



# City of Sandy

## Agenda

### City Council Meeting

Meeting Date: Monday, February 7, 2022

Meeting Time: 6:00 PM

Page

#### 1. MEETING FORMAT NOTICE

This meeting will be conducted in a hybrid in-person / online format. The Council will be present in-person in the Council Chambers and members of the public are welcome to attend in-person as well. Members of the public also have the choice to view and participate in the meeting online via Zoom.

##### To attend the meeting in-person

Come to Sandy City Hall (lower parking lot entrance).  
39250 Pioneer Blvd., Sandy, OR 97055

##### To attend the meeting online via Zoom

Please use this link: <https://us02web.zoom.us/j/84411214832>

Or by phone: (253) 215-8782; Meeting ID: 844 1121 4832

Please also note the public comment signup process below.

#### 2. CITY COUNCIL WORK SESSION - 6:00 PM

##### 2.1. Tents and Unauthorized Structures in Commercial Zones

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[Tents and Unauthorized Structures in Commercial Zones - Pdf](#)  
[Staff Presentation Slides](#)

#### 3. CITY COUNCIL REGULAR MEETING - 7:00 PM

#### 4. PLEDGE OF ALLEGIANCE

#### 5. ROLL CALL

#### 6. CHANGES TO THE AGENDA

#### 7. PUBLIC COMMENT

The Council welcomes your comments at this time.

If you are attending the meeting in-person

Please submit your comment signup form to the City Recorder before the regular meeting begins at 7:00 p.m. Forms are available on the table next to the Council Chambers door.

If you are attending the meeting via Zoom

Please complete the [online comment signup webform](#) by 3:00 p.m. on the day of the meeting.

The Mayor will call on each person when it is their turn to speak for up to three minutes.

**8. RESPONSE TO PREVIOUS PUBLIC COMMENTS**

**9. PRESENTATION**

- 9.1. **Police Officer Oath of Office** 27  
[Officer Quentin Carter](#)
- 9.2. **Introduction of Public Works Director Jenny Coker**

**10. CONSENT AGENDA**

- 10.1. **City Council Minutes** 28 - 35  
[City Council - 03 Jan 2022 - Minutes - Pdf](#)

**11. NEW BUSINESS**

- 11.1. **Hoodview Disposal & Recycling Rate Increase Request** 36 - 45  
[Hoodview Disposal & Recycling Rate Increase Request - Pdf](#)
- 11.2. **Resolution 2021-36** 46 - 53  
SandyNet Construction RFP Alternative Procurement Method  
[SandyNet Construction RFP Alternative Procurement Methods - Resolution 2021-36 - Pdf](#)

**12. REPORT FROM THE CITY MANAGER**

**13. COMMITTEE /COUNCIL REPORTS**

**14. STAFF UPDATES**

14.1. [Monthly Reports](#)

**15. ADJOURN**



## Staff Report

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**Meeting Date:** February 7, 2022

**From** Kelly O'Neill Jr., Development Services Director

**SUBJECT:** Tents and Unauthorized Structures in Commercial Zones

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**DECISION TO BE MADE:**

Provide direction to staff on priorities and approach to code enforcement regarding tents and unauthorized structures in commercial zones.

**BACKGROUND / CONTEXT:**

On January 3rd, the Council asked staff to provide information on enforcement practices regarding unauthorized temporary structures in the city.

Historically, City of Sandy staff has largely approached code enforcement through a complaint initiated process. Exceptions to this do occur, but typically only when the violation is egregious or related to sign violations. Staff are seeking clarity from the Council on whether this enforcement approach should be changed, and if so, how such enforcement should be prioritized.

Regarding tents and other unauthorized structures, there are currently several known violations at businesses, with the majority of these in downtown Sandy. These are listed in the following section of this report.

**CODE REQUIREMENTS:**

[Section 17.74.60](#) of the SMC does allow for temporary uses, structures, and portable outdoor storage units (e.g. [PODS](#)). However, temporary structures have to be connected with construction or sale of land. Staff has made a few recent enforcement exceptions to the temporary structures section of the code (such as temporary storage for the USFS when their building at Ripplebrook was lost in the Riverside Fire, or when Fred Meyer had issues with removal of cans/bottles in 2021), but the allowance of portable outdoor storage units is primarily intended for homeowners that are relocating to a new residence. Here is what [Section 17.74.60](#) states:

*A. Temporary Uses. Temporary uses, as defined in [Chapter 17.10](#) — Definitions, not located within a structure, may be permitted for a period not to exceed 90 days, provided a temporary permit is first obtained under the Type I procedure. Renewal of a temporary permit shall be processed under the Type II procedure and may require a public hearing.*

*B. Temporary Structures. Temporary structures in connection with the building or sale of dwellings and land, and construction of industrial or commercial facilities may be permitted, for a period not to exceed one year, provided a temporary permit is first obtained under the Type I procedure. Renewal of a temporary permit shall be processed under the Type II procedure and may require a public hearing.*

*C. Portable Outdoor Storage Unit. Portable outdoor storage units may be placed on a lot, including within the setback areas, for not more than 60 days (any portion of a day, between 12:00 a.m. and ending at 11:59 p.m., shall be counted as a day) within any 12 month period.*

Furthermore, tents and other unauthorized structures as noted in this staff report do not comply with the SandyStyle design, as required by [Section 17.90.10](#) of the SMC.

**KEY CONSIDERATIONS / ANALYSIS:**

There are currently five properties (Junker Building, Otto's Ski Shop, Paola's Pizza Barn, Sandy Community Action Center, and the old Sandy True Value) with known violations. Pictures are attached to this staff report. None of the five properties have ever been granted approval for the subject structures. There is also a violation at the No Place Saloon (a small structure built during the COVID-19 pandemic without permits) that staff is working with the property owner to resolve. In addition, there are a number of properties throughout the city of Sandy with unauthorized shipping container structures, but these have not been identified for the purposes of this work session.

The tent structure at Sandlandia, which was the subject of discussion on January 3rd, was approved by a land use final order in 2018. However, the property owner recently removed the vinyl covering for several weeks, which caused the tent to be out of compliance with the final order. (Condition of Approval A6 of that final order says that approval of “the use” may be revoked if the conditions aren’t met, and the use that was approved was “a 200 square foot dining tent”). Accordingly, because the site was out of compliance with the conditions of approval, the City chose to revoke the design review. On January 24, 2022 the property owner removed the metal frame and blue drums (i.e., weights) from the subject property.

Finally, there is also a large tent associated with the Mount Hood Farmers Market that is managed by the AntFarm. In 2018, the City Council declared the Mount Hood Farmers Market a “community-wide event” to allow for enhanced signage and temporary tents each year for the market.

**RECOMMENDATION:**

Short term: Provide direction to staff on preferred enforcement procedures for the tents and unauthorized structures at the five properties as noted in this staff report.

Long term: Work with staff to develop new policies regarding code enforcement procedures generally, including but not limited to timelines for compliance prior to

issuance of fines (i.e., how many warnings should staff issue before fines occur), code enforcement priorities (i.e., what is most important to Council), and direction on whether staff should pursue code enforcement actions in the absence of complaints.

**BUDGETARY IMPACT:**

Staff time.

