



**AGENDA & Notice of Work Session,
& Regular Meeting of Newport City Council (CC)
Including Acting in the Capacity as the
Local Contract Review Board (LCRB)
And Urban Renewal Agency (URA)**

The City Council of the City of Newport, also acting in the capacity as the LCRB and URA, will hold a work session at **12:00 noon**, on **Monday, June 7, 2010**, in Conference Room "A" at City Hall. The regular Council meeting begins at **6:00 P.M., on Monday, June 7, 2010**. The meeting will be held in the Council Chamber, 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the meeting agenda follows.

The work session and meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder (541)574-0613.

The City Council, also acting in the capacity as the LCRB and URA, reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the work session and/or meeting. Action items that do not require a public hearing may be moved up earlier in the meeting.

WORK SESSION AGENDA

12:00 Noon
CC – LCRB – URA

- I. Questions regarding evening agenda items
 - II. City Attorney Evaluation
 - III. Scheduled for 1:30 p.m. – conference call with bond attorney on authorizing the financing of debt, and the issuance of a \$2 million Urban Renewal bond (Schultz/Brown/McCarthy)
-

REGULAR MEETING AGENDA

6:00 P.M.
CC – LCRB – URA

Any person wishing to speak on any agenda item should complete a Public Comment Form and hand it to the City Recorder, Peggy Hawker. Public Comment Forms are located on a table at the entrance door to the City Council Chamber. If you wish to comment on a subject not on the

agenda, the Mayor will call on you under “Public Comments”. If you wish to comment on a specific agenda item, the Mayor will call on you when the City Council gets to that item.

I. Call to Order and Roll Call

II. Public Comments

This is an opportunity for members of the audience to bring to the Council’s attention any item not otherwise listed on the Agenda. Comments will be limited to three (3) minutes per person, with a maximum of 15 minutes for all items.. Speakers may not yield their time to others.

III. Proclamations & Recognitions

IV. Consent Calendar

The consent calendar is an area of the meeting agenda where items of a repeating or routine nature can be considered under a single action. Any person who desires to have an item on the consent agenda removed and considered separately could make it so by merely asking.

- A. Approval of minutes from regular meeting of May 17, 2010 and special meeting of June 1, 2010.....**pgs. 1-8**
(Hawker)

V. Council Members’ Reports and Comments

VI. Officers’ Reports

- A. Mayor’s Report
- B. City Manager’s Report.....**pgs. 1-21**
- C. City Attorney’s Report

VII. Discussion Items and Presentations

Items that do not require immediate Council action, such as presentations, discussion of potential future action items

- A. Presentation and update by Municipal Judge Jeff Pridgeon on Municipal Court for the City
(Pridgeon)
- B. Further discussion on appointment of G-P Monitoring Task Force
(Voetberg/McCarthy)

7:00 P.M.

VIII. Public Hearings

- A. Public hearing & resolution regarding State Shared Revenue for 2010-11.....**pgs. 1-2**
(Brown/Voetberg/McCarthy)

- B. Public hearing regarding the City of Newport 2010-11 Fiscal Year budget.....**pgs. 1-9**
(Brown/Voetberg/McCarthy)
- C. Public hearing on amendments to Section 2-5-4 of the Newport Zoning Ordinance (Planned Developments).....**pgs. 1-32**
(Tokos/McCarthy)

IX. Action Items

Citizens will be provided the opportunity to offer comments on action items after staff has given their report and if there is an applicant, after they have had the opportunity to speak. (Action items are expected to result in motions, resolutions, orders, or ordinances)

- A. Resolution authorizing the refinancing backed by FFAC, and the authorizing of a Master Sewer and Room Tax Revenue Bond Declaration.....**pgs. 1-47**
(Schultz/Brown/McCarthy)
- B. Resolution authorizing refinancing and new money backed by FFAC and an intergovernmental agreement with Urban Renewal.....**pgs. 1-47**
(Schultz/Brown/McCarthy)
- C. Appointment of a member to the Airline Sustainability Task Force to replace a vacancy.
(Cossey)
- D. Approval of Task Order for Engineering Services to Civil West Engineering Services, Inc., for design and Construction management services for Agate Beach Lower Water Storage Tank & Waterline.....**pgs. 1-6**
(Ritzman)

X. Public Comment

(Additional time for public comment – 5 minutes per speaker)

XI. Adjournment

**NEWPORT URBAN RENEWAL AGENCY
Follows Regular Council Meeting
REGULAR URBAN RENEWAL AGENCY MEETING AGENDA**

I. Call to Order and Roll Call

II. Public Comments

This is an opportunity for members of the audience to bring to the Agency's attention any item not otherwise listed on the Agenda. Comments will be limited to three (3) minutes per person, with a maximum of 15 minutes for all items. Speakers may not yield their time to others.

III. Consent Calendar

The consent calendar is an area of the meeting agenda where items of a repeating or routine nature can be considered under a single action. Any person who desires to have an item on the consent agenda removed and considered separately could make it so by merely asking.

- A. Approval of minutes from URA meeting of
May 17, 2010.....**pgs. 1-2**
(Hawker)

IV. Discussion Items and Presentations

Items that do not require immediate Council action, such as presentations, discussion of potential future action items

V. Public Hearings

- A. Public hearing regarding the adoption of the 2010-11
Fiscal Year Urban Renewal Budget.....**pgs. 1-5**
(Brown/Voetberg/McCarthy)

VI. Action Items

Citizens will be provided the opportunity to offer comments on action items after staff has given their report and if there is an applicant, after they have had the opportunity to speak. (Action items are expected to result in motions, resolutions, orders, or ordinances)

- A. Resolution authorizing refinancing, new money and
entering into an intergovernmental agreement with
the City.....**pgs. 1-47**
(Schultz/Brown/McCarthy)

VII. Adjournment

May 17, 2010
Noon
Newport, Oregon

The City Council of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Bain, Bertuleit, Kilbride, McConnell, and Patrick were present. Brusselback and Obteshka were excused.

Staff present was City Manager Voetberg, City Recorder Hawker, City Attorney McCarthy, Community Development Director Tokos, Public Works Director Ritzman, Library Director Smith, Airport Director Cossey, Parks and Recreation Director Protiva, Police Chief Miranda, and Interim Finance Director Brown.

PUBLIC COMMENT

Linda Neigebauer, a member of the Lincoln County Transit Advisory Committee, reported that two buses had been approved to transport runner's families during the Marathon. She noted that the busses are available partly because of the \$90,000 contribution the city makes from the transient room tax fund.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of minutes from the City Council work session and regular meeting of May 3, 2010;
- B. Report of accounts paid for April 2010;
- C. Police and Fire Department monthly reports for April 2010.

Kilbride asked about the reserve account in the accounts paid, and Brown reported that this is for postage. Kilbride suggested that the auditing contract go out to bid as soon as possible. He noted that the audit report was unavailable until the end of March, and that is not satisfactory. Brown noted that a combination of issues contributed to the delay of the audit report. Kilbride asked about the payment to the sheriff's office, and Brown noted that this expenditure is for animal control.

Kilbride asked about the fire inspections, and Voetberg reported that they are likely fire marshal reviews.

McConnell noted the high number of animal issues last month, and asked whether they are escalating, and whether there is something the city should be doing. Miranda reported that the animal control officers work weekdays from 8:00 A.M. until

5:00 P.M, and calls after hours are handled by the local police. He added that the number of calls is seasonal, and that the reasons for calling vary.

MOTION was made by Patrick, seconded by McConnell, to approve the consent calendar as presented. The motion carried unanimously in a voice vote.

COUNCILOR'S REPORTS AND COMMENTS

Patrick reported that the Port is moving forward with the NOAA project, and that a groundbreaking will be held soon.

Patrick reported that she attended the Community Legends dinner on Saturday.

Patrick noted that the most current edition of Local Focus contains several good articles, and would be applicable to the Planning Commission and other committees.

Bertuleit reported on a recent meeting of the Bicycle/Pedestrian Committee. He noted that the bike map should be completed by the end of June. He added that the committee had discussed lighted sidewalks, and a new grant opportunity for Oceanview Drive.

Bertuleit reported that he attended the recent Community Legends program, and that both honorees are tireless community volunteers.

Kilbride reported that he attended a recent meeting of the city's pension committee. He stated that he is concerned about the funding of the defined benefit plan. It was noted that the funding is based on a 30-year standard.

Kilbride reported that he received the most recent invoice from SeaPort, and the carryover is depleted.

OFFICER'S REPORTS

City Manager's Report. Voetberg reported that the 1991-2009 Newport Travel Impacts information included in the packet indicates that visitors are coming to Newport.

Voetberg reported that the City Center Newport Association clean-up is scheduled for May 23. He noted that the city provides a power washer and staff for this event.

Voetberg reported that the U.S. Department of Energy is proposing funding to the Northwest National Marine Renewable Energy Center/Oregon State University for its proposed project to construct and operate a wave energy test facility offshore.

Voetberg reported that the Greater Newport Lodging Association has asked that Council review the transient room tax ordinance, and noted that this will be on an agenda after the budget is adopted.

Voetberg reported that a City Council communication retreat, with Caryn Tilton, will be held on June 21. He noted that CIS will provide training to the staff on conflict management and stress reduction.

Voetberg reported that he had received an e-mail from the 2010 Census congratulating Toledo and Newport on a 79% mail in participation rate.

Voetberg distributed the monthly financial reports to Council.

Kilbride spoke about travel impacts, noting that lodging sales for Newport indicate a strong number for Newport, and a decline for the rest of the Oregon coast. Bain asked whether a lodging property was in arrears on a scheduled payment plan. Brown indicated that this client is one month late with an outstanding balance of approximately \$20,000.

City Attorney's Report. McCarthy reported that ethics training for the City Council and Planning Commission is scheduled for July 6, from 2:00 P.M. - 3:30 P.M.

McCarthy reported that Judge Pridgeon will report on municipal court activities at the evening meeting of June 7.

McCarthy reported that the refinancing resolutions will be on the June 7 agenda, with a short work session on the resolutions.

McCarthy reported that the GP Task Force appointments will appear on the June 7 agenda, and asked Council to consider appointments to this technical task force.

McCarthy reported that Burt Lippman has resigned from the Airline Sustainability Task Force. She added that this is a position to be filled by a Chamber of Commerce member. McCarthy will ask the Chamber to make a recommendation for the appointment, along with a list of possible appointees.

McCarthy noted that the evaluation of the city attorney is scheduled for June 7. She distributed the evaluation policy that was adopted by Council on March 1. She requested the evaluation in open session, and noted that she will provide Council with the evaluation form that was used to evaluate the previous city attorney. She reported that she will provide a self-evaluation on June 7. Patrick asked for a copy of McCarthy's contract.

ACTION ITEMS

Award of bid for Senior Center remodel. Protiva reported that the issue before Council is to approve the notice of intent to award a bid on the Senior Center remodel project. He recommended issuing the notice of intent to award to Mega-Pacific Company, in the amount of \$474,600, and Alternate bid A1 in the amount of \$7,500. He added that Alternate bids A2 and A3 are also recommended if sufficient funding is available. Voetberg noted that the grant and the local match total \$720,000 for construction and contingency. It was noted that alternates not included in the original grant application cannot be funded with grant monies. Kilbride asked whether the city is required to take the lowest bid. Voetberg noted that because this is a CDBG grant, the city cannot use the local preference. Patrick asked whether there is a cap on change orders, and it was noted that change orders are originated by the city which is why it is

important to have a good project manager to limit change orders. Ritzman reported that Council has adopted a model ordinance with amendments that limit the amount of change order work. MOTION was made by McConnell, seconded by Bertuleit, to authorize the city manager to issue a Notice of Intent to Award to the Mega-Pacific Company, of Portland, Oregon, in the amount of \$482,100, to perform basic bid requirements, and Alternate bid A1 for the construction work on the Senior Center remodel project. The motion carried unanimously in a voice vote.

Approval of Modification No. 3 to the Revenue Guarantee Agreement between the City of Newport, Port of Astoria, and SeaPort Airlines. McCarthy reported that Modification No. 3 to the Revenue Guarantee Agreement with SeaPort Airlines modifies the language of the agreement to: (1.) approve the use of the Cessna Caravan by SeaPort; (2.) reallocate one non-stop scheduled flight every day in each direction between Astoria and Portland to Newport and Portland, effective June 1; and (3.) require SeaPort to use its best efforts to obtain at least one interline ticketing agreement as soon as reasonably practicable that will allow connections to a variety of major destinations. MOTION was made by McConnell, seconded by Kilbride, to approve Modification No. 3 to the Revenue Guarantee Agreement between the City of Newport, the Port of Astoria, and SeaPort Airlines, and authorize the city manager to execute same. Bertuleit stated that he is concerned with the deadline for having an interline ticketing agreement, and noted that he plans to vote no. McCarthy noted that the provision regarding termination of the agreement will not be affected by this modification. McCarthy noted that this language could be used if it is not believed that SeaPort is using its best efforts to obtain an interline ticketing agreement. The motion carried in a voice vote with Patrick and Bertuleit voting no. McConnell asked whether the ridership numbers have been analyzed lately. Bain noted that the reimbursement cap effectively takes care of that issue. McCarthy will bring this analysis to the next City Council meeting.

Reconsideration of David Evans and Associates Task Order No. 5 for the Abbey Street Pier parking lot expansion. It was noted that this matter was discussed at the last meeting, particularly the cost per parking space and the opinions of the Bayfront Association. Ritzman noted that the city's goal is to get the most spaces for the optimum dollars. He added that the contract to build the wall will be a separate decision. Ritzman reported that the issue before Council is the approval of task order No. 5 to David Evans and Associates for engineering services for the Abbey Street Parking Lot Improvements project. Ritzman reported that this project involves the design and construction of a retaining wall on the northwest side of the Abbey Street parking lot and paving the additional spaces. He noted that a geotechnical analysis was performed and that the project will square up the parking lot and allow approximately 18 additional parking spaces. He added that the project is included in the current budget in the amount of

\$250,000 split between the Public Parking Fund and the Room Tax Fund. Don Mathews noted that this project is more than dollars for parking spaces, but it is also a major clean-up. He added that nothing firm will be known until the engineering work is complete. He reported that he supports the project. Janet Webster stated that she also supports the project. She added that the city has already made an investment with the geotechnical report. Bertuleit suggested an artistic approach to the wall. Ritzman noted that the concept is to make it appear to be natural stone. Webster reported that there is inadequate motorcycle and bicycle parking, noting that the spaces could be used more efficiently. MOTION was made by McConnell, seconded by Patrick, to approve task order No. 5 for David Evans and Associates, and authorize the city manager to sign the work scope. The motion carried unanimously in a voice vote.

Consideration of Brown and Caldwell Task Order No. 1 for USDA funding application assistance. Ritzman reported that the issue before Council is the approval of task order No. 1 for Brown and Caldwell Environmental Engineers and Consultants for engineering services needed for an application to the USDA Rural Development Administration for funding assistance for sewer collection system improvements. He noted that the city has a master agreement with Brown and Caldwell, and this task order would fall under that agreement. Kilbride noted that the total construction costs are about five million dollars, and asked about the city match. Ritzman reported that the grant would be approximately one million dollars, with a low interest loan from the USDA for the balance. He noted that the terms of the loan would be up to 30 years with interest in the two percent range. He recommended approval of task order No. 1 in an amount not to exceed \$76,954. MOTION was made by McConnell, seconded by Patrick, to approve task order No. 1 for Brown and Caldwell and authorize the city manager to sign the scope of work. The motion carried unanimously in a voice vote.

Resolution No. 3508 supporting a bicycle friendly community. Voetberg noted that the issue before Council is whether to adopt Resolution No. 3508 adopting a complete streets policy that takes into consideration motorized and non-motorized transportation options in the design and planning of future transportation projects. The complete streets program is designed to: assure safety and accessibility for all users of roads, trails, and transit systems; reduce congestion by encouraging safe options for non-motorized travel; and enhance safe walking and bicycling options for school-aged children. MOTION was made by Bertuleit, seconded by McConnell, to adopt Resolution No. 3508, supporting expanded transportation choices in recognition of its benefits to the community in providing a balanced transportation system. Patrick asked whether this matter will return to Council when the design is complete. It was noted that it would. The motion carried unanimously in a voice vote.

OLCC license renewal - Sandbar Tavern. Miranda introduced Paul and Bonnie Parashak, owners of the Sandbar. Miranda explained that the issue before Council is whether to recommend renewal of the Sandbar liquor license. He added that he has met with the owners, and recommends renewal of the liquor license conditioned upon the establishment installing a video monitoring system capable of 24-hour monitoring of the front and rear doors, the interior, and the street in front of the establishment. The system should have the capability of maintaining recordings for at least seven days. Parashak discussed the issue, noting that his business employs 10 - 13 people; closes an hour earlier than other establishments; is an OLCC responsible vendor; and that in 17 years, has only received one warning from the OLCC. Patrick asked whether conditions have been imposed on other establishments, and whether this action would set a standard. MOTION was made by Bertuleit, seconded by Patrick, to approve the annual renewal of the Sandbar OLCC liquor license with the stipulation that the establishment install a video monitoring system that is capable of 24-hour monitoring of the front and rear doors, the interior and the street in front of the establishment, and have the capability of maintaining recordings for at least seven days. The motion carried unanimously in a voice vote.

ADJOURNMENT

Having no further business, the meeting adjourned at 1:13 P.M.

Margaret M. Hawker, City Recorder

William D. Bain, Mayor

May 17, 2010
6:00 P.M.
Newport, Oregon

The City Council of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Bain, Bertuleit, Kilbride, McConnell, Obtshka, and Patrick were present. Brusselback was excused.

Staff present was City Manager Voetberg, City Recorder Hawker, City Attorney McCarthy, Executive Assistant Atkinson, Community Development Director Tokos, Public Works Director Ritzman, Library Director Smith, Airport Director Cossey, Fire Chief Crook, Parks and Recreation Director Protiva, Police Chief Miranda, and Interim Finance Director Brown.

PUBLIC COMMENT

PROCLAMATIONS AND RECOGNITIONS

Proclamation celebrating the 125th year of the Volunteer Fire Department. Bain honored the Newport Volunteer Fire Department for its 125th anniversary. Crook accepted the proclamation on behalf of the Fire Department.

Proclamation recognizing the life and work of Brenda Adams. Bain recognized the life and work of Brenda Adams, long-time community volunteer who passed away unexpectedly. Mrs. Adams' husband accepted the proclamation.

Recognition of Newport Police Department by the Corvallis Police Department. Bain reported that the Newport Police Department was recognized by the Corvallis Police Department for its efforts in the Brooke Wilberger investigation. Miranda accepted the proclamation on behalf of the Police Department.

ADJOURNMENT

Having no further business, the meeting adjourned at 6:10 P.M.

Margaret M. Hawker, City Recorder

William D. Bain, Mayor

June 1, 2010
5:15 P.M.
Newport, Oregon

The City Council of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Bain, Patrick, Kilbride, and Obteshka were present. McConnell, Brusselback, and Bertuleit were excused.

Staff present was City Manager Voetberg, City Recorder Hawker, and City Attorney McCarthy.

ACTION ITEM

Consideration of approval of \$2,500 for the NOAA Community Celebration.

Bain reported that the intent of this matter is to redirect the funding approved at the September 8, 2009, City Council meeting supporting the NOAA family celebration. MOTION was made by Obteshka, seconded by Patrick, to donate \$2,500 to the NOAA Community Celebration to be held on June 6, 2010. A discussion ensued regarding the funding going to the Rotary Club as housekeeping and an accounting matter.

ADJOURNMENT

Having no further business, the meeting adjourned at 5:19 P.M.

Margaret M. Hawker, City Recorder

William D. Bain, Mayor



Jim Voetberg
City Manager
CITY OF NEWPORT
169 S.W. Coast Hwy.
Newport, OR 97365
j.voetberg@thecityofnewport.net

Manager's Report Meeting of June 7, 2010

Following is the Manager's Report for the City Council meeting of June 7, 2010:

League of Oregon Cities legislative agenda for the 2011 session: Attached is correspondence from the League of Oregon Cities requesting input on the League's legislative agenda for the 2011 session. Staff will be asking for Council input and direction at the June 21, 2010 meeting.

Upcoming issues for Council consideration: As an FYI for the Council on upcoming issues to consider, staff intends to bring modifications to the Business License and Room Tax codes at its next meeting or the first meeting in July; modifications to water rates relating to temporary shut offs the first or second meeting in July; and will schedule a public hearing on the storm water fee the first meeting in July. Relating specifically to the storm water fee, Public Works will be providing notice of the public hearing via the local media and bill stuffers as well as developing a "Frequently Asked Questions" list for public dissemination.

Police canine update: Attached is a memorandum prepared by Police Chief Miranda updating the Mayor and City Council on activities associated with the City's police canine. Eyan will be attending the meeting to answer any questions the Council may have.

Pool replacement update: Robertson/Sherwood Architects, the firm hired to prepare conceptual drawings and cost estimates for a potential new pool, has begun their work. It is anticipated that draft conceptual drawings will be ready for public review and comment the end of June or early July.

Cascade West Economic Development District, 2010-2015 Comprehensive Economic Development Strategy: On June 2, I attended a half-day presentation by Cascade West Economic Development District titled Building Our Future Economy. As a part of the

presentation, the Cascade West Economic Development District, 2010-2015 Comprehensive Economic Development Strategy was handed out. For Council information, a copy of the introduction and executive summary is attached. Anyone interested in a full copy of the report can contact the City Manager's Office.

Suggestion/Concern/Complaint update: Attached for Council review is the Suggestion/Concern/Complaint update through the end of May 2010. The update covers citizen comments to staff, citizen comments brought to staff's attention by Councilors, and citizen comments voiced at Council meetings. As a reminder, closed items over 30 days old have been dropped off the list.



P.O. Box 928 • Salem, Oregon 97308
 (503) 588-6550 • (800) 452-0338 • Fax: (503) 399-4863
 www.orcities.org

RECEIVED

MAY 25 2010

CITY OF NEWPORT

May 24, 2010

Dear Chief Administrative Official:

For the last three months eight policy committees have worked very diligently to identify and propose specific actions as part of the League's effort to develop a pro-active legislative agenda for the 2011 session. They have identified 28 legislative objectives as set forth in the enclosed ballot and legislative recommendations 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.

Each city is being asked to review the recommendations of the policy committees and provide input to the Board of Directors as it prepares to adopt the League's 2011 legislative agenda. After your city council has had the opportunity to review the 28 proposals and discuss them with your staff, please return the enclosed ballot (please note that the ballot is double sided) indicating the top four issues that your city council would like to see the League focus on in the 2011 session. **The deadline for response is July 16, 2010.** 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 League's 2011 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 for cities. 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 any member of the Intergovernmental Relations Department with questions.

Sincerely,

Craig S. Honeyman
 Legislative Director

cc: Oregon Mayors (letter only)

INSTRUCTIONS

1. Each city should submit one form that reflects the consensus opinion of its city council on the **top four** legislative priorities for 2011.
2. Simply place an X in the space to the left of the city's top four legislative proposals.
3. The top four do not need to be prioritized.
4. Return by **July 16th** via mail, fax or e-mail to:

Angela Carey
League of Oregon Cities
P.O. Box 928
Salem, Oregon 97308

Fax – (503) 399-4863

acarey@orcities.org

Thank you for your participation.

City of:

Please mark 4 boxes with an X that reflect the top 4 issues that your city recommends be the priorities for the League's 2011 legislative agenda.

Community Development

- A. Support an urban growth boundary agenda that would provide for a more efficient urban growth management system (as outlined in the full Community Development Committee long-term recommendation).
- B. Support legislation that would: 1) create an exception to allow cities to propose and adopt population forecasts using a specified methodology, taking into consideration certain factors; 2) include conflict resolution procedures between cities and counties when adopting or amending population forecasts.
- C. Support legislation that provides conflict resolution procedures between cities and counties when adopting or amending an urban growth boundary or urban reserve area.
- D. Continue efforts to resolve the conflicts between the Transportation Planning Rule (TPR) and other statewide land use planning goals by changes to Oregon Department of Transportation/Department of Land Conservation and Development (ODOT/DLCD) procedures and rules, or by legislative action. (Note: this priority is duplicative of priority "S" forwarded by the Transportation Committee. Both priorities are brought forward here, representing the discussion of the Community Development and the Transportation policy committees.)

Energy

- E. Reauthorize the Business Energy Tax Credit (BETC) to leverage local investments in energy conservation, fuel conservation, renewable energy projects, as well as recruitment and expansion of renewable energy resource equipment manufacturing facilities.

Finance & Taxation

- F. Take an active role in facilitating and promoting processes and measures to bring about an overhaul of the state property tax system. The outcomes of this overhaul must create a system which taxes property equitably, brings assessed values closer to real market values, and is stable and predictable to both governments and taxpayers.
- G. Maintain and strengthen the state's historic commitment to the State Shared Revenue funding formula. Any additional taxes or surcharges on these items must be incorporated into the current formula so cities may continue to provide services related to these revenues.
- H. Allow local governments a more flexible use of transient lodging tax to meet the increased demands placed both on essential services and infrastructure created by tourism activities.

General Government

- I. 9-1-1 tax for pre-paid cell phones.
- J. Restore the Department of Public Safety Standards and Training (DPSST) Regional Training program and protect DPSST from further cuts.
- K. Attach municipal court fines to tax returns.

Human Resources

- L. "Manager" designation for local governments.
- M. Lengthen time for last best offer submission from 14 days to 28 days.
- N. Allow employers to require paperless pay.
- O. Work to achieve healthcare cost containment and protect local decision making authority in benefit design.
- P. Allow employees to choose alternative retirements option and protect the integrity and stability of Public Employee Retirement System (PERS).
- Q. Eliminate the requirement for employers to provide identical health benefits for retirees as they do for active employees.

