/air compressor – 89-98 dB
  - Saw cutting – 91-108 dB (<90 dB at 20 feet)

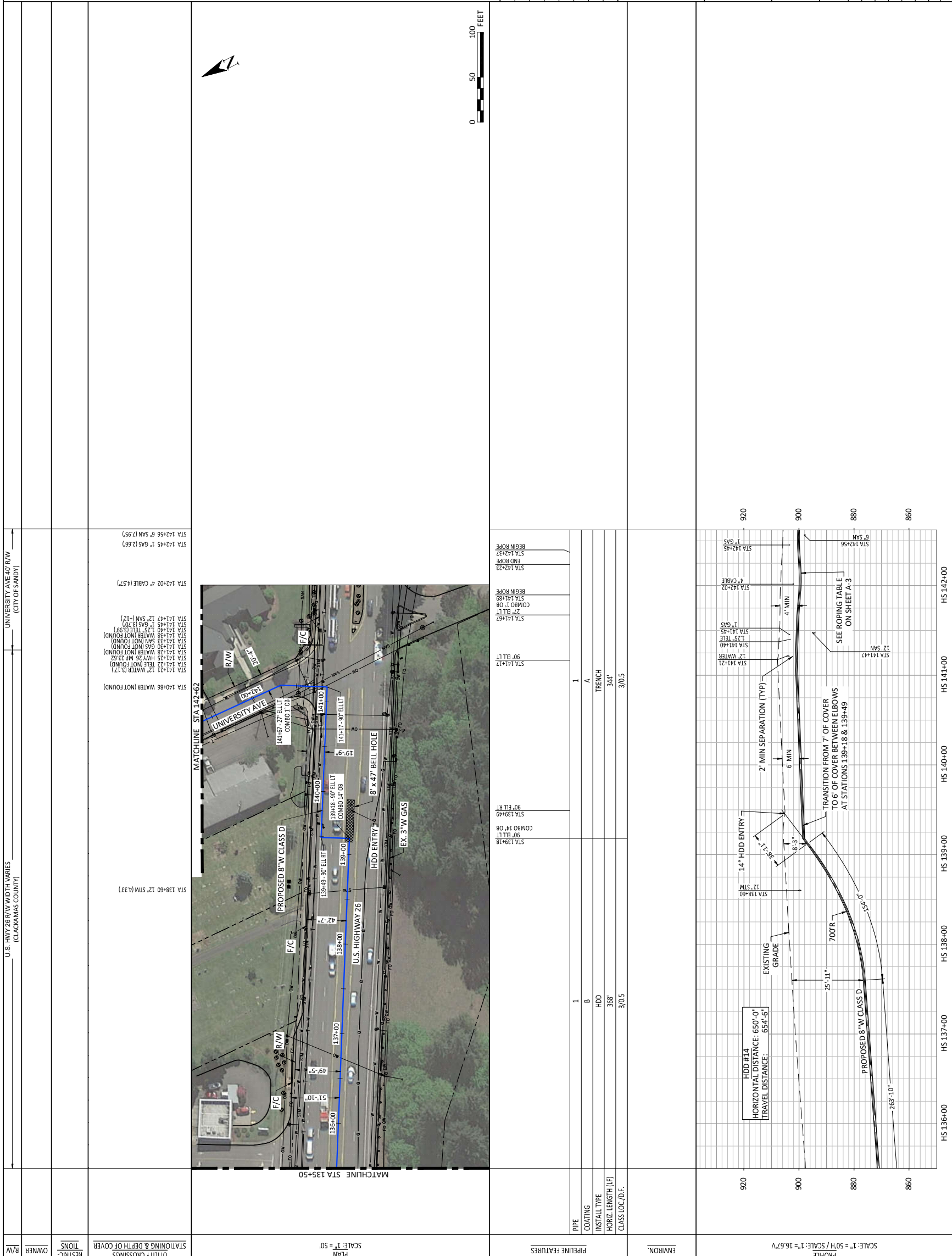
Please note that the estimated decibels (dB) stated below are for sound levels experienced by equipment operators within 1-5 feet of the equipment, unless noted. Sound levels diminish as the distance from the equipment and work area increase. The HDD drill rig will be set in the center median and the closest residential house is about 150 feet from the work area. We estimate that outside sound levels at nearby buildings would be about 15 to 30 dB lower than the above ranges. Equipment with higher sound levels are used intermittently during construction operations.

Sincerely,



Andrea Kuehnel, PE  
Transmission Engineer  
NW Natural

Attachments:  
Sheet C-15 Issued for Construction Sandy feeder Project Plans  
ODOT Permit 2CM39396



STATIONING & DEPTH OF COVER	ENVIRON.	PIPELINE FEATURES	PIPELINE FEATURES
STA 137+00 STA 138+60 12" STM (A33) STA 140+68 WATER (NOT FOUND) STA 141+12 12" WATER (B, 17) STA 141+12 12" WATER (3, 17) STA 141+22 12" TEL (NOT FOUND) STA 141+28 WATER (NOT FOUND) STA 141+30 GAS (NOT FOUND) STA 141+33 SAN (NOT FOUND) STA 141+38 SAN (NOT FOUND) STA 141+40 12" TEL (5.9) STA 141+45 1" GAS (3.7) STA 141+47 12" SAN (A12) STA 142+02 4" CABLE (4.57) STA 142+45 1" GAS (2.66) STA 142+56 6" SAN (7.95)	HS 137+00 HS 138+00 HS 139+00 HS 140+00 HS 141+00 HS 142+00	1 A TRENCH 344' 3/0.5	1 B HDD 368' 3/0.5

**MATERIALS**

PIPE SUMMARY  
 1 = 8" 3000' CD X 0.327" WT. X-52 HRW  
 2 = 4.500' CD X 0.237" WT. X-52 HRW  
 3 = 6.625' CD. PE 2406. SDR 11.5  
 4 = 4.500' CD. PE 2406. SDR 11.5  
 5 = 2.375' CD. PE 2406. SDR 11

COATING SUMMARY  
 A = FUSION BONDING EPOXY (FBE) 14 MILS  
 B = 14 MILS FBE & 40 MILS ARO



**GTS**  
 Gas Transmission Systems, Inc.  
 15 West Eaton Road  
 Chico, CA  
 (530) 893-6711  
 www.gtsinc.com  
 Project No. 19339-001

REV	REVISION	DATE
0	ISSUED FOR CONSTRUCTION	06/07/20

**NW Natural**

SANDY FEEDER REINFORCEMENT  
 SE KELSO RD TO SE BLUFF RD  
 CLACKAMAS COUNTY, OR

PLAN & PROFILE

SCALE:	AS SHOWN
ISSUE DATE:	06/07/2020
DESIGNED BY:	P. DANIELS
DRAWN BY:	B. SUDICKY
CHECKED BY:	P. DANIELS
APPROVED BY:	C. SULA

PROJECT NO. 201798  
 SHEET NO. C-15

UNIVERSITY AVE 40' R/W  
 (CITY OF SANDY)

U.S. HWY 26 R/W WIDTH VARIES  
 (CLACKAMAS COUNTY)