**LIST OF ATTACHMENTS/EXHIBITS:**

Photos of the five properties mentioned in the Key Considerations / Analysis section:  
Junker Building, Otto's Ski Shop, Paola's Pizza Barn, Sandy Community Action Center,  
and the old Sandy True Value

















# Tents & Nonpermitted Structures Work Session

February 7, 2022



# Framework for this work session

On January 3rd, the Council asked staff to provide information on enforcement practices regarding unauthorized temporary structures in the city.

City of Sandy staff has largely approached code enforcement through a complaint-initiated process.



# Sandlandia

Early January



January 24





# Short Term Discussion

- **Short term:** Provide direction to staff on preferred enforcement procedures for the tents and unauthorized structures at the four properties as noted in the staff report.
- There are currently ~~five~~ **four** properties with known violations at commercial site:
  - Junker Building
  - Otto's Ski Shop
  - Paola's Pizza Barn
  - Sandy Community Action Center
  - ~~old Sandy True Value~~



# Old Sandy True Value

January



February 4



# Short Term Discussion

**Question #1: Do you want staff to pursue all of these violations?**

**Question #2: How much time is reasonable before citations are issued?**



# Existing Procedures

The municipal code and ORS are the primary references for procedures.

- Violations in the right-of-way are primarily handled through ORS by the Police Department.
- Other violations are primarily handled by using the Municipal Code. Things such as:
  - Tents and illegal structures (Title 15 and 17)
  - Illegal tree removal (Title 17)
  - Illegal signs (Title 15)
  - Tall grass, weeds, and tree branches over sidewalks (Title 8)
  - Junk Accumulation (Title 8)
  - Unnecessary noise (Title 8)



# Existing Procedures

Almost every case is unique at least to the person impacted by code enforcement action and implementing a one size fits all approach is not recommended. Staff discretion is very important so that we can work with our local businesses and citizens.

However, having clear procedures and policy from the City Council would be very helpful.

We have different procedures outlined for code enforcement in numerous code sections. These include but are likely not limited to the following chapters: 1.18; 5.04; 6.04; 8.22; 8.24; 8.34; 10.28; 10.40; 10.52; 12.02; 12.10; 12.18; 12.20; 15.04; 15.08; 15.10; 15.32; 15.42; 15.44; 17.06; 17.68; 17.70; and, 17.74.



# Long Term Discussion

- **Long term:** Work with staff to develop new policies regarding code enforcement procedures generally, including but not limited to timelines for compliance prior to issuance of fines (i.e., how many warnings should staff issue before fines occur), code enforcement priorities (i.e., what is most important to Council), and direction on whether staff should pursue code enforcement actions in the absence of complaints.

**Question #1: What is the general timeline (i.e., how many days?), when the code is silent, would you would like to see granted for most compliance issues?**

**Question #2: How many warnings should staff issue, when the code is silent, prior to citations being issued?**



# **Presentation Appendix: EXAMPLES OF CODE PROCEDURES**



# Notice of nuisance – Abandoned Vehicles

## Section 10.52.020

- A. It shall be the duty of the police department, whenever a vehicle is found abandoned upon the streets or alleys in the same position for a period of 48 hours, to:
1. Make a routine investigation to discover the owner and request removal of the vehicle; or
  2. Failing to discover the owner by such a process, to make a diligent inquiry as to the name and address of the owner of the vehicle by examining such vehicle for license number, I.D. number, make, style, and any other information which will aid in the identification of the ownership of the vehicle, and transmitting all available information pertaining to such vehicle to the Department of Motor Vehicles of this state with an inquiry for the name and address of the owner, whenever such vehicle is required by law to be registered with that office.
  3. If the owner is not identified, to place a notice upon the windshield, or some other part of the vehicle easily seen by the passing public.
- B. The notice shall state that the police department will remove and impound the vehicle under the provisions of this chapter, 24 hours after the time of the posting, unless:
1. The owner removes the vehicle; or
  2. Good cause is shown, satisfactory to the chief of police, why such vehicle should not be removed by the owner or removed and impounded by the city.





# Procedure – Sign Removal

## Section 15.32.170

The department may order removal of any sign erected, replaced, reconstructed or maintained in violation of these regulations.

- A. The department shall deliver written notice by certified mail (return receipt requested) to the owner of the sign, or, if the owner of the sign cannot be located, to the owner of the lot(s), as shown on the tax rolls of Clackamas County, on which such sign is located, directing that the sign shall be removed or brought into compliance with these standards.
- B. If the owner of such sign or the owner of the lot(s) on which the sign is located fails to remove the sign or bring the sign into compliance within 30 days after receipt of written notice from the city, the building official shall cause such sign to be removed at the expense of the property owner. Such costs shall be entered by the city recorder on the docket of city liens against the property owner, and shall be collectible in the same manner as liens for public improvements.
- C. If the condition of the sign presents an immediate threat to the safety of the public, the department may cause removal of the sign immediately, without prior notice, and the expenses for such removal shall be paid by the owner of the sign or the permit applicant. If such persons cannot be found, the expense shall be paid by the owner of the building, structure or property.



# Procedure in Title 17 – Notice of violation

## Section 17.06.60

After receiving a report of an alleged violation, the Director shall, if he/she determines that probable cause exists, promptly give notice of the alleged violation by certified first class mail, return receipt requested, or personal service to the owner of record for tax purposes and to the person in charge of the property. Such a notice shall indicate the following:

- A. Location and nature of the violation; and provision or provisions of this Code which allegedly have been violated; and
- B. Whether immediate enforcement will be sought or if 15 days will be allowed to correct or remove the violation. Immediate enforcement will be sought in a situation involving a health hazard or other nuisance that unmistakably exists and from which there is imminent danger to human life or property; and
- C. The date of the notice shall be the date of personal service of the notice, or, if notice is accomplished by first class mail, three days after mailing if the address to which it was mailed is within this State and seven days after mailing if the address to which it was mailed is outside the State. However, a defect in the notice of violation with respect to such matter shall not prevent enforcement of this Code.



**POLICE OFFICER'S**  
**OATH OF OFFICE**

STATE OF OREGON  
COUNTY OF CLACKAMAS  
CITY OF SANDY

I, **Quentin Carter**, do solemnly swear, that I will support the Constitution of the United States, and the Constitution of the State of Oregon, and the Laws therefore, and I will faithfully, honestly, and impartially discharge the duties of a Police Officer during my continuance therein, to the best of my ability, so help me God.

\_\_\_\_\_  
(OFFICER)

Subscribed and sworn to and before me this 7th day of February, 2022.

\_\_\_\_\_  
Mayor Stan Pulliam  
Sandy, Oregon

\_\_\_\_\_  
Chief Ernie Roberts  
Sandy Police Department





**MINUTES**  
**City Council Meeting**  
**Monday, January 3, 2022 7:00 PM**

**COUNCIL PRESENT:** Stan Pulliam, Mayor; Jeremy Pietzold, Council President; Laurie Smallwood, Councilor; Richard Sheldon, Councilor; Kathleen Walker, Councilor; Carl Exner, Councilor; and Don Hokanson, Councilor

**COUNCIL ABSENT:**

**STAFF PRESENT:** Jordan Wheeler, City Manager; Jeff Aprati, City Recorder; Tyler Deems, Deputy City Manager / Finance Director; Angie Welty, Human Resources Director; Chris Crean, City Attorney; Ernie Roberts, Police Chief; and Mike Walker, Public Works Director

**MEDIA PRESENT:** Sandy Post

1. **Pledge of Allegiance**

2. **Roll Call**

3. **Changes to the Agenda**

4. **Public Comment**  
(none)

5. **Response to Previous Public Comments**

6. **Consent Agenda**

The **Mayor** moved the Personnel Policy Update from the Consent Agenda to New Business to allow staff time to amend the proposed language to address comments raised by **Councilor Sheldon** regarding military leave.