Telecommunications

- R. Address tax equity issues in the context of state telecommunications laws including removing existing preemptions that have led to declining revenues. Work towards an alternative revenue system for telecommunications providers. Oppose preemption of city franchising, rights-of-way and taxing authority.

Transportation

- S. Resolve the disconnect between the Transportation Planning Rule (TPR) and other statewide land use planning goals. (Note: this priority is duplicative of priority "D" forwarded by the Community Development Committee. Both priorities are brought forward here, representing the discussion of the Community Development and the Transportation policy committees.)

Turn over for more issues

LOC Policy Committees' Legislative Recommendations

Priority	Description
Community Development	
<p>A. Support an urban growth boundary agenda that will:</p> <ul style="list-style-type: none"> ○ Determine problems to the current urban grown boundary and urban reserve system from a statewide perspective; ○ Consider different policies for the annexation of areas that are pre-urbanized (those that receive services annexations vs. greenfield annexations (those without current services); ○ Evaluate upcoming Court of Appeals decision re: <i>1,000 Friends v. LCDC/City of Woodburn</i> for parameters to codify clear standards/rational basis in ORS 197.298 for the use of higher priority land with less appeal opportunity; ○ Streamline the Oregon Land Conservation and Development's (LCDC) review of urban growth boundary and urban reserve decisions by adding a "raise it or waive it" requirement to such reviews. ○ Propose conflict resolution procedures between cities and counties when adopting or amending urban growth boundaries or urban reserves; ○ Consider legislation that would allow the sequential adoption of urban growth boundary expansion components for cities over 25,000. ○ Consider the effects of the transportation planning rule on urban growth boundary management; ○ Consider the concerns of individual cities per their recent urban growth boundary, urban reserve and annexation experiences; and ○ Propose appropriate legislation. 	<p>Appeals of urban growth management amendments are growing exponentially, and are time-consuming and expensive for cities. The Community Development Committee recognizes that long term solutions require a broad, systemic approach that may take extensive evaluation.</p> <p>Surveys, work groups, focus groups, and professional and technical assistance from city planners and attorneys will be used to evaluate and formulate appropriate changes to existing statutes to provide a more efficient urban growth boundary management system.</p>

LOC Policy Committees' Legislative Recommendations

Finance & Taxation	
F. Take an active role in facilitating and promoting processes and measures to bring about an overhaul of the state property tax system. The outcomes of this overhaul must create a system which taxes property equitably, brings assessed values closer to real market values, and is stable and predictable to both governments and taxpayers.	Severe limitations imposed on local governments by Measure 5 and 50 to raise revenue have seriously jeopardized the ability of cities to provide essential services and foster economic growth. A comprehensive property tax fix is necessary which, along with equity, stability, and a stronger correlation between assessed value and real market value, should include an allowance for local control in setting appropriate long term local tax rates and grant consideration of the impact of the state's school funding methods on the property tax system. To this end, in a multi-year effort, the League of Oregon Cities will take a lead and active role in forming a coalition to facilitate conversations across the state and develop an education program to inform legislators and the public of the current crisis and the options available.
G. Maintain and strengthen the state's historic commitment to the State Shared Revenue funding formula. Any additional taxes or surcharges on these items must be incorporated into the current formula so cities may continue to provide services related to these revenues.	State Shared Revenue stand as a historical commitment by the state to local governments; cities accepted preemptions on certain taxes and fees in exchange for a state promise to share in their revenues of liquor, cigarettes, 9-1-1, and gasoline taxes. These distributions are a critical facet of each cities' ability meet increased demands on local services from alcohol related incidences, traffic impacts, and public safety issues. Any further cuts to State Shared Revenue will jeopardize the ability of cities to provide essential services. The state should respect local government's reliance on State Shared Revenue and honor its historic commitment.
H. Allow local governments a more flexible use of transient lodging tax to meet the increased demands placed both on essential services and infrastructure created by tourism activities.	Current preemption restricts cities to control of just 30 percent of their own local transient lodging revenue. Tourism activities can place increased demands on city infrastructure and services, but this preemption necessitates these added costs be borne by local residents rather than tourists and may jeopardize the ability of cities to provide other essential services. Increasing city flexibility in the use of local transient lodging revenue lessens the burden on local residents.
General Government	
I. 9-1-1 tax for pre-paid cell phones.	Support legislation to require pre-paid cell phones to contribute to pay 9-1-1 tax as all other telephones capable of dialing 9-1-1 do.
J. Restore the Department of Public Safety Standards and Training (DPSST) Regional Training program and protect DPSST from further cuts.	Work to restore regional training services and other critical services provided by DPSST.
K. Attach municipal court fines to tax returns.	Support legislation to allow municipal and other local courts to seize income tax returns to pay delinquent municipal court fines.
Human Resources	
L. "Manager" designation for local governments.	Allow cities to designate an employee as a "managerial employee" under the PECBA for purposes of collective bargaining (currently limited to only the State).
M. Lengthen time for last best offer submission from 14 days to 28 days.	<p>Currently when a strike-prohibited union advances their collective bargaining to Interest Arbitration, the parties' Last Best Offers (LBOs) are not due until 14 days prior to the actual hearing. ORS 243.746(3). This leads to a number of problems/issues:</p> <ul style="list-style-type: none"> ○ If the parties' submit their LBO just 2 weeks prior to the actual hearing, only to discover that they are "very close" to a possible settlement, they can be discouraged from settling since the 14-day time frame is beyond most arbitrators cancellation policy. In other words, the parties still have to pay the full cost of the arbitrator fees for each day of the scheduled hearing and any non-refundable travel costs. ○ The 14-day period does not encourage either party to get to their "bottom-line" until just before a hearing. ○ Most hearing exhibits are developed in conjunction with a parties LBO, including costing of the LBOs. Therefore, many of the exhibits are unnecessarily delayed in development until you see the other party's LBO. This would also apply to the decision

LOC Policy Committees' Legislative Recommendations

Transportation

S. Continue efforts to resolve the disconnect between the Transportation Planning Rule (TPR) and other statewide land use planning goals. The TPR should:

- Be used as a growth management tool that avoids burdening cities with unintended transportation consequences which unduly add to the cost of city infrastructure;
- Be consistent with land use decisions;
- Not be used to effect a moratorium on growth;
- Encourage partnerships to avoid disproportional funding contributions from local jurisdictions.

(Note: this priority is duplicative of priority "D" forwarded by the Community Development Committee. Both priorities are brought forward here, representing the discussion of the Community Development and the Transportation policy committees.)

T. Ensure that existing and new transportation/land use planning requirements, especially those established to address greenhouse gas emissions and other air quality issues, are developed with the following caveats:

- Cities are stakeholders in the policy-making process and are to be included in all discussions.
- A sense of proportionality should be maintained, taking into account the transportation sector's contribution to the problem.
- There must be a commitment to identifying and collecting new revenue to assist cities with compliance.
- There is clarity with regard to governance authority and accountability.

Oregon has a strong commitment to planning, and the nexus between land use and transportation planning has become very evident. While this has properly contributed to good coordination between land use and transportation development, it also creates adverse impacts due to the mismatch between planning requirements, development timelines and the availability of financial and other resources. This can sometimes impede development and create conflicts with other statewide land use goals.

The sheer complexity of issues attendant to land use and transportation planning can result in confusion or even conflict between competing goals and priorities. Objectives such as reduction of vehicle miles traveled, transit-based land use, increased population density in some urban areas (UGBs), reduction in greenhouse gas emissions, compliance with other clean air standards, and interchange and access management are but a few of the interests, sometimes competing, that factor into transportation / land use policy discussions.

LOC Policy Committees' Legislative Recommendations

<p>Y. Enact legislation establishing a “shared road” designation allowing cities, within established criteria, to set speed limits below the state-mandated minimum of 25 mph on roads that have limited capacity but are nevertheless utilized by motor vehicles, bicyclists and pedestrians.</p>	
Water/Wastewater	
<p>Z. Support establishing statewide product stewardship programs to ensure recycling or proper disposal of toxic products at the end of their lifecycle.</p>	<p>Product stewardship programs improve water quality and reduce the environmental and health impacts of products that contain toxins through product-supported recycling and disposal programs. These programs reduce the burden on municipalities and others to implement water treatment technologies and other costly programs. The Oregon Legislature created an “E-Waste” product stewardship program for recycling computers and electronic waste in 2007 and a pilot product stewardship program for architectural paint in 2009. Additional stewardship programs could include products such as pharmaceuticals, batteries, and lighting that contains mercury.</p>
<p>AA. Recapitalize state municipal infrastructure funds to fully meet local demand on as sustained basis and fully leverage federal matching funds for water and wastewater infrastructure.</p>	<p>The state’s Special Public Work Fund and the Water/Wastewater Fund are used to finance water and sewer systems, public buildings, road construction, downtown revitalization, energy and communications facilities, land acquisition, environmental clean-up, and port facilities. The state also must provide a 20 percent match to leverage federal funds available through the Safe Drinking Water State Revolving Fund and Clean Water State Revolving Fund. State revolving funds have failed to keep pace with growing local infrastructure demand that totals billions of dollars statewide.</p>
<p>BB. Protect existing and future water rights from conditions that would prevent municipalities from meeting current or future demands.</p> <ul style="list-style-type: none"> ○ Limit new ecological flow conditions to projects funded through HB 3369 (2009); and ○ Oppose water use limits that interfere with approved water rights. 	<p>Due to the unique nature of municipal water suppliers’ need to plan for growth and infrastructure investment, cities often “grow” into water rights over time before those rights become certificated water rights. Cities currently must develop a Water Management and Conservation Plan (WMCP) for approval by the state to maintain these water rights. Special interests, however, have called for new municipal water use standards and limits that would affect existing water rights.</p>



Noble
Professional
Dedicated

Newport Police Department
Memorandum

One Team - One Future

Date: May 11, 2010
To: Mayor and City Council
Via: Jim Voetberg, City Manager
From: Mark J. Miranda, Chief of Police 
Subject: **Police Canine Activity**

In 2008 the Police Department received a grant to purchase and train a police canine. The grant included funding for a vehicle and other related equipment. The Newport community also contributed to the fund to support the canine program. The specialty of our canine is drug detection. The following is information gathered this past year (from March 2009), when the canine program became completely operational.

Contacts

There were ten (10) community presentations provided by the canine and his handler. These included demonstrations to various community groups as well as our Chamber After Hours event earlier this year.

The canine conducted twenty-four (24) drug sweeps in the Lincoln County Schools. The schools included all high schools in Lincoln County. The School District was a large financial contributor to the canine program. Last school year when the canine was deployed, a minor amount of drugs were located. So far this school year, none have been found!

Our canine assisted other agencies sixty-three (63) times. These included searches of vehicles and residences. Most of these contacts were a result of a traffic stop in, or close to Newport. A few were in cooperation with the Lincoln County Interagency Narcotics Team (LINT).

The canine also assisted Newport Police officers thirty-seven (37) times. Most of these were traffic stops where drugs or impairment was suspected.

The mission of the Newport Police Department is to consistently invest available resources toward our City's reputation as a safe place to live, work, play, learn and visit.

Police Canine
May 11, 2010
Page 2

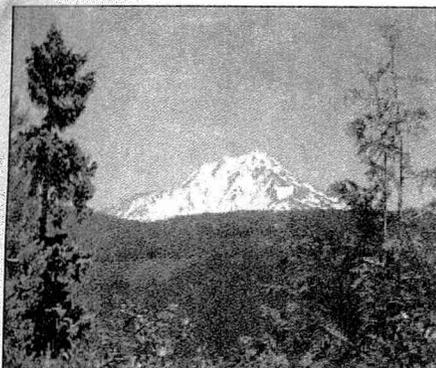
Drugs Found

Various types of illegal drugs were located by our canine. Marijuana was located in forty-five (45) contacts; methamphetamine in seventeen (17) contacts and; heroin in three (3) contacts.

Arrests

Although in most cases the canine handler did not directly arrest many people, he provided the probable cause for officers to arrest. Sixty-three (63) people have been arrested due to finds by the canine. In addition, over \$24,000.00 has been seized as a part of the crime. These funds may or may not be forfeited depending on each particular situation.

For our area, the Police Department canine has proven to be very successful. As the canine team continues to gain experience, they will prove to be even more productive



SECTION 1

Introduction and Executive Summary

Document Context

This Comprehensive Economic Development Strategy (CEDS) is prepared for the 2010-2015 time period. It is intended to provide a framework for long-term economic development planning efforts in the four-county Cascades West Economic Development District (CWEDD) region of Benton, Lane, Lincoln, and Linn Counties, Oregon.

CWEDD is a partnership between Oregon Cascades West Council of Governments and the Lane Council of Governments. The CWEDD is designated by the U.S. Department of Commerce Economic Development Administration to work on economic development efforts in the four-county region. The Oregon Cascades West Community and Economic Development Committee and the Lane Economic Committee play lead roles in defining regional community and economic development issues, opportunities, vision, goals, and work programs.

Key Issues

The following Executive Summary provides an overview of key findings in the CWEDD Comprehensive Economic Development Strategy (Sections 2-7). This Executive Summary also highlights how the region will work to meet these challenges and opportunities (Sections 8 and 9).

Our Economy

- ◆ *Pending economic committees discussion following forum*

Our Natural Systems

- ◆ The region spreads over a geographically diverse landscape from the Pacific Ocean to the crest of the Cascade Range.
- ◆ 79% of the region is forestland and 8% is prime farmland.
- ◆ State and Federal governments own almost half of the region's land base.
- ◆ *More pending economic committees discussion following forum*

Our People

- ◆ Almost 590,000 people called the region home in 2009.

- ◆ Over half of the region's population resides in the four largest cities of Albany, Corvallis, Springfield, and Eugene.
- ◆ Most incorporated cities (26 of 36) have fewer than 5,000 people.
- ◆ *More pending economic committees discussion following forum*

Our Communities

- ◆ *Pending economic committees discussion following forum*

Key Opportunities for Our Future

Pending economic committees discussion following forum

How We'll Get There

Pending economic committees discussion following forum

Guide to CEDS Contents

Section 1: Executive Summary relays key findings.

Section 2: Putting the Region on the Map provides basic background on geography, climate, and jurisdictions.

The next four sections delineate the social, environmental, cultural, intellectual, and political capital of the region:

- ◆ **Section 3: Our People** includes demographics, population, poverty, educational attainment, and labor force data.
- ◆ **Section 4: Our Natural Systems and Resources** provides background on resource lands; water, air, and land quality; natural hazards; wetlands; and threatened and endangered species in the region.
- ◆ **Section 5: Our Community Resources** reviews the status of local funding, land use, infrastructure, transportation, education, health, and other systems and resources in the region.
- ◆ **Section 6: Our Economy** completes the review of the region's existing assets and conditions. It presents an analysis of employment, unemployment, traditional industrial sectors, and emerging clusters.

Section 7: Challenges and Opportunities identifies key regional strengths, weaknesses, opportunities, and threats. This analysis focuses on the overall "health" of communities, individuals, the economy, and natural systems of the region.

Section 8: Regional Vision and Goals provides an overall vision and goals for the region, establishing the framework for identification of short- and long-term regional priorities. This section also identifies our economic partners.

Section 9: Cascades West Economic Development District Work Program presents the work plans to be undertaken by the two Councils of Governments. In addition to regional priorities, this section provides evaluation criteria.



Please use the tabs below to navigate between our **Pacific Northwest Flight Schedule** and **South Flight Schedule**. Once you have decided on your route below, please use our [Book](#) search for your flight.

Northwest Schedule

Monday - Friday

Origin	Time	Destination
Portland	9:50 AM	Newport
Portland	3:20 PM	Newport
Portland	8:15 PM	Newport
Newport	4:45 AM	Portland
Newport	10:45 AM	Portland
Newport	4:15 PM	Portland
Portland	5:40 AM	Astoria
Portland	12:00 PM	Astoria
Astoria	6:30 AM	Portland
Astoria	12:50 PM	Portland
Portland	6:15 AM	Seattle
Portland	7:25 AM	Seattle
Portland	8:35 AM	Seattle
Portland	11:00 AM	Seattle
Portland	2:30 PM	Seattle
Portland	4:50 PM	Seattle
Portland	5:50 PM	Seattle
Seattle	7:25 AM	Portland
Seattle	8:35 AM	Portland
Seattle	9:45 AM	Portland
Seattle	2:15 PM	Portland
Seattle	3:40 PM	Portland
Seattle	6:00 PM	Portland
Seattle	7:00 PM	Portland
Portland	7:25 AM	Pendleton
Portland	3:25 PM	Pendleton
Portland	8:00 PM	Pendleton
Pendleton	5:00 AM	Portland
Pendleton	8:40 AM	Portland
Pendleton	4:35 PM	Portland

SUGGESTION/CONCERN/COMPLAINT FORM--CITY OF NEWPORT				
Date City Was Notified	No. Assigned	Claimant	Suggestion/Concern/Complaint	Status
1/5/2010	1-PW-1-5-10	Katherine Martinson Provided by Councilor Patrick	Trouble navigating sidewalks near Library because of bad cracks	OPENED --Public Works on 1/6/10 Contacted Katherine Martinson and discussed sidewalk issue. Sidewalk repair will be discussed in 5 year plan meeting
2/16/2010	18-Parks-2-16-10	Dr. Tom Kerns Diana Purdy Maxine Centala	Came before Council as Concerned Citizens for Clean Air--Suggested a pesticide/herbicide policy be created and offered their services as a resource	OPENED --2/16/10 -- Parks & Rec. is developing a draft Pesticide/Herbicide policy for Council review. Draft policy will be going before Parks & Rec. Advisory Committee for public input, and then recommendation will come back to Council Sent after April 5, 2010
2/16/2010	19-Plan-2-16-10	Charla Guiwits Ron Meadows Oasis Project-Oregon Prisoner Re-entry Program	Joshua's House -- Addressed Council on community issues arising from halfway house located at 210 NW 19th Street	OPENED --2/16/10 City Building Official and Planning staff visited site on 2/11 in response to letter complaint. Tenant refused Landlord out of town until 2/19. Bldg inspection arranged for 2/24. Electrical work done without permit. Owner to pull permit and arrange for inspection. Two rooms in basement used as bedrooms in violation of bldg code due to lack of fire access. Owner to correct and call for follow-up inspection within 2 weeks. Tenant has 12 beds in home. Advised they are operating a State licensed "residential care facility" which is a permitted use in the R-1 zone. This type of facility is for the care of six or more socially dependent individuals or individuals with physical disabilities. Tenant to

				provide copy of license. See attached update from Derrick. Too lengthy to place in this space. NOTE-- new update--see attached CLOSED-5/4/10--Passed inspection Former living areas have been converted to fitness room & tv room. Additional beds removed & obtained electrical permit for work done. Current occupancy complies with what is allowed for a single family residence, which is 5 unrelated individuals (can include more if some occupants are related They acknowledged they are aware of occupancy limitation
3/3/2010	26-PW-3-3-10	City Staff	Staff reported raw sewage running down ditch near SE Fogarty & 3rd street, and noted it appeared to be coming from a nearby sand bank	OPENED-3-3-10. Contacted John Ritchey @ WWTP late afternoon. Attained home owners address and contacted early morning on 3/4/10 Property owner thought it was his storm drain system. Dyed it and nothing showed. Dyed his lateral and red dye appeared out of the sand bank where sewage was first noticed Home owner said he shared lateral w/neighbor. Push camera was used & showed it was original owner's lateral in his backyard that was the culprit. Owner said he was going to dig up and repair. CLOSED Repair completed.
3/10/2010	27-PW-3-10-10	Dave Hailinser	Requested WWTP locate his lateral at the City Main	OPENED-3-10-10 -- Met property owner at site and located lateral for him. CLOSED-3-10-10
3/10/2010	28-PW-3-10-10	DEQ-Nancy	Sewer surge tank overflowing into storm drain at Harbor Village RV Park	OPENED-3-10-10-- Contacted Mike Smith, Maintenance personnel at

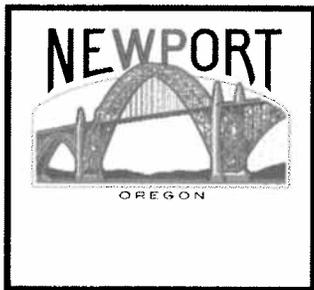
				park. An RV space lateral was plugged causing the spill from an RV holding tank. Moved RV, and contacted Npt Plumbing. Area was cleaned when City staff arrived; DEQ notified. CLOSED-3/10/10
3/13/2010	29-PW-3-13-10	Irene	Reported to LinCom at 1:30 that brown ocean surf was noted near Spring Street	OPENED-3-13-10- WWTP staff inspected City's equipment and pipes at 2:30 p.m. same day and found nothing amiss. CLOSED (Dead Algea)
3/15/2010	30-PW-3-15-10	Hen Wood for Mrs. Hunt	Requested some blade work done or gravel placed on or near 1620 NW Nye Street	OPENED-3-15-10--Street Dept. inspected area and found two small pot holes. These were bladed out. No new gravel was required. Contacted Mrs. Hunt on work done. She stated her vehicle was getting dirty and that was why she had called. CLOSED-3/16/10
3/25/2010	31-PW-3-25-20	Kevin Sandbo	20 minute parking sign in front of 402 SW Bay appears to have been hit. Leaning at a serious angle. No suspect info. or timeframe	OPENED-3-25-10-Staff picked up broken post & sign. Will need to core drill new hole and replace when weather improves. Replaced on 4/1/10- CLOSED
3/31/2010	32-PW-3-31-10	Craig Stannard	Reported that Government Street between Mark & Elizabeth needs striping	OPENED-3-31-10-Called Mr. Stannard. Informed him it would be June before we do striping and the street he reported will be included on the list. Explained the City uses waterbase paint and the street needs to be dry and temp. above 55 degrees. Will stripe in June
3/31/2010	33-PW-3-31-10	Ray Emery	Inquired when the City will flush lines. Loads of laundry not coming clean, and water smells.	OPENED-4-1-10-Collect sample Owner flushed water heater and said plastic in sediment. Suggested

				dip tube needed replaced. Gave owner results from water sample, which met standards. CLOSED 4/1/2010
4/1/2010	34-PW-4-1-10	Dick Johnson	Inquired when overlay will be done on SE 5th and Grant. He noted that overlay was done near 5th & Fogarty.	OPENED-4-1-10 -Advised this area was on list, but not a priority. Requested to speak w/Street Supervisor. Supervisor called Mr. Johnson & explained this section was not overlaid because of a gas service going in, so it is on hold until service is in. This area is on 2011 overlay list to be done, and Mr. Johnson was advised. CLOSED
4/2/2010	35-PW-4-2-10	Julie Gearin	Notified staff that 8th/Spring (gravel road) around the curve, trees needed trimming: The pine tree branches hang down and hide the fire hydrant and vehicles are parked in front of the hydrants. Area near county juvenile center	OPENED-4-2-10 . Met with Julie and trimmed and chipped branches as requested. CLOSED-4-5-10
4/2/2010	36-PW-4-2-10	Lil Patrick/Dolphin Realty	Had an 85K gallon read last month. Advised the meter is covered in water, and concerned that meter is leaking.	OPENED & CLOSED-4-2-10 Staff checked meter and reported it was okay. He advised Patrick to contact a plumber, as there is no problem on the city side of meter.
4/6/2010	37-PW-4-6-10	Ron Benfield	On Vista Drive near Marine Drive, the city crew applied cold patch to an area where water was bubbling. Ron advised there is now a 4' wide sinkhole and water is still bubbling at a higher rate	OPENED-4/6/10 -Had water crew check for water leak. Came up negative. Appears it could be a spring. Will monitor. Not a hazard at this time
4/6/2010	38-PW-4-6-10	Mary Gilliland	Concerned about safety issue regarding numerous potholes on NE Avery by Shorepines.	OPENED-4-6-10 . Filled pothole with cold mix. This is on 2011 overlay list.
4/8/2010	39-CE-4-8-10	Rex Capri	Hedge located at NW 15th & Nye blocking driver's view.	OPENED-4-8-10 -- Hedge has been trimmed and no longer a problem. Mr. Capri was notified. CLOSED

4/19/2010	40-CSO-4-19-10	Diane Rene Whiteley	Claimant reported she and another renter have observed people dumping garbage, and old furniture from the mobile home park area into the gully behind the mobile park & Pinewood Manors. This is causing an awful stench in the area, and inviting varmints to come into the area.	4/13/2010	OPENED-4-19-10-- Contacted Dustin Kittel, CSO, to contact claimant. UPDATE-- Whiteley was contacted by CSO. Notice was sent to property owner. CSO will continue to follow up to completion.
4/19/2010	41-PW-4-19-10	Carm Cook	Concerned the sidewalk beside Walmart on Hwy. 101 side is not being tended to, and could be a hazard for walkers and bike riders because of moss and pine needles making it slippery	OPENED-4-19-10-- Contacted Manager of Walmart and would send Muni. Code 9.70 pertaining to adjacent property owner being responsible for maintenance & repair of the sidewalk. Staff met with Walmart Mgr. on site. Waiting for response from Walmart on resolution. CLOSED- sidewalk cleaned by Walmart & adjacent land owner	
4/19/2010	42-PW-4-19-10	Ann Miller	Indicated three weeks ago started noticing a strong taste of chlorine in her water. She fills a pitcher full of water and still after a couple of hours, the taste is still noticeable	OPENED-4-19-10-- Contacted Water Treatment Plant. They informed Ms. Miller of possible causes, but assured her the water is safe to drink.	
4/27/2010	43-PW-4-27-10	Bob Ward	Would like the 500 block of NW 56th Street ditches & culverts cleared	OPENED-4-27-10-Streets Supervisor contacted Mr. Ward and explained City does not maintain culvert's across driveways.	