UTILITY CROSSINGS  
 STATIONING & DEPTH OF COVER

OWNER

RESTRICTIONS



**APPLICATION AND PERMIT TO OCCUPY OR  
PERFORM OPERATIONS UPON A STATE HIGHWAY**

See Oregon Administrative Rule, Chapter 734, Division 55

PERMIT NUMBER

**2CM39396**

CLASS : 05 KEY# N/A

<b>GENERAL LOCATION</b>				<b>PURPOSE OF APPLICATION (TO CONSTRUCT/OPERATE/MAINTAIN)</b>			
HIGHWAY NAME AND ROUTE NUMBER US-26 / 26 / Mt. Hood				<input type="checkbox"/> POLE LINE	TYPE	MIN. VERT. CLEARANCE	
HIGHWAY NUMBER 026	COUNTY Clackamas			<input type="checkbox"/> BURIED CABLE	TYPE		
BETWEEN OR NEAR LANDMARKS Kelso Rd to University Ave				<input checked="" type="checkbox"/> PIPE LINE	TYPE Natural gas		
HWY. REFERENCE MAP Hwy Inventory	DESIGNATED FREEWAY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IN U.S. FOREST <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> NON-COMMERCIAL SIGN AS DESCRIBED BELOW			
APPLICANT NAME AND ADDRESS NW Natural Gas Company email: Andrea.Kuehnel@nwnatural.com Attn: Andrea Kuehnel mobile: 971-409-7594 220 NW Second Ave. Portland, OR 97219				<input type="checkbox"/> MISCELLANEOUS OPERATIONS AND/OR FACILITIES AS DESCRIBED BELOW			
				<b>FOR ODOT USE ONLY</b>			
				BOND REQUIRED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	REFERENCE: OAR 734-055-0035(2)	AMOUNT OF BOND \$500,000.00	
				INSURANCE REQUIRED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	REFERENCE: OAR 734-055-0035(1)	SPECIFIED COMP. DATE 12/31/2021	

**DETAIL LOCATION OF FACILITY (For more space attach additional sheets)**

MILE POINT	TO MILE POINT	ENGINEERS STATION	ENGINEERS STATION	SIDE OF HWY OR ANGLE OF CROSSING	DISTANCE FROM		BURIED CABLE OR PIPE		SPAN LENGTH
					CENTER OF PVMT	R/W LINE	DEPTH/VERT.	SIZE AND KIND	
MP 21.10	MP 21.56	34+025.65		South	Varies	Within	60" Min	8" Steel Pipe	.46 Mi.
MP 21.56	MP 22.22			Center	Varies	Within	84" Min	8" Steel Pipe	.66 Mi.
MP 22.22	MP 22.55			South	Varies	Within	60" Min	8" Steel Pipe	.32 Mi.
MP 22.55	MP 23.65		753+45	Center/North	Varies	Within	84" Min	8" Steel Pipe	1.1 Mi.

**DESCRIPTION OF DESIRED USE**

NWNG System Improvement Project to replace portions of pipeline that are the primary feed for Sandy, Oregon & surrounding areas. Original pipe installed in 1965 and is now undersized for continued growth. Horizontal Directional Drilling is preferred method of installation and some open trenching required in sensitive areas. Pipe summary 8.625" OD x 0.322" W.T., X-52; Fusion bonded epoxy 14 mils FBE & 40 mils ARO. Replace striping in-kind as required.

**SPECIAL PROVISIONS (FOR ODOT USE ONLY)**

- TRAFFIC CONTROL REQUIRED  YES [OAR 734-055-0025(6)]  NO
- OPEN CUTTING OF PAVED OR SURFACED AREAS ALLOWED  YES [OAR 734-055-0100(2)]  NO [OAR 734-055-0100(1)]
- ◆ **AT LEAST 48 HOURS BEFORE BEGINNING WORK, THE APPLICANT OR HIS CONTRACTOR SHALL NOTIFY THE DISTRICT REPRESENTATIVE Marlene Nichols, 2C Permit Specialist AT PHONE NO.: 503-665-4006 OR EMAIL OR FAX THIS PAGE TO THE DISTRICT OFFICE AT: marlene.t.nichols@odot.state.or.us; FAX 503-665-4487, SPECIFY TIME AND DATE WORK IS TO OCCUR.**
- ◆ A COPY OF THIS PERMIT AND ALL ATTACHMENTS SHALL BE AVAILABLE AT THE WORK AREA DURING CONSTRUCTION.
- ◆ **ATTENTION: Oregon Law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0001 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503) 232-1987. CALL BEFORE YOU DIG 1-800-332-2344**

**COMMENTS (FOR ODOT USE ONLY)**

This permit authorizes NWNG to enter onto ODOT R/W to install main pipeline as stated on attached. Changes or modifications shall be approved by ODOT DM prior to installation. Traffic control shall meet MUTCD standards. It is the permittees responsibility to ensure that all environmental impacts are addressed with proper authorities & Utility locates made. Upon completion of this facility, applicant agrees to accept full operational and maintenance responsibilities.

IF THE PROPOSED APPLICATION WILL AFFECT THE LOCAL GOVERNMENT, THE APPLICANT SHALL ACQUIRE THE LOCAL GOVERNMENT OFFICIAL'S SIGNATURE BEFORE ACQUIRING THE DISTRICT MANAGER'S SIGNATURE.

LOCAL GOVERNMENT OFFICIAL SIGNATURE <b>X</b> - see attached -	TITLE City of Sandy	DATE
APPLICANT SIGNATURE <b>X</b> <i>Andrea Kuehnel</i>	APPLICATION DATE 3/9/2020	TITLE Transmission Engineer X-4376
DISTRICT MANAGER OR REPRESENTATIVE <b>X</b> <i>Mr. [Signature]</i>		TELEPHONE NO. 503-226-4211
When this application is approved by the Department, the applicant is subject to, accepts and approves the terms and provisions contained and attached: and the terms of Oregon Administrative Rules, Chapter 734, Division 55, which is by this reference made a part of this permit.		APPROVAL DATE 5/7/2020

MILE POINT	TO	MILE POINT	ENGINEERS STATION	TO	ENGINEERS STATION	SIDE OF HWY OR ANGLE OF CROSSING	DISTANCE FROM		BURIED CABLE OR PIPE		SPAN LENGTH
							CENTER OF PVMT	R/W LINE	DEPTH/VERT.	SIZE AND KIND	
21.56			NWN 28+11		NWN 28+74	90 NORTH			84"	8" STL PIPE	63 FT
21.96			NWN 50+02		NWN 50+42	90 SOUTH			84"	8" STL PIPE	40 FT
22.64			NWN 86+31		NWN 86+67	90 NORTH			84"	8" STL PIPE	36 FT
23.26			NWN 122+05			90 SOUTH			84"	4" STL PIPE	77 FT

**2 CM39396**





## GENERAL PROVISIONS FOR POLELINE, PIPELINE, BURIED CABLE, AND MISCELLANEOUS PERMITS

Revised January 2015

**APPLICANT: NW NATURAL GAS COMPANY**

2 CM39396

**HIGHWAY: US26/HWY 26 MT. HOOD HIGHWAY**

**MP: 21.10 - 23.26**

All checked () provisions apply.