6.1. **City Council Minutes**

- December 6, 2021
- December 13, 2021

6.2. **Sandy Transit ADA Policy Update**

Staff Report - 0478

6.3. **Update of Standard Procedures for City Boards**

Staff Report - 0523

**Moved by Carl Exner, seconded by Richard Sheldon**

***Adopt the Consent Agenda as amended.***

**CARRIED. 7-0**

Ayes: Stan Pulliam, Jeremy Pietzold, Laurie Smallwood,  
Richard Sheldon, Kathleen Walker, Carl Exner, and Don  
Hokanson

**7. New Business**

7.1. **Scope of Review for Deer Meadows Subdivision Appeal**

7 - 8

Note: the applicant's attorney submitted a letter to the Council relevant to this agenda item. The letter is attached to these minutes for reference.

The **City Manager** provided introductory remarks, and **Chris Crean (BEH)** summarized the memorandum included in the agenda packet. The Council expressed agreement with **Mr. Crean's** statements. The Council agreed to attach the applicant's attorney's letter to the meeting minutes, per **Councilor Hokanson's** request.

**Moved by Kathleen Walker, seconded by Richard Sheldon**

***Hold a "de novo" hearing for the Deer Meadows appeal on January 18, 2022.***

**CARRIED. 7-0**

Ayes: Stan Pulliam, Jeremy Pietzold, Laurie Smallwood,  
Richard Sheldon, Kathleen Walker, Carl Exner, and Don  
Hokanson

[Letter to Council from applicant's attorney](#)

7.2. **Covered Structures Round 2 (General Fund) Application Review**

Staff Report - 0527

The **Economic Development Manager** summarized the staff report, which was included in the agenda packet. He also presented slides (included in the packet) showing the proposed locations of the covered structures.

Council discussion ensued on the following topics:

**General Discussion**

- Concern regarding recommitting general revenue replacement ARPA dollars to fund covered structures
- Support for using ARPA funds for the covered structures program
- Importance of treating all businesses fairly
- Whether to commit a portion of the second tranche of ARPA funds to reimburse the General Fund for these expenses
- Importance of delivering immediate relief for businesses, rather than waiting for August

**Smoky Hearth**

- Support for funding this project

**Wippersnappers**

- Business impacts due to COVID-19
- Extent to which it is essentially a gym for children
- Concern about parents' desire to sit outside
- Ability of the business to use the structure to adapt in the event of a future lockdown
- Possible parking impacts on neighboring businesses
- Impacts on the adjacent sidewalk
- Considerations regarding the business' choice to locate in the industrial area
- Possible future zone changes in the area

**Moved by Richard Sheldon, seconded by Carl Exner**

***Approve the Covered Structures grant application from Smoky Hearth, and approve the Covered Structures grant application from Wippersnappers Kid's Play Place, to be paid for with the City's second tranche of ARPA funding.***

**CARRIED. 6-1**

Ayes: Stan Pulliam, Jeremy Pietzold, Laurie Smallwood,  
Richard Sheldon, Kathleen Walker, and Carl Exner

Nays: Don Hokanson

7.3. **362nd / Bell Street Extension Project Update**

Staff Report - 0526

The **Public Works Director** summarized the staff report, which was included in the agenda packet.

The Council discussed staff expectations regarding hazardous materials concerns, and any potential for complications. It was also noted that the land use approval can follow the more streamlined Type II process. The Council expressed its appreciation for the expedited project timeline.

7.4. **Personnel Policy Update**

Staff Report - 0522

The **Deputy City Manager** summarized the staff report, which was included in the agenda packet. He noted that staff had added statutorily required language regarding military leave, and thanked **Councilor Sheldon** for raising the oversight.

The added language read as follows:

*"Further, eligible employees called for initial active duty for training and for all periods of annual active duty for training as a member of the National Guard, National Guard Reserve or of any reserve component of the Armed Forces of the United States or of the United States Public Health Service, may be entitled to leave with pay for all regular workdays that fall within a period not to exceed 15 calendar days in any federal training year. Weekend drill obligations are not considered "federal active duty" for training under this policy; other requirements apply. Please contact the HR Director for more information and to make arrangements for this paid leave."*

**Moved by Richard Sheldon, seconded by Carl Exner**

***Adopt the Personnel Policy Update.***

**CARRIED. 7-0**

Ayes: Stan Pulliam, Jeremy Pietzold, Laurie Smallwood,  
Richard Sheldon, Kathleen Walker, Carl Exner, and Don  
Hokanson

7.5. **Temporary Structures and Code Compliance**

**Councilor Hokanson** requested that staff provide information on municipal code requirements regarding temporary structures in the city, and why these

requirements are not being uniformly enforced. The Council concurred with his request. The **City Manager** agreed to return to the Council with the requested information at a subsequent meeting.

**8. Report from the City Manager**

- Council goal setting is anticipated for February; staff will organize an electronic scheduling poll to select a date
- Thanks to staff who responded during the winter storm
- A hiring announcement for the Public Works Director position will be announced soon
- The next Council meeting will be on Tuesday January 18th

**9. Committee /Council Reports**

**Councilor Hokanson**

- Explanation for his vote on the covered structure program; remarks on the importance of equality for businesses, rather than picking winners and losers

**Councilor Exner**

- Sandy Watershed Council decision to disband
- Original city incorporation ballot found by Historical Society
- Note that additional solid waste pickup will be allowed in coming days because of the winter weather

**Councilor Walker**

- Request that department reports are updated regularly
- Importance of employee appreciation
- Concern with long-standing code violation issues, and the need to employ a carrot and stick to address them
- Appreciation for public works staff

**Councilor Sheldon**

- Appreciation for essential workers
- Appreciation that the Senior Center has reopened on a limited basis

**Councilor Smallwood**

- Importance of considering increases in staffing (code enforcement as a possible example)
- Importance of employee appreciation

**Council President Pietzold**



- Importance of employee appreciation
- Advantages of meeting in-person
- Upcoming Fire District town hall meeting
- Upcoming robotics tournament
- Concern regarding large trucks on Dubarko Rd.

**Mayor Pulliam**

- Upcoming Fire District town hall meeting
- Sandy Watershed Council decision to disband
- Importance of employee appreciation
- Importance of improving the downtown and the impact of outdoor lighting
- Progress on 362nd / Bell project is positive

**10. Staff updates**

10.1. [Monthly Reports](#)

**11. Adjourn**

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Mayor, Stan Pulliam

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City Recorder, Jeff Aprati



January 3, 2022

**Michael C. Robinson**  
Admitted in Oregon  
T: 503-796-3756  
C: 503-407-2578  
mrobinson@schwabe.com

**VIA E-MAIL**

Mr. Stan Pulliam, Mayor  
Sandy City Council  
Sandy City Hall  
39250 Pioneer Boulevard  
Sandy, OR 97055

RE: Sandy City Council January 3, 2022 Meeting Agenda Item 8.1; Deer Meadows  
Appeal Hearing Scope of Review

Dear Mayor Pulliam and Sandy City Council Members:

This office represents the Applicant in the above-referenced matter. This letter addresses the City Council's consideration of the scope of the appeal hearing.