				This is property owner's responsibility City does maintain the ditch. The ditch was clear in this area and had been mowed. Will mow again as needed. Mr. Ward now understands. CLOSED-4/27/10
4/27/2010	44-PW-4-27-10	City Staff	Water backed up at 541 NW 14th Street from rain.	OPENED-4-27-10 -Contacted Street Supervisor to let him know there may be a plugged storm line. Sewer crew jetted line. Street crew also jused their jetter. Line was opened up. CLOSED-4-27-10
4/27/2010	45-PW-4-27-10	Mike Keenan	A week prior to April 27th street crew graded and rocked NW Brook Street south of NW 6th St. The grading broke a small waterline In the process of repairing water line, crews moved the street gravel out of the way, which created potholes. Mr. Keenan asked the street to be graded again	OPENED-4-27-10 -Mr. Keenan was contacted and told him that city will rock and blade once the rains subside.
4/30/2010	46-PW-4-30-10	Karry Delisser-Shanks	A manhole in her front yard next to a tree needs to be raised level with the surrounding ground surface -- it is too low	OPENED-4-30-10 -- A check with sewer and storm drain asbuilts showed city has a sewer manhole/line ease- ment on the property. The manhole was dug up and raised. CLOSED -- 5/4/2010
5/6/2010	47-PW-5-6-10	Karen Irwin	Water hydrant in NE Lucky Gap area some- where between NE 52nd & NE 56th Street was cleared of vegetation. The vegetation was not disposed of and needs to be removed. She indicated there was a lot.	OPENED-5-6-10 -- Picked up grass at 54th & Lucky Gap on 5/10/10 CLOSED-5/13/10 - Ms. Irwin called back on 5/13 and advised area was cleaned up. She thanked city crew
5/12/2010	48-PW-5-12-10	Richard Marshall	Mr. Marshall inquired if a culvert could be placed in the ditch near his property.	OPENED-5-12-10 --Staff met with Mr. Marshall on site and gave him the okay for a culvert to be placed and informed of the type that needed to be used. He was also told he needed to acquire a right-of-way permit. Mr. Marshall was pleased, and said he

				would attain the permit. CLOSED 5/13/2010
5/14/2010	49-PW-5-14-10	Dale-Newport RV & Marine	Odor Complaint. Asked WWTP staff to turn on odor fan at IPS	OPENED -5-19-10--Staff from WWTP turned on fan at IPS. CLOSED 5/14/2010
5/17/2010	50-PW-5-17-10	Michelle-Pacific Shrimp	Complaining air is in their water lines. Said City (Steve Stewart) usually calls ahead of time warning when the city will be flushing water lines.	OPENED -5-17-10--staff called Pacific Shrimp and explained the contractor for the Bay Front Project is using a fire hydrant west of Pacific Shrimp that is increasing the amount of water and could be scouring the pipe as it passes Pacific Shrimp--similar to flushing. CLOSED -5/18/10
5/24/2010	51-PW-5-24-10	Della -- South Beach	Cable Company working in SW 27th Street installing cable. She thought it was for the South Beach beautification project	OPENED -5-24-10 -- staff visited site and found it was a contractor installing conduit for PUD, two cable companies, etc. They were hired by PUD. They needed a right-of-way permit. They said they would come in today to get one. Contacted Della w/information. City is contacting PUD about contractor getting right-of-way permit.
5/27/2010	52-PW-5-27-10	Sharon Perry	Large amount of water collecting in yard and driveway of abandoned house next door. It is now spilling into her yard.	OPENED -5-27-10 -- staff checked and there was no water system leak. Mrs. Perry said she had wanted to make sure there was no leak, and understood that the heavy rains could have contributed to the flooding. CLOSED -5-27-10



Agenda Item # VIII.A.
 Meeting Date June 7, 2010

CITY OF NEWPORT AGENDA ITEM SUMMARY
 City Of Newport, Oregon

Issue/Agenda Title Public Hearing and resolution regarding State Shared Revenues

Prepared By: Brown Dept Head Approval: LBrown City Mgr Approval: [Signature]

Issue Before the Council:

Pursuant to ORS 221.770, in order for the City to receive State Shared Revenues, two public hearings must be held to allow citizens to give input on how the City uses its State Shared Revenues. One of the hearings must occur at the a Budget Committee meeting, and the second hearing must occur during a City Council meeting. A public hearing before the Budget Committee was held on April 21, 2010. The City Council now needs to hold a public hearing for the City to be eligible to receive State Shared Revenues.

Following the public hearing there is a resolution regarding State Shared Revenues for your consideration. It must be adopted in order for the City to receive State Shared Revenues. The resolution declares the City Council's intent to receive State Shared Revenues.

Staff Recommendation:

Staff recommends the Council adopt the attached resolution electing to receive State Shared Revenues in 2010-2011.

Proposed Motion:

I move to adopt resolution number _____, a resolution declaring the City's election to receive State Shared Revenues

Key Facts and Information Summary:

See "Issue Before the Council" above.

Other Alternatives Considered:

None

City Council Goals:

Fiscal responsibility as mentioned in the Council's Mission Statement

Attachment List:

Resolution

Fiscal Notes:

\$215,000 is the budgeted amount of projected State Shared Revenue for fiscal year 2010-2011

CITY OF NEWPORT

RESOLUTION NO. _____

A RESOLUTION DECLARING THE CITY'S ELECTION TO RECEIVE STATE SHARED REVENUES

BE IT RESOLVED, that the City Council for the City of Newport ordains that, pursuant to ORS 221.770, the City hereby elects to receive State Shared Revenues for the fiscal year 2010-11.

This resolution will become effective on the 7th day of June, 2010.

PASSED AND ADOPTED BY THE COUNCIL OF NEWPORT ON THIS 7TH DAY OF JUNE, 2010.

Signed:

William Bain, Mayor

Attest:

Margaret Hawker, City Recorder



Agenda Item # VIII.B.
Meeting Date June 7, 2010

CITY OF NEWPORT AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title Public Hearing regarding the adoption of the City of Newport 2010-2011 budget

Prepared By: Brown Dept Head Approval: LBrown City Mgr Approval: [Signature]

Issue Before the Council: Holding of a Public Hearing for the City of Newport fiscal year 2010-2011 budget.

Staff Recommendation: Staff recommends that a public hearing be held on the City of Newport fiscal year 2010-2011 budget as approved by the Budget Committee.

Proposed Motion: None, consideration of adopting the budget will be on June 21, 2010.

Key Facts and Information Summary:

In accordance with Oregon Budget Law, a public hearing has been advertized for June 7, 2010 to hear public comment on the approved City of Newport fiscal year 2010-2011 budget. Adoption of the budget is scheduled for June 21, 2010. A copy of the city's fiscal year 2010-2011 budget can be reviewed by contacting the City Finance Department.

At its meeting of May 17, 2010, the Budget Committee approved the City of Newport fiscal year 2010-2011 budget. As a housekeeping item, the budget for public comment includes changes to the Capital Project Fund and Urban Renewal Fund which were discussed by the Budget Committee on May 5th, but were inadvertently omitted in the approval motions on May 17th. In checking with the State, these changes do not require formal action since the changes were discussed by the Budget Committee, increased the contingency in the Urban Renewal Fund, and decreased the Capital Project Fund. As Council may recall, these changes occurred as a result of various projects associated with the South Beach Urban Renewal Fund which were modified to coincide with changes to development phases approved by the Council and the acceptance of the \$1,000,000 Immediate Opportunity Grant.

A draft resolution adopting the City of Newport fiscal year 2010-2011 budget that will be considered on June 21st is attached for Council review.

Other Alternatives Considered:

None

City Council Goals:

The budget reflects all City Council goals.

Attachment List:

Draft resolution to adopt the City of Newport 2010-11 budget and adjusted Capital Project Fund Budget.

Fiscal Notes:

The annual budget authorizes the city to legally expend monies during the fiscal year 2010-2011.

CITY OF NEWPORT

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE 2010-2011 BUDGET MAKING APPROPRIATIONS, IMPOSING AND CATEGORIZING ADVALOREM TAXES

BE IT RESOLVED, that the City Council of City of Newport hereby adopts the budget for fiscal year 2010-2011 in the sum of \$75,821,603 now on file at City Hall.

BE IT FURTHER RESOLVED that the amounts for the fiscal year beginning July 1, 2010 and for the purposes shown below are hereby appropriated as follows:

General Fund		SDC Fund	
City Administration	1,401,288	Parks SDC	1,177
Public Safety	5,427,007	Storm Drain SDC	24,080
Community Development	379,168	Streets SDC	18,500
Library	969,326	Water SDC	16,848
Public Works	763,831	Wastewater SDC	36,495
Non-Departmental	423,485	Transfer to Capital Projects Fund	374,870
Transfer to Parks & Recreation Fund	814,791	Transfer to Wastewater Fund	7,500
Transfer to Airport Fund	96,123	Contingency	377,033
Contingency	448,834	Total	856,503
Total	10,723,853		
Wastewater Fund		Capital Project Fund	
Wastewater Treatment Plant	707,262	Material & Services	21,452,900
Wastewater Distribution	622,727	Contingency	1,129,100
Wastewater Customer Service	19,350	Total	22,582,000
Wastewater Non-Departmental	507,551		
Transfer to Capital Projects Fund	13,588,900	Building Inspection Fund	
Transfer to Debt Fund	64,493	Personal Services	40,678
Contingency	387,097	Material & Services	183,192
Total	15,897,380	Contingency	422,023
		Total	645,893
Wastewater Fund		Public Parking Fund	
Wastewater Treatment Plant	821,780	Public Parking - General	176,910
Wastewater Distribution	410,607	Nye Beach Public Parking	10,000
Wastewater Customer Service	19,350	Contingency	151,279
Wastewater Non-Departmental	703,193	Total	338,189
Transfer to Capital Projects Fund	1,200,000		
Transfer to Debt Fund	480,927	Line Undergrounding Fund	
Contingency	781,790	Material & Services	3,962
Total	4,417,647	Capital Outlay	1,000
		Transfer to Debt Service	58,658
		Contingency	79,431
		Total	143,051

Street Fund	
Street Maintenance	395,370
Storm Drain Maintenance	367,784
Transfer to Capital Projects Fund	757,730
Transfer to Debt Fund	61,375
Contingency	27,615
Total	<u>1,609,874</u>

Parks & Recreation Fund	
Parks Administration	140,230
Parks Division	209,170
Senior Center	164,217
Swimming Pool	315,894
Recreation Center	456,300
Recreation Programs	257,402
Parks Reserve	5,000
Transfer to Capital Project Fund	1,114,500
Transfer to General Fund	60,000
Total	<u>2,722,713</u>

Airport	
Aviation	1,662,292
FBO	341,170
Transfer to Capital Projects Fund	150,000
Transfer to Debt Fund	51,203
Contingency	22,438
Total	<u>2,227,103</u>

Room Tax Fund	
Material & Services	1,091,245
Capital Outlay	25,000
Transfer to Capital Projects Fund	265,000
Transfer to General Fund	766,539
Transfer to Airport Fund	339,730
Transfer to Park & Recreation Fund	208,230
Transfer to Debt Fund	256,943
Total	<u>2,952,687</u>

Agate Beach Closure Site Fund	
Material & Services	107,307
Contingency	1,372,336
Total	<u>1,479,643</u>

Debt Fund	
Water GO Bond	350,992
Wastewater GO Bond	788,424
WTP GO Bonds	331,275
General Wastewater Debt	2,207,881
General Water Debt	60,000
General Recreation Center Debt	3,400,000
Lo Cap / Lease Purchase	482,229
Contingency	476,514
Total	<u>8,097,315</u>

Total Appropriations: 74,693,851

Non-Appropriated Budget Requirements

Street Fund - Newport Gas Tax Reserve for future capital	95,000
Parks & Recreation Fund - Parks Reserve for future capital	32,752
Room Tax - Reserve for Future Tourism Facility	1,000,000
Total	<u>1,127,752</u>

Total Requirements 75,821,603

BE IT FUTHER RESOLVED that the City Council for the City of Newport hereby imposes the taxes provided for in the adopted budget at the rate of \$5.5938 per \$1,000 of assessed value, plus an amount of \$1,644,438; and that these taxes are hereby imposed and categorized upon the assessed value of all taxable property within the City. The following allocations constitute the above aggregate levy.

- General Fund \$5.5938/\$1,000
- 1998 Water Bonded Debt \$457,555
- 2008 Wastewater Bonded Debt \$835,729
- 2009 Water Improvement Bonded Debt \$351,152

BE IT FURTHER RESOLVED that the City Council of the City of Newport hereby categorizes the imposed taxes for the fiscal year 2010-2011 as follows:

Subject to the General Government Limitation General Fund \$5,593,800
Excluded for the General Government Limitation Debt Fund \$1,644,436

PASSED AND ADOPTED BY THE COUNCIL OF NEWPORT ON THIS 21ST DAY OF JUNE, 2010.

Signed:

William Bain, Mayor

Attest:

Margaret Hawker, City Recorder

**CITY OF NEWPORT
FY 2010/2011 - Budget**

Description	Actual FY 07/08	Actual FY 08/09	Budget FY 09/10	Projected FY 2010	Proposed Budget FY 2011	Approved Budget FY 2011	Adopted Budget FY 2011
CAPITAL PROJECT FUND							
SOURCES							
Beginning Fund Balance							
Reserve for Future Capital							
Transfer From General Fund					846,000	846,000	846,000
Transfer from Water Fund					13,588,900	13,588,900	13,588,900
Transfer From Waste Water Fund					1,200,000	1,200,000	1,200,000
Transfer from Street Fund					757,730	757,730	757,730
Transfer from Parks and Rec. Fund					1,114,500	1,114,500	1,114,500
Transfer from Airport Fund					150,000	150,000	150,000
Transfer from Room Tax Fund					265,000	265,000	265,000
Transfer From SDC Fund					374,870	374,870	374,870
Transfer From Public Parking Fund					175,000	175,000	175,000
Transfer from URA					4,713,000	4,713,000	4,110,000
Interest							
Transfer from Parks & Rec Reserve							
Interfund Loan Repayment							
Total Revenue	0	0	0	0	23,185,000	23,185,000	22,582,000
TOTAL SOURCES	0	0	0	0	23,185,000	23,185,000	22,582,000
USES							
PERSONAL SERVICES							
MATERIALS & SERVICES							
Contractual Services					3,477,750	3,477,750	3,387,300
Materials & Supplies					17,388,750	17,388,750	16,936,500
Miscellaneous					1,159,250	1,159,250	1,129,100
Total Material & Services:	0	0	0	0	22,025,750	22,025,750	21,452,900
CAPITAL OUTLAY							
Total Capital Outlay	0	0	0	0	0	0	0
TRANSFERS							
Total Transfers	0	0	0	0	0	0	0
Total Expenses	0	0	0	0	22,025,750	22,025,750	21,452,900
CONTINGENCY					1,159,250	1,159,250	1,129,100
UNAPPROPRIATED							
TOTAL USES	0	0	0	0	23,185,000	23,185,000	22,582,000
(Total Sources less Uses)	0	0	0	0	0	0	0



City of Newport
2010 - 11 Budget
Capital Improvement Plan (CIP)

Mayor	Location	Fund	Proj	Project	Resp.	Date		Forecast	Budget	Projection				Est. Tot
						Begin	End			11/12	12/13	13/14	14/15	
Bill Bain	Bldg Maint	101		VAC replace siding	Ritzman			40,000						40,000
Jeff Berdik	Bldg Maint	101		Pool HVAC system	Ritzman					150,000				150,000
Lon Brusselbach	Bldg Maint	101		City shops lighting	Ritzman									
Richard Kilibide	Bldg Maint	101		PAC Roof alteration	Ritzman									15,000
Mark McConnell	Bldg Maint	101		Senior Center paint exterior	Ritzman			15,000		6,000				6,000
Terry Obenheke	Bldg Maint	101		City hall siding and windows	Ritzman					175,000				175,000
Patricia Patrick-Joling	Bldg Maint	101		City hall ext paint	Ritzman									25,000
	Bldg Maint	101		PAC paint exterior	Ritzman					25,000				25,000
	Bldg Maint	101		City hall vestibules	Ritzman						16,000			16,000
	Bldg Maint	101		City hall HVAC system	Ritzman					175,000				175,000
	Bldg Maint	101		Abbey Pier exterior paint	Ritzman					8,000				8,000
	Bldg Maint	101		Pool roof, lower	Ritzman			20,000						20,000
Chuck Feinbach	Fire	101		Replace one Engine	Crook	10/11	10/11		790,000					790,000
Don Hunter	Fire	101		Decon Cntrl Bldg Train. Fac	Crook	10/11	10/11	56,000						56,000
Janet Webster	Fire	101		Repave Train. Fac. Road	Crook	10/11	10/11							
Robert Smith	Fire	101		Replace Beach Rescue	Crook	10/11	10/11			20,000				20,000
Chip Norman	Fire	101		Reconnect Cntrl Bldg	Crook	11/12	11/12			10,000				10,000
Dac Wilde	Library	101		Expansion feasibility study	Smith					75,000				75,000
City Manager	PD	101		Police Cars	Miranda			97,520		1,224,283		116,147	123,116	1,561,066
Jim Voetsberg	PD	101		Parking Vehicle	Miranda			19,000						19,000
	PD	101		Mobile Data Computers - (2 for replacement)	Miranda			25,000		28,090		29,775	31,561	114,426
	PD	101		Police Radios (6 - for replacement)	Miranda			18,000		20,224		21,438	22,754	82,416
	PD	101		Parking Lot Fence	Miranda			10,000		10,000				20,000
	PD	101		Emergency Generator for City Hall (replacement)	Miranda			100,000						100,000
	PD	101		Emergency supply storage building	Miranda			30,000						30,000
	PD	101		Upgrade City Council Chambers for EOC	Miranda			20,000		5,000				25,000
	PD	101		Police Lockers	Miranda			46,000						46,000
	PD	101		Upgrade security access system	Miranda			25,000						25,000
	101 Total							425,520	846,000	1,749,597	375,360	193,431	-	3,589,908
	Storm	105		NW Circle Way	Ritzman				35,000					35,000
	Storm	105		Overflow storm system SE Harney-4th-Fogarty	Ritzman				45,600					45,600
	Street	105		Nye Creek drainage from Newport Café to NE 8th/Benton, reline	Ritzman					610,000				610,000
	Street	105		Benton Street connection	Ritzman					250,000				250,000
	Street	105		Establish bike boulevards	Ritzman					24,000				24,000
	Street	105		Elizabeth Street bike lanes	Ritzman					18,300				18,300
	Street	105		Relocate signal from S 32nd to S 35th/101	Ritzman					50,000				50,000
	Street	105		NE Avery Improvements 70th -72nd	Ritzman					127,000				127,000
	Street	105		Signal at 101/SE 40th if major store goes in	Ritzman					500,000				500,000
	Street	105		Misc street overlays fund exchange	Ritzman			120,000		120,000				582,130
	Street	105		Multi-use path Oceanview Dr Design and Implementation	Ritzman					25,000				900,000
	Street	105		Misc non-contiguous local improvement for sidewalk installation	Ritzman					105,000				406,875
	Streets	105		Naterline	Ritzman			50,000		470,000				520,000
		105 Total						170,000	757,730	451,000	2,053,300	636,875	-	4,068,905
	Water	106		AGATE BEACH LOWER STORAGE TANK	Ritzman									1,922,492
	Water	106		1000 Fixed-base metering system	Ritzman					350,000				725,000
	Water	106		1001 Hwy 101 NE 36th-NE 40th 12" transmission line	Ritzman					114,390				114,390
	Water	106		Hwy 101 NE 40th-NE 54th, 12" transmission line	Ritzman									509,220
	Water	106		Lakewood Hills Pump Station, replace w/energy efficient	Ritzman					509,220				509,220
	Water	106		Candletree Pump Sta. resize for demand and efficiency	Ritzman							187,450		187,450
	Water	106		NE 40th/Golf Course Dr, waterline replacement	Ritzman				206,604					206,604
		106 Total						206,604	206,604	389,670	389,670	389,670	389,670	389,670



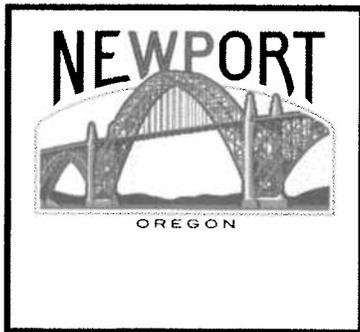
City of Newport
2010 - 11 Budget
Capital Improvement Plan (CIP)

Location	Fund	Proj	Project	Resp.	Date		Forecast	Budget	Projection				Est. Tot. Cost	
					Begin	End			09/10	10/11	11/12	12/13		13/14
Water	106		Idaho Pt. waterline replacement and looping	Ritzman				107,600				574,315	574,315	
Water	106		NE 5th/Benton to Eads: Upsize and for better looping	Ritzman								107,600	107,600	
Water	106		NE Avery St loop closure for better circulation	Ritzman							112,700	112,700	112,700	
Water	106		NW 19th (Nye to 101)-NW Nye: upsize for better fire flows	Ritzman				153,510				153,510	153,510	
Water	106		NW Oceanview (12th to 14th) waterline replacement	Ritzman							196,160	196,160	196,160	
Water	106		SE 50th to airport, 12" waterline	Ritzman				528,260				528,260	528,260	
Water	106		WTP Construction	Ritzman				10,959,304				12,959,304	12,959,304	
106 Total							2,250,000	13,588,900	859,220	2,500,000	1,102,575	885,980	18,686,675	18,686,675
Waste Water	107		Pump station and sewer line upsizing - North	Ritzman									5,000,000	5,000,000
Waste Water	107		Pipeburst/replace misc sewers	Ritzman				100,000				100,000	400,000	400,000
Waste Water	107	1000	Fixed-base metering system	Ritzman				600,000					600,000	600,000
107 Total								1,200,000	2,600,000	2,600,000	2,600,000	100,000	6,500,000	6,500,000
Paths	111	1002	Coast Park Development	Protiva	10/11	12/13	10,000	340,000	100,000			100,000	475,000	475,000
Paths	111	1004	Sr. Cntr. Expansion	Protiva	9/10	10/11	50,000	774,500					824,500	824,500
Paths	111		3/4 ton truck	Protiva	10/11	11/13		0			20,000		20,000	20,000
Paths	111		2 ton flatbed truck	Protiva					35,000				35,000	35,000
Paths	111		Tractor	Protiva							10,000		25,000	25,000
Paths	111		Riding Mowers	Protiva									10,000	10,000
Paths	111		15 passenger van	Protiva					45,000				45,000	45,000
Paths	111		Agate beach playground	Protiva					35,000				35,000	35,000
Paths	111		Agate Beach parking	Protiva					30,000				30,000	30,000
Paths	111		South Beach com trail	Protiva					75,000			25,000	125,000	125,000
Paths	111		Ocean to bay trail	Protiva					50,000				100,000	100,000
Paths	111		Rec center windows	Protiva					15,000				15,000	15,000
Paths	111		Cardio equipment rpl	Protiva					20,000			10,000	50,000	50,000
Paths	111		Control/office reconfig	Protiva					50,000				50,000	50,000
Paths	111		resurface tennis courts	Protiva					20,000				20,000	20,000
Paths	111		tennis court lights	Protiva							50,000		50,000	50,000
Paths	111		pool HVAC	Protiva					200,000				200,000	200,000
Paths	111		Pool ADA Chair	Protiva					8,000				8,000	8,000
Paths	111		senior center restrooms	Protiva					20,000				20,000	20,000
Paths	111		senior center storage	Protiva					10,000				10,000	10,000
Paths	111		senior kitchen improve	Protiva					10,000				10,000	10,000
Paths	111		rec center climbing wall	Protiva					30,000				30,000	30,000
Paths	111		pool roof repair	Protiva							250,000		250,000	250,000
Paths	111		locker room remod	Protiva					25,000				25,000	25,000
Paths	111		lockeroom remod	Protiva					35,000				35,000	35,000
Paths	111		Park Master Plan	Protiva					95,000				95,000	95,000
111 Total							60,000	1,114,500	848,000	190,000	190,000	335,000	2,582,500	2,582,500
Airport	112		Airport Imp.	Cossey				150,000					245,000	245,000
Line Undergr	117		Hwy 101 Undergrounding, Olive - NW 25th	Ritzman								650,000	650,000	650,000
112 Total							95,000	150,000				650,000	650,000	650,000
117 Total							95,000	150,000				650,000	650,000	650,000
119 Total							0	0	0	0	0	0	0	0
RmTax	120		Parking Development	Ritzman				100,000					100,000	100,000
RmTax	120	1003	Parking Lot Improvement	Ritzman				125,000					125,000	125,000
RmTax	120		Vac Stiding	Ritzman				40,000					40,000	40,000
120 Total							0	265,000	0	0	0	0	265,000	265,000
Pub Parking	124		Funds for Parking District Projects	Tokos			50,000	50,000	25,000	25,000	25,000	25,000	175,000	175,000
Pub Parking	124	1003	Parking Lot Improvement	Tokos				125,000					125,000	125,000
124 Total							50,000	175,000	25,000	25,000	25,000	25,000	175,000	175,000
125 Total							0	0	0	0	0	0	0	0



City of Newport
2010 - 11 Budget
Capital Improvement Plan (CIP)

Location	Fund	Proj	Project	Resp.	Date		Projection					Est. Tot. Cost		
					Begin	End	09/10	10/11	11/12	12/13	13/14		14/15	15/16
Parks	125	1002	Coast Park Development	Protiva				50,000	175,000	25,000	25,000	25,000	25,000	100,000
Streets	125		Side Walk Improvement	Ritzman					100,000					35,480
Wtr. SDC	125		Agate Beach Water Reservoir (IMG)	Ritzman					35,480					500,000
Water	125	1000	Fixed-base metering system	Ritzman					125,000		500,000			125,000
water	125	1001	Hwy 101 NE 36th-NE 40th 12" transmission line	Ritzman					114,390					114,390
WW.SDC	125		SW Elizabeth St Phase 2	Ritzman				140,000						140,000
125 Total								140,000	374,870	-	500,000	-	-	1,014,870
S. Beach URD	240		Highway 101 Water Line	Ritzman				100,000	220,000					320,000
S. Beach URD	240		Ash Street Design & Construction	Ritzman				75,000	500,000					575,000
S. Beach URD	240		Coho/ Bryant Neighborhood Proj.	Ritzman					70,000					70,000
S. Beach URD	240		Marine Science Drive	Ritzman					2,304,000					2,304,000
S. Beach URD	240		Realign Rogue & 25th	Ritzman					448,000					448,000
S. Beach URD	240		Pacific Way improvements	Ritzman					251,000					251,000
S. Beach URD	240		South Jetty Trail	Ritzman					317,000					317,000
240 Total								175,000	4,110,000	-	-	-	-	4,285,000
Grand Total								3,365,520	22,582,000	6,532,817	6,346,235	3,326,286	35,000	42,187,858



Agenda Item # VIII.C.
Meeting Date June 7, 2010

CITY COUNCIL AGENDA ITEM SUMMARY
City of Newport, Oregon

Issue/Agenda Title Public hearing on an ordinance amending the Planned Development section of the Newport Zoning Ordinance (File No. 1-Z-10)

Prepared By: Derrick Tokos Dept Head Approval: DT City Mgr Approval: [Signature]

ISSUE BEFORE THE COUNCIL: Consideration of whether or not it is in the public interest to amend the Planned Development section of the Zoning Ordinance (Section 2-5-4). At their May 24, 2010 meeting, the Planning Commission voted unanimously to recommend adoption of the changes.