### WORKSITE

- 1. Permittee must call for utility locates before digging ("Call Before You Dig!" 1-800-332-2344 or 8-1-1) per Oregon Administrative Rules (Chapter 952, Division 1). You may be held liable for damages. Premarking of excavation areas is required.
- 2. Permittee shall have a copy of this permit and all attachments at the work site. They shall be available to the District Manager or representative at their request.
- 3. Permittee shall acknowledge, in writing, receipt and review of Oregon Administrative Rules (Chapter 734, Division 55) governing miscellaneous facilities and operations on the highway right of way as the governing provisions of permit or agreement. Copies of this rule may be obtained from any district maintenance office.
- 4. Permittee shall review the Oregon Administrative Rules (Chapter 734 Division 55) governing miscellaneous facilities and operations on the highway right of way as the governing provisions of this permit or agreement. Web site: [http://arcweb.sos.state.or.us/rules/OARS\\_700/OAR\\_734/734\\_055.html](http://arcweb.sos.state.or.us/rules/OARS_700/OAR_734/734_055.html)
- 5. Access control fence must be maintained during construction and restored to its original or better condition after construction is complete.
- 6. The permittee shall not use state highway right of way to display advertising signs or merchandise of any kind.
- 7. The stopping and parking of vehicles upon state highway right of way for the maintenance of adjoining property or in furtherance of any business transaction or commercial establishment is strictly prohibited.
- 8. All grass and small brush within the work area shall be rotary or flail mowed to ground level prior to the beginning of work to facilitate clean up.
- 9. Disturbed areas shall be reseeded with grass native to the area in an appropriate seeding time.
- 10. The spreading of mud or debris upon any state highway is strictly prohibited and violation shall be cause for immediate cancellation of the permit. Clean up shall be at the applicant's expense. The highway shall be cleaned of all dirt and debris at the end of each work day, or more frequently if so determined by the District Manager or representative.
- 11. Permittee shall replace any landscape vegetation or fences that are destroyed. Any damage that is not fully recovered within 30 days (weather permitting) shall be replaced by ODOT at the expense of the permittee. A "plant establishment" shall be understood to be part of the planting work to assure satisfactory growth of planted materials. The plant establishment period will begin when the original planting and all landscape construction has been completed and approved. The length of the establishment period will be one calendar year or as defined in the permit Special Provisions.
- 12. Permittee shall install and maintain landscaped area as shown on the attached drawings. Planting shall be limited to low-growing shrubs, grass or flowers that do not attain sufficient height to obstruct clear vision in any direction. The Oregon Department of Transportation (ODOT) shall have the right to remove said landscaping at any time such removal may appear to be in the public interest, without liability or loss, injury, of damage or any nature whatsoever.

## TRAFFIC

- 13. During construction or maintenance, the work area shall be protected in accordance with the current [Manual on Uniform Traffic Control Devices \(MUTCD\)](#), Federal Highway Administration, U.S. Department of Transportation, and the Oregon Department of Transportation supplements thereto. Flaggers must have a card or certificate indicating their completion of an approved work zone traffic control course. All traffic control devices shall be maintained according to the American Traffic Safety Services Association (ATSSA), Quality Standards for Work Zone Traffic Control Devices handbook.
- 14. Permittee shall provide a detailed traffic control plan for each phase of the work, showing signs and cones. Plans shall be reviewed by Oregon Department of Transportation in advance of construction or maintenance.
- 15. All damaged or removed highway signs shall be replaced by the permittee. Installation shall be according to MUTCD standards or ODOT specifications, and shall be completed as soon as possible but no later than the end of the work shift.
- 16. No lane restrictions are permitted on the roadway during the hours of darkness, on weekends, or between 6:00 AM and 9:00 AM, or 3:00 PM and 6:00 PM (Monday through Friday) without prior approval by ODOT.
- 17. Hours of work shall be some night work shall be determined with signalized intersections and open-cut crossings.

## DRAINAGE

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- 18. On-site storm drainage shall be controlled within the permitted property. No blind connections to existing state facilities are allowed.
- 19. Excavation shall not be done on ditch slopes. Trench excavation shall either be at ditch bottom or outside ditch area. (Minimum depth at bottom of ditch shall be 36 inches; minimum depth outside of ditch shall be 42 inches).
- 20. Only earth or rock shall be used as fill material and shall slope so as not to change or adversely affect existing drainage. Fine grade and seed the finished fill with native grasses to prevent erosion.
- 21. A storm drainage study stamped by an Oregon Registered Professional Engineer (PE) is required. The study must meet standards of the National Pollution Discharge Elimination Systems (NPDES) when any of the following conditions apply:
  - Whenever a four inch pipe is inadequate to serve the developed area,
  - development site is one acre or larger in size and directly or indirectly affects state facilities,
  - or as directed by the District Manager or representative.
- 22. Permittee shall provide on-site retention for storm water runoff that exceeds that of the undeveloped site.
- 23. All water discharged to an ODOT drainage system must be treated prior to discharge. All requests for connection to an ODOT storm system must meet any requirements of the National Pollutant Discharge Elimination System (NPDES). This may include local jurisdiction approval of on-site water quality treatment facilities and/or development of an operation and maintenance plan for any on-site water quality treatment facility, as determined by local jurisdiction.

## EXCAVATION / CONSTRUCTION

- 24. The following ODOT documents and any supplements and subsequent revisions thereto, where applicable and not otherwise superseded by the permit language herein, but only to the extent that they provide standards and performance requirements for work to be performed under the permit, shall be incorporated for use in the permit:

“Oregon Standard Specifications for Construction (2015)”. ODOT shall have authority over acceptance of all materials and workmanship performed under this permit as stated in Section 00150.00 of the “Oregon Standard Specifications for Construction (2015).”

For additional Supplemental and Special Provisions please refer to:  
[http://www.oregon.gov/ODOT/HWY/SPECS/standard\\_specifications.shtml](http://www.oregon.gov/ODOT/HWY/SPECS/standard_specifications.shtml) Standard Specification books are available on this site.
- 25. Open cutting of pavement is allowed in areas specifically approved by District Manager or representative.
- 26. Trench backfill shall be according to the attached typical drawing, marked as Exhibit A.