The City Council may consider this letter because it is argument only and contains no new evidence. City Attorney David Doughman confirmed that the Applicant may submit this letter.

The Applicant requests that the City Council hold an "on the record" appeal hearing as anticipated by Sandy Development Code ("SDC") 17.28.30 for the following reasons:

**First**, the "good cause" standard in SDC 17.28.30 is not a clear and objective procedural standard and is prohibited by ORS 197.307(4).

**Second**, while the Applicant generally agrees with the City Attorney's comments in his December 21, 2021 memorandum, the Applicant does not agree that these comments rise to "good cause" in this Application because the evidentiary record is not complex and even if it were, the comments do not show good cause where no application-specific reason for holding a *de novo* hearing has been provided.

**Third**, a *de novo* hearing prejudices the Applicant's substantial rights to a full and fair hearing by violating ORS 197.307(4).

**Finally**, ORS 197.522 allows the Applicant to modify the application or to offer a condition of approval, so a *de novo* hearing is unnecessary for the purpose of addressing relevant clear and objective approval criteria.

Thank you for considering the Applicant's arguments.

Mr. Stan Pulliam, Mayor  
January 3, 2022  
Page 2

Very truly yours,



Michael C. Robinson

MCR:jmhi

cc: Mr. Dave Vandehey *(via email)*  
Mr. Alex Reverman *(via email)*  
Mr. Carey Sheldon *(via email)*  
Mr. Tracy Brown *(via email)*  
Mr. Ray Moore *(via email)*  
Mr. Mike Ard *(via email)*  
Mr. Tyler Henderson *(via email)*  
Mr. Garrett Stephenson *(via email)*  
Ms. Erin Forbes *(via email)*  
Mr. Kelly O'Neill, Jr. *(via email)*  
Mr. David Doughman *(via email)*  
Mr. Chris Crean *(via email)*

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schwabe.com



## Staff Report

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**Meeting Date:** February 7, 2022

**From** Tyler Deems, Deputy City Manager / Finance Director

**SUBJECT:** Hoodview Disposal & Recycling Rate Increase Request

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**PURPOSE / OBJECTIVE:**

Discuss the proposed rate increase requested by Hoodview Disposal & Recycling.

**BACKGROUND / CONTEXT:**

Hoodview Disposal & Recycling holds an exclusive franchise with the City of Sandy to provide the collection and transportation of solid waste, recyclable materials, and yard debris within city boundaries. Per Article 7 of [the franchise agreement](#), the franchisee is entitled to a special rate review. Rates are set by City Council resolution.

The franchisee has requested a work session with the City Council to present the rate increase request, which would become effective in March 2022. The request is attached to this staff report, and discusses the current circumstances and status of the recycling markets. The rate increase is equal to approximately 3.78%, and would be \$1.21 per month for the 35 gallon cart service.

This requested rate increase is driven by a 12.26% increase on disposal at the Troutdale Transfer Station, as well as 2.29% increase on operating costs, as identified using the formula prescribed in the franchise agreement. The formula to calculate the operating component of the fee is based on 80% of the annual change in CPI-U or 5%, whichever is less. The period used for this CPI measurement was the first half of 2020 versus the first half of 2021. CPI has continued to rise steadily since this time.

Hoodview Disposal & Recycling also has plans to bring forward another rate increase request in September 2022, and if approved, would become effective in January 2023. This increase would likely reflect the continued rise in CPI and will be explored more thoroughly when the request is brought before the Council later this year.

**LIST OF ATTACHMENTS/EXHIBITS:**

- Rate Increase Request
- Proposed Rate Schedule

December 9, 2021

Mr. Jordan Wheeler  
City Manager  
City of Sandy  
39250 Pioneer Boulevard  
Sandy, Oregon 97055



**Re: Proposed March 1, 2022 Rate Adjustment - City of Sandy Solid Waste and Recycling Services**

Dear Mr. Jordan,

As a result of increases in tipping fees and inflation, Hoodview Disposal & Recycling, Inc. proposes to make rate adjustments for solid waste and recycling services delivered to Sandy customers effective March 1, 2022. The net effect of these cost increases to the average single family customer in Sandy is \$1.21 per month.

On July 1, 2014, the City of Sandy, and Hoodview Disposal & Recycling, Inc. entered into a franchise agreement for the provision of solid waste and recycling services within the jurisdictional boundaries of the City. Section 7.3 of the above referenced agreement lays out the formulas and time lines that are to be used to arrive at future rate increases. The agreement specifies the process that is to be followed in the calculation of the rates for both solid waste collection and recycling services. Each rate includes an "operating component" and a "tipping fee component". The following table lays out the calculation sequence that is itemized in the franchise agreement. We have applied this methodology for the development of the new monthly rate for the standard level of residential service (i.e., the 35 gallon roll-cart weekly service). A complete schedule of the proposed rates as of March 1, 2022 is attached to this letter.



Analysis of Proposed Rate Increases for Average Single Family Customer Using the 35 Gallon Roll Service  
Effective March 1, 2022

	<u>Current Rate</u>	<u>Increase</u>	<u>New Rate</u>
Operating Component	\$ 19.58	\$ 0.45	\$ 20.03
Tipping Fee Components:			
Solid Waste Disposal	6.18	0.76	6.94
Recyclable Materials Processing	3.00	-	3.00
Yard Debris Processing	3.27	-	3.27
	<u>\$ 32.03</u>	<u>\$ 1.21</u>	<u>\$ 33.24</u>

*Calculation of Component Increase Percentages:*

**Operating Component** - Section 7.3.2; Adjustment of the Operating Component; based on 80% of the annual change in the CPI-U or 5.00%, whichever is less

CPI U 2021 1st Half	290.781	
CPI U 2020 1st Half	282.685	
80% of annual change in CPI U		2.29%

**Solid Waste Disposal** - Section 7.3.3; Adjustment of the Tipping Fee Component; pass through of actual tipping fee increases from regulatory agencies

January 1, 2022 tip fee at Troutdale (\$/ton)	\$ 120.90	
Current Troutdale tip fee in contract (\$/ton)	\$ 107.70	
Percent increase in net tip fee at Troutdale		12.26%

**Recyclable Materials Processing** - Section 7.3.3; There shall be no adjustment to the Recyclables Materials Processing tipping Fee Component of each rate over the Term of the Agreement.

**Yard Debris Processing** - Section 7.3.3; Adjustment of the Tipping Fee Component; pass through of actual tipping fee increases from regulatory agencies

January 1, 2022 tipping fee (\$/CY)	\$ 11.00	
Current tipping fee in contract (\$/CY)	\$ 11.00	
Percent increase in yard debris tipping fee		0.00%

The table indicates that the 12.26% increase on disposal at the Troutdale Transfer Station is the principal driver of this rate increase. This increase is commensurate with similar disposal adjustments throughout the Metro region. The contract methodology, which is based upon 80% of the CPI-U West(A) index, also calculates a 2.29% increase on operating costs. The combination of these two factors increases the 35 Gallon Weekly Cart service by 3.78%. Other rates increase similarly; however the exact percentage varies by the ratio of disposal expense to operating expense in each rate.