STAFF RECOMMENDATION: Staff recommends the Council accept the Planning Commission's recommendation and adopt the ordinance.

PROPOSED MOTION: I move for reading by title only of an ordinance amending the Planned Development section of the Newport Zoning Ordinance and for adoption by roll call vote.

KEY FACTS AND INFORMATION SUMMARY: The City of Newport Zoning Ordinance (No. 1308, as amended) contains criteria that provide flexibility in how land can be developed beyond what is available under conventional zoning. This flexibility is intended to encourage variety in the development pattern of the community and provides an opportunity for innovative and creative concepts. Land use applications that utilize these criteria are known as Planned Developments.

As part of the City's effort to comprehensively update and streamline its Zoning Ordinance, the City of Newport Planning Commission and its Citizens Advisory Committee have reviewed the Planned Development section and suggest that amendments be adopted to (a) clarify the criteria that apply to preliminary development plans and final development plans, (b) add an allowance for neighborhood commercial uses in residential planned developments, (c) create an expedited process for minor amendments to final development plans, and (d) eliminate redundant language.

The Planning Commission and Citizens Advisory Committee reviewed the proposed changes at work sessions on January 28, 2010 and March 8, 2010. DLCDC was provided notice of the subject amendments on March 1, 2010 in accordance with their requirements. Notice was also provided to various public/private utilities/agencies and City departments on April 20, 2010. Notice of the Planning Commission and City Council hearings was published in the Newport News-Times on May 14, 2010 and May 28, 2010, respectively. No comments were received.

As this is a legislative item, there are no approval criteria.

OTHER ALTERNATIVES CONSIDERED: None.

CITY COUNCIL GOALS: The proposed changes are part of the comprehensive update to the Zoning Ordinance, which the Council set as a goal to complete this fiscal year.

ATTACHMENT LIST:

Proposed Ordinance

Attachment A - Markup Copy of Amendments to Section 2-5-1 of the Zoning Ordinance

Planning Commission Minutes for May 24, 2010

FISCAL NOTES: There may be a modest reduction in permit fee revenue associated with the new rules that allows minor amendments to Final Development Plans through a staff review process; however, the lower fee (already on the fee schedule as “other staff level permits requiring notice”) is appropriate given the simplified nature of the requests.

CITY OF NEWPORT

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE NEWPORT ZONING ORDINANCE
(ORDINANCE NO. 1308, AS AMENDED) TO CLARIFY CRITERIA, ADD AN
ALLOWANCE FOR NEIGHBORHOOD COMMERCIAL USES IN
RESIDENTIAL PLANNED DEVELOPMENTS, CREATE AN EXPEDITED
PROCESS FOR MINOR AMENDMENTS, AND ELIMINATE
REDUNDANT LANGUAGE**

Findings:

1. The City of Newport Zoning Ordinance (No. 1308, as amended) contains criteria that provide flexibility in how land can be developed beyond what is available under conventional zoning. This flexibility is intended to encourage variety in the development pattern of the community and provides an opportunity for innovative and creative concepts. Land use applications that utilize these criteria are known as Planned Developments.
2. The City of Newport Planning Commission and its Citizens Advisory Committee completed a comprehensive review of the Planned Development Section 2-5-4 of the Zoning Ordinance and determined that amendments are needed to clarify the criteria that apply to preliminary and final development plans, provide for neighborhood commercial uses in residential planned developments, create an expedited process for minor amendments to final development plans, and to eliminate redundant language.
3. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed changes to the Planned Development Section of the Zoning Ordinance (Newport File No. 1-Z-10) at work sessions on January 28, 2010 and March 8, 2010. Following a public hearing on May 24, 2010, the Planning Commission voted to recommend adoption of the proposed amendments.
4. The City Council held a public hearing on June 7, 2010 regarding the question of the proposed revisions (Newport File No. 1-Z-10), and voted in favor of their adoption after considering the recommendation of the Planning Commission and evidence and argument in the record.
5. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

Based on these findings,

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Section 2-5-4 of Ordinance No. 1308 (as amended), Planned Developments, is repealed in its entirety and replaced with a new Section as shown in Exhibit "A".

Section 2. This ordinance shall take effect 30 days after passage.

Date adopted on initial vote and read by title only: _____

Date adopted on final roll call vote: _____

Signed by the Mayor on _____, 2010.

William D. Bain, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

Exhibit A to Ordinance No. _____, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Clarify Criteria, Add and Allowance for Neighborhood Commercial Uses in Residential Planned Developments, Create an Expedited Process for Minor Amendments, and Eliminate Redundant Language

Section 2-5-4. PD, PLANNED DEVELOPMENTS*

2-5-4.010. Purpose. The purpose of the Planned Development Permit is to provide a greater flexibility in development of land than may be possible under a strict interpretation of the provisions of this Ordinance. It is intended to encourage variety in the development pattern of the community and provides an opportunity for innovative and creative land development. It is further intended to achieve economics in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable and attractive open spaces, safe circulation, and the general well being of the inhabitants. The planned development option serves to encourage developing as one project tracts of land that are sufficiently large to allow a site design for a group of structures. Deviation from specific site development standards is allowable as long as the general purposes for the standards are achieved and the general provisions of the zoning regulations are observed.

2-5-4.015. Permitted Uses. An approved planned development permit may only include those uses permitted outright or conditionally in the underlying district, except that commercial uses as provided in the C-1/“Retail and Service Commercial” zone district may be permitted within residential zoned areas provided:.

- A. The area surrounding the proposed location of the commercial uses is deficient in support commercial opportunities;
- B. The proposed commercial development and uses will be primarily for the service and convenience of residents of the neighborhood; and
- C. The proposed commercial development and uses must be consistent with the purpose and regulations of the C-1/ “Retail and Service Commercial” zone district.

2-5-4.020. Accessory Uses in Planned Development. In addition to the accessory uses typical for the primary or conditional uses authorized, accessory uses approved as a part of a planned development may include the following uses:

- A. Golf courses.
- B. Private parks, lakes, or waterways.
- C. Recreation areas.
- D. Recreation buildings, clubhouses, or social halls.
- E. Other accessory structures which the Planning Commission finds are designed to serve primarily the residents of the planned development and are compatible to the design of the planned development.

Exhibit A to Ordinance No. _____, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Clarify Criteria, Add and Allowance for Neighborhood Commercial Uses in Residential Planned Developments, Create an Expedited Process for Minor Amendments, and Eliminate Redundant Language

2-5-4.025. Preapplication Conference. Prior to actually filing the application with the City, the applicant shall meet with the Community Development Director and other City officials as may be necessary for preliminary staff review of the proposal.

2-5-4.030. Application Submission. An application for a planned development shall include a Preliminary Development Plan and Final Development Plan. Such plans may be submitted sequentially as separate applications or they may be submitted at the same time for concurrent review. Submittal requirements for a Preliminary Development Plan are as described in Section 2-5-4.035. Submittal requirements for a Final Development Plan are as described in Section 2-5-4.050. Except as otherwise described in this Section, the procedure for review and approval of a planned development shall be in accordance with the provisions of Section 2-6-1, Procedural Requirements.

2-5-4.035. Submittal Requirements for Preliminary Development Plans. In addition to a land use application form with the information required in Section 2-6-1.020, an application for a Preliminary Development Plan shall include:

- A. Nine (9) copies of the Preliminary Development Plan that include the following information:
- (1) A map showing street systems, lot or partition lines and other divisions of land for management, use or allocation purposes, and status of street ownership.
 - (2) Areas proposed to be conveyed, dedicated, or reserved for public streets, parks, parkways, playgrounds, school sites, public buildings, and similar public and semi public uses, especially open spaces.
 - (3) A plot plan for each building site and common open space area showing the approximate location of buildings, structures, and other improvements, indicating the open spaces around buildings and structures.
 - (4) A narrative description in specific terms of the size and type of buildings, grading modifications, water supply, drainage, and sewage collection and disposal.
 - (5) Elevation and perspective drawings of proposed structures.
 - (6) A list of all variances to standards of this Ordinance or any other City ordinance. All other standards for which variances have not been requested shall apply.
 - (7) A development schedule indicating:

Exhibit A to Ordinance No. _____, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Clarify Criteria, Add and Allowance for Neighborhood Commercial Uses in Residential Planned Developments, Create an Expedited Process for Minor Amendments, and Eliminate Redundant Language

- (a) The approximate date when construction of the project can be expected to begin.
 - (b) The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.
 - (c) The anticipated rate of development.
 - (d) The approximate dates when each stage in the development will be completed.
 - (e) The area, location, and degree of development of common open space that will be provided at each stage.
- (8) Agreements, provisions, or covenants which govern the use, maintenance, and continued protection of the planned development and any of its common open space areas.
- (9) The following plans and diagrams, insofar as the reviewing body finds that the planned development creates special problems of traffic, parking, landscaping, or economic feasibility:
- (a) An off-street parking and loading plan.
 - (b) A circulation diagram indicating proposed movement of vehicles, goods, and pedestrians within the planned development and to and from thoroughfares. Any special engineering features and traffic regulation devices needed to facilitate or insure the safety of this circulation pattern shall be shown.
 - (c) A landscaping and tree plan.
 - (d) An economic feasibility report or market analysis.
- (10) The preliminary plan shall include enough information on the area surrounding the proposed development to show the relationship of the planned development to adjacent uses, both existing and proposed.

2-5-4.040. Criteria for Approval of a Preliminary Development Plan. The approval authority may approve an application for a Preliminary Development Plan when it finds that the application complies with the following criteria:

A. Size of the Planned Development Site.

- (1). A planned development shall be on a tract of land of at least two acres in low density residential areas or;

Exhibit A to Ordinance No. _____, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Clarify Criteria, Add and Allowance for Neighborhood Commercial Uses in Residential Planned Developments, Create an Expedited Process for Minor Amendments, and Eliminate Redundant Language

- (2). A planned development may be allowed on any size tract of land in high density residential areas if:
 - (a) An unusual physical or topographic feature of importance to the people of the area or the community as a whole exists on the site or in the neighborhood which can be conserved and still leave the land owner equivalent use to the land by the use of a planned development.
 - (b) The property or its neighborhood has a historical character of importance to the community that will be protected by the use of a planned development.
 - (c) The property is adjacent to or across a street from property which has been developed or redeveloped under a planned development, and a planned development will contribute to the maintenance of the amenities and values of the neighboring development.

B. Dimensional and Bulk Standards.

- (1) The minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a planned development is proposed do not apply within a planned development.
- (2) If the spacing between main buildings is not equivalent to the spacing which would be required between buildings similarly developed under this Code on separate parcels, other design features shall provide light, ventilation, and other characteristics equivalent to that obtained from the spacing standards.
- (3) Buildings, off-street parking and loading facilities, open space, landscaping, and screening shall provide protection outside the boundary lines of the development comparable to that otherwise required of development in the zone.
- (4) The maximum building height shall, in no event, exceed those building heights prescribed in the zone in which the planned development is proposed, except that a greater height may be approved if surrounding open space within the planned development, building setbacks, and other design features are used to avoid any adverse impact due to the greater height.
- (5) The building coverage for any planned development shall not exceed that which is permitted for other construction in the zone exclusive of public and private streets.

Exhibit A to Ordinance No. _____, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Clarify Criteria, Add and Allowance for Neighborhood Commercial Uses in Residential Planned Developments, Create an Expedited Process for Minor Amendments, and Eliminate Redundant Language

C. Project Density.

- (1) The planned development may result in a density in excess of the density otherwise permitted within the zone in which the planned development is to be constructed not to exceed 5%. An increase in density of over 5% but less than 10% can be permitted by the Planning Commission if the arrangement of yards and common open space is found to provide superior protection to existing or future development on adjacent property.
- (2) If the Planning Commission finds that any of the following conditions would be created by an increase in density permitted by this Section, it may either prohibit any increase in density or limit the increase in density by an amount which is sufficient to avoid creation of any of these conditions:
 - (a) Inconvenient or unsafe access to the planned development.
 - (b) Traffic congestion in the streets that adjoin the planned development.
 - (c) An excessive burden on sewerage, water supply, parks, recreational areas, schools, or other public facilities which serve or are proposed to serve the planned development.

D. Common Open Space.

- (1) No open area may be accepted as common open space within a planned development unless it meets the following requirements:
 - (a) The location, shape, size, and character of the common open space is suitable for the planned development.
 - (b) The common open space is for amenity or recreational purposes, and the uses authorized are appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings provided.
 - (c) Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space.

Exhibit A to Ordinance No. _____, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Clarify Criteria, Add and Allowance for Neighborhood Commercial Uses in Residential Planned Developments, Create an Expedited Process for Minor Amendments, and Eliminate Redundant Language

- (d) The development schedule which is part of the development plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the construction of residential dwellings in the planned development.
 - (e) If buildings, structures, or other improvements are to be made in the common open space, the developer shall provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The City Manager shall release the bond or other assurances when the buildings, structures, and other improvements have been completed according to the development plan.
- (2) No common open space may be put to a use not specified in the Final Development Plan unless the Final Development Plan is first amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any use permitted are expressly reserved.
 - (3) If the common open space is not conveyed to a public agency, the covenants governing the use, improvement, and maintenance of the common open space shall authorize the City to enforce their provisions.
- E. The planned development is an effective and unified treatment of the development possibilities on the project site while remaining consistent with the Comprehensive Plan and making appropriate provisions for the preservation of natural features such as streams and shorelines, wooded cover, and rough terrain.
 - F. The planned development will be compatible with the area surrounding the project site and with no greater demand on public facilities and services than other authorized uses for the land.
 - G. Financial assurance or bonding may be required to assure completion of the streets and utilities in the planned development prior to final approval as for a subdivision (see the Newport Subdivision Ordinance, Newport Municipal Code Chapter 13.05).

2-5-4.045. Approval of the Final Development Plan.

- A. Within 12 months following the approval of the Preliminary Development Plan, the applicant shall file with the Planning Commission a Final Development Plan containing in final form the information required in the preliminary plan. At its

Exhibit A to Ordinance No. _____, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Clarify Criteria, Add and Allowance for Neighborhood Commercial Uses in Residential Planned Developments, Create an Expedited Process for Minor Amendments, and Eliminate Redundant Language

discretion, the Planning Commission may extend for six months the period for the filing of the Final Development Plan.

- B. If the Community Development Director finds evidence of a major change in the approved Preliminary Development Plan, the Community Development Director shall advise the applicant to submit an application for amendment of the planned development. An amendment shall be considered in the same manner as an original application.

2-5-4.050. Submittal Requirements for a Final Development Plan. In addition to a land use application form with the information required in Section 2-6-1.020, an application for a Final Development Plan shall include:

- A. The Final Development Plan may be submitted for any reasonably sized portion of the area previously given preliminary approval for development. The Final Development Plan shall contain the following information:
- (1) Proposed land uses, building locations, and housing unit densities.
 - (2) Proposed circulation patterns indicating the status of street ownership.
 - (3) Proposed open space locations and uses.
 - (4) Proposed grading and drainage patterns.
 - (5) Proposed methods of water supply and sewage disposal.

2-5-4.055. Criteria for Approval of a Final Development Plan. The approval authority may approve an application for a Final Development Plan when it finds that the application complies with the following criteria:

- A. The Final Development Plan must substantially conform to the land use and arterial street pattern as approved in the Preliminary Development Plan.
- B. The proposed uses shall be compatible in terms of density and demand for public services with uses that would otherwise be allowed by the Comprehensive Plan.
- C. Adequate services normally rendered by the City to its citizens must be available to the proposed development at the time of approval of the Final Development Plan. The developer may be required to provide special or oversize facilities to serve the planned development.
- D. Access shall be designed to cause minimum interference with traffic movement on abutting streets.

Exhibit A to Ordinance No. _____, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Clarify Criteria, Add and Allowance for Neighborhood Commercial Uses in Residential Planned Developments, Create an Expedited Process for Minor Amendments, and Eliminate Redundant Language

- E. The plan shall provide for adequate landscaping and effective screening for off-street parking areas and for areas where nonresidential use or high density residential use could be detrimental to residential areas.
- F. The arrangement of buildings, parking areas, signs, and other facilities shall be designed and oriented to minimize noise and glare relative to adjoining property.
- G. Artificial lighting, including illuminated signs and parking area lights, shall be so arranged and constructed as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.
- H. The area around the development can be developed in substantial harmony with the proposed plan.
- I. The plan can be completed within a reasonable period of time.
- J. The streets are adequate to serve the anticipated traffic.
- K. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
- L. Land shown on the Final Development Plan as common open space shall be conveyed under one of the following options:
 - (1) To a public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it.
 - (2) To an association of owners or tenants, created as a non-profit corporation under the laws of the State, which shall adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space.
- M. The Final Development Plan complies with the requirements and standards of the Preliminary Development Plan.
- N. No building shall be erected in a planned development district except within an area contained in an approved Final Development Plan, and no construction shall be undertaken in that area except in compliance with the provisions of said plan. All features required in the Final Development Plan shall be installed and retained indefinitely or until approval has been received from the Planning Commission or Community Development Director for modification.

Exhibit A to Ordinance No. _____, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Clarify Criteria, Add and Allowance for Neighborhood Commercial Uses in Residential Planned Developments, Create an Expedited Process for Minor Amendments, and Eliminate Redundant Language

2-5-4.060. Procedure for Modification of a Planned Development.

- A. A minor change in the Preliminary or Final Development Plan may be approved by the Community Development Director. A minor change is any change that is not within the description of a major change as provided in the following subparts B and C of this Section.
- B. A major change in a Preliminary or Final Development Plan which includes a change from a more restricted use to a less restricted use, or a change in the location, width, or size of a collector or major thoroughfare street, or in the location or specifications for utilities which is likely to materially affect future street or utility plans of the City may be approved only by the Commission after public hearing and by the City Council after public hearing.
- C. A major change in a Preliminary or Final Development Plan which includes any change in the character of the development of any increase in the intensity or density of the land use or in the location or amount of land devoted to specific land uses or any change in the location, width, or size of a collector or major thoroughfare street, or that substantially changes the location or specification for utilities but which will not materially affect future street or utility plans of the City may be approved by the Commission after public hearing.
- D. In considering any request for a change in a Preliminary or Final Development Plan, the Planning Commission and City Council shall apply the same standards as are provided in this Article for the approval of Preliminary or Final Development Plans. The Planning Commission and City Council may approve, reject, modify, or attach special conditions to a request for modification of a Preliminary or Final Development Plan. The Community Development Director in his reasonable discretion shall determine whether each request for modification of a Preliminary or Final Development Plan is a minor or major change within the remaining of subparts A, B, or C of this Section and shall determine or refer each request appropriately.

2-5-4.065. Control of the Development After Completion. The Final Development Plan shall continue to control the planned development after it is finished, and the following shall apply:

- A. The Community Development Director, in issuing a certificate of completion of the planned development, shall note the issuance on the recorded Final Development Plan.
- B. After the certificate of completion has been issued, the use of the land and the construction, modification, or alteration of a building or structure within the planned development shall be governed by the approved Final Development Plan.

Exhibit A to Ordinance No. _____, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Clarify Criteria, Add and Allowance for Neighborhood Commercial Uses in Residential Planned Developments, Create an Expedited Process for Minor Amendments, and Eliminate Redundant Language

- C. After the certificate of completion has been issued, no change shall be made in development contrary to the approved Final Development Plan without approval of an amendment to the plan except as follows:
- (1) Minor modification of existing buildings or structures may be authorized by the Planning Commission if they are consistent with the purposes and intent of the final plan and do not increase the cubic footage of a building or structure.
 - (2) A building or structure that is totally or substantially destroyed may be reconstructed without approval of an amended planned development if it is in compliance with the purpose and intent of the Final Development Plan.
- D. An amendment to a completed planned development may be approved if it is required for the continued success of the planned development, if it is appropriate because of changes in conditions that have occurred since the Final Development Plan was approved, or because there have been changes in the development policy of the community as reflected by the Comprehensive Plan or related land use regulations.
- E. No modification or amendment to a completed planned development is to be considered as a waiver of the covenants limiting the use of the land, buildings, structures, and improvements within the area of the planned development. All rights to enforce these covenants against any change permitted by this Section are expressly reserved.

2-5-4.070. Appeal. In the event that a dispute arises between the Planning Commission and the developer as to any provisions of the Final Development Plan, either party may appeal to the City Council, in accordance with process outlined in Section 2-6-1. Should the developer appeal, a fee for an appeal in an amount set by the city shall be paid.

Section 2-5-4. PD, PLANNED DEVELOPMENTS*

~~2-5-4.005. **Applicability of Planned Development Regulations.** The requirements for a planned development permit set forth in this Section are in addition to the conditional use procedures and standards of Section 2-5-3.~~

Staff: As discussed at the 1/28/10 work session, this provision is being deleted since the approval criteria contained in this section should be adequate.

2-5-4.010. Purpose. The purpose of the Planned Development Permit is to provide a greater flexibility in development of land than may be possible under a strict interpretation of the provisions of this Ordinance. It is intended to encourage variety in the development pattern of the community and provides and opportunity for innovative and the use of a creative approach to land development. It is further intended to achieve economics in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable and attractive open spaces, safe circulation, and the general well being of the inhabitants. The planned development authorization option serves to encourage developing as one project tracts of land that are sufficiently large to allow a site design for a group of structures. Deviation from specific site development standards is allowable as long as the general purposes for the standards are achieved and the general provisions of the zoning regulations are observed. ~~The planned approach is appropriate if it maintains compatibility with the surrounding area and creates an attractive, healthful, efficient, and stable environment. It should either promote a harmonious variety or grouping of uses, or utilize the economy of shared services and facilities. It is further the purpose of authorizing planned developments to take into account the following:~~

- ~~A. Advances in technology and design.~~
- ~~B. Recognition and resolution of problems created by increasing population density.~~
- ~~C. A comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development in which the design of the overall unit permits increased freedom in the placement and uses of buildings and the location of open spaces, circulation facilities, off-street parking areas, and other facilities.~~
- ~~D. The potential of sites characterized by special features of geography, topography, size, or shape.~~
- ~~E. The height and bulk characteristics of buildings can vary as long as the ratio of site area to dwelling units and openness of the site will be in harmony with the area in which the proposed development is located.~~

Staff: This is excessive language for a purpose section. The deleted language reads as approval criteria, which can be worked in later as required findings if the Commission feels that it is appropriate.

2-5-4.015. Permitted Uses. An approved planned development permit may only include those uses permitted outright or conditionally in the underlying district, except that

commercial uses as provided in the C-1/"Retail and Service Commercial" zone district may be permitted within residential zoned areas provided; as well as accessory uses of a minor nature necessary for the development and are allowed in all districts.

- A. The area surrounding the proposed location of the commercial uses is deficient in support commercial opportunities;
- B. The proposed commercial development and uses will be primarily for the service and convenience of residents of the neighborhood; and
- C. The proposed commercial development and uses must be consistent with the purpose and regulations of the C-1/ "Retail and Service Commercial" zone district.

Staff: Accessory uses are covered separately in this district. Redundant language has been deleted. Clarifying language has been added noting that a Planned Development can include uses permitted outright or conditionally. An option for neighborhood commercial in residential districts has been added as requested by the Commission at its 1/28/10 work session. It is modeled after Portland's code.

2-5-4.020. Accessory Uses in Planned Development. In addition to the accessory uses typical for the primary or conditional uses authorized, accessory uses approved as a part of a planned development may include the following uses:

- A. Golf courses.
- B. Private parks, lakes, or waterways.
- C. Recreation areas.
- D. Recreation buildings, clubhouses, or social halls.
- E. Other accessory structures which the Planning Commission finds are designed to serve primarily the residents of the planned development and are compatible to the design of the planned development.

Staff: This section has been moved and includes an allowance for uses accessory to both primary and conditional uses in a district.

2-5-4.025. Preapplication Conference. Prior to actually filing the application with the City, the applicant shall meet with the Community Development Director and other City officials as may be necessary for preliminary staff review of the proposal.

Staff: This section has been moved up to improve the flow of the code.

2-5-4.030. Application Submission. An application for a planned development shall include a Preliminary Development Plan and Final Development Plan. Such plans may be submitted sequentially as separate applications or they may be submitted at the

same time for concurrent review. Submittal requirements for a Preliminary Development Plan are as described in Section 2-5-4.035. Submittal requirements for a Final Development Plan are as described in Section 2-5-4.050. Except as otherwise described in this Section, the procedure for review and approval of a planned development shall be in accordance with the provisions of Section 2-6-1, Procedural Requirements.