- 27. Open cutting of the highway is allowed with construction in accordance with OAR 734-55-0100. All excavation in paved areas shall be backfilled and the roadway surface patched before the end of each shift. In special cases where steel plates are allowed, said plates shall be pinned and a temporary cold patch applied to the edges. The permittee shall be fully responsible for monitoring and maintenance of temporary patching and steel plating.
- 28. Compaction tests shall be required for each open cut per Oregon Standard Specification for Construction. Compaction tests shall be conducted once for every 300 lineal feet per lift of continuous trench according to the Manual of Field Test Procedures (MFTP), published by ODOT. Percent Compaction shall be 95%. At the discretion of the District Manager or representative, results of compaction test shall be provided to District Manager or representative at applicants' expense.
- 29. Control Density Fill (CDF) shall be used as surface backfill material in place of crushed rock in open trenches that impact the travel portions of the highway. A ¾"-0, or 1"-0 rock will be used for the aggregate. The amount of cement used shall not exceed 3.0% of the total mixture's weight. Maximum compressed strengths must not exceed 250 pounds per square inch (psi).
- 30. Surface restoration shall be a minimum of eight inches of hot asphalt-concrete (AC), compacted in two inch lifts, or match existing pavement depth, whichever is greater. Sand-seal all edges and joints.
- 31. All aggregate shall conform to Oregon Standard Specification for Construction, Section 02630 - Base Aggregate. 2 CM39 396
- 32. Any area of cut or damaged asphalt shall be restored in accordance with the included attachment "T-Cut Typical Section" drawing. For a period of two years following the patching of paved surface, permittee shall be responsible for the condition of permittee's pavement patches, and during that two year period shall repair to District Manager or representative satisfaction any of the patches which become settled, cracked, broken, or otherwise faulty.
- 33. An overlay to seal an open-cut area shall be completed prior to the end of the construction season, or when minimum temperature allows per "Oregon Standard Specification for Construction (2008)" and any subsequent revisions thereto. Typical overlay shall be 1.5 inches deep and cover the affected area from edge of pavement to edge of pavement, and taper longitudinally at a fifty feet to one inch (50' : 1") ratio. Taper may be adjusted by the District Manager as required. For a period of two years following this patching of the surface, the permittee shall be responsible for the condition of said pavement patches, and during that time shall repair to the District Manager or representative's satisfaction any of the patches which become settled, cracked, broken or otherwise faulty.
- 34. Highway crossings shall be bored or jacked. Bore pits shall be located behind ditch line or in areas satisfactory to the District Manager or representative. Unattended pits shall either be protected by a six-foot fence, backfilled, or steel plated and pinned.
- 35. Permittee shall install a "tracer wire" or other similar conductive marking tape or device, if installing any non-conductive, unlocatable underground facility, in order to comply with Oregon Utilities Coordination Council (OUCC), per OAR 952-01-0070 (6).
- 36. Trench backfill outside of ditch line or in approved areas can be native soil compacted at optimum moisture in twelve inch layers to 90% or greater of the maximum density.
- 37. Native material that is found to be unsatisfactory for compaction shall be disposed of off the project and granular backfill used.
- 38. Trench backfill in rock slope or shoulder shall be crushed 1"-0 or ¾"-0 size rock compacted at optimum moisture in eight-inch layers. Compaction tests shall be conducted according to the Manual of Field Test Procedures (MFTP), published by ODOT. Percent compaction shall be 95%. At the discretion of the District Manager or representative, results of compaction tests shall be provided to District Manager or representative at applicant's expense.
- 39. Where excavation is on fill slope steeper than a two to one (2:1) ratio, slope protection shall be provided using four-inch size rock laid evenly to a minimum depth of twelve inches.
- 40. No more than 300 feet of trench longitudinally along the highway shall be left open at any one time and no trench shall be left in an open condition overnight.
- 41. Areas of disturbed cut and fill slopes shall be restored to a condition suitable to the District Manager or representative. Areas of erosion to be inlaid with an acceptable riprap material.



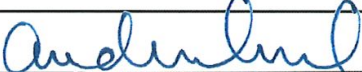
- 42. All underground utilities shall be installed with three-foot or more of horizontal clearance from existing or contract plans guardrail posts and attachments. All non-metallic water, sanitary and storm sewer pipe shall have an electrically conductive insulated Number 12-gauge copper tracer wire the full length of the installed pipe using blue wire for water and green for storm and sanitary sewer piping.
- 43. Any area of cut or damaged concrete shall be restored in accordance with the attached Typical Section-Pipe Section under sidewalk.
- 44. Utility markers and pedestals shall be placed as near the highway right-of-way line as practical. In no case shall pedestals and line markers be located within the highway maintenance area.
- 45. No cable plowing is allowed within the lateral support of the highway asphalt (i.e. at six feet lower than the edge of the asphalt, no plowing within nine feet of the edge of the asphalt).
- 46. Review by ODOT Bridge Engineers is required for all proposed bridge and structure attachments and for utility or any facilities to be installed within sixteen feet of bridge foundations, supports, walls or related, or within the influence zone of bridge facilities.

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**MISCELLANEOUS**

- 47. Permittee shall be responsible and liable for (1) investigating presence/absence of any legally protected or regulated environmental resource(s) in the action area; (2) determining any and all restrictions or requirements that relate to the proposed actions, and complying with such, including but not limited to those relating to hazardous material(s), water quality constraints, wetlands, archeological or historic resources(s) state and federal threatened or endangered species, etc., (3) complying with all federal, state, and local laws, and obtaining all required and necessary permits and approvals.
- 48. If the permittee impacts a legally protected/regulated resource, permittee shall be responsible for all costs associated with such impact, including, but not limited to all costs of mitigation and rehabilitation, and shall indemnify, and hold ODOT harmless for such impacts and be responsible and liable to ODOT for any associated costs or claims that ODOT may have.
- 49. Plans are approved by ODOT in general only and do not relieve the permittee from completing construction improvements in a manner satisfactory to ODOT. The District Manager or representative may require field changes. When revisions are made in the field, permittee is responsible to provide "as built" drawings, within 60 days from completion of highway improvements, and shall submit them to the District Office issuing the permit.
- 50. Permittee shall be responsible for locating and preserving all existing survey monumentation within the work area in accordance with ORS 209.150 and/or 209.155. If monumentation or its accessories are inadvertently or otherwise disturbed or destroyed, applicant shall be responsible for all costs and coordination associated with it's reestablishment by a professional licensed surveyor.

By this signature applicant accepts all checked () provisions (4 pages).

Applicant signature: 	Date: <span style="color: blue;">5/7/2020</span>
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## SPECIAL PROVISIONS

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1. The following ODOT documents and any supplements and subsequent revisions thereto, where applicable and not otherwise superseded by the permit language herein, but only to the extent that they provide standards and performance requirements for work to be performed under the permit, shall be incorporated for use in this permit: "Oregon Standard Specifications for Construction (2018) and relevant Standard Drawings. ODOT shall have authority over the acceptance of all materials and workmanship performed under this permit as stated in Section 00150.00 of the "Oregon Standard Specifications for Construction (2018)."
2. Permittee shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this permit, including, without limitation, the provisions of ORS 276.071. If permittee chooses to assign their permitted responsibilities to a consultant or contractor, permittee shall inform the consultant or contractor of the requirements of ORS 276.071.
3. From Oregon Administrative Rule 734-055-0055. Other Agencies.
  - (1) Nothing in this permit is intended to grant rights or imply approval in areas not falling within the authority and jurisdiction of the Oregon Department of Transportation. It is the responsibility of applicant to determine the need for and to obtain such licenses, permits or other form of approval which may be required by other state agencies, federal agencies, cities and/or counties of Oregon, utility companies or railroads.
  - (2) If the section of highway covered by the permit is located within a National Forest, because the Department does not generally have any further rights across National Forest land other than an easement for highway purposes, the permit extends only to such rights as the Department has acquired and may therefore properly give. For National Forest lands where the facility constitutes a servitude on the property of the United States, in addition to the rights of the Department, a permit from the Forest Service must be obtained before a highway occupancy permit will be issued. Unless applicant has evidence satisfactory to the Engineer that the rights of the United States in any National Forest land crossed by the highway right-of-way will not be impaired by the facility covered by this permit, application for a permit should be made to the supervisor of the National Forest in which the facility is to be located.