While we are currently experiencing intense wage and expense pressures, the rate adjustment formula relies on CPI statistics from the first half of 2020 when we saw less inflation. When approved to be effective March 1, 2022, this increase will occur one year after we completed our special rate review increase that was implemented in two phases in September 2020 and March 2021. Beyond this filing, our

intention is to resume the regular annual increases specified in our contract, with an application in September 2022 and an effective date of January 1 2023.

If you have any questions concerning this matter, please feel free to contact me at your earliest convenience. My office telephone number is 503.668.8300.

Very truly yours,



Cory Hansen  
Site Manager

Attachments: Proposed Rates, Effective March 1, 2022

City of Sandy  
Proposed Residential Rates Effective March 1, 2022  
**Hoodview Disposal & Recycling, Inc.**

**Regularly Scheduled Curbside Collection Services**

**Basic Service**

Size of Solid Waste Receptacle	Service Frequency	Operating and Solid Waste Components Rate Factor	Tipping Fee Component				Total Rate
			Operating Component	Solid Waste Disposal	Recyclable Materials Processing	Yard Debris Processing	
20-gal cart	1 pick-up/wk	0.84	\$16.83	\$5.83	\$2.52	\$2.74	\$27.92
35-gal cart	1 pick-up/wk	1.00	\$20.03	\$6.94	\$3.00	\$3.27	\$33.24
60-gal cart	1 pick-up/wk	1.60	\$32.05	\$11.11	\$4.80	\$5.23	\$53.18
90-gal cart	1 pick-up/wk	1.78	\$35.66	\$12.36	\$5.34	\$5.82	\$59.17
32-gal can	1 pick-up/month	0.56	\$11.22	\$3.89	\$1.68	\$1.83	\$18.61

**Yard Debris**

Size of Yard Debris Receptacle	Service Frequency	Operating and Solid Waste Components Rate Factor	Tipping Fee Component				Total Rate
			Operating Component	Solid Waste Disposal	Recyclable Materials Processing	Yard Debris Processing	
65-gal cart	1 pick-up/wk	N.A.	\$4.43	N.A.	N.A.	\$3.27	\$7.70



City of Sandy  
Proposed Residential Rates Effective March 1, 2022  
**Hoodview Disposal & Recycling, Inc.**

**Regularly Scheduled Curbside Collection Services (Continued)**

**Recyclable Materials** (Customers that do not subscribe to weekly solid waste service can receive recyclable materials collection service)

Size of Recyclable Materials Receptacle	Service Frequency	Operating and Solid Waste Components Rate Factor	Tipping Fee Component				Total Rate
			Operating Component	Solid Waste Disposal	Recyclable Materials Processing	Yard Debris Processing	
95-gal cart for commingled materials and 14-gallon bin for glass	1 pick-up/wk	N.A.	N.A.	N.A.	N.A.	N.A.	\$0.00

**Extra Pick-Ups/On-Call Collection Services**

Type of Service	Size of Receptacle	Operating and Solid Waste Components Rate Factor	Tipping Fee Component				Total Rate
			Operating Component	Solid Waste Disposal	Recyclable Materials Processing	Yard Debris Processing	
Extra can or bag of Solid Waste collected on customer's regularly scheduled collection day	32-gal can or bag	Ops Component = basic service rate for weekly 35-gallon cart	\$6.87	\$1.60	N.A.	N.A.	\$8.47
Extra can or bag of Yard Debris collected on customer's regularly scheduled collection day	32-gal can, 32-gal bag, or 2 foot x 2 foot bundle	Op Component = rate for weekly yard debris	\$2.23	N.A.	N.A.	\$1.51	\$3.74

**Backyard/Sideyard Service**

Description	Distance from Curb to Receptacle	Operating and Solid Waste Components Rate Factor	Tipping Fee Component				Total Rate
			Operating Component	Solid Waste Disposal	Recyclable Materials Processing	Yard Debris Processing	
Extra monthly fee paid by able-bodied customers for backyard or sideyard Collection of all Customer Receptacles (including Solid Waste, Recyclable Materials, and Yard Debris Receptacles)	<u>Walk-In or Drive-In Service:</u>						
	50 feet or less	N.A.	\$53.02	N.A.	N.A.	N.A.	\$53.02
	<u>Drive In Service:</u>						
	51 - 100 feet	N.A.	\$56.99	N.A.	N.A.	N.A.	\$56.99
	101 - 200 feet	N.A.	\$60.92	N.A.	N.A.	N.A.	\$60.92
	201 - 400 feet	N.A.	\$68.85	N.A.	N.A.	N.A.	\$68.85
	401 - 600 feet	N.A.	\$76.78	N.A.	N.A.	N.A.	\$76.78
	601 feet or more	N.A.	\$84.71	N.A.	N.A.	N.A.	\$84.71

City of Sandy  
Proposed Residential Rates Effective March 1, 2022  
**Hoodview Disposal & Recycling, Inc.**

Miscellaneous Charges			Tipping Fee Component				Total Rate
Service Type	Description	Operating and Solid Waste Components Rate Factor	Operating Component	Solid Waste Disposal	Recyclable Materials Processing	Yard Debris Processing	
Call back charge	Extra fee paid if customer did not set Receptacles Curbside for Collection before Company's vehicle passes customer's house and customer requests Company to return to Premises to pick-up materials	N.A.	\$8.06	N.A.	N.A.	N.A.	\$8.06
Restart service	Extra fee paid if customer stops and than restarts Collection services more than once during the year or when service is reinstated after it has	N.A.	\$14.12	N.A.	N.A.	N.A.	\$14.12
Cart delivery/pick-up	Extra fee paid if customer requests a change in Cart size more than once per	N.A.	\$18.87	N.A.	N.A.	N.A.	\$18.87
Cart replacement	Extra fee paid if customer requires Cart replacement (one replacement per year at no cost)	N.A.	\$70.00	N.A.	N.A.	N.A.	\$70.00
Hourly fee for services	Truck and one person	N.A.	\$84.63	Actual costs billed to customer	N.A.	N.A.	\$84.63
Hourly fee for services	Truck and two persons	N.A.	\$114.30	Actual costs billed to customer	N.A.	N.A.	\$114.30
Tire collection	Fee per tire for 18" and under rim size, tire off the rim	N.A.	\$10.09	\$2.50	N.A.	N.A.	\$12.59
Tire collection	Fee per tire for 18" and under rim size, tire on the rim	N.A.	\$10.09	\$4.69	N.A.	N.A.	\$14.77
Furniture and recyclable appliances	Fee per item Collected		\$6.00 to \$40.00 based on weight and need for special handling. If item not easily accessible, hour rate applies. Freon removal charged for air conditions and refrigerators will be added onto rate.				