Staff: This section has been rewritten to explain that there are two components to a Planned Development and addresses the submittal requirements and procedure for each.

~~**2-5-4.020. Findings for Project Approval.** The Planning Commission shall approve a planned development permit only if it finds that the planned development will satisfy standards of this Section, including the following:~~

- ~~A. The planned development is an effective and unified treatment of the development possibilities on the project site while remaining consistent with the Comprehensive Plan and making appropriate provisions for the preservation of natural features such as streams and shorelines, wooded cover, and rough terrain.~~
- ~~B. The planned development will be compatible with the area surrounding the project site and with no greater demand on public facilities and services than other authorized uses for the land.~~
- ~~C. Financial assurance or bonding may be required to assure completion of the streets and utilities in the planned development prior to final approval as for a subdivision (see the Newport Subdivision Ordinance, Section 3-6-1).~~

Staff: This subsection is being consolidated with the other approval criteria below and language is being added to clarify what criteria apply to a Preliminary Development Plan versus a Final Development Plan.

~~**2-5-4.035. Submittal Requirements for Preliminary Development Plans.** In addition to a land use application form with the information required in Section 2-6-1.020, an application for a Preliminary Development Plan shall include:~~

- ~~A. Nine (9) copies of the Preliminary Development Plan that include the following information:~~
 - ~~(1) A map showing street systems, lot or partition lines and other divisions of land for management, use or allocation purposes, and status of street ownership.~~
 - ~~(2) Areas proposed to be conveyed, dedicated, or reserved for public streets, parks, parkways, playgrounds, school sites, public buildings, and similar public and semi public uses, especially open spaces.~~
 - ~~(3) A plot plan for each building site and common open space area showing the approximate location of buildings, structures, and other improvements, indicating the open spaces around buildings and structures.~~

- (4) A narrative description in specific terms of the size and type of buildings, grading modifications, water supply, drainage, and sewage collection and disposal.
- (5) Elevation and perspective drawings of proposed structures.
- (6) A list of all variances to standards of this Ordinance or any other City ordinance. All other standards for which variances have not been requested shall apply.
- (7) A development schedule indicating:
 - (a) The approximate date when construction of the project can be expected to begin.
 - (b) The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.
 - (c) The anticipated rate of development.
 - (d) The approximate dates when each stage in the development will be completed.
 - (e) The area, location, and degree of development of common open space that will be provided at each stage.
- (8) Agreements, provisions, or covenants which govern the use, maintenance, and continued protection of the planned development and any of its common open space areas.
- (9) The following plans and diagrams, insofar as the reviewing body finds that the planned development creates special problems of traffic, parking, landscaping, or economic feasibility:
 - (a) An off-street parking and loading plan.
 - (b) A circulation diagram indicating proposed movement of vehicles, goods, and pedestrians within the planned development and to and from thoroughfares. Any special engineering features and traffic regulation devices needed to facilitate or insure the safety of this circulation pattern shall be shown.
 - (c) A landscaping and tree plan.
 - (d) An economic feasibility report or market analysis.
- (10) The preliminary plan shall include enough information on the area surrounding the proposed development to show the relationship of the

planned development to adjacent uses, both existing and proposed.

Staff: This language has been moved up, redundant language deleted, and cross references added to the new procedures section of the code.

2-5-4.040. Criteria for Approval of a Preliminary Development Plan. The approval authority may approve an application for a Preliminary Development Plan when it finds that the application complies with the following criteria:

2-5-4.025A. Size of the Planned Development Site.

- ~~A(1).~~ Except as set forth in ~~Subsection (B)~~ of this section, a ~~A~~ planned development shall be on a tract of land of at least two acres in low density residential areas ~~or~~;
- ~~B(2).~~ Notwithstanding the provisions of ~~Subsection (A)~~ of this Section, a ~~A~~ planned development may be allowed ~~for land that~~ on any size tract of land ~~for in~~ high density residential areas ~~or if~~:
- (~~1a~~) An unusual physical or topographic feature of importance to the people of the area or the community as a whole exists on the site or in the neighborhood which can be conserved and still leave the land owner equivalent use to the land by the use of a planned development.
 - (~~2b~~) The property or its neighborhood has a historical character of importance to the community that will be protected by the use of a planned development.
 - (~~3c~~) The property is adjacent to or across a street from property which has been developed or redeveloped under a planned development, and a planned development will contribute to the maintenance of the amenities and values of the neighboring development.

2-5-4.030B. Dimensional and Bulk Standards.

- ~~A(1).~~ The minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a planned development is proposed do not apply within a planned development.
- ~~B(2).~~ If the spacing between main buildings is not equivalent to the spacing which would be required between buildings similarly developed under this ~~Ordinance Code~~ on separate parcels, other design features shall provide light, ventilation, and other characteristics equivalent to that obtained from the spacing standards.

- ~~C.~~(3) Buildings, off-street parking and loading facilities, open space, landscaping, and screening shall provide protection outside the boundary lines of the development comparable to that otherwise required of development in the zone.
- ~~D.~~(4) The maximum building height shall, in no event, exceed those building heights prescribed in the zone in which the planned development is proposed, except that a greater height may be approved if surrounding open space within the planned development, building setbacks, and other design features are used to avoid any adverse impact due to the greater height.
- ~~E.~~(5) The building coverage for any planned development shall not exceed that which is permitted for other construction in the zone exclusive of public and private streets.

2-5-4.035.C. Project Density.

- ~~A.~~(1) The planned development may result in a density in excess of the density otherwise permitted within the zone in which the planned development is to be constructed not to exceed 5%. An increase in density of over 5% but less than 10% can be permitted by the Planning Commission if the arrangement of yards and common open space is found to provide superior protection to existing or future development on adjacent property.
- ~~B.~~(2) If the Planning Commission finds that any of the following conditions would be created by an increase in density permitted by this Section, it may either prohibit any increase in density or limit the increase in density by an amount which is sufficient to avoid creation of any of these conditions:
 - ~~(1a)~~(1a) Inconvenient or unsafe access to the planned development.
 - ~~(2b)~~(2b) Traffic congestion in the streets that adjoin the planned development.
 - ~~(3c)~~(3c) An excessive burden on sewerage, water supply, parks, recreational areas, schools, or other public facilities which serve or are proposed to serve the planned development.

2-5-4.040D. Common Open Space.

- ~~A.~~(1) No open area may be accepted as common open space within a planned development unless it meets the following requirements:
 - ~~(1a)~~(1a) The location, shape, size, and character of the common open space is suitable for the planned development.

- (2b) The common open space is for amenity or recreational purposes, and the uses authorized are appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings provided.
 - (3c) Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space are appropriate to the uses which are authorized for the common open space.
 - (4d) The development schedule which is part of the development plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the construction of residential dwellings in the planned development.
 - (5e) If buildings, structures, or other improvements are to be made in the common open space, the developer shall provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The City Manager shall release the bond or other assurances when the buildings, structures, and other improvements have been completed according to the development plan.
- B. ~~Land shown on the final development plan as common open space shall be conveyed under one of the following options:~~
- (1) ~~To a public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it.~~
 - (2) ~~To an association of owners or tenants, created as a non-profit corporation under the laws of the State, which shall adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space.~~
- C. (2) No common open space may be put to a use not specified in the final Final development-Development plan-Plan unless the final Final development-Development plan-Plan is first amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any use permitted

are expressly reserved.

~~D.(3)~~ If the common open space is not conveyed to a public agency, the covenants governing the use, improvement, and maintenance of the common open space shall authorize the City to enforce their provisions.

E. The planned development is an effective and unified treatment of the development possibilities on the project site while remaining consistent with the Comprehensive Plan and making appropriate provisions for the preservation of natural features such as streams and shorelines, wooded cover, and rough terrain.

F. The planned development will be compatible with the area surrounding the project site and with no greater demand on public facilities and services than other authorized uses for the land.

G. Financial assurance or bonding may be required to assure completion of the streets and utilities in the planned development prior to final approval as for a subdivision (see the Newport Subdivision Ordinance, Newport Municipal Code Chapter 13.05).

Staff: Previous sections 2-5-4.020 through 2-5-4.040(A) are consolidated as approval criteria for Preliminary Development Plans. Clarifications have been made to the above language as well.

~~**2-5-4.045. Accessory Uses in Planned Development.** In addition to the accessory uses typical for the primary uses authorized, accessory uses approved as a part of a planned development may include the following uses:~~

~~A. Golf courses.~~

~~B. Private parks, lakes, or waterways.~~

~~C. Recreation areas.~~

~~D. Recreation buildings, clubhouses, or social halls.~~

~~E. Other accessory structures which the Planning Commission finds are designed to serve primarily the residents of the planned development and are compatible to the design of the planned development.~~

~~**2-5-4.047. Preapplication Conference.** Prior to actually filing the application with the City, the applicant shall meet with the Planning Director and other City officials as may be necessary for preliminary staff review of the proposal.~~

~~**2-5-4.050. Application Submission.** An applicant shall include with the application for approval of a planned development a preliminary development plan as described in Section 2-5-4.055.* Except as otherwise described in this Section, the procedure for review and approval of a planned development shall be in accordance with the provisions of~~

Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.**

Staff: These provisions have been moved to create a more logical flow.

2-5-4.045. Approval of the Final Development Plan.

- A. Within 12 months following the approval of the Preliminary Development Plan, the applicant shall file with the Planning Commission a Final Development Plan containing in final form the information required in the preliminary plan. At its discretion, the Planning Commission may extend for six months the period for the filing of the Final Development Plan.
- B. If the Community Development Director finds evidence of a major change in the approved Preliminary Development Plan, the Community Development Director shall advise the applicant to submit an application for amendment of the planned development. An amendment shall be considered in the same manner as an original application.

Staff: This section has been moved up to improve the flow of the code. The submittal timeframe is extended from 6 months to 12 months.

2-5-4.050. Submittal Requirements for a Final Development Plan. In addition to a land use application form with the information required in Section 2-6-1.020, an application for a Final Development Plan shall include:

- A. The Final Development Plan may be submitted for any reasonably sized portion of the area previously given preliminary approval for development. The Final Development Plan shall contain the following information:
- (1) Proposed land uses, building locations, and housing unit densities.
 - (2) Proposed circulation patterns indicating the status of street ownership.
 - (3) Proposed open space locations and uses.
 - (4) Proposed grading and drainage patterns.
 - (5) Proposed methods of water supply and sewage disposal.

2-5-4.055. Criteria for Approval of a Final Development Plan. The approval authority may approve an application for a Final Development Plan when it finds that the application complies with the following criteria:

- A. The Final Development Plan must substantially conform to the land use and arterial street pattern as approved in the Preliminary Development Plan.
- B. The proposed uses shall be compatible in terms of density and demand for

- public services with uses that would otherwise be allowed by the Comprehensive Plan.
- C. Adequate services normally rendered by the City to its citizens must be available to the proposed development at the time of approval of the Final Development Plan. The developer may be required to provide special or oversized facilities to serve the planned development.
- D. Access shall be designed to cause minimum interference with traffic movement on abutting streets.
- E. The plan shall provide for adequate landscaping and effective screening for off-street parking areas and for areas where nonresidential use or high density residential use could be detrimental to residential areas.
- F. The arrangement of buildings, parking areas, signs, and other facilities shall be designed and oriented to minimize noise and glare relative to adjoining property.
- G. Artificial lighting, including illuminated signs and parking area lights, shall be so arranged and constructed as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.
- H. The area around the development can be developed in substantial harmony with the proposed plan.
- I. The plan can be completed within a reasonable period of time.
- J. The streets are adequate to serve the anticipated traffic.
- K. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
- L. Land shown on the Final Development Plan as common open space shall be conveyed under one of the following options:
- (1) To a public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it.
 - (2) To an association of owners or tenants, created as a non-profit corporation under the laws of the State, which shall adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space.
- M. The Final Development Plan complies with the requirements and standards of the Preliminary Development Plan.

N. No building shall be erected in a planned development district except within an area contained in an approved Final Development Plan, and no construction shall be undertaken in that area except in compliance with the provisions of said plan. All features required in the Final Development Plan shall be installed and retained indefinitely or until approval has been received from the Planning Commission or Community Development Director for modification.

Staff: These provisions were listed as subsection B of 2-5-4.040 and subsections B, C and D of 2-5-4.075 and have been worked into an approval criteria section.

2-5-4.055. Procedure for Approval of a Preliminary Development Plan. The following procedures shall be observed when a planned development proposal is submitted for consideration.

~~A. An applicant shall submit nine copies of the preliminary development plan to the Planning Director, Planning Commission, and City Engineer for study. The preliminary plan shall include the following information:~~

- ~~(1) A map showing street systems, lot or partition lines and other divisions of land for management, use or allocation purposes, and status of street ownership.~~
- ~~(2) Areas proposed to be conveyed, dedicated, or reserved for public streets, parks, parkways, playgrounds, school sites, public buildings, and similar public and semipublic uses, especially open spaces.~~
- ~~(3) A plot plan for each building site and common open space area showing the approximate location of buildings, structures, and other improvements, indicating the open spaces around buildings and structures.~~
- ~~(4) A narrative description in specific terms of the size and type of buildings, grading modifications, water supply, drainage, and sewage collection and disposal.~~
- ~~(5) Elevation and perspective drawings of proposed structures.~~
- ~~(6) A list of all variances to standards of this Ordinance or any other City ordinance. All other standards for which variances have not been requested shall apply.~~
- ~~(7) A development schedule indicating:

 - ~~(a) The approximate date when construction of the project can be expected to begin.~~
 - ~~(b) The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.~~~~

- ~~(c) The anticipated rate of development.~~
- ~~(d) The approximate dates when each stage in the development will be completed.~~
- ~~(e) The area, location, and degree of development of common open space that will be provided at each stage.~~
- ~~(8) Agreements, provisions, or covenants which govern the use, maintenance, and continued protection of the planned development and any of its common open space areas.~~
- ~~(9) The following plans and diagrams, insofar as the reviewing body finds that the planned development creates special problems of traffic, parking, landscaping, or economic feasibility:

 - ~~(a) An off-street parking and loading plan.~~
 - ~~(b) A circulation diagram indicating proposed movement of vehicles, goods, and pedestrians within the planned development and to and from thoroughfares. Any special engineering features and traffic regulation devices needed to facilitate or insure the safety of this circulation pattern shall be shown.~~
 - ~~(c) A landscaping and tree plan.~~
 - ~~(d) An economic feasibility report or market analysis.~~~~
- ~~(10) The preliminary plan shall include enough information on the area surrounding the proposed development to show the relationship of the planned development to adjacent uses, both existing and proposed.~~

Staff: This section has been moved up to improve the flow of the code.

2-5-4.060. Separate Approval of the Preliminary Development Plan.

- ~~A. The Planning Commission shall consider the preliminary development plan at a public hearing (see Section 2-6-1), at which time the findings of the City Engineer shall also be considered.~~
- ~~B. The Commission may approve, disapprove, or modify and approve and attach any reasonable conditions it finds are necessary to carry out the purposes of this Ordinance.~~

Staff: The section is being deleted as redundant. The hearing requirement and decision making options for the Planning Commission are addressed in the procedures section. The City Engineer has an opportunity to comment as part of the process.

2-5-4.065060. Procedure for Modification of a Preliminary Planned Development Plan.

- A. A minor change in the ~~preliminary~~ Preliminary or Final development ~~Development~~ Development plan ~~Plan~~ may be approved by the Planning Community Development ~~Director~~. A minor change is any change that is not within the description of a major change as provided in the following subparts B and C of this Section.
- B. A major change in a ~~preliminary~~ Preliminary or Final development ~~Development~~ Development plan ~~Plan~~ which includes a change from a more restricted use to a less restricted use, or a change in the location, width, or size of a collector or major thoroughfare street, or in the location or specifications for utilities which is likely to materially affect future street or utility plans of the City may be approved only by the Commission after public hearing and by the City Council after public hearing.
- C. A major change in a ~~preliminary~~ Preliminary or Final development ~~Development~~ Development plan ~~Plan~~ which includes any change in the character of the development of any increase in the intensity or density of the land use or in the location or amount of land devoted to specific land uses or any change in the location, width, or size of a collector or major thoroughfare street, or that substantially changes the location or specification for utilities but which will not materially affect future street or utility plans of the City may be approved by the Commission after public hearing.
- D. In considering any request for a change in a ~~preliminary~~ Preliminary or Final development ~~Development~~ Development plan ~~Plan~~, the Planning Commission and City Council shall apply the same standards as are provided in this Article for the approval of ~~preliminary~~ Preliminary or Final development ~~Development~~ plans ~~Plans~~. The Planning Commission and City Council may approve, reject, modify, or attach special conditions to a request for modification of a ~~preliminary~~ Preliminary or Final Development ~~or Final Development plan~~ Plan. The Planning Community Development ~~Director~~ in his reasonable discretion shall determine whether each request for modification of a ~~preliminary~~ Preliminary or Final development ~~Development~~ Development plan ~~Plan~~ is a minor or major change within the remaining of subparts A, B, or C of this Section and shall determine or refer each request appropriately.

Staff: This section has been modified to address how Preliminary and Final Development Plans can be modified. Creates an administrative process for modifying Final Development Plans for the first time.

2-5-4.070. Approval of the Final Development Plan.

- A. ~~Within six months following the approval of the preliminary development plan, the applicant shall file with the Planning Commission a final development plan containing in final form the information required in the preliminary plan. At its discretion, the Planning Commission may extend for six months the period for the filing of the final development plan.~~
- B. ~~If the City Planner finds evidence of a major change in the approved preliminary~~

~~development plan, the City Planner shall advise the applicant to submit an application for amendment of the planned development. An amendment shall be considered in the same manner as an original application.~~

2-5-4.075. Procedure for Approval of a Final Development Plan.

~~A. The final development plan may be submitted for any reasonably sized portion of the area previously given preliminary approval for development. The final development plan shall be submitted to the Planning Commission for approval and shall contain the following information:~~

- ~~(1) Proposed land uses, building locations, and housing unit densities.~~
- ~~(2) Proposed circulation patterns indicating the status of street ownership.~~
- ~~(3) Proposed open space locations and uses.~~
- ~~(4) Proposed grading and drainage patterns.~~
- ~~(5) Proposed methods of water supply and sewage disposal.~~

~~B. The final development plan shall comply with the following minimum standards:~~

- ~~(1) The final development plan must substantially conform to the land use and arterial street pattern as approved in the preliminary development plan.~~
- ~~(2) The proposed uses shall be compatible in terms of density and demand for public services with uses that would otherwise be allowed by the Comprehensive Plan.~~
- ~~(3) Adequate services normally rendered by the City to its citizens must be available to the proposed development at the time of approval of the final development plan. The developer may be required to provide special or oversize facilities to serve the planned development.~~
- ~~(4) Access shall be designed to cause minimum interference with traffic movement on abutting streets.~~
- ~~(5) The plan shall provide for adequate landscaping and effective screening for off-street parking areas and for areas where nonresidential use or high density residential use could be detrimental to residential areas. Required yards shall be maintained in grass, trees, and shrubbery.~~
- ~~(6) The arrangement of buildings, parking areas, signs, and other facilities shall be designed and oriented to minimize noise and glare relative to adjoining property.~~

- (7) ~~Artificial lighting, including illuminated signs and parking area lights, shall be so arranged and constructed as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.~~
- C. ~~In considering the final development plan, the Planning Commission shall make a determination as to the following:~~
- (1) ~~The area around the development can be developed in substantial harmony with the proposed plan.~~
- (2) ~~The plan can be completed within a reasonable period of time.~~
- (3) ~~The streets are adequate to serve the anticipated traffic.~~
- (4) ~~Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.~~
- (5) ~~The final development plan complies with the requirements and standards of this Subsection.~~
- D. ~~The Planning Commission may approve, disapprove, or modify and approve the final development plan and may attach any reasonable conditions to a plan. No building shall be erected in a planned development district except within an area contained in an approved final development plan, and no construction shall be~~
- ~~undertaken in that area except in compliance with the provisions of said plan. All features required in the final development plan shall be installed and retained indefinitely or until approval has been received from the Planning Commission for modification.~~

2-5-4.080065. Control of the Development After Completion. ~~The final~~ Final development Development plan ~~Plan~~ shall continue to control the planned development after it is finished, and the following shall apply:

- A. The ~~Building Official~~ Community Development Director, in issuing a certificate of completion of the planned development, shall note the issuance on the recorded ~~final~~ Final development Development plan ~~Plan~~.
- B. After the certificate of completion has been issued, the use of the land and the construction, modification, or alteration of a building or structure within the planned development shall be governed by the approved ~~final~~ Final development Development plan ~~Plan~~.
- C. After the certificate of completion has been issued, no change shall be made in development contrary to the approved ~~final~~ Final development Development plan ~~Plan~~ without approval of an amendment to the plan except as follows:

- (1) Minor modification of existing buildings or structures may be authorized by the Planning Commission if they are consistent with the purposes and intent of the final plan and do not increase the cubic footage of a building or structure.
 - (2) A building or structure that is totally or substantially destroyed may be reconstructed without approval of an amended planned development if it is in compliance with the purpose and intent of the ~~final~~ Final development Development planPlan.
- D. An amendment to a completed planned development may be approved if it is required for the continued success of the planned development, if it is appropriate because of changes in conditions that have occurred since the ~~final~~ Final development Development planPlan was approved, or because there have been changes in the development policy of the community as reflected by the Comprehensive Plan or related land use regulations.
- E. No modification or amendment to a completed planned development is to be considered as a waiver of the covenants limiting the use of the land, buildings, structures, and improvements within the area of the planned development. All rights to enforce these covenants against any change permitted by this Section are expressly reserved.

Staff: Changed the reference from Building Official to Community Development Director.

2-5-4.085070. Appeal. In the event that a dispute arises between the Planning Commission and the developer as to any provisions of the ~~final~~ Final development Development planPlan, either party may appeal to the City Council, in accordance with process outlined in Section 2-6-1. ~~The Commission shall assume the responsibility for approving, amending, or modifying the final development plan.~~ Should the developer appeal, a fee for an appeal in an amount set by the city shall be paid.

Staff: Removed the Commissions burden of modifying the plan as that issue can be addressed by the Council. A cross reference is added to the appeal procedures and a note is included that the developer must pay the appeal fee if they file the appeal.

2-5-4.090. Expiration. ~~If substantial construction (the amount to be determined at the time of approval) of a planned development has not taken place within three years from the effective date of a planned development permit, the planned development permit shall expire and be void.~~

Staff: This language is no longer needed. All permit expiration language has been consolidated into the procedures section of the code.

Draft Minutes
City of Newport Planning Commission Regular Session
Monday, May 24, 2010

Commissioners Present: Jim Patrick, John Rehfuss, Melanie Sarazin, Mark Fisher, Gary East, Rod Croteau, and Glen Small.

City Staff Present: Community Development Director (CDD) Derrick Tokos and Senior Administrative Assistant Wanda Haney.

Because the work session ran a little long, Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:24 p.m.

A. Approval of Minutes.

1. Approval of the work session and regular session Planning Commission meeting minutes of May 10, 2010.

MOTION was made by Commissioner Fisher, seconded by Commissioner Rehfuss, to approve the minutes of the Planning Commission meetings of May 10, 2010, as presented. Commissioner Croteau noted that his name had been omitted from the roll call. Commissioner Fisher amended his motion, seconded by Commissioner Croteau, to approve the May 10th minutes as amended. The motion carried unanimously in a voice vote.

B. Consent Calendar.

1. Final Order for File No. 1-ADJ-10. Final Order approving a request submitted by Newport Bay Ventures, LLC (Dennis Bartoldus, authorized representative) for a 5-foot adjustment to the required front yard setback of 15 feet (33%) to allow 10 foot front yard setbacks from Harbor Drive and from Case Street on Tax Lots 7001, 7002 & 9000 of Assessor's Map 11-11-08-CA. The Planning Commission held a public hearing on this matter on May 10, 2010.

MOTION was made by Commissioner Small, seconded by Commissioner Fisher, to approve the Final Order for File No. 1-ADJ-10 as presented. The motion carried unanimously in a voice vote.

2. Final Order for File No. 2-CUP-10. Final Order approving a request submitted by Ocean Bleu Seafood, LLC, (Mercedes V. Donovan, authorized agent) for a conditional use permit to allow operation of a deli in conjunction with a seafood market located in the W-2 zoning district at 808 SW Bay Blvd. The Planning Commission held a public hearing on this matter on May 10, 2010.

MOTION was made by Commissioner East, seconded by Commissioner Rehfuss, to approve the Final Order for File No. 2-CUP-10 as presented. The motion carried unanimously in a voice vote.

C. Citizen/Public Comment. No comments.

D. New Business. No new business to discuss.

E. Public Hearings.

Legislative Land Use Actions:

1. File No. 1-Z-10. A request initiated by the City of Newport involving legislative text amendments to the Newport Zoning Ordinance (NZO) (Ordinance No. 1308, as amended) updating Section 2-5-4 ("Planned Developments"), clarifying the criteria that apply to preliminary development plans and final development plans, adding an allowance for neighborhood commercial uses in residential planned developments, creating an expedited process for minor amendments to final development plans, and eliminating redundant language. The Planning Commission will forward a recommendation to the City Council.

Chair Patrick opened the public hearing for File No. 1-Z-10 at 7:26 p.m. by reading the summary from the agenda. He asked for the staff report. Tokos noted that this is part of the comprehensive zoning code update. The Commission worked through this section at a couple of work sessions. This involves a lot of substantive changes and is mainly just being cleaned up a bit. The amendment clarifies the difference between the criteria for preliminary and final development plans. A provision has been added to allow neighborhood commercial development, which would be small neighborhood commercial uses in residential planned developments. The process for minor development amendments has been expedited. A lot of redundant language was removed. Tokos said that he has made no changes since the Commission signed off at the last work session. Patrick closed the hearing.