Stat. Auth.: [ORS 184](#) & [ORS 374](#)

Stats. Implemented: [ORS 374.310](#)

Hist.: HC 1176, f. 9-24-68; 2HD 2-1981, f. & ef. 2-25-81

4. Applicant shall provide traffic control plan that meets MUTCD Standards and meets approval by ODOT Region 1 Tech Center.
5. ODOT TCP approved lane closures are as follows:
  - Roadway shoulder may be closed on any day of the week at any time
  - Work requiring stop and hold of traffic shall not exceed 20 minutes maximum; this work is recommended to be between 11pm and 4:30 am, Monday through Sunday.
  - Lanes may be closed as follows:
    - Daily Monday through Thursday between 12am and 5:30am, and between 7pm and midnight.
    - Friday between 12am and 5:30am and between 9pm and midnight
    - Saturday between 12am and 8am, and between 8pm and midnight
    - Sunday between 12am and 9am and between 8pm and midnight



- Intersections, including US 26 and Kelso Road may be controlled by flaggers as follows:
  - Nightly, Monday night through Friday morning between 9pm and 5am
  - Friday night through Saturday morning between 9pm and 5:30am
  - Saturday night through Sunday morning between 9pm and 6am
- The westbound left turn lane length from US26 to 362<sup>nd</sup> may be reduced to 150'-200' as follows:
  - Nightly Monday night through Friday morning between 9pm and 5am
  - Friday night through Saturday morning between 9pm and 5:30am
  - Saturday night through Sunday morning between 9pm and 6am

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6. For signal shut-down/on requires a 14 day notification to Marlene Nichols at 503-665-1006 to coordinate with ODOT Electrical.
7. Applicant shall install and maintain a siltation/erosion control system to prevent silt, mud and debris from reaching ditches or waterways.
8. There are several culverts on the ODOT TransGIS system between mile points of 21.04 – 22.89; there may be additional culverts as well along the route of this project so be diligent in your excavation practices to ensure no damage occurs.
9. Recoverable slopes along this project should be replaced with a 6:1 slope.
10. T-Cut Typical Section: Trench T-cut to match existing AC, ACP restoration shall be minimum of 8" and not to exceed 12". Wearing surface to be 4" at T-cut restoration to be placed in two (2) 2" lifts as per Attachment B, T-Cut Typical Section. Level 3 ACP base course in trench to be placed in maximum 3" lifts provided compaction requirements are met.
11. Final full lane pavement restoration to be 2" thick grind and overlay from inside of striping to inside of striping.
12. Applicant shall replace any and all striping, legends or symbols that are damaged, dimmed, removed or destroyed by its activities under this permit.
  - In any case, restoration shall be in accordance with ODOT standards as follows:
    - Pavement markings: to be replaced in-kind using same material (inlaid wet-weather thermos)
    - Stop bars and legends: to be replaced in-kind using preformed fused thermoplastic type B-HS.
    - Rumble strips: replace after paving back trenches. Please see ODOT Traffic Line manual, add rumble strip details DET4554, DET4555 & DET4556
    - Traffic signal loops: reinstall up to state standards if loop wires are damaged during construction. Potential locations are at Jarl Rd/Orient, 362<sup>nd</sup>, Industrial Way & Rueben. Contact ODOT Electrical at main office 971-673-6201 or Johnny Sapp, Electrical Manager at 971-673-6240 [Johnny.R.Sapp@odot.state.or.us](mailto:Johnny.R.Sapp@odot.state.or.us).
    - Traffic Road Signs: replace in-kind. Some may require new sign supports (TBD) depending on final alignment of pipeline.
13. The State has projects occurring in this area in the near future. The minimum depth of bury for pipes is 72" to top of pipe in the paved area and 84" in center median. Please ensure your pipeline is placed lower than this in order to not have to be moved again in the future. The following standard drawings shall be used: RD300 (trench backfill, bedding, pipe zone); Attachment B (T-cut requirements); RD722 (sidewalks and transition panels); RD710 (accessible route islands).
14. Permittee shall call for utility locates prior to digging at 1-800-332-2344 per Oregon Administrative Rules (Chapter 952, Division 1).

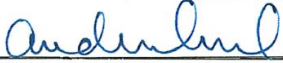
15. EZ Street asphalt patch may be used as temporary patch until permanent asphalt restoration can be completed in the center median and shoulders provided the temporary patching is maintained. For installation within the travel lanes (Approximately Sta. 1+45 to 1+65, 28+42 to 28+66, 50+08 to 50+32, 86+33 to 86+57, 122+10, 139+20 to 141+20), EZ street asphalt patch may be used and permanent asphalt restoration shall be completed within 10 days.

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16. Any materials or workmanship found to be incomplete or not in compliance with this permit, provisions and Oregon Standard specifications shall be the responsibility of the permittee/contractor to maintain and/or repair to a level acceptable by ODOT. ODOT reserves the right to hold any performance bond provided for this permit up to two years from the date of construction completion to ensure adequate performance of said materials and workmanship.

**By this signature applicant accepts all the above Special Provisions.**

Approved and accepted on May 29, 2020

By:   
Authorized Signature

Andrea Kuehnel, PE

Type or print full name of authorized signer

Type or print title: Transmission Engineer

# Highway Inventory Summary

## Road Inventory and Classification Services

Please call RICS Unit at (503) 986-4255 if you have any questions.

Oregon Department of Transportation

Data source refreshed on 12/30/2019

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1 - 73 of 73 rows shown.

Roadway	Mileage Overlap Type Code	Mile Point Dup	Roadway Codes	Description	# of Lanes	Total Lane Width	Total Surface Width	L1 SR TP	Engineering Station Code ID	MEDIAN TYPE WIDTH
<i>Highway #: 026 MT. HOOD Hwy</i>										
1		23.65	C =   = C	UNIVERSITY AVE.	4	48	70	AU	F 753+45	0 0
1		23.63			4	48	70	AU		1 12
1		23.60			4	48	80	AU		1 12
1		23.54	P =	ROAD	4	48	86	AU		1 12
1		23.48			4	48	86	AU		1 12
1		23.46		ENGSTA ATTACHED	4	48	86	AU	F 743+22.74	0 0
1		23.45	10 P = 3	ROAD	4	48	86	AU	F 743+10	0 0
1		23.45	3 = C	RUBEN LN.	4	48	86	AU	F 743+10	0 0
1		23.42	= C	LEG (TO RUBEN LN.)	4	48	64	AU	F 741+50	0 0
1		23.41			4	48	76	AU		0 0
1		23.37			4	48	76	AU		1 12
1		23.33	10 C =	KATE SCHMITZ AVE.	4	48	78	AU		1 16
1		23.33	C E	SANDY	4	48	78	AU		1 16
1		23.17	C L	SANDY	4	48	78	AU	F 728+15.2	1 16

Please note that on this report, median width does NOT include the width of inside shoulders.

Contact Road and Inventory Classification Services Unit with questions or if an error message appears on this report. Data compiled from TransInfo. Link to Glossary of terms: <http://www.oregon.gov/ODOT/Data/Documents/Highway-Reports-Field-Definitions.pdf>

Roadway	Mileage Overlap Type Code	Mile Point Dup	Roadway Codes	Description	# of Lanes	Total Lane Width	Total Surface Width	L1 SR TP	Engineering Station Code ID	MEDIAN TYPE WIDTH
1		23.15	P =	ROAD	4	48	88	AU		1 16
1		23.12	P =	ROAD	4	48	88	AU		1 16
1		23.08	3 = C	SE INDUSTRIAL WAY	4	48	84	AU		0 0
1		23.05			4	48	84	AU		0 0
1		23.02	P =	ROAD	4	48	84	AU		1 12
1		23.00	10	MILEPOST 23.00	4	48	74	AU	F 719+07.03	1 12
1		23.00		MILEPOINT 23.00	4	48	74	AU	F 719+07.03	1 12
1		22.98	P =	ROAD	4	48	74	AU		1 12