City of Sandy  
Proposed Commercial Rates Effective March 1, 2022

**Hoodview Disposal & Recycling, Inc.**

Type of Service	Receptacle	Service Frequency (Pick-Ups/Week)	Rate Factor	Tipping Fee Component			Total Rate
				Operating Component	Solid Waste Disposal	Recyclable Materials Processing	
<b>Regularly Scheduled Cart Services*</b>							
Solid Waste	One 35-gallon cart	1	1.00	\$22.66	\$6.94	\$3.00	\$32.60
Solid Waste	Two 35-gallon carts	1	2.00	\$45.32	\$13.88	\$6.00	\$65.20
Solid Waste	One 60-gallon cart	1	1.62	\$36.61	\$11.21	\$4.85	\$52.67
Solid Waste	Two 60-gallon carts	1	3.10	\$70.28	\$21.53	\$9.30	\$101.11
Solid Waste	One 90-gallon cart	1	1.75	\$39.60	\$12.13	\$5.24	\$56.98
Solid Waste	Two 90-gallon carts	1	3.36	\$76.03	\$23.29	\$10.07	\$109.39
Solid Waste	Additional 90 gallon cart	1	1.67	\$37.76	\$11.57	\$5.00	\$54.33
<b>Regularly Schedule Container Services*</b>							
Solid Waste	1 cubic yard container	1	1.00	\$106.04	\$32.72	\$15.00	\$153.76
Solid Waste	1 cubic yard container	2	1.90	\$201.47	\$62.17	\$28.50	\$292.14
Solid Waste	1 cubic yard container	3	2.85	\$302.21	\$93.25	\$42.75	\$438.21
Solid Waste	1 cubic yard container	4	3.80	\$402.95	\$124.33	\$57.00	\$584.28
Solid Waste	1 cubic yard container	5	4.75	\$503.68	\$155.41	\$71.25	\$730.35
Solid Waste	1 cubic yard container	6	5.70	\$604.42	\$186.50	\$85.50	\$876.42
Solid Waste	1.5 cubic yard container	1	1.39	\$146.93	\$45.33	\$20.78	\$213.05
Solid Waste	1.5 cubic yard container	2	2.58	\$273.74	\$84.46	\$38.72	\$396.92
Solid Waste	1.5 cubic yard container	3	3.81	\$404.15	\$124.70	\$57.17	\$586.03
Solid Waste	1.5 cubic yard container	4	5.04	\$534.51	\$164.93	\$75.61	\$775.05
Solid Waste	1.5 cubic yard container	5	6.26	\$663.57	\$204.75	\$93.87	\$962.18
Solid Waste	1.5 cubic yard container	6	7.90	\$837.49	\$258.41	\$118.47	\$1,214.37
Solid Waste	2 cubic yard container	1	1.68	\$177.88	\$54.88	\$25.16	\$257.92
Solid Waste	2 cubic yard container	2	3.22	\$341.13	\$105.26	\$48.26	\$494.65
Solid Waste	2 cubic yard container	3	4.76	\$504.28	\$155.60	\$71.33	\$731.21
Solid Waste	2 cubic yard container	4	6.30	\$667.54	\$205.97	\$94.43	\$967.93
Solid Waste	2 cubic yard container	5	7.83	\$830.74	\$256.33	\$117.51	\$1,204.58
Solid Waste	2 cubic yard container	6	9.56	\$1,013.89	\$312.84	\$143.42	\$1,470.15
Solid Waste	3 cubic yard container	1	2.30	\$244.33	\$75.39	\$34.56	\$354.28
Solid Waste	3 cubic yard container	2	4.39	\$465.22	\$143.55	\$65.81	\$674.58
Solid Waste	3 cubic yard container	3	6.61	\$701.26	\$216.38	\$99.20	\$1,016.84
Solid Waste	3 cubic yard container	4	8.85	\$938.19	\$289.48	\$132.71	\$1,360.39
Solid Waste	3 cubic yard container	5	11.08	\$1,175.01	\$362.55	\$166.21	\$1,703.77
Solid Waste	3 cubic yard container	6	13.13	\$1,392.66	\$429.71	\$197.00	\$2,019.38

City of Sandy  
Proposed Commercial Rates Effective March 1, 2022  
**Hoodview Disposal & Recycling, Inc.**

Type of Service	Receptacle	Service Frequency (Pick-Ups/Week)	Rate Factor	Tipping Fee Component			Total Rate
				Operating Component	Solid Waste Disposal	Recyclable Materials Processing	
Solid Waste	4 cubic yard container	1	2.97	\$315.16	\$97.24	\$44.58	\$456.98
Solid Waste	4 cubic yard container	2	5.15	\$545.87	\$168.43	\$77.22	\$791.52
Solid Waste	4 cubic yard container	3	7.68	\$814.11	\$251.20	\$115.16	\$1,180.47
Solid Waste	4 cubic yard container	4	10.21	\$1,082.16	\$333.90	\$153.08	\$1,569.15
Solid Waste	4 cubic yard container	5	12.74	\$1,350.46	\$416.69	\$191.03	\$1,958.18
Solid Waste	4 cubic yard container	6	16.94	\$1,796.40	\$554.28	\$254.11	\$2,604.80
Solid Waste	6 cubic yard container	1	4.22	\$447.06	\$137.94	\$63.24	\$648.23
Solid Waste	6 cubic yard container	2	8.17	\$866.24	\$267.28	\$122.54	\$1,256.06
Solid Waste	6 cubic yard container	3	12.12	\$1,285.37	\$396.60	\$181.82	\$1,863.79
Solid Waste	6 cubic yard container	4	16.07	\$1,704.49	\$525.93	\$241.11	\$2,471.53
Solid Waste	6 cubic yard container	5	20.03	\$2,123.62	\$655.25	\$300.40	\$3,079.27
Solid Waste	6 cubic yard container	6	24.03	\$2,548.22	\$786.26	\$360.46	\$3,694.94
Solid Waste	8 cubic yard container	1	5.62	\$596.07	\$183.92	\$84.32	\$864.31
Solid Waste	8 cubic yard container	2	10.89	\$1,154.99	\$356.37	\$163.38	\$1,674.74
Solid Waste	8 cubic yard container	3	16.16	\$1,713.82	\$528.80	\$242.43	\$2,485.06
Solid Waste	8 cubic yard container	4	21.43	\$2,272.65	\$701.23	\$321.48	\$3,295.37
Solid Waste	8 cubic yard container	5	26.70	\$2,831.49	\$873.66	\$400.54	\$4,105.69
Solid Waste	8 cubic yard container	6	32.04	\$3,397.62	\$1,048.35	\$480.62	\$4,926.58

\*Note that the rates provided herein shall be for basic collection services; and therefore, shall include collection of solid waste at the service level noted and collection of recyclable materials in receptacles selected by customer.