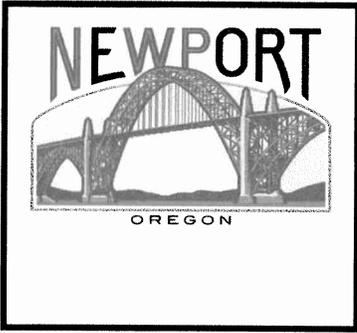
MOTION was made by Commissioner East, seconded by Commissioner Sarazin, to approve the zoning ordinance amendments for the Planned Development section as presented in File No. 1-Z-10. The motion carried unanimously in a voice vote. The amendment will now go before the City Council.

F. Unfinished Business. Tokos reminded the Commissioners of the ethics training on July 6th, and noted that he had received confirmation that all but two of the Commissioners could attend. Regarding the meeting on June 14th, Tokos said there will be a work session, but not on geologic hazards. At the regular session, there are two hearing items scheduled; the continued geologic hazards code update, and a conditional use permit request. Tokos said we could use time limits for speakers if the Commissioners feel it is appropriate. The latest version of the draft ordinance based on tonight's work session will be on the website prior to that.

G. Adjournment. There being no further business to come before the Planning Commission, the meeting adjourned at approximately 7:30 p.m.

Respectfully submitted,

Wanda Haney
Senior Administrative Assistant



Agenda Item # IX.A, B. & VI.A.
Meeting Date 06/07/10

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title Approval of Bonded Debt Refinancing and New Money Borrowing

Prepared By: Interim Fin. Director Dept Head Approval: _____ City Mgr Approval: [Signature]

ISSUE BEFORE THE COUNCIL

The City is pursuing the refinancing of the outstanding loans to realize debt service savings. In Resolution No. 3483, approved by the Council in November of 2009, Council approved the refinancing of some of the City's existing debt. A hold up in the City's annual audit and the possibility of a grant for Urban Renewal projects if we matched funds delayed this borrowing. Additionally, several other changes were necessary in the refinancing documents.

Staff is now presenting to the City Council and the Urban Renewal Agency several documents for execution by the Council and the Agency to implement the refinancing. Staff has arranged for the City's Bond Counsel to discuss the ramifications of the refinancing documents to the City during the Council's June 7th work session. The refinancing has been divided into two borrowings -- one pledging repayment by wastewater and room tax revenues backed by the City's Full Faith and Credit and the other pledging repayment by tax increment revenues of the South Beach Urban Growth Area and backed by the City's Full Faith and Credit.

Additionally, the documents require that the City agree to an unconditional obligation to pay, without regard to circumstance, including a Force Majeure. Refinancing the City's existing obligations described below at this time will save the City approximately \$750, 000. (current estimate) in interest payments under current market conditions. City debt refinanced through the documents presented to Council and the Agency is in the approximate amount of \$15,531, 155.

The following loans are under consideration for refinancing:

1. Department of Environmental Quality (DEQ) Loan Number R68932, with an outstanding balance of \$5,708,097. This money helped finance the design and construction of the wastewater treatment plant. The loan is paid from wastewater system revenues.
2. DEQ Loan Number R68931 with an outstanding balance of \$3,217,490. This money helped finance the design and construction of the City's wastewater treatment plant. This loan is paid from tax increment revenues of the South Beach Urban Growth Area.
3. Two loans - B00009 and G00005, from the Oregon Economic Community Development Department (now known as the Oregon Business Development Department (OBDD)) also financed a portion of

the waste water treatment plant. Both loans are paid from tax increment revenues of the South Beach Urban Growth Area. They have an outstanding balance of \$3,522,568.

4. Two bonds - issued by the City to the Bank of America under a Master Bond Declaration for the South Beach Urban Growth Area (dated May 15, 2007) to finance projects in the South Beach Urban Growth Area. \$3,083,000 of these obligations are still outstanding.

The refinancing documents also allow for the borrowing of new money for the South Beach Urban Growth Area in the approximate amount of \$2,100,000. These funds provide a match for grant money of approximately \$1million, to finance capital projects in the South Beach Urban Growth Area.

In Resolution No. 3483, staff recommended using the refinancing as an opportunity to fund a utility billing project. This project will be funded using reserves, annual maintenance appropriations and a small portion from SDC's. Therefore new debt for this project is not required.

REFINANCING AND NEW BORROWING

The refinancing and new borrowing requires the execution of several documents. For ease of presentation to the Council, the documents are divided into two areas: South Beach Urban Renewal and Wastewater. Several The documents are attached and include:

South Beach Urban Renewal:

1. Agency Resolution Authorizing an Intergovernmental Agreement to Pay Costs of Refinancing a Portion of a Loan from the Oregon Department of Environmental Quality, Two Loans from the Oregon Business Development Department and two bonds to the Bank of America, N.A., and Financing Projects in the South Beach Urban Growth Area;
2. City Resolution Authorizing the Refinancing of Outstanding Obligations of the City and Agency and the Financing of Capital Projects in the South Beach Urban Growth Area; and
3. Intergovernmental Agreement between the City and Urban Renewal Agency that obligates the Agency to pay the debt service on each Financing Agreement.

City – Wastewater:

1. City Resolution Authorizing the Refinancing of Outstanding Obligations of the City to be Secured by the City's Full Faith and Credit and a Pledge of Revenues of the City's Sewer System and Room Tax Revenues; and Authorizing a Master Sewer System and Room Tax Revenue Bond Declaration; and
2. Master Sewer System and Room Tax Revenue Bond Declaration.

Additional documents, such as financing and escrow agreements are not included in the Council packet.

The Urban Renewal Agency is presented with a resolution to authorize it to repay the City's debt service for the refinancings and new money borrowing for the South Beach Urban Growth Area. The City is presented with a resolution authorizing the refinancings and new money borrowing for the South Beach Urban Growth Area. Both the City and Agency will need to execute an Intergovernmental Agreement when the South Beach Urban Growth Area borrowing is ready to close.

The City is also presented with a resolution authorizing the sewer and room tax-revenue backed borrowing, which includes as an exhibit the form of Master Sewer System and Room Tax Revenue Bond Declaration.

The resolutions give staff direction to prepare necessary paperwork and to execute the refinancing and new money borrowing. Staff recommends that the documents requiring attention under the Urban Renewal Agency be addressed by the Agency at the time the Agency convenes.

PROPOSED MOTION

For Council:

I MOVE TO APPROVE A RESOLUTION OF THE CITY OF NEWPORT, AUTHORIZING THE REFINANCING OF OUTSTANDING OBLIGATIONS OF THE CITY TO BE SECURED BY THE CITY’S FULL FAITH AND CREDIT AND A PLEDGE OF REVENUES OF THE CITY’S SEWER SYSTEM AND ROOM TAX REVENUES; AND AUTHORIZING A MASTER SEWER SYSTEM AND ROOM TAX REVENUE BOND DECLARATION; and

I MOVE TO APPROVE A RESOLUTION OF THE CITY OF NEWPORT, AUTHORIZING THE REFINANCING OF OUTSTANDING OBLIGATIONS OF THE CITY AND AGENCY AND THE FINANCING OF CAPITAL PROJECTS IN THE SOUTH BEACH URBAN GROWTH AREA.

For the Urban Renewal Agency:

I MOVE TO APPROVE A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT TO PAY COSTS OF REFINANCING A PORTION OF A LOAN FROM THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY, TWO LOANS FROM THE OREGON BUSINESS DEVELOPMENT DEPARTMENT AND TWO BONDS TO THE BANK OF AMERICA, N.A., AND FINANCING PROJECTS IN THE SOUTH BEACH URBAN GROWTH AREA.

CITY COUNCIL GOALS

Council Goals for Institutional / Internal Services as the City’s Financial Goal

ATTACHMENT LIST

- RESOLUTION No. 3483
- 3 RESOLUTIONS AS DESCRIBED ABOVE
- MASTER SEWER SYSTEM AND ROOM TAX REVENUE BOND DECLARATION
- INTERGOVERNMENTAL AGREEMENT

FISCAL NOTES

In addition to information already provided in this summary, the refinancing actions described will also consolidate the City’s debt into a schedule that is easier to track and budget.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF NEWPORT, OREGON AUTHORIZING THE REFINANCING OF OUTSTANDING OBLIGATIONS OF THE CITY TO BE SECURED BY THE CITY’S FULL FAITH AND CREDIT AND A PLEDGE OF REVENUES OF THE CITY’S SEWER SYSTEM AND ROOM TAX REVENUES; AND AUTHORIZING A MASTER SEWER SYSTEM AND ROOM TAX REVENUE BOND DECLARATION.

WHEREAS, the City of Newport, Oregon (the “City”) is authorized by Oregon Revised Statutes Section 271.390 to enter into financing agreements to finance or refinance real or personal property which the City Council determines is needed; and,

WHEREAS, the City previously entered into Loan Agreement No. R68932 with the State of Oregon Department of Environmental Quality (the “DEQ Loan No. R68932”) to finance the design and construction of the City’s wastewater treatment plant, and \$5,708,097 of DEQ Loan No. R68932 is still outstanding; and,

WHEREAS, DEQ Loan No. R68932 is currently paid from wastewater system revenues; and,

WHEREAS, current interest rates may be lower than the interest rates that are payable on the DEQ Loan No. R68932 (the “Refundable Obligations”), and the City may be able to reduce debt service costs or favorably restructure its outstanding borrowings by refunding all or a portion of the Refundable Obligations; and,

NOW, THEREFORE, BE IT RESOLVED by the Newport City Council that:

1. Authorization of Financing Agreements.

- 1.1 The City is hereby authorized to enter into one or more financing agreements to refinance all or any portion of the Refundable Obligations pursuant to ORS 271.390 and ORS Chapter 287A. The net proceeds of the financing agreements that are executed to refinance the Refundable Obligations shall not exceed the amount required to refinance the Refundable Obligations and pay estimated costs of the refinancing.
- 1.2 The financing agreements authorized by this Section 1 are referred to in this Resolution as the “Financing Agreements.”

2. Determination of Need.

The City hereby determines that the City’s wastewater treatment plant financed with the Refundable Obligations is needed.

3. Delegation.

The City Manager, the Finance Director or the person designated by the City Council to act on behalf of the City under this resolution (each of whom is referred to in this resolution as a “City Official”) may, on behalf of the City and without further action by the Council:

- 3.1 Negotiate, execute and deliver one or more escrow agreements or similar documents (the “Escrow Agreements”) that provide for the issuance of one or more series of “certificates of participation” or “full faith and credit obligations” (the “Obligations”) that represent ownership interests in the loan payments due from the City under the Financing Agreements. Subject to the limitations of this resolution, the Escrow Agreements and each series of Obligations may be in such form and contain such terms as the City Official may approve.
- 3.2 Select one or more commercial banks with which to negotiate and execute each Financing Agreement, solicit competitive bids for the purchase of each series of the Obligations and award their sale to the bidder offering the most favorable terms to the City, or negotiate the terms of the sale of each series of Obligations to Seattle Northwest Securities Corporation, as underwriter, and sell that series to the underwriter.
- 3.3 Deem final and authorize the distribution of a preliminary official statement for each series of Obligations, authorize the preparation and distribution of a final official statement or other disclosure document for each series of Obligations, and enter into agreements to provide continuing disclosure for owners of each series of Obligations.
- 3.4 Apply for ratings for each series of Obligations, determine whether to purchase municipal bond insurance or obtain other forms of credit enhancements for each series of Obligations, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.
- 3.5 Take actions to call, defease and redeem the Refundable Obligations.
- 3.6 Engage the services of escrow agents or trustees and any other professionals whose services are desirable for the financing.
- 3.7 Determine the final principal amount, interest rates, payment dates, prepayment rights and all other terms of each Financing Agreement. Subject to the limitations of this resolution, each Financing Agreement may be in such form and contain such terms as the City Official may approve.
- 3.8 Negotiate, execute and deliver notes to evidence amounts due under the Financing Agreements.
- 3.9 Finalize the terms of, execute and deliver the Master Declaration, which pledges the revenues of the City’s sewer system and a portion of the City’s room tax revenues collected under City Ordinance 1033, contains covenants regarding the levels of sewer

system fees and charges that the City must impose, and describes the terms under which future obligations may be issued on a parity with each Financing Agreement. The Master Declaration shall be in substantially the form attached to this Resolution as Exhibit A, but with such changes as the City Official may approve.

- 3.10 Covenant for the benefit of the banks providing the Financing Agreements or the owners of Obligations to comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") which are required for the interest paid under the Financing Agreements to be excluded from gross income for federal income tax purposes.
- 3.11 Designate each Financing Agreement as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code.
- 3.12 Execute and deliver any other certificates or documents and take any other actions which the City Official determines are desirable to carry out this resolution.

4. Security.

Each Financing Agreement shall constitute an unconditional obligation of the City, which is payable from all legally available funds of the City. The City Official may pledge the City's full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution. In addition, the City Official may pledge revenues of the City's sewer system and a portion of the City's room tax revenues collected under City Ordinance 1033 and related amounts that are pledged as provided in the Master Declaration authorized by Section 3.9 to secure each Financing Agreement.

5. Rescinding Resolution 3483.

Resolution 3483 of the City adopted on November 16, 2009 is hereby rescinded.

6. Effective Date.

This resolution shall take effect on the date of its approval by the City Council.

Introduced and passed this 7th day of June, 2010.

Mayor Bain

ATTEST:

City Recorder

Exhibit A

Form of Master Sewer System and Room Tax Revenue Bond Declaration

**MASTER SEWER SYSTEM AND ROOM
TAX REVENUE BOND DECLARATION**

City of Newport, Oregon

**Financing Agreement related to the
Full Faith and Credit Refunding Obligations**

Series 2010 A

Executed by the City Official of the City of Newport, Oregon

As of this __th day of _____, 2010

TABLE OF CONTENTS

Section 1. Findings.	1
Section 2. Definitions.	1
Section 3. Rules of Construction.	8
Section 4. Pledges.	8
Section 5. Deposit and Use of Gross Sewer Revenues.	9
Section 6. Deposit and Use of Room Tax Revenues	9
Section 7. Bond Funds and Accounts	10
Section 8. Rate Covenant.....	11
Section 9. Parity Bonds.....	12
Section 10. Subordinate Obligations	13
Section 11. Separate Utility System.....	13
Section 12. General Covenants.....	14
Section 13. Events of Default and Remedies.....	16
Section 14. Amendment of Master Declaration.....	19
Section 15. Defeasance	22
Section 16. The Series 2010 A Financing Agreement.....	22

MASTER SEWER SYSTEM BOND DECLARATION

THIS MASTER SEWER SYSTEM BOND DECLARATION is executed as of _____, 2010, by the City Official of the City of Newport, Oregon pursuant to the authority granted to the City Official by City Resolution No. _____ to establish the terms under which the City's Financing Agreement related to the Full Faith and Credit Refunding Obligations, Series 2010 A and future Parity Bonds may be issued.

Section 1. Findings.

The City finds:

1. The City is authorized by ORS 271.390 to finance and refinance real and personal property. The City has adopted Resolution No. _____ which authorizes the City to refinance real and personal property and to execute this Master Sewer System and Room Tax Revenue Bond Declaration.
2. The City has previously entered into Loan Agreement No. 68932 with the Oregon Department of Environmental Quality, and is now entering into a Financing Agreement related to its Full Faith and Credit Refunding Obligations, Series 2010 A to refund Loan Agreement No. 68932 and to pay costs of issuance of the financing.
3. The City executes this Master Sewer System and Room Tax Revenue Bond Declaration to specify the terms under which the City's Financing Agreement related to the Full Faith and Credit Refunding Obligations, Series 2010 A is issued, and to describe the terms under which future obligations may be issued that are secured by a lien on Net Sewer Revenues of the Sewer System and Room Tax Revenues.

Section 2. Definitions.

Unless the context clearly requires otherwise, capitalized terms that are used in this Master Declaration and are defined in this Section 2 shall have the meanings defined for those terms in this Section 2.

“Annual Bond Debt Service” means in any Fiscal Year the sum of: (1) the amounts of any transfers to the Bond Reserve Account that are required to be made by the documents authorizing the Parity Bonds; plus (2) the amount of principal and interest required to be paid in that Fiscal Year on all Outstanding Bonds, calculated as follows:

- (a) Interest which is to be paid from Bond proceeds shall be subtracted;
- (b) Bonds which are subject to scheduled, noncontingent redemption or noncontingent tender shall be deemed to mature on the dates and in the amounts which are subject to mandatory redemption or tender, and only the amount scheduled to be outstanding on the final maturity date shall be treated as maturing on that date; and,
- (c) Bonds which are subject to contingent redemption or tender shall be treated as maturing on their stated maturity dates.

(d) The amount of any interest rate subsidies that the City actually received for historical tests or reasonably expects to receive for forward-looking tests from the United States for any Bonds that are “Build America Bonds,” “Recovery Zone Economic Development Bonds” or similar bonds shall be subtracted from the Bond interest payments that are eligible for the subsidies.

“Annual Senior Sewer Debt Service” means in any Fiscal Year the sum of: (1) the amounts of any transfers to debt service reserve accounts for Senior Sewer Revenue Obligations that are required to be made by the documents authorizing the Senior Sewer Revenues Obligations; plus (2) the amount of principal and interest required to be paid in that Fiscal Year on all Outstanding Senior Sewer Revenue Obligations, calculated as follows:

(a) Interest which is to be paid from Senior Sewer Revenue Obligation proceeds shall be subtracted;

(b) Senior Sewer Revenue Obligations which are subject to scheduled, noncontingent redemption or noncontingent tender shall be deemed to mature on the dates and in the amounts which are subject to mandatory redemption or tender, and only the amount scheduled to be outstanding on the final maturity date shall be treated as maturing on that date; and,

(c) Senior Sewer Revenue Obligations which are subject to contingent redemption or tender shall be treated as maturing on their stated maturity dates.

(d) The amount of any interest rate subsidies that the City actually received for historical tests or reasonably expects to receive for forward-looking tests from the United States for any Senior Sewer Revenue Obligations that are “Build America Bonds,” “Recovery Zone Economic Development Bonds” or similar bonds shall be subtracted from the Senior Sewer Revenue Obligation interest payments that are eligible for the subsidies.

“Auditor” means a person authorized by the State Board of Accountancy to conduct municipal audits pursuant to ORS 297.670.

“Base Period” means any twelve consecutive months selected by the City or Qualified Consultant out of the most recent twenty-four months preceding the delivery of a Series of Parity Bonds.

“BEO” means “book-entry-only” and refers to a system for clearance and settlement of securities transactions through electronic book-entry changes, which eliminates the need for physical movement of securities.

“Bond” or “Bonds” means the Series 2010 A Financing Agreement and any Parity Bonds.

“Bond Account” means the Bond Account described in Section 7.2 of this Master Declaration.

“Bond Counsel” means a law firm having knowledge and expertise in the field of municipal law and whose opinions are generally accepted by purchasers of municipal bonds.

“Bond Reserve Account” means the Bond Reserve Account in the Sinking Fund described in Section 7.3 of this Master Declaration.

“Business Day” means any day except a Saturday, a Sunday, a legal holiday, a day on which the offices of banks in Oregon or New York are authorized or required by law or executive order to remain closed, or a day on which the New York Stock Exchange is closed.

“City” means the City of Newport, Oregon, a municipal corporation of the State of Oregon.

“City Council” means the City Council of the City, or its successors.

“City Official” means the City Manager, the Interim Finance Director, the Finance Director or the person designated by any of those officers to act as City Official under this Master Declaration.

“Closing” means the date on which a Series of Bonds is delivered in exchange for payment.

“Code” means the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated thereunder.

“Combined Annual Debt Service” means the sum of the Annual Bond Debt Service and the Annual Senior Sewer Debt Service.

“Construction Fund” means the Sewer System Construction Fund in the Sewer Fund, which the City has created to hold proceeds of bonds and other revenues related to capital improvements.

“Credit Facility” means a letter of credit, a municipal bond insurance policy, a surety bond, standby bond purchase agreement or other credit enhancement device which is obtained by the City to secure Bonds, and which is issued or provided by a Credit Provider whose long-term debt obligations or claims-paying ability (as appropriate) are rated, at the time the Credit Facility is issued, in one of the two highest rating categories by a Rating Agency which rated the Bonds secured by the Credit Facility.

“Credit Provider” means a person or entity providing a Credit Facility.

“DTC” means The Depository Trust Company or any other qualified securities depository designated by the City as its successor.

“Event of Default” means any event specified in 13.2 of this Master Declaration.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the next succeeding June 30, or as otherwise defined by State law.

“Fitch” means Fitch Investors Service, Inc., its successors and assigns.

“Government Obligations” means (i) direct, noncallable obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury and principal-only and interest-only strips that are issued by the U.S. Treasury); (ii) noncallable obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

“Gross Sewer Revenues” means all fees and charges and other revenues that are properly accrued under generally accepted accounting principles as revenues of the Sewer System, including revenues from product sales, system development charges that may be lawfully expended to pay Bonds, and interest earnings on Gross Sewer Revenues in the Sewer Fund. Gross Sewer Revenues shall also include transfers out of the Rate Stabilization Account. However, the term “Gross Sewer Revenues” shall not include:

- (a) The interest income or other earnings derived from the investment of any escrow fund established for the defeasance or refunding of outstanding obligations that are secured by a pledge of any portion of the Gross Sewer Revenues;
- (b) Any gifts, grants, donations or other moneys received by the City from any State or Federal Agency or other person if such moneys are restricted by law or the grantor to uses inconsistent with the payment of Bonds;
- (c) The proceeds of any borrowing;
- (d) The proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues);
- (e) The proceeds of any casualty insurance which the City intends to utilize for repair or replacement of the Sewer System;
- (f) The proceeds derived from the sales of assets pursuant to Section 12.10 of this Master Declaration;
- (g) Any ad valorem or other taxes imposed by the City (except charges or payments for Sewer System services which become “taxes” within the meaning of Article XI, Section 11b of the Oregon Constitution only because they are imposed on property or property owners);
- (h) Any income, fees, charges, receipts, profits or other moneys derived by the City from its ownership or operation of any Separate Utility System.

“Insurance Policy” means a municipal bond insurance policy issued by an Insurer at the request of the City guaranteeing the scheduled payment of principal of and interest on the Bonds when due.

“Insurer” means any person or entity providing an Insurance Policy.

“Interest Payment Date” means any date on which Bond interest is scheduled to be paid, and any date on which Bonds are called for redemption.

“Master Declaration” means this Master Sewer System and Room Tax Revenue Bond Declaration, including any amendments made pursuant to Section 14.

“Maximum Combined Annual Debt Service” means the greatest amount of Combined Annual Debt Service that is scheduled to be paid in any Fiscal Year, calculated as provided in the next sentence. Maximum Combined Annual Bond Debt Service shall be calculated for the period beginning on the date for which the calculation is required to be made (for example, the date on which the Fiscal Year begins for rate covenants described in Section 8, and the date on which Parity Bonds are issued for the tests for issuing Parity Bonds in Section 9) and ending on the last day of that Fiscal Year, and for each subsequent Fiscal Year in which Outstanding Bonds are scheduled to be paid.

“Moody’s” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns.

“Net Sewer Revenues” means the Gross Sewer Revenues less the Operating Expenses.

“Operating Expenses” means all costs which are properly treated as expenses of operating and maintaining the Sewer System under generally accepted accounting principles. “Operating Expenses” shall also include transfers to the Rate Stabilization Account that are permitted under Section 5.1.G. However, Operating Expenses do not include:

- (a) Any rebates or penalties paid from Gross Sewer Revenues under Section 148 of the Code;
- (b) Payments of judgments against the City and payments for the settlement of litigation;
- (c) Depreciation and amortization of property values or losses, and all amounts treated for accounting purposes as payments for capital expenditures;
- (d) Debt service payments, paying agent fees, broker-dealer fees and similar charges for the maintenance of borrowings;
- (e) The expenses of owning, operating or maintaining any Separate Utility System;
- (f) Expenditures made from any liability insurance proceeds;
- (g) Expenditures made from any casualty insurance proceeds used to pay for costs of repairing or replacing portions of the Sewer System;
- (h) Expenditures made from grant monies regardless of whether such grant funds are dedicated to a specific purpose or available for the general operation, maintenance and repair or replacement of the Sewer System;
- (i) Extraordinary, non-recurring costs; and
- (j) Expenditures allocable to any other funding source which does not constitute Gross Sewer Revenues of the Sewer System.

“ORS” means the Oregon Revised Statutes.

“Outstanding” refers to all obligations except those that have been paid, discharged or defeased pursuant to the documents authorizing the obligations.

“Owner” means a registered owner of a Bond.

“Parity Bond” means any obligation that is issued in compliance with Section 9 and is secured by pledges of the Net Sewer Revenues and the Room Tax Revenues on a parity with other Bonds.

“Payment Date” means a Principal Payment Date or an Interest Payment Date.

“Permitted Investments” means any investments which the City is permitted to make under the laws of the State.

“Pledged Revenues” means the Net Sewer Revenues and the Room Tax Revenues.

“Principal Payment Date” means any date on which any Bonds are scheduled to be retired, whether by virtue of their maturity or by mandatory sinking fund redemption prior to maturity, and the redemption date of any Bonds which have been called for redemption.

“Project” means any purpose for which Gross Sewer Revenues may be spent.

“Qualified Consultant” means an independent engineer, an independent auditor, an independent financial advisor, or similar independent professional consultant of recognized standing and having experience and expertise in the area for which such person or firm is retained by the City for purposes of performing activities specified in this Master Declaration or any Supplemental Declaration.

“Rate Stabilization Account” means the Rate Stabilization Account described in Section 7.5 of this Master Declaration.

“Rating Agency” means Fitch, Moody’s, S&P, or any other nationally recognized financial rating Agency which has rated Outstanding Bonds or a Credit Facility at the request of the City.

“Record Date” for the Bonds means the fifteenth day of the month preceding the month in which each Interest Payment Date occurs, whether or not a Business Day.