OTMS - Highway Inventory Summary

1	22.91			ENGSTA ATTACHED	4	48	80	AU	F	714+40	1	12
1	22.89	10	C =	ROYAL LN.	4	48	80	AU	F	713+10	1	12
1	22.89		- ) + ( -	(DFMS)S(1) 012"X012" CON CIRC RDSIDE DRNG	4	48	80	AU	F	713+10	1	12
1	22.88			ENGSTA ATTACHED	4	48	80	AU	F	712+20	1	12
1	22.85		Z =	LEG (FROM ROYAL LN.)	4	48	80	AU			1	12
1	22.82				4	48	80	AU			1	12
1	22.74			ENGSTA ATTACHED	4	48	80	AU	F	705+50	0	0
1	22.74		S	BEG. W PROCTOR BLVD.	4	48	80	AU			0	0
1	22.74		3 = C	SE 362ND AVE.	4	48	80	AU	F	705+17	0	0
1	22.73		C E	SANDY	4	48	92	AU	F	704+70	1	16
1	22.72				4	48	92	AU			1	16
1	22.69			ENGSTA ATTACHED	4	48	94	AU	F	702+89.50	1	16
1	22.68				4	48	94	AU			1	16
1	22.67			ENGSTA ATTACHED	4	48	99	AU	F	702+10	1	16
1	22.65	20	E C	SANDY	4	48	84	AU			1	16

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Roadway	Mileage Overlap Type Code	Mile Point Dup	Roadway Codes	Description	# of Lanes	Total Lane Width	Total Surface Width	L1 SR TP	Engineering Code	Station ID	MEDIAN TYPE	WIDTH
1		22.65 10	L C	SANDY	4	48	84	AU			1	16
1		22.65	C L	SANDY	4	48	84	AU			1	16
1		22.58	= Z	LEG (FROM CHAMPION WAY)	4	48	94	AU			1	16
1		22.52	= Z	LEG (TO CHAMPION WAY)	4	48	90	AU			1	16
1		22.50	- ) + ( -	(DFMS)S(1) 012"X012" CMP CIRC RDSIDE DRNG	4	48	90	AU	F	36+274BK=692+25.956AH	1	16
1		22.47		ENGSTA ATTACHED	4	48	90	AU	F	691+00	1	16
1		22.44	- ) + ( -	(DFMS)S(1) 012"X012" CMP CIRC RDSIDE DRNG	4	48	90	AU			1	16
1		22.43	Z U   U Z	TRANSMISSION LINES (BPA)	4	48	90	AU	F	689+00	1	16
1		22.40		ENGSTA ATTACHED	4	48	90	AU	F	687+50	1	16
1		22.39 10	Z U   U Z	TRANSMISSION LINES (BPA)	4	48	90	AU			1	16
1		22.39	- ) + ( -	(DFMS)S(1) 012"X012" CMP CIRC RDSIDE DRNG	4	48	90	AU			1	16

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1	22.25			4	48	84	AU			1	16
1	22.21			4	48	83	AU	F	677+50	1	3
									ENGSTA ATTACHED		
1	22.19			4	48	83	AU			1	3
1	22.18	S =		4	48	85	AU	F	675+75	1	3
									LEG (TO ORIENT DR.)		
1	22.16			4	48	85	AU			1	3
1	22.15	10 S = 3		4	48	79	AU	M	35+717.46	1	3
									026AO CONN. (ORIENT DR.) M.P. 1C22.19		
1	22.15	3 = S		4	48	79	AU	M	35+717.46	1	3
									026AO CONN. (E JARL RD.) M.P. 1C22.19		