**Other Services**

Compacted Container Service	1 to 8 cubic yard container	1 to 6 pick-ups per week	N.A.	Rates for compacted containers shall equal 3 times the container rate listed above.			
Extra can or bag of Solid Waste collected on customer's regularly scheduled collection day	32-gal can or bag	Per occurrence	N.A.	\$6.87	\$1.60	N.A.	\$8.47
Extra pick-up for on-call service or overage pick-up service for regular container customers	1 to 8 cubic yard container	Per cubic yard per occurrence	N.A.	\$22.96	\$7.56	N.A.	\$30.51
Push/pull	N.A.	Per Month	N.A.	\$16.14	N.A.	N.A.	\$16.14
Lock/unlock	N.A.	Per Month	N.A.	\$16.14	N.A.	N.A.	\$16.14
Steam cleaning	N.A.	Per occurrence	N.A.	\$80.67	N.A.	N.A.	\$80.67

Note: Miscellaneous charges listed on the residential rate sheet apply to commercial customers as appropriate

City of Sandy  
Proposed Drop Box Rates Effective March 1, 2022  
**Hoodview Disposal & Recycling, Inc.**

Type of Service	Receptacle	Service Frequency	Operating Component	Tipping Fee Component	Total Rate
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**Regularly Scheduled Collection Service** (Monthly Rate not including rental & delivery fees which are charge

All Material Types	10 cubic yard drop box	1 pickup/week	\$136.36	Company to bill customer actual tipping cost	\$136.36
All Material Types	20 cubic yard drop box	1 pickup/week	\$136.36		\$136.36
All Material Types	30 cubic yard drop box	1 pickup/week	\$166.36		\$166.36
All Material Types	40 cubic yard drop box	1 pickup/week	\$166.36		\$166.36

**On-Call Collection Service** (Per Pick-Up Rate not including rental and delivery fees which are charged separ

All Material Types	10 cubic yard drop box	On-call pickup	\$175.03	Company to bill customer actual tipping cost	\$175.03
All Material Types	20 cubic yard drop box	On-call pickup	\$175.03		\$175.03
All Material Types	30 cubic yard drop box	On-call pickup	\$213.54		\$213.54
All Material Types	40 cubic yard drop box	On-call pickup	\$213.54		\$213.54

**Rental Service**

Rental	All drop box sizes	Per day**	\$10.70	N.A.	\$10.70
Rental	All drop box sizes	Per month**	\$107.00	N.A.	\$107.00

\*\* Customer receives two days of drop box use at no cost; rental fee charged per day for each day in excess of the first two days of use. Total charge shall be based on the per-day rate or per-month rate whichever is less.

**Delivery Service**

Delivery	All drop box sizes	Initial delivery to collection site	\$33.83	N.A.	\$33.83
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## Staff Report

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**Meeting Date:** February 7, 2022

**From** Greg Brewster, IT/SandyNet Director  
SandyNet Construction RFP Alternative Procurement Methods -

**SUBJECT:** Resolution 2021-36

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**DECISION TO BE MADE:**

Whether to approve Resolution 2021-36, adopting findings supporting a design-build delivery method.

**PURPOSE / OBJECTIVE:**

To save the fiber expansion project time and promote cost efficiency through an alternative project delivery method.

**BACKGROUND / CONTEXT:**

On [November 1, 2021](#), the Council committed ARPA funds for the expansion of SandyNet fiber to the remaining underserved areas within city limits. Additionally, staff recognized this as an opportunity to include the expansion of fiber to the Wastewater Treatment Plant in the project scope at the same time. The expansion of fiber to the treatment plant was identified in the condition assessment as an investment to help operations staff manage and operate the plant. That portion of the fiber expansion project scope would be funded by the Wastewater Fund.

**KEY CONSIDERATIONS / ANALYSIS:**

After review of equipment/material pricing, availability of crews, and current staff workload, staff determined that it may be advantageous to deviate from the standard bid procedure, to instead use a **design-build delivery method**. The design-build method would allow for a single Request for Proposals (RFP) to solicit a designer that is also capable of performing the project management and construction of the project.

Using this approach would allow the City to take advantage of economies of scale. Work from both projects would be performed by a single construction crew; the same materials would be procured and the same standards and layout would be considered. Combining labor, design, and material lists for a single company would create a larger total project, which can drive the construction cost per unit down. In addition to satisfying the requirements of ORS 279C.330, the design-build delivery method meets the criteria for value engineering, which is encouraged by the State of Oregon/Federal Government under CFR 200.318 (g).

The State of Oregon requires the following eight categories to be addressed before deviating from the standard procurement process:

1. Operational, budget and financial data
2. Public benefits
3. Value engineering
4. Specialized expertise required
5. Public safety
6. Market conditions
7. Technical complexity
8. Funding sources

The attached resolution and detailed findings explain how these criteria are met.

**RECOMMENDATION:**

Staff respectfully recommends adoption of Resolution 2021-36.

**BUDGETARY IMPACT:**

There is no budget impact for adopting the resolution and issuing the request for proposals. The estimated cost for the ARPA funded expansion projects was \$449,000. The project to extend fiber to the wastewater treatment plant is estimated to cost between \$300,000-\$400,000 depending on the route.

**SUGGESTED MOTION LANGUAGE:**

"I move to adopt resolution 2021-36."

**LIST OF ATTACHMENTS/EXHIBITS:**

- Resolution 2021-36
- Detailed List of Findings for Exemption from Standard Bidding Procedures



NO. 2021-36

**A RESOLUTION ADOPTING FINDINGS TO SUPPORT THE USE OF ALTERNATIVE PROCUREMENT METHODS AND SOLICITED A DESIGN-BUILD PROJECT FOR THE 2022 SANDYNET ARPA PROJECT**

**Whereas**, the Sandy City Council, acting as the Local Contract Review Board may authorize the use of a Design-Build procurement method in accordance with ORS 279C.335(1)(b); and,

**Whereas**, the use of a design-build delivery method as an alternative contracting method is reasonable expected to result in substantial time and cost savings to the city. Designing and building under a single award is expected to decrease the complexity of the project for staff as well as reasonably decrease time to completion; and,

**Whereas**, a design-build delivery method will not impact the funding for the public improvement; and,

**Whereas**, the City has retained consultants that have the necessary expertise and experience in alternative contract delivery methods to help negotiate, administer, and enforce the terms of a design-build contract.

**NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy**, after making these findings available for a review 14 days prior to holding a duly noticed hearing pursuant to ORS 279C.335(5):

- The City Council finds that use of the design-build delivery method for the 2022 SandyNet ARPA Project satisfies the requirements of ORS 279C.335(2) and makes the following findings in support of using this procurement method (these findings are included in further detail in Exhibit A):
  - The City finds that award of this contract is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts because the City will issue a request for proposals in accordance with state law in order to award the contract.
  - Use of the design-build method is reasonably expected to result in substantial time and cost savings to the contracting agency and to the public. Accelerated project completion will fully utilize the spare infrastructure that was already built in the SandyNet 2014 FTTH project as well as provide a finished product that is flexible enough to accommodate the changing needs of the city and its internet users.
  - A design-build procurement method will not impact the funding for the public improvement project and the City has retained consultants that have the

#2021-36



necessary expertise and experience in alternative project delivery methods, including design-build.

- The City finds that the design-build process will ensure that the resulting contractor is well versed in value engineering and able to suggest alternatives to certain designs and construction methods that will yield equivalent benefits at reduced costs.
- The design and construction of an FTTP/FTTH network is highly complex and requires experts to design and implement the project. Further, calculation of network density/design as well as anticipated adoption rates of the service at build and future play a role in capacity planning. In addition, specially trained contractors are required to build the network after design is completed.
- The City finds from past experience that using a design-build delivery method allows the selected winner, or expert to use their existing economics of scale to secure better pricing on equipment and construction labor that would otherwise be impossible through traditional bidding given the city's size.
- When a public improvement presents technical complexities, Oregon's public contracting rules encourage agencies to consider and use the design-build method. The rules discuss overcoming project complexities through a collaborative effort between an agency and its contractor where the contractor will address specific project challenges through design and value engineering.
- The City Council authorizes staff to solicit proposals for a Design-Build services for the 2022 SandyNet ARPA Project.