“Registrar” means the registrar and paying agent for the Bonds, which is U.S. Bank National Association. on the date of this Master Declaration.

“Reserve Credit Event” means the occurrence of any of the following: (a) the withdrawal or suspension of all Reserve Credit Facility Ratings for a Reserve Credit Facility; or (b) the downgrading of all Reserve Credit Facility Ratings for a Reserve Credit Facility below investment grade, or the equivalent rating reasonably determined by the City if rating terminology changes after May 2010 (As of May, 2010, a rating below investment grade by Moody’s is a rating below Baa3, and a rating below investment grade by S&P is a rating below BBB-); or (c) the City properly tenders a request for funds under a Reserve Credit Facility, and the requested funds are not delivered materially in accordance with the terms of such Reserve Credit Facility.

“Reserve Credit Facility” means one or more Credit Facilities issued for the purpose of funding, in lieu of cash, all or any portion of the Reserve Requirement for a subaccount in the Reserve Account, under which the Credit Provider agrees to unconditionally provide the City with funds in lieu of withdrawing amounts from that subaccount.

“Reserve Credit Facility Rating” means a long-term debt, financial strength or claims-paying ability rating assigned by a Rating Agency to: (a) a provider of a Reserve Credit Facility or (b) to any reinsurer of the obligations of a provider under a Reserve Credit Facility.

“Reserve Requirement” means a set of rules for funding a subaccount in the Bond Reserve Account. Each Reserve Requirement shall indicate the amount that is required to be credited to the subaccount, the dates by which that amount must be credited to the subaccount, and the

requirements for restoring amounts to the subaccount if amounts are withdrawn to pay Bonds that are secured by the subaccount.

“Room Tax Revenues” means the portion of revenues the City receives from the transient room tax that the City imposes under City Ordinance No. 1033, as it has been and may be amended, and any replacement ordinance, that Oregon law and City ordinances allow to be spent on the Sewer System or to pay Bonds, regardless of the amount actually spent for those purposes. On the date of the Master Declaration, fifty-four percent of the City’s transient room tax revenues may be spent on the Sewer System or to pay Bonds.

“S&P” means Standard & Poor’s Corporation, a corporation organized and existing under the laws of the State of New York, its successors and their assigns.

“Senior Sewer Revenue Obligations” means any obligations that are issued by the City and are secured by a pledge of, or lien on, the Net Sewer Revenues that is superior to the pledge of the Net Sewer Revenues that secures the Bonds.

“Separate Utility System” means any utility property which is declared by the City Council to constitute a system which is distinct from the Sewer System in accordance with Section 11.

“Series” refers to all Bonds authorized by a single ordinance or declaration and delivered in exchange for payment on the same date, regardless of variations in maturity, interest rate or other provisions, unless the closing documents for the Series provide otherwise.

“Series 2010 A Financing Agreement” means the Financing Agreement entered into by the City and the Paying Agent related to the City’s Full Faith and Credit Refunding Obligations, Series 2010 A that are issued pursuant to Section 16 of this Master Declaration.

“Sewer Fund” means the collection of funds and accounts used by the City to hold the Gross Sewer Revenues and the proceeds of Bonds.

“Sewer System” means all utility property now or hereafter used by the City for collection, treatment and disposal of wastewater within the and without the corporate limits of the City. However, the Sewer System does not include any Separate Utility System.

“Sinking Fund” means the fund in the Sewer Fund which the City has created to provide for the repayment of bonded debt and the interest on bonded debt.

“State” means the State of Oregon.

“Subordinate Obligations” means obligations having a lien on the Net Sewer Revenues which is subordinate to the lien of the Bonds. Restrictions on Subordinate Obligations are described in Section 10.

“Subordinate Obligations Account” means the Subordinate Obligations Account of the Sewer Fund which is described in Section 7.4.

“Supplemental Declaration” means any declaration, resolution or other document which supplements or amends this Master Declaration, entered into by the City in compliance with Section 14.

“Valuation Date” means the date or dates on which a subaccount of the Bond Reserve Account shall be valued as prescribed in the Supplemental Declaration authorizing the establishment of such subaccount.

Section 3. Rules of Construction.

In determining the meaning of the provisions of this Master Declaration, the following rules shall apply unless the context clearly requires application of a different meaning:

- A. References to section numbers shall be construed as references to sections of this Master Declaration.
- B. References to one gender shall include both genders.
- C. References to the singular include the plural, and references to the plural include the singular.

Section 4. Pledges.

- 4.1. The City hereby pledges the Net Sewer Revenues and the Room Tax Revenues to the payment of principal of, premium (if any) and interest on all Bonds. In addition, the City hereby pledges the Net Sewer Revenues and Room Tax Revenues available for transfer to any subaccount of the Bond Reserve Account to pay amounts due under any Reserve Credit Facility securing any subaccount of the Bond Reserve Account. Pursuant to ORS 287A.310, these pledges of the Net Sewer Revenues and Room Tax Revenues shall be valid and binding from the time of the adoption of this Master Declaration. The Net Sewer Revenues and Room Tax Revenues so pledged and hereafter received by the City shall immediately be subject to the lien of such pledge without any physical delivery or further act.
- 4.2. The lien of the pledge of Room Tax Revenues shall be superior to all other claims and liens.
- 4.3. The lien of the pledge of Net Sewer Revenues shall be superior to all other claims and liens except liens and claims for the payment of Operating Expenses, the payment of Senior Sewer Revenue Obligations and the funding of debt service reserves for Senior Sewer Revenue Obligations.
- 4.4. The City covenants and agrees to take such action as is necessary from time to time to perfect or otherwise preserve the priority of the pledges described in this Section 4.
- 4.5. The City has pledged its full faith and credit to provide additional security for the Series 2010 A Financing Agreement. The City is not obligated to pledge its full faith and credit

for any Parity Bonds, and reserves the right to pledge its full faith and credit to other obligations without limitation.

Section 5. Deposit and Use of Gross Sewer Revenues.

- 5.1. All Gross Sewer Revenues shall be deposited to and maintained in the Sewer Fund, and shall be used only as described in this Section as long as any Bonds remain Outstanding. The City shall apply Gross Sewer Revenues in the Sewer Fund on or before the following dates for the following purposes in the following order of priority:
- A. At any time to pay Operating Expenses which are then due;
 - B. At any time to pay Senior Sewer Revenue Obligations and to make required deposits to debt service reserve accounts for Senior Sewer Revenue Obligations;
 - C. Five Business Days prior to each Payment Date, to transfer Net Sewer Revenues to the Bond Account in an amount sufficient (with amounts available in the Bond Account) to pay in full all Bond principal, interest and premium, if any, which is due to be paid on that Payment Date;
 - D. On the Closing date for a Series of Bonds and on the first day of each month following a Valuation Date, to transfer Net Sewer Revenues to all subaccounts of the Bond Reserve Accounts then having a balance that is less than their Reserve Requirements, until the balances in all subaccounts of the Bond Reserve Account are equal to their Reserve Requirements;
 - E. On the day on which any rebates or penalties for Bonds are due to be paid to the United States pursuant to Section 148 of the Code, to pay the amounts due to the United States;
 - F. On the dates specified in any proceedings authorizing Subordinate Obligations, the City shall transfer to the Subordinate Obligations Account the Net Sewer Revenues required by those proceedings; and,
 - G. On any date, the City may transfer Net Sewer Revenues to the Rate Stabilization Account or spend Net Sewer Revenues for any other lawful purpose, but only if all deposits and payments having a higher priority under this Section have been made.

Section 6. Deposit and Use of Room Tax Revenues

- A. If the amount on deposit in the Bond Account three Business Day before each Payment Date is not sufficient to pay the Bond principal, interest or premium that is due on that Payment Date, the City shall transfer Room Tax Revenues to the Bond Account in an amount sufficient (with amounts available in the Bond Account) to pay in full all Bond principal, interest and premium, if any, which is due to be paid on that Payment Date.
- B. On the day following the Closing date for a Series of Bonds and on the second day of each month following a Valuation Date, if the amount credited any subaccount of the

Reserve Account is less than its Reserve Requirement the City shall transfer Room Tax Revenues to all subaccounts of the Bond Reserve Accounts then having a balance that is less than their Reserve Requirements, until the balances in all subaccounts of the Bond Reserve Account are equal to their Reserve Requirements.

- C. On the day on which any rebates or penalties for Bonds are due to be paid to the United States pursuant to Section 148 of the Code, if the Net Sewer Revenues then available are not sufficient to pay those rebates or penalties, the City shall pay those rebates or penalties from Room Tax Revenues.

Section 7. Bond Funds and Accounts

- 7.1. So long as Bonds are Outstanding, the City shall maintain the Bond Account, the Bond Reserve Account and the Rate Stabilization Account as discrete accounts in the Sewer Fund. Unless the City restructures the funds and accounts in the Sewer Fund, the Bond Account, the Bond Reserve Account and the Rate Stabilization Account shall be maintained in the Sinking Fund.
- 7.2. **Bond Account.** The Bond Account shall be held by the City. Until all Bonds are paid or defeased, amounts in the Bond Account shall be used only to pay Bonds. The City shall transfer sufficient amounts from the Bond Account to the Registrar in time to permit the Registrar to pay all Bond principal, interest and premium (if any) when due in accordance with the Bonds. Amounts in the Bond Account shall be invested only in Permitted Investments. Earnings on the Bond Account shall be credited to the Bond Account.
- 7.3. **Bond Reserve Account.**
 - A. The Bond Reserve Account shall be held by the City and the City may create subaccounts in the Bond Reserve Account to secure Bonds. When each subaccount is created, the City shall determine whether the subaccount will secure one or more Series of Bonds. If the City creates a subaccount in the Bond Reserve Account, the City shall, before it issues the first Series of Bonds that is secured by that subaccount, establish the Reserve Requirement and valuation dates for that subaccount and pledge amounts credited to that subaccount to pay the Bonds that are secured by that subaccount.
 - B. The City shall not create any subaccounts in the Bond Reserve Account for any purpose except securing Bonds in accordance with this Master Declaration.
 - C. No Reserve for Series 2010 A Financing Agreement. There is no subaccount in the Bond Reserve Account and no Reserve Requirement established for the Series 2010 A Financing Agreement and the Series 2010 A Financing Agreement is not secured by any amounts in the Bond Reserve Account.
- 7.4. **Subordinate Obligations Account.** If the City issues Subordinate Obligations, the City shall create and maintain the Subordinate Obligations Account as long as the Subordinate Obligations are outstanding. The Subordinate Obligations Account may be divided into subaccounts, and the City may establish priorities for funding the subaccounts in the

Subordinate Obligations Subaccount. Net Sewer Revenues shall be deposited into the Subordinate Obligations Account only as permitted by Section 5.1.F. Earnings on the Subordinate Obligations Account shall be credited as provided in the proceedings authorizing the Subordinate Obligations.

- 7.5. **Rate Stabilization Account.** The City shall establish and maintain the Rate Stabilization Account as long as Bonds are Outstanding. Net Sewer Revenues and Room Tax Revenues may be transferred to the Rate Stabilization Account at the option of the City as permitted by Section 5.1.G. Money in the Rate Stabilization Account may be withdrawn at any time and used for any purpose for which the Gross Sewer Revenues may be used. Deposits to the Rate Stabilization Account increase Operating Expenses for the Fiscal Year in which the deposit is made. Withdrawals from the Rate Stabilization Account increase Gross Sewer Revenues for the Fiscal Year in which the withdrawal is made. The City may adjust deposits to and withdrawals from the Rate Stabilization Account for a Fiscal Year at any time prior to the date on which the audit for that Fiscal Year is finalized. Earnings on the Rate Stabilization Account shall be credited to the Sewer Fund. On the date of this Master Declaration, the City will make a deposit of \$ _____ to the Rate Stabilization Account.

Section 8. Rate Covenant

- 8.1. The City covenants for the benefit of the Owners that it will establish and maintain rates and charges in connection with the operation of the Sewer System which, when combined with other Pledged Revenues, are sufficient to permit the City to pay all Operating Expenses and all lawful charges against the Net Sewer Revenues, and to make all transfers required by this Master Declaration to the Bond Account, the Bond Reserve Account and the Subordinate Obligations Account, and to pay any franchise fees or similar charges imposed by the City on the Sewer System or its operations.
- 8.2. The City covenants for the benefit of the Owners of all Bonds that it shall charge rates and fees in connection with the operation of the Sewer System which, when combined with other Pledged Revenues, but without regard to system development charges, are adequate to generate Pledged Revenues each Fiscal Year at least equal to one hundred twenty-five percent (125.00%) of Combined Annual Debt Service due in that Fiscal Year.
- 8.3. The City covenants for the benefit of the Owners of all Bonds that it shall charge rates and fees in connection with the operation of the Sewer System which, when combined with other Pledged Revenues, but without regard to transfers from the Rate Stabilization Account and system development charges, are adequate to generate Pledged Revenues each Fiscal Year at least equal to one hundred ten percent (110.00%) of Combined Annual Debt Service due in that Fiscal Year.
- 8.4. The City shall require that its Auditor deliver a certificate to the City determining whether the City met the requirements in Sections 8.2 and 8.3 for a Fiscal Year at the same time the Auditor delivers its final audit to the City for that Fiscal Year.

- 8.5. If the Auditor's certificate states that the City did not comply with Section 8.2 or 8.3 for a Fiscal Year, it shall not constitute an Event of Default if the City authorizes changes to rates or charges, reduces expenditures or takes other action which the City reasonably expects will permit the City to comply with the requirements in Sections 8.2 and 8.3 for the 12 month period beginning the month after the City receives the Auditor's Certificate. When the 12 month period in the preceding sentence has passed, the City shall prepare a report that demonstrates whether the City has complied with the requirements in Section 8.2 or 8.3 for that twelve month period and shall file that report in the City records. [Report may need to be verified by an auditor of consultant – timing and terms to be determined]

Section 9. Parity Bonds

- 9.1. The City may issue Parity Bonds to provide funds for any purpose relating to the Sewer System, but only if:
- A. No Event of Default under this Master Declaration or any Supplemental Declaration has occurred and is continuing;
 - B. At the time of the issuance of the Parity Bonds there is no deficiency in the Bond Account, and the balance in each subaccount of the Bond Reserve Account is at least equal to its Reserve Requirement;
 - C. There shall have been filed with the City either:
 - (i) A certificate of the City Official stating that the Pledged Revenues (adjusted as provided in Section 9.2) for the Base Period were not less than one hundred twenty-five percent (125.00%) of Maximum Combined Annual Debt Service, calculated as of the date the Parity Bonds are issued and with the proposed Parity Bonds treated as Outstanding; or
 - (ii) A certificate or opinion of a Qualified Consultant stating that the Pledged Revenues (adjusted as provided in Section 9.3) for the first full Fiscal Year following the last Fiscal Year for which interest on the Parity Bonds is, or is expected to be, capitalized (or, if interest will not be capitalized, for the first full Fiscal Year after the proposed Parity Bonds are issued) are at least equal to one hundred twenty-five percent (125.00%) of the Maximum Combined Annual Debt Service calculated as of the date the Parity Bonds are issued and with the proposed Parity Bonds treated as Outstanding.
- 9.2. Pledged Revenues for purposes of Section 9.1.C(i) shall be adjusted by subtracting system development charges and may be adjusted by adding any Net Sewer Revenues the City Official calculates the City would have had during the Base Period because of increases in Sewer System rates, fees and charges which took effect or were adopted by the City after the beginning of the Base Period and before the date the Parity Bonds are issued.

- 9.3. The Qualified Consultant shall compute the adjusted Pledged Revenues for purposes of Section 9.1.C(ii) by subtracting system development charges from the Net Sewer Revenues for the Base Period and may adjust the result in any of the following ways:
- A. By adding any Net Sewer Revenues the City Official calculates the City would have had during the Base Period because of increases in Sewer System rates, fees and charges which took effect or were adopted by the City after the beginning of the Base Period and before the date the Parity Bonds are issued;
 - B. To reflect any changes in Sewer System customers or use of Sewer System services or products that have occurred since the beginning of the Base Period and before the date the Parity Bonds are issued.
- 9.4. The City may issue Parity Bonds to refund Outstanding Bonds without complying with Section 9.1 if the refunded Bonds are defeased on the date of delivery of the refunding Parity Bonds and if the Combined Annual Debt Service on the refunding Parity Bonds does not exceed the Combined Annual Debt Service on the refunded Bonds in any Fiscal Year in which the refunding Bonds are Outstanding by more than \$5,000.
- 9.5. When a Series of Parity Bonds is issued, the City shall establish the administrative terms related to that Series and establish whether that Series will be secured by a subaccount in the Bond Reserve Account.
- 9.6. All Parity Bonds issued in accordance with this Section 9 shall have a lien on the Net Sewer Revenues and Room Tax Revenues which is equal to the lien of all other Outstanding Bonds, and shall be payable from the Bond Account as provided in Section 6.

Section 10. Subordinate Obligations

- 10.1. Subordinate Obligations may not be secured by any lien on the Net Sewer Revenues except Net Sewer Revenues that are available for deposit in the Subordinate Obligations Account pursuant to Section 5.1.F.
- 10.2. Subordinate Obligations must state clearly that they are secured by a lien on or pledge of the Net Sewer Revenues which is subordinate to the lien on, and pledge of, the Net Sewer Revenues for the Bonds.
- 10.3. Subordinate Obligations are not required to be secured by a lien on the Room Tax Revenues. If Subordinate Obligations are secured by a lien on the Room Tax Revenues, the lien on the Room Tax Revenues that secures the Subordinate Obligations shall be subordinate to the lien on the Room Tax Revenues that secures Bonds.

Section 11. Separate Utility System

The City may declare property which the City owns and is part of the Sewer System (but has a value of less than five percent of the Sewer System at the time of the declaration), and property

which the City has not yet acquired but would otherwise become part of the Sewer System, to be part of a Separate Utility System. The City may pay costs of acquiring, operating and maintaining Separate Utility Systems from Net Sewer Revenues, but only if there is no deficit in the Bond Account or the Bond Reserve Account. The City may issue obligations which are secured by the revenues produced by the Separate Utility System, and may pledge the Separate Utility System revenues to pay those obligations. In addition, the City may issue Subordinate Obligations to pay for costs of a Separate Utility System, and may pledge the revenues of the Separate Utility System to pay the Subordinate Obligations.

Section 12. General Covenants

The City hereby covenants and agrees with the Owners of all Outstanding Bonds as follows:

- 12.1. The City shall promptly cause the principal, premium, if any, and interest on the Bonds to be paid as they become due in accordance with the provisions of this Master Declaration and any Supplemental Declaration.
- 12.2. The City shall maintain complete books and records relating to the operation of the Sewer System and all City funds and accounts in accordance with generally accepted accounting principles, shall cause such books and records to be audited annually at the end of each Fiscal Year, and shall have an audit report prepared by the Auditor and made available for the inspection of Owners.
- 12.3. The City shall not issue obligations which have a lien on the Net Sewer Revenues or Room Tax Revenues that is superior to the lien of the Bonds except for obligations to pay Operating Expenses.
- 12.4. The City shall not issue obligations which have a lien on the Net Sewer Revenues or Room Tax Revenues that is equal to the lien of the Bonds except as provided in Section 9.
- 12.5. The City shall promptly deposit the Gross Sewer Revenues and other amounts described in this Master Declaration into the funds and accounts specified in this Master Declaration.
- 12.6. The City shall work in good faith to cause the Sewer System to be operated at all times in a safe, sound, efficient and economic manner in compliance with all health, safety and environmental laws, regulatory body rules, regulatory body orders and court orders applicable to the City's operation and ownership of the Sewer System.
- 12.7. The City shall maintain the Sewer System in good repair, working order and condition.
- 12.8. The City shall not enter into any agreement to provide Sewer System products or services at a discount from published rate schedules, or provide free Sewer System products or services, except in the case of emergencies.

- 12.9. The City shall at all times maintain with responsible insurers all such insurance on the Sewer System as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to such works or properties.
- A. The net proceeds of insurance against material accident to or material destruction of the Sewer System shall be used to repair or rebuild the damaged or destroyed Sewer System, and to the extent not so applied, will be applied to the payment or redemption of the Bonds.
- B. The insurance described in Section 12.9 shall be in the form of policies or contracts for insurance with insurers of good standing and shall be payable to the City, or in the form of self-insurance by the City. The City shall establish such fund or funds or reserves which it deems are necessary to provide for its share of any such self-insurance.
- 12.10. The City shall not, nor shall it permit others to, sell, mortgage, lease or otherwise dispose of or encumber all or any portion of the Sewer System except:
- A. The City may dispose of all or substantially all of the Sewer System, only if the City pays all Bonds or defeases them pursuant to Section 15.
- B. Except as provided in Section 12.10.C, the City will not dispose of any part of the Sewer System in excess of 5% of the value of the Sewer System in service unless prior to such disposition either:
- (i) There has been filed with the City a certificate of a Qualified Consultant stating that such disposition will not impair the ability of the City to comply with the rate covenants contained in Section 8.1 of this Master Declaration; or
 - (ii) Provision is made for the payment, redemption or other defeasance of a principal amount of Bonds equal to the greater of the following amounts:
 - (a) An amount which will be in the same proportion to the net principal amount of Bonds then Outstanding (defined as the total principal amount of Bonds then Outstanding less the amount of cash and investments in the Sinking Fund) that the Gross Sewer Revenues attributable to the part of the Sewer System sold or disposed of for the 12 preceding months bears to the total Gross Sewer Revenues for such period; or
 - (b) An amount which will be in the same proportion to the net principal amount of Bonds then Outstanding that the book value of the part of the Sewer System sold or disposed of bears to the book value of the Sewer System immediately prior to such sale or disposition.
- C. The City may dispose of any portion of the Sewer System that has become unserviceable, inadequate, obsolete, or unfit to be used or no longer necessary for use in the operation of the Sewer System.

- D. If the ownership of all or part of the Sewer System is transferred from the City through the operation of law, the City shall to the extent authorized by law, reconstruct or replace such transferred portion using any proceeds of the transfer unless the City Council reasonably determines that such reconstruction or replacement is not in the best interest of the City and the Owners, in which case any proceeds shall be used for the payment, redemption or defeasance of the Bonds.

Section 13. Events of Default and Remedies.

- 13.1. Continuous Operation Essential. The City Council of the City hereby finds and determines that the continuous operation of the Sewer System and the collection, deposit and disbursement of the Net Sewer Revenues in the manner provided in this Master Declaration and in any Supplemental Declaration are essential to the payment and security of the Bonds, and the failure or refusal of the City to perform the covenants and obligations contained in this Master Declaration or any such Supplemental Declaration will endanger the necessary continuous operation of the Sewer System and the application of the Net Sewer Revenues to the operation of the Sewer System and the payment of the Bonds.
- 13.2. Events of Default. The following shall constitute “Events of Default”:
- A. If the City shall fail to pay any Bond principal or interest when due, either at maturity, upon exercise of a right of tender, by proceedings for redemption or otherwise;
- B. Except as provided in Section 8.5 and 13.2.F, if the City shall default in the observance and performance of any other of its covenants, conditions and agreements in this Master Declaration, if such default continues for thirty (30) days after the City receives a written notice, specifying the Event of Default and demanding the cure of such default, from a Credit Provider or from the Owners of not less than 20% in aggregate principal amount of the Bonds Outstanding;
- C. If the City shall sell, transfer, assign or convey any properties constituting the Sewer System in violation of Section 12.10;
- D. If an order, judgment or decree shall be entered by any court of competent jurisdiction:
- (i) Appointing a receiver, trustee or liquidator for the City or the whole or any part of the Sewer System;
 - (ii) Approving a petition filed against the City seeking the bankruptcy, arrangement or reorganization of the City under any applicable law of the United States or the State; or
 - (iii) Assuming custody or control of the City or of the whole or any part of the Sewer System under the provisions of any other law for the relief or aid of debtors and such order, judgment or decree shall not be vacated or set aside or stayed (or, in case custody or control is assumed by said order, such custody or

control shall not be otherwise terminated) within sixty (60) days from the date of the entry of such order, judgment or decree; or

- E. If the City shall:
- (i) Admit in writing its inability to pay its debts generally as they become due;
 - (ii) File a petition in bankruptcy or seeking a composition of indebtedness under any state or federal bankruptcy or insolvency law;
 - (iii) Consent to the appointment of a receiver of the whole or any part of the Sewer System; or
 - (iv) Consent to the assumption by any court of competent jurisdiction under the provisions of any other law for the relief or aid of debtors of custody or control of the City or of the whole or any part of the Sewer System.
- F. Exception. It shall not constitute an Event of Default under 13.2.B if the default cannot practicably be remedied within thirty (30) days after the City receives notice of the default, so long as the City promptly commences reasonable action to remedy the default after the notice is received, and continues reasonable action to remedy the default until the default is remedied.
- G. Remedies. If an Event of Default occurs, any Owner may exercise any remedy available at law or in equity. However, the Bonds shall not be subject to acceleration or mandatory redemption upon an Event of Default.
- H. Books of City Open to Inspection.
- (i) The City covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the City and all other records relating to the Pledged Revenues shall at all reasonable times be subject to the inspection and use of any persons holding at least twenty percent (20%) of the principal amount of Outstanding Bonds and their respective agents and attorneys.
 - (ii) The City covenants that if the Event of Default shall happen and shall not have been remedied, the City will continue to account, as a trustee of an express trust, for all Net Sewer Revenues and other moneys, securities and funds pledged under this Master Declaration.
- I. Appointment of Trustee. Whenever any Event of Default exists, Owners representing 51 percent or more of the Outstanding Bonds may appoint a commercial bank with a reported capital and surplus in excess of \$50 million as trustee (the "Trustee") to represent the interests of said Owners.
- J. Trustee Duties Upon Default.