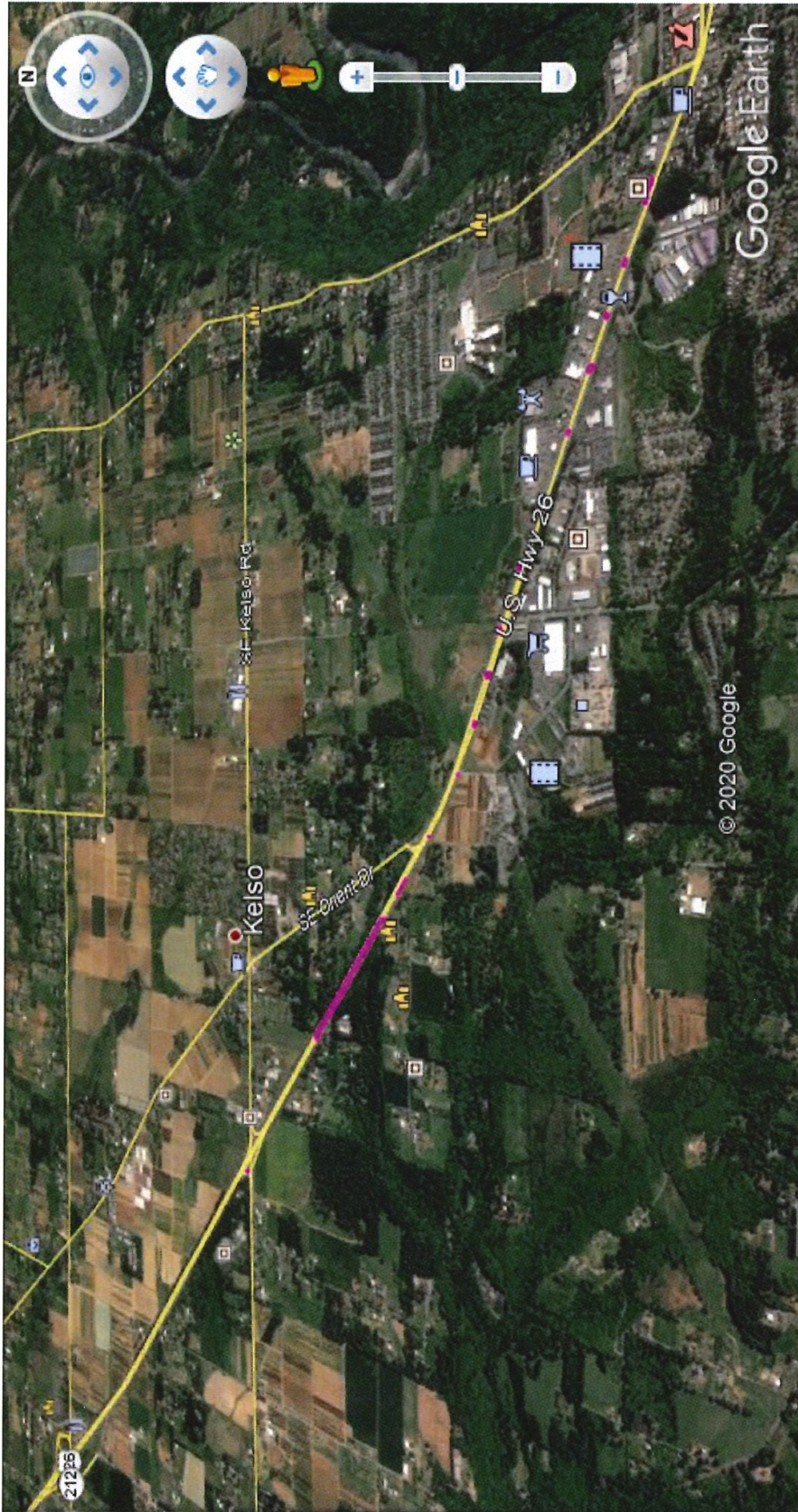
2CM39396

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Roadway	Mileage Overlap Type	Mile Code	Point Dup	Roadway Codes	Description	# of Lanes	Total Lane Width	Total Surface Width	L1 SR TP	Engineering Station Code	ID	MEDIAN TYPE WIDTH
1			22.10			4	48	82	AU			1 4
1			22.03			4	48	84	AU			1 4
1		20	22.00	C E	SANDY	4	48	84	AU	F	666+27.03	1 16
1		10	22.00	E C	SANDY	4	48	84	AU	F	666+27.03	1 16
1			22.00		MILEPOINT 22.00	4	48	84	AU	F	666+27.03	1 16
1			21.99	U E   E U	SANDY	4	48	84	AU			1 16
1			21.98		MILEPOST 22.00	4	48	84	AU			1 16
1			21.89	-   +   -	OP170 S(1) 096"X096" CMP CIRC TICKLE CREEK	4	48	84	AU	F	660+60	1 16
1			21.70			4	48	84	AU			1 16
1		20	21.62	= S	026AM FRONT. M.P. 1F21.62	4	48	94	AU	F	646+00	1 4
1		10	21.62	- ) + ( -	(DFMS)S(1) 018"X018" CON CIRC RDSIDE DRNG	4	48	94	AU	F	646+00	1 4
1			21.62	S	ODOT MAINTENANCE STATION	4	48	94	AU	F	646+00	1 4
1			21.61	S U   U S	21246 SIGN BR. BUTTERFLY	4	48	84	AU			1 16
1			21.34	= S	026BI CONN. M.P. 2C21.34	4	48	84	AU			1 16
1			21.23	S =	026BJ CONN. M.P. 3C21.23	4	48	84	AU			1 16
1			21.15			4	48	84	AU			1 16
1			21.11	- ) + ( -	(DFMS)S(1) 018"X018" CMP CIRC RDSIDE DRNG	4	48	84	AU			1 4
1			21.10	K =   = K	SE KELSO RD.	4	48	84	AU	M	34+025.65	1 4

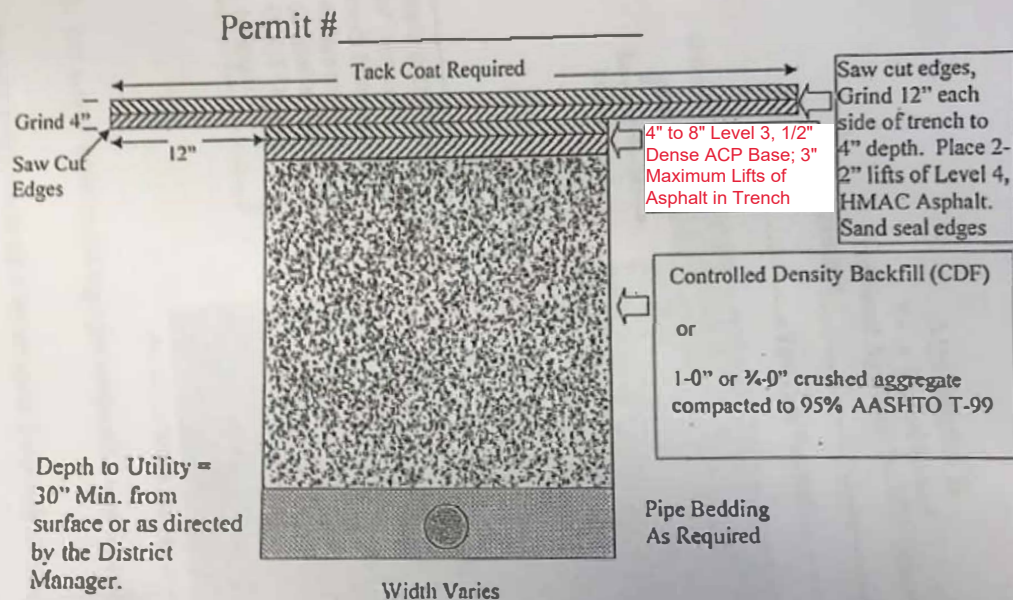




2 CM39396



Attachment B  
T-Cut Typical Section  
CDF or Compacted Aggregate Backfill Option



**Backfill Material:**

Controlled Density Fill (CDF), consisting of  $\frac{3}{4}$ "-0 Aggregate and an amount of concrete not to exceed 3% of the mixtures total mass. Do not exceed maximum compressive strengths of 150 PSI. A compressive strength of 100 PSI is optimal.

OR 1-0" or  $\frac{3}{4}$ -0" moist crushed aggregate compacted to a minimum of 95% of the maximum density of the material, placed in 6" maximum lifts.

Place approved CDF or compacted crushed aggregate in trench to the top of the sub-grade. Cover with  $\frac{3}{4}$ "-0 Base rock to a depth 8" below the road surface and compact to 95% of the maximum density of the material.

Apply an asphalt emulsion tack coat to both the asphalt edges and the Grind surface. Place a minimum of 4 inches of Asphalt Concrete pavement in 2 compacted lifts in the trench. Place 2 additional lifts of Asphalt Concrete pavement in 2" compacted lifts in the T-Cut surface to grade. Provide a minimum compacted thickness of 4", or the thickness of the removed pavement, whichever is greater.

Cold Patch all cut areas at the end of the workday and maintain the patch. Hot patch cold patch areas within 7 days.

## Common environmental noise levels

Continued exposure to noise above 85 dBA (adjusted decibels) over time will cause hearing loss. The volume (dBA) and the length of exposure to the sound will tell you how harmful the noise is. In general, the louder the noise, the less time required before hearing loss will occur.

According to the National Institute for Occupational Safety and Health, the maximum exposure time at 85 dBA is eight hours. At 110 dBA, the maximum exposure time is one minute and 29 seconds. If you must be exposed to noise, it is recommended that you limit the exposure time and/or wear hearing protection. A three dBA increase doubles the amount of noise, and halves the recommended amount of exposure time.

The following decibel levels of common noise sources are typical but will vary. Noise levels above 140dBA can cause damage to hearing after just one exposure.

Home	Work	Recreation
<ul style="list-style-type: none"> <li>• 50 refrigerator</li> <li>• 50 – 60 electric toothbrush</li> <li>• 50 – 75 washing machine</li> <li>• 50 – 75 air conditioner</li> <li>• 50 – 80 electric shaver</li> <li>• 55 coffee percolator</li> <li>• 55 – 70 dishwasher</li> <li>• 60 sewing machine</li> <li>• 60 – 85 vacuum cleaner</li> <li>• 60 – 95 hair dryer</li> <li>• 65 – 80 alarm clock</li> <li>• 70 TV audio</li> <li>• 70 – 80 coffee grinder</li> <li>• 70 – 95 garbage disposal</li> <li>• 75 – 85 flush toilet</li> <li>• 80 pop-up toaster</li> <li>• 80 doorbell</li> <li>• 80 ringing telephone</li> <li>• 80 whistling kettle</li> <li>• 80 – 90 food mixer or processor</li> <li>• 80 – 90 blender</li> <li>• 80 – 95 garbage disposal</li> <li>• 110 baby crying</li> <li>• 110 squeaky toy held close to the ear</li> <li>• 135 noisy squeeze toys</li> </ul>	<ul style="list-style-type: none"> <li>• 40 quiet office, library</li> <li>• 50 large office</li> <li>• 65 – 95 power lawn mower</li> <li>• 80 manual machine, tools</li> <li>• 85 handsaw</li> <li>• 90 tractor</li> <li>• 90 – 115 subway</li> <li>• 95 electric drill</li> <li>• 100 factory machinery</li> <li>• 100 woodworking class</li> <li>• 105 snow blower</li> <li>• 110 power saw</li> <li>• 110 leafblower</li> <li>• 120 chain saw, hammer on nail</li> <li>• 120 pneumatic drills, heavy machine</li> <li>• 120 jet plane (at ramp)</li> <li>• 120 ambulance siren</li> <li>• 125 chain saw</li> <li>• 130 jackhammer, power drill</li> <li>• 130 air raid</li> <li>• 130 percussion section at symphony</li> <li>• 140 airplane taking off</li> <li>• 150 jet engine taking off</li> <li>• 150 artillery fire at 500 feet</li> <li>• 180 rocket launching from pad</li> </ul>	<ul style="list-style-type: none"> <li>• 40 quiet residential area</li> <li>• 70 freeway traffic</li> <li>• 85 heavy traffic, noisy restaurant</li> <li>• 90 truck, shouted conversation</li> <li>• 95 – 110 motorcycle</li> <li>• 100 snowmobile</li> <li>• 100 school dance, boom box</li> <li>• 110 disco</li> <li>• 110 busy video arcade</li> <li>• 110 symphony concert</li> <li>• 110 car horn</li> <li>• 110 -120 rock concert</li> <li>• 112 personal cassette player on high</li> <li>• 117 football game (stadium)</li> <li>• 120 band concert</li> <li>• 125 auto stereo (factory installed)</li> <li>• 130 stock car races</li> <li>• 143 bicycle horn</li> <li>• 150 firecracker</li> <li>• 156 capgun</li> <li>• 157 balloon pop</li> <li>• 162 fireworks (at 3 feet)</li> <li>• 163 rifle</li> <li>• 166 handgun</li> <li>• 170 shotgun</li> </ul>