This resolution is adopted by the Common Council of the City of Sandy and approved by the Mayor this 07 day of February 2022

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Stan Pulliam, Mayor

ATTEST:

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Jeff Aprati, City Recorder

#2021-36

## **Resolution 2021-36: Exhibit A**

### **A. Introduction**

The City of Sandy City Council is Sandy’s local contract review board (“LCRB”). Pursuant to ORS 279C.335(2), a LCRB may exempt a public improvement contract from the public contracting code’s traditional bidding procedures. To do so, it must be able to find that the exemption:

1. is unlikely to encourage favoritism in the awarding of, or substantially diminish competition for, public improvement contracts; and
2. will likely result in substantial cost savings to the contracting agency.<sup>1</sup>

As these findings demonstrate, exempting the contract for the construction of a fiber-to-the-premises (“FTTP”) network in Sandy will not encourage favoritism or substantially diminish competition and will likely result in substantial cost savings to the city. In addition, these findings justify the LCRB’s approval of and authorization for staff to utilize the design-build method to construct the network. The public contracting code and its related rules expressly permit the use of the design-build delivery method as an alternative contracting method,<sup>2</sup> and it would be the second time the city has used it to construct a public improvement for its SandyNet department.

Pursuant to ORS 279C.330, these findings must address eight categories of information as they may relate to the desired exemption. The categories are:

1. Operational, budget and financial data;
2. Public benefits;
3. Value engineering;
4. Specialized expertise required
5. Public safety;
6. Market conditions;
7. Technical complexity; and
8. Funding sources.

Not all eight topic areas may be relevant or pertinent to a particular exemption. The city reviewed the categories, determined which are relevant, analyzed them in these findings and made additional observations based on its assumptions and experience to support exempting the FTTP contract.

### **B. Background.**

The city council allocated \$449,000 from the American Rescue Plan (ARPA) to the SandyNet department to construct a FTTP network to underserved locations in Sandy. The areas selected are deemed underserved based on the ARPA broadband requirements outlined in the Interim Final Rule<sup>3</sup>

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<sup>1</sup> ORS 279C.335(2)(a) and (b).

<sup>2</sup> OAR 137-049-0670.

<sup>3</sup> CFR Part 35 – Federal Register Vol. 86, No. 93

The primary justifications for the exemption are to save time and money in designing and constructing the FTTP network, to ensure that an experienced and well-equipped contractor can design the appropriate network for Sandy, manage its construction, complete the project on time and within budget, reassess elements of the project as needs and funding issues arise and to assess the design-build method and its effectiveness.

**C. Findings.**

1. Operational, budget and financial data. The city has limited funds to do the variety of tasks expected of it by its constituents, including those relating to public improvements. This is especially true in this instance, in so far as the city will utilize the funds provide by Council through the APRA funds and then service the debt it incurs to build the network through SandyNet revenues, should it exist. Costs for preparing a formal public improvement bid can amount to a significant percentage of the overall cost of a project. Some estimate that the average preparation costs for formal bids can amount to 5 to 10 percent of a project's overall cost. By avoiding the traditional bidding process, those costs could be saved and applied to the actual design and construction of the network.

Central to the design-build contracting process is the manner in which the contractor is involved in the process. The contractor (performing the design role) will be brought in immediately and will work with the city, its staff, and the construction contractor to produce the network's design and construction documents sooner than would occur under the traditional delivery process, where a design would initially be developed and then bid to a construction contractor, many of whom have no experience in building a FTTP network.

The design-build method is intended to ensure that costs are contained to the greatest extent possible and to avoid the many change orders that often accompany project delivery under the traditional process. To this end, the bid winner would be responsible for the design and the ultimate construction of the FTTP network in accordance with the design and parameters laid out by SandyNet Staff. This ensures that the contractor who builds the network is not able to demand changes based on a faulty or insufficient design (or aspect thereof), because the point of responsibility for design and construction rests with the same party (i.e. The bid winner). Several studies have demonstrated that the design-build method of delivery saves project owners money.<sup>4</sup>

2. Public benefit. The public benefits in a number of ways from the exemption. Time is saved by limiting the formal process. The construction will be completed faster than it would be under the traditional design-bid-build process to serve the city and its residents. By proceeding through a design-build process, the public will reap the benefit of working with a highly experienced and skilled contractor who can respond to stakeholder input

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<sup>4</sup> See Victor Sanvido and Mark Konchar (April 1998). "Project Delivery Systems: CM at Risk, Design-Build, Design-Bid-Build". Construction Industry Institute Research Report; and <https://smithculp.com/wp-content/uploads/2020/08/AlternativeDeliveryPaper.021513.pdf>. These documents are incorporated into the record leading to the council's adoption of this resolution.

and translate that input into a finished product that is flexible enough to accommodate the changing needs of the city and its Internet users.

3. Value engineering. Value engineering is a systematic method employed in certain projects to increase efficiencies, improve functionality, and reduce costs. In the public improvement context, it is typically applied to complex projects such as this one. The design-build process will ensure that the resulting contractor is well versed in value engineering and able to suggest alternatives to certain designs and construction methods that will yield equivalent benefits at reduced costs. Value engineering is encouraged in 2 CFR 200.318 (g) when procurement occurs for non-federal entities.
4. Specialized expertise required. The design and construction of an FTTP network is highly complex. Two primary factors, geography/topography and adoption are cited by experts as the primary drivers of how the system is designed and eventually built. Whether the network's "splitters" are located in a more centrally placed Network Interface Device (NID) location or distributed throughout the network in a decentralized fashion is an issue that depends largely on the geography of the area where the network will reside and the relative density of the area. Moreover, the anticipated adoption (i.e. users of the network), both at build out and in the future, will affect the design, the number of splitters used and the number of distribution points along the network. Working with experts to design and build the network ensures that these decisions will be made by a well informed and experienced contractor. In addition, industry experts requires its construction contractor to be specially trained to build the network after the design is complete.
5. Public safety. Not relevant to this project.
6. Market conditions. The market for construction services is very much in an economic expansion. The construction industry has experienced large growth in 2021, and the introduction of many broadband expansion projects have made labor and material scarce. This current trend of rapid expansion and supply chain disruption is expected to continue and grow in the years to come. The exemption will allow the selected winner, or expert to use their existing economies of scale to secure better pricing on equipment and construction labor that would otherwise be impossible through traditional bidding given the city's size, result.
7. Technical complexity. As discussed above, the design and construction of the FTTP network technically is a complex project. When a public improvement presents technical complexities, Oregon's public contracting rules encourage agencies to consider and use the design-build method.<sup>5</sup> The rules discuss overcoming project complexities through a collaborative effort between an agency and its contractor where the contractor will address specific project challenges through design and value engineering.

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<sup>5</sup> OAR 137-049-0670.  
Resolution No. 2013-31  
Exhibit A  
Page 3

8. Funding sources. The city will use funds allocated by city council using ARPA dollars. It is important in this context to use the design-build method to ensure flexibility in incorporating new and complex design elements in a dynamic funding environment.

**D. Conclusion.**

For the above reasons, the LCRB finds the exemption appropriate and meets ORS 279C.335(2)'s criteria.