## Staff Report

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**Meeting Date:** August 3, 2020  
**From** Emily Meharg, Senior Planner  
**SUBJECT:** 20-029 EXT Eagle Park Improvements Extension

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**Background:**

The applicant previously applied to change the zoning designation for the subject property from Light Industrial (I-2) to Industrial Park (I-1) in 2014 (File No. 14-028 ZC). The zone change request was reviewed by the Planning Commission at a public hearing on March 23, 2015 and forwarded for City Council approval at a public hearing on May 4, 2015. On June 1, 2015, the City Council adopted a first reading of Ordinance No. 2015-03 and a second reading was adopted on June 15, 2015. In Ordinance No. 2015-03 the City Council conditioned the applicant to sign a contract specifying the terms and timelines associated with the zone change and established a trip cap for the property.

A Non-Statutory Development Agreement was recorded between the City of Sandy and Michael Maiden on August 5, 2016 that includes a timeline for the remaining steps, including a requirement that the applicant complete all building upgrades within three (3) years from the date of design review approval. On May 25, 2018 the Development Services Director granted the applicant an extension until July 29, 2019. On March 20, 2019, the applicant applied for a design review modification, which was approved on June 19, 2019. The approval included a condition that prior to July 29, 2019, the applicant shall apply for another extension by submitting a letter request and paying the fee. On July 9, 2019 the Development Services Director granted the applicant a second extension until July 29, 2020.

Following the two extensions the applicant was advised by the Director to ask the City Council to grant an extension for one additional year to July 29, 2021 or another date as approved by the City Council.

The approved building modifications would incorporate SandyStyle design elements into the facades of these highly visible buildings (visible on Highway 26, 362nd Drive, and Industrial Way). In addition, the building modifications would allow for higher and more diverse uses with the eventual zone amendment to Industrial Park (I-1).

The legal notice regarding this request was published in the Sandy Post on July 29, 2020.

**Recommendation:**

Staff supports granting an extension to the applicant. Staff recommends the City Council hear the extension request through a quasi-judicial hearing procedure including hearing from the applicant and the public. After the public hearing the City Council should make a decision on granting an extension. If City Council grants an extension it shall be to July 29, 2021 or another date as approved by the Council.

**Code Analysis:**

EXHIBITS

- A. Extension Request Letter from Applicant
- B. May 25, 2018 Extension Letter from the Development Services Director
- C. July 9, 2019 Extension Letter from the Development Services Director

**Budgetary Impact:**

None

EXHIBIT A

June 30, 2020

City of Sandy  
Development Services Department  
39250 Pioneer Blvd  
Sandy, OR 9055

Hello Kelly: RE: Michael Maiden Building Upgrades

Since we began our efforts to upgrade our buildings we encountered delays and unforeseen engineering challenges. The project was mostly redesigned using a new local architect to achieve our goals in an affordable and practical way. We have finally completed the planning and now have building permits in place. The building at 16600 has been under construction for about 6 months now.

Our original goal of three years for completion proved to be lofty and wishful. We are committed to complete the up grades as designed at a steady pace. Our project is self funded, which is slower but without long term debt.

We realize we made a commitment to upgrade and change the zone to I-1, which we still intend to accomplish. We respectfully request an extension of five years to accomplish the approved improvements on our 362<sup>nd</sup> Avenue Park.

We look forward to enhancing the western gateway into the City of Sandy.

Sincerely,



Michael Maiden

**MICHAEL MAIDEN LLC**

16600 S.E. 362nd • Sandy, Oregon 97055

(503) 668-8097 • (800) 422-8852

Fax: (503) 668-5374



**CITY OF  
SANDY**

39250 PIONEER BOULEVARD ♦ SANDY, OR 97055 ♦ (503) 668-5533

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May 25, 2018

Michael Maiden  
16600 SE 362nd Drive  
Sandy, OR 97055

Dear Mr. Maiden

This letter regards our conversation on May 11, 2018 and your email request on May 15, 2018 to extend the design review approval for the Maiden Façade Change approved with File No. 16-007 DR. The original expiration date as set forth in the design review final order is July 29, 2018. The extension I am permitting with this letter allows for a modified expiration date of **July 29, 2019**.

However, this extension will not modify the requirement that all buildings shall be modified within three years of the design review approval per the City Council decision in File No. 14-028 ZC. All buildings on the site shall be modified by July 29, 2019 to have the zone change effective -or- you shall obtain an extension on this requirement from City Council.

If you have any questions about this letter, you are welcome to call the City of Sandy Development Services Department at (503) 668-0880 for additional information.

Thank you,

Kelly O'Neill Jr.  
Planning & Building Director  
[koneill@cityofsandy.com](mailto:koneill@cityofsandy.com)  
direct line: (503) 489-2163

July 9, 2019

Michael Maiden  
16600 SE 362nd Drive  
Sandy, OR 97055

Dear Mr. Maiden

This letter regards our conversation on June 28, 2019 and your email request on July 9, 2019 to extend the design review approval for the Maiden Façade Change approved with File No. 16-007 DR. The original expiration date as set forth in the design review final order was July 29, 2018. At your request I extended the design review approval to July 29, 2019. The extension I am permitting with this letter allows for a modified expiration date of **July 29, 2020**.

However, this extension will not modify the requirement that all buildings shall be modified within three years of the design review approval per the City Council decision in File No. 14-028 ZC. All buildings on the site shall be modified by July 29, 2020 to have the zone change effective -or- you shall obtain an extension on this requirement from City Council. As the Planning & Building Director I cannot grant any further extensions.

If you have any questions about this letter, you are welcome to call the City of Sandy Development Services Department at (503) 668-0880 for additional information.

Thank you,



Kelly O'Neill Jr.  
Planning & Building Director  
[koneill@cityofsandy.com](mailto:koneill@cityofsandy.com)  
direct line: (503) 489-2163