- (i) Upon the occurrence of an Event of Default the Trustee may pursue any other available remedy at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the outstanding Bonds, and to enforce any rights of the Trustee under or with respect to the Master Declaration.
- (ii) In addition, upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under the Master Declaration, the Trustee will be entitled, as a matter of right, to the appointment of a receiver or receivers of the Pledged Revenues and other amounts pledged under the Master Declaration, pending such proceedings, with such powers as the court making such appointment may confer.
- (iii) If an Event of Default has occurred and be continuing and if requested so to do by the Owners of at least 25% in aggregate principal amount of Outstanding Bonds and indemnified as provided in the Master Declaration, the Trustee will be obligated to exercise such one or more of the rights and powers conferred by this Master Declaration, as the Trustee, being advised by counsel, deems most expedient in the interest of the Owners.
- (iv) If a Trustee has been appointed pursuant to 13.2.I, no Owner of any Bond shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under the Master Declaration, unless:
 - (a) such Owner has previously given to the Trustee written notice of the occurrence of an Event of Default;
 - (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding have requested the Trustee in writing to exercise its powers under the Master Declaration;
 - (c) said Owners have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and
 - (d) the Trustee has refused or failed to comply with such request for a period of 60 days after such written request has been received by the Trustee and said tender of indemnity is made to the Trustee.
- (v) Pursuant to the Master Declaration, if the Trustee takes any judicial or other action in an Event of Default the Trustee has full power in its direction with respect to any continuance, discontinuance, withdrawal, compromise, settlement or other disposition of such action, unless opposed by the written request of the Owners of a majority in aggregate principal amount of the Outstanding Bonds. The Trustee is appointed attorney-in-fact of the Owners

for the purpose of bringing any suit action or proceedings in an Event of Default.

K. Waivers of Event of Default.

- (i) No delay or omission of any Owner or of the Trustee to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or to be an acquiescence therein; and every power and remedy given by this Section 13 to the Owners and to the Trustee may be exercised from time to time and as often as may be deemed expedient by the Owners and/or the Trustee as applicable.
- (ii) The owners of not less than fifty percent (50%) in principal amount of the affected Bonds that are at the time Outstanding, or their attorneys-in-fact duly authorized, or the Trustee may, on behalf of the Owners of all of affected Bonds, waive any past default under this Master Declaration with respect to such Bonds and its consequences, except a default in the payment of the principal of, premium, if any, or interest on any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

L. Remedies Granted in Master Declaration Not Exclusive.

No remedy by the terms of this Master Declaration conferred upon or reserved to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Master Declaration or existing at law or in equity or by statute on or after the date of adoption of this Master Declaration.

Section 14. Amendment of Master Declaration

- 14.1. This Master Declaration may be amended by Supplemental Declaration without the consent of any Owners for any one or more of the following purposes:
- A. To cure any ambiguity or formal defect or omission in this Master Declaration;
 - B. To add to the covenants and agreements of the City in this Master Declaration, other covenants and agreements to be observed by the City which are not contrary to or inconsistent with this Master Declaration as theretofore in effect;
 - C. To authorize issuance of Bonds or Subordinate Obligations;
 - D. To modify, amend or supplement this Master Declaration or any Supplemental Declaration to qualify this Master Declaration under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of

any Bonds for sale under the securities laws of any of the states of the United States of America;

- E. To confirm, as further assurance, any security interest or pledge created under this Master Declaration or any Supplemental Declaration;
 - F. To make any change which, in the reasonable judgment of the City, does not materially and adversely affect the rights of the owners of any Outstanding Bonds;
 - G. So long as a Credit Facility (other than a Reserve Credit Facility) is in full force and effect with respect to the Bonds affected by such Supplemental Declaration, to make any other change which is consented to in writing by the issuer of such Credit Facility other than any change which:
 - (i) Would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies;
 - (ii) Changes the maturity (except as permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility;
 - (iii) Materially and adversely affects the rights and security afforded to the Owners of any Outstanding Bonds not secured by such Credit Facility; or
 - H. To modify any of the provisions of this Master Declaration or any Supplemental Declaration in any other respect whatever, as long as the modification shall take effect only after all affected Outstanding Bonds cease to be Outstanding.
- 14.2. This Master Declaration may be amended for any other purpose only upon consent of Owners of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds outstanding; provided, however, that no amendment shall be valid without the consent of Owners of 100 percent (100%) of the aggregate principal amount of the Bonds outstanding which:
- A. Extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on any Bond, reduces the amount of principal payable on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Owner; or
 - B. Reduces the percent of Owners required to approve Supplemental Declarations.
- 14.3. For purposes of Section 14.2, and subject to Section 14.4, the initial purchaser of a series of Bonds may be treated as the Owner of that Series at the time that series of Bonds is delivered in exchange for payment.

- 14.4. Except as otherwise expressly provided in a Supplemental Declaration, as long as a Credit Facility (other than a Reserve Credit Facility) securing all or a portion of any Outstanding Bonds is in effect, the issuer of such Credit Facility shall be deemed to be the Owner of the Bonds secured by such Credit Facility:
- A. At all times for the purpose of the execution and delivery of a Supplemental Declaration or of any amendment, change or modification of this Master Declaration or the initiation by Owners of any action which under this Master Declaration requires the written approval or consent of or can be initiated by the Owners of at least a majority in principal amount of the affected Bonds at the time Outstanding; and following an Event of Default for all other purposes;
 - B. Notwithstanding the foregoing, the issuer of such Credit Facility shall not be deemed to be an Owner secured thereby with respect to any such Supplemental Declaration or of any amendment, change or modification of this Master Declaration which:
 - (i) Would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies; or
 - (ii) Changes the maturity (except as expressly permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds or diminishes the security afforded by such Credit Facility; or
 - (iii) Reduces the percentage or otherwise affects the classes of affected Bonds, the consent of the Owners of which is required to effect any such modification or amendment.
 - C. In addition and notwithstanding the foregoing, no issuer of a Credit Facility given as security for any Bonds shall be entitled to exercise any rights under this Section during any period where:
 - (i) The Credit Agreement or Credit Facility to which such Credit Provider is a party shall not be in full force and effect;
 - (ii) Such Credit Provider shall have filed a petition or otherwise sought relief under any federal or state bankruptcy or similar law;
 - (iii) Such Credit Provider shall, for any reason, have failed or refused to honor a proper demand for payment under such Credit Facility; or
 - (iv) An order or decree shall have been entered, with the consent or acquiescence of such Credit Provider, appointing a receiver or receivers or the assets of the Credit Provider, or if such order or decree having been entered without the consent or acquiescence of such Credit Provider, shall not have been vacated or discharged or stayed within ninety (90) days after the entry thereof.

- D. For purposes of determining the percentage of Owners consenting to, waiving or otherwise acting with respect to any matter that may arise under this Master Declaration, the Owners of Bonds which pay interest only at maturity, and mature more than one year after they are issued shall be treated as Owners of Bonds in an aggregate principal amount equal to the accreted value of such Bonds as of the date the Registrar sends out notice of requesting consent, waiver or other action as provided herein.

Section 15. Defeasance

- 15.1. The City shall be obligated to pay Bonds which are defeased pursuant to this Section solely from the money and Government Obligations deposited with the escrow agent or trustee, and the City shall have no further obligation to pay the defeased Bonds from any source except the amounts deposited in the escrow. Bonds shall be deemed defeased if the City:
- A. irrevocably deposits money or noncallable Government Obligations in escrow with an independent trustee or escrow agent which are calculated to be sufficient for the payment of Bonds without reinvestment which are to be defeased; and
 - B. obtains a report from an independent, certified public accountant verifying the accuracy of calculations indicating that the money and the principal and interest to be received from the Government Obligations are sufficient, without further reinvestment, to pay the defeased Bonds when due; and
 - C. obtains an opinion of nationally recognized bond counsel that the proposed defeasance will not cause the interest component of the Bonds to be includable in gross income under the Code.

Section 16. The Series 2010 A Financing Agreement.

Pursuant to the authority of the City Resolution No. _____ and this Master Declaration, the City has executed its Series 2010 A Financing Agreement in the principal amount of \$_____ on this date. The Series 2010 A Financing Agreement shall be a Bond as defined in this Master Declaration. The Series 2010 A Financing Agreement shall bear interest, mature, and be subject to the administrative provisions outlined in the Series 2010 A Financing Agreement. There is no Reserve Requirement established for the Series 2010 A Financing Agreement and the Series 2010 A Financing Agreement is not secured by any subaccount in the Bond Reserve Account.

EXECUTED ON BEHALF OF THE CITY OF NEWPORT BY ITS CITY OFFICIAL AS OF THE __th DAY OF _____, 2010.

City of Newport, Oregon

By: _____
Authorized Officer

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF NEWPORT, OREGON AUTHORIZING THE REFINANCING OF OUTSTANDING OBLIGATIONS OF THE CITY AND AGENCY AND THE FINANCING OF CAPITAL PROJECTS IN THE SOUTH BEACH URBAN GROWTH AREA.

WHEREAS, the City of Newport, Oregon (the “City”) is authorized by Oregon Revised Statutes Section 271.390 to enter into financing agreements to finance or refinance real or personal property which the City Council determines is needed; and,

WHEREAS, the City previously entered into Loan Agreement No. R68931 with the State of Oregon Department of Environmental Quality to finance the design and construction of the City’s wastewater treatment plant, and a portion of that loan is secured by tax increment revenues of the South Beach Urban Growth Area and wastewater system revenues (the “South Beach Portion of DEQ Loan No. R68931”); and,

WHEREAS, \$3,217,490.54 of the South Beach Portion of DEQ Loan No. R68931 is still outstanding; and,

WHEREAS, the South Beach Portion of DEQ Loan No. R68931 is currently paid from tax increment revenues of the South Beach Urban Growth Area; and,

WHEREAS, the City previously entered into two loans with the State of Oregon Economic and Community Development Department (now known as the Oregon Business Development Department) that also financed a portion of the City’s wastewater treatment plant (the “OBDD Loans”); and,

WHEREAS, \$3,522,568 of the OBDD Loans are still outstanding; and,

WHEREAS, the OBDD Loans are currently paid from the tax increment revenues of the South Beach Urban Growth Area; and,

WHEREAS, the Urban Renewal Agency of the City previously issued two bonds to Bank of America, N.A. under a Master Bond Declaration for the South Beach Urban Growth Area dated May 15, 2007 (the “South Beach Master”) to finance projects in the South Beach Urban Growth Area (the “Bank of America Bonds”); and,

WHEREAS, \$3,083,000 of the Bank of America Bonds are still outstanding; and,

WHEREAS, the Bank of America Bonds are currently paid from tax increment revenues of the South Beach Urban Renewal Area; and,

WHEREAS, current interest rates may be lower than the interest rates that are payable on the South Beach Portion of DEQ Loan No. R68931, the OBDD Loans and the Bank of America Bonds (collectively, the “Refundable Obligations”), and the City may be able to reduce debt

service costs or favorably restructure its outstanding borrowings by refunding all or a portion of the Refundable Obligations; and ,

WHEREAS, the City has identified a need to obtain financing for up to \$2,100,000 for capital projects in the South Beach Urban Growth Area;

NOW, THEREFORE, BE IT RESOLVED by the Newport City Council that:

1. Authorization of Financing Agreements.

- 1.1 The City is hereby authorized to enter into one or more financing agreements to refinance all or any portion of the Refundable Obligations pursuant to ORS 271.390 and ORS Chapter 287A. The net proceeds of the financing agreements that are executed to refinance the Refundable Obligations shall not exceed the amount required to refinance the Refundable Obligations and pay estimated costs of the refinancing.
- 1.2 The City is hereby authorized to enter into one or more financing agreements to finance capital projects in the South Beach Urban Growth Area pursuant to ORS 271.390 and pay costs related to the financing. The net proceeds of the financing agreements that are executed to finance capital projects in the South Beach Urban Growth Area shall not exceed \$2,100,000, plus estimated costs of the financing.
- 1.3 The financing agreements authorized by this Section 1 are referred to in this Resolution as the “Financing Agreements.”

2. Determination of Need.

The City hereby determines that the South Beach Urban Growth Area projects financed with the Refundable Obligations and the additional capital projects in the South Beach Urban Growth Area are needed.

3. Delegation.

The City Manager, the Finance Director or the person designated by the City Council to act on behalf of the City under this resolution (each of whom is referred to in this resolution as a “City Official”) may, on behalf of the City and without further action by the Council:

- 3.1 Negotiate, execute and deliver one or more escrow agreements or similar documents (the “Escrow Agreements”) that provide for the issuance of one or more series of “certificates of participation” or “full faith and credit obligations” (the “Obligations”) that represent ownership interests in the loan payments due from the City under the Financing Agreements. Subject to the limitations of this resolution, the Escrow Agreements and each series of Obligations may be in such form and contain such terms as the City Official may approve.

- 3.2 Select one or more commercial banks with which to negotiate and execute each Financing Agreement, solicit competitive bids for the purchase of each series of the Obligations and award their sale to the bidder offering the most favorable terms to the City, or negotiate the terms of the sale of each series of Obligations to Seattle Northwest Securities Corporation, as underwriter, and sell that series to the underwriter.
- 3.3 Deem final and authorize the distribution of a preliminary official statement for each series of Obligations, authorize the preparation and distribution of a final official statement or other disclosure document for each series of Obligations, and enter into agreements to provide continuing disclosure for owners of each series of Obligations.
- 3.4 Apply for ratings for each series of Obligations, determine whether to purchase municipal bond insurance or obtain other forms of credit enhancements for each series of Obligations, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.
- 3.5 Take actions to call, defease and redeem the Refundable Obligations.
- 3.6 Engage the services of escrow agents or trustees and any other professionals whose services are desirable for the financing.
- 3.7 Determine the final principal amount, interest rates, payment dates, prepayment rights and all other terms of each Financing Agreement. Subject to the limitations of this resolution, each Financing Agreement may be in such form and contain such terms as the City Official may approve.
- 3.8 Negotiate, execute and deliver notes to evidence amounts due under the Financing Agreements.
- 3.9 Covenant for the benefit of the banks providing the Financing Agreements or the owners of Obligations to comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") which are required for the interest paid under the Financing Agreements to be excluded from gross income for federal income tax purposes.
- 3.10 Issue any of the Financing Agreements or series of Obligations as taxable "Build America Bonds" or other types of borrowings that were authorized by the American Recovery and Reinvestment Tax Act of 2009 and are eligible for federal interest subsidies or tax credits.
- 3.11 Designate each Financing Agreement as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code.
- 3.12 Enter into an intergovernmental agreement with the City's urban renewal agency that obligates the agency to pay the debt service on each Financing Agreement. The City may request the urban renewal agency issue each intergovernmental agreement as a "Bond" under the South Beach Master.

3.13 Execute and deliver any other certificates or documents and take any other actions which the City Official determines are desirable to carry out this resolution.

4. Security.

Each Financing Agreement shall constitute an unconditional obligation of the City, which is payable from all legally available funds of the City. The City Official may pledge the City’s full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution. In addition, the City Official may pledge any amounts due to the City from the City’s urban renewal agency under the intergovernmental agreements authorized by Section 3.12 of this resolution to pay each Financing Agreement.

5. Rescinding Resolution 3483.

Resolution 3483 of the City adopted on November 16, 2009 is hereby rescinded.

6. Effective Date.

This resolution shall take effect on the date of its approval by the City Council.

Introduced and passed this 7th day of June, 2010.

Mayor Bain

ATTEST:

City Recorder

**INTERGOVERNMENTAL AGREEMENT TO MAKE
PAYMENTS UNDER THE FINANCING
AGREEMENT**

by and between the

Newport Urban Renewal Agency, Oregon

and the

City of Newport, Oregon

Dated as of _____, 2010

Table of Contents

1.	DEFINITIONS AND RECITALS.....	1
1.1	DEFINITIONS.....	1
1.2	RECITALS.....	1
2.	TERMS.....	2
2.1	THE PAYMENTS.....	2
2.2	INDEBTEDNESS.....	2
2.3	SECURITY; PARITY INDEBTEDNESS.....	2
3.	TAX COVENANT.....	2
4.	MISCELLANEOUS.....	3
4.1	BINDING EFFECT.....	3
4.2	SEVERABILITY.....	3
4.3	AMENDMENTS.....	3
4.4	EXECUTION IN COUNTERPARTS.....	3
4.5	APPLICABLE LAW.....	3
4.6	RULES OF CONSTRUCTION.....	3
4.7	ASSIGNMENT.....	3
4.8	HEADINGS.....	3

INTERGOVERNMENTAL AGREEMENT TO MAKE PAYMENTS UNDER THE FINANCING AGREEMENT

This Intergovernmental Agreement to Make Payments Under the Financing Agreement is dated as of _____, 2010, and is entered into by and between the Newport Urban Renewal Agency, Oregon (the “Agency”) and the City of Newport, Oregon (the “City”). The parties hereby agree as follows:

1. Definitions and Recitals.

1.1 Definitions.

Unless the context clearly requires otherwise, capitalized terms used in this Intergovernmental Agreement which are defined in this Section 1.1 shall have the following meanings. Capitalized terms used in this Intergovernmental Agreement which are not defined shall be given the meaning assigned to such term in the Declaration:

“Declaration” means the Agency’s Master Bond Declaration for the South Beach Urban Growth Area dated May 15, 2007, which governs borrowings, like the Intergovernmental Agreement, secured by Tax Increment Revenues of the South Beach Urban Growth Area.

“Escrow Agent” means U.S. Bank National Association, its successors and its assigns.

“Escrow Agreement” means the Escrow Agreement relating to the City’s Full Faith and Credit Refunding Obligations, Series 2010 B which is dated as of [Closing Date] between the City and Escrow Agent, as it may be amended or supplemented.

“Financing Agreement” means the Financing Agreement between the City and the Escrow Agent in the principal amount not to exceed \$ _____, which is dated as of _____, 2010.

“Payments” means the principal and interest payments the City is required to make to the Escrow Agent under the Financing Agreement.

“Projects” means the refundings and new money projects described in Resolution No. _____ adopted by the City Council of the City on June 7, 2010, any projects the City Council may subsequently determine are needed and approve for financing under ORS 271.390, and costs related to the financing.

1.2 Recitals.

A. The City has entered into the Financing Agreement to finance the Projects and has pledged amounts it receives under this Intergovernmental Agreement to the Escrow Agent to secure the City’s Full Faith and Credit Refunding Obligations, Series 2010 B.

B. The Projects are properly described as urban renewal projects in the Agency's plan for the South Beach Urban Growth Boundary.

C. The Projects will assist the Agency in carrying out its plan for the South Beach Urban Growth Area.

D. The Agency has executed its Declaration in connection with the Agency's Tax-Exempt Urban Renewal Bond (South Beach Urban Growth Area), Series 2007 (the "2007 Bond"). Agency subsequently issued its Tax-Exempt Urban Renewal Bond (South Beach Urban Growth Area), Series 2008 dated May 28, 2008 (the "2008 Bond") as "Parity Indebtedness" under the Declaration. The Declaration allows the Agency to issue Parity Indebtedness that has the same lien on the Security as the 2007 Bond and 2008 Bond.

E. The Agency executes this Intergovernmental Agreement to provide for the issuance of Parity Indebtedness under the Declaration.

F. The Agency has established a maximum indebtedness limitation for the South Beach Urban Growth Area of \$38,750,000. The Agency has previously issued less than \$_____ of indebtedness that is subject to that limitation.

2. Terms.

2.1 The Payments.

The Agency hereby agrees to pay to the City not less than one business day prior to the dates on which the City is required to pay the Payments to the Escrow Agent amounts that are equal to the Payments, in a maximum principal amount of \$_____. The calculation of the amounts and dates of the Payments are provided in the Financing Agreement.

2.2 Indebtedness.

This Intergovernmental Agreement shall constitute an indebtedness of the Agency.

2.3 Security; Parity Indebtedness.

This Intergovernmental Agreement constitutes a "Bond" and "Parity Indebtedness" under the Declaration. The Agency has irrevocably pledged the Security to pay the Bonds, including this Intergovernmental Agreement, as provided in Section 3.2 of the Declaration. There is no reserve established to secure this Intergovernmental Agreement.

3. Tax Covenant.

The Agency covenants to comply with the applicable provisions of the Internal Revenue Code of 1986, as amended, (the "Code") so that interest on the Financing Agreement is excludable from gross income under the Code.

4. Miscellaneous.

4.1 Binding Effect.

This Intergovernmental Agreement shall inure to the benefit of and shall be binding upon the Agency and the City and their respective successors and assigns.

4.2 Severability.

In the event any provisions of this Intergovernmental Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

4.3 Amendments.

This Intergovernmental Agreement may be amended only by a writing signed by both parties and as authorized by [Sections 7.7 and 7.8] of the Escrow Agreement.

4.4 Execution in Counterparts.

This Intergovernmental Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute the same instrument.

4.5 Applicable Law.

This Intergovernmental Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any action regarding this Intergovernmental Agreement or the transactions contemplated hereby shall be brought in an appropriate court of the State of Oregon in Lincoln County, Oregon.

4.6 Rules of Construction.

References to section numbers in documents which do not specify the document in which the section is located shall be construed as references to section numbers in this Intergovernmental Agreement.

4.7 Assignment.

The City may assign its rights under this Intergovernmental Agreement to the Escrow Agent.

4.8 Headings.

The headings, titles and table of contents in this Intergovernmental Agreement are provided for convenience and shall not affect the meaning, construction or effect of this Intergovernmental Agreement.

IN WITNESS WHEREOF, the Agency and the City have executed this Intergovernmental Agreement as of the date indicated above.

Newport Urban Renewal Agency, Oregon

Authorized Officer

City of Newport, Oregon

Authorized Officer

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT TO PAY COSTS OF REFINANCING A PORTION OF A LOAN FROM THE OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY, TWO LOANS FROM THE OREGON BUSINESS DEVELOPMENT DEPARTMENT AND TWO BONDS TO THE BANK OF AMERICA, N.A., AND FINANCING PROJECTS IN THE SOUTH BEACH URBAN GROWTH AREA.

WHEREAS, the Newport Urban Renewal Agency (the “Agency”) has previously agreed to use tax increment revenues of the South Beach Urban Growth Area to pay the debt service on a portion of a loan obtained by the City of Newport (the “City”) from the Oregon Department of Environmental Quality to finance a portion of the City’s wastewater treatment plant (the “South Beach Portion of DEQ Loan No. R68931”); and,

WHEREAS, \$3,217,490.54 of the South Beach Portion of DEQ Loan No. R68931 is still outstanding; and,

WHEREAS, the Agency has previously agreed to use tax increment revenues of the South Beach Urban Growth Area to pay the debt service on two loans obtained by the City from the State of Oregon Economic and Community Development Department (now known as the Oregon Business Development Department) to also finance a portion of the City’s wastewater treatment plant (the “OBDD Loans”); and,

WHEREAS, \$3,522,568 of the OBDD Loans are still outstanding; and,

WHEREAS, the Agency previously issued two bonds to the Bank of America, N.A. to finance projects in the South Beach Urban Growth Area (the “Bank of America Bonds”); and,

WHEREAS, \$3,083,000 of the Bank of America Bonds are still outstanding; and

WHEREAS, the City may be able to borrow to finance additional projects in the South Beach Urban Growth Area on more favorable terms than the Agency; and

WHEREAS, the Agency has asked the City to obtain financing for not more than \$2,100,000 of additional projects in the South Beach Urban Growth Area (the “New Projects”); and

WHEREAS, current interest rates may be lower than the interest rates that are payable on the South Beach Portion of DEQ Loan No. R68931, the OBDD Loans and the Bank of America Bonds and the City may be able to reduce debt service costs or favorably restructure its outstanding borrowings by refinancing the South Beach Portion of DEQ Loan No. R68931, OBDD Loans and the Bank of America Bonds; now, therefore,

BE IT RESOLVED by the Newport Urban Renewal Agency that the Agency is hereby authorized to enter into an intergovernmental agreement with the City to pay the City's costs of refinancing all or any portion of the South Beach Portion of DEQ Loan No. R68931, the OBDD Loans and the Bank of America Bonds and financing the New Projects, including debt service on the refinancing and financing, from the tax increment revenues of the South Beach Urban Growth Area.

BE IT FURTHER RESOLVED, that the intergovernmental agreement may be issued as a "Bond" under the Agency's Master Bond Declaration for the South Beach Urban Growth Area dated May 15, 2007 (the "Master").

BE IT FURTHER RESOLVED, that the Executive Director of the Agency, the Finance Director of the City, or any other person designated by the Agency Board to act on behalf of the Agency under this resolution, may negotiate the terms of, execute, and issue as a Bond under the Master the intergovernmental agreement authorized by this resolution.

BE IT FURTHER RESOLVED, that Resolution No. 2009-03 of the Agency adopted on November 16, 2009 is hereby rescinded and this resolution shall take effect immediately.

ADOPTED this 7th day of June, 2010.

Newport Urban Renewal Agency,

Chair

ATTEST

Executive Director

RESOLUTION NO. 3483

A RESOLUTION OF THE CITY OF NEWPORT, OREGON AUTHORIZING THE REFINANCING OF OUTSTANDING OBLIGATIONS OF THE CITY AND THE FINANCING OF A UTILITY BILLING UPGRADE PROJECT.

WHEREAS, the City of Newport, Oregon (the “City”) is authorized by Oregon Revised Statutes Section 271.390 to enter into financing agreements to finance or refinance real or personal property which the City Council determines is needed; and

WHEREAS, the City previously entered into a loan with the State of Oregon Department of Environmental Quality to finance the design and construction of a wastewater treatment plant (the “DEQ Loan”), and \$5,884,703 of the DEQ Loan is still outstanding; and

WHEREAS, the DEQ Loan is currently paid from wastewater system revenues; and,

WHEREAS, the City previously entered into two loans with the State of Oregon Economic and Community Development Department (now known as the Oregon Business Development Department) that also financed a portion of the City’s wastewater treatment plant (the “OBDD Loans”); and

WHEREAS, \$3,777,080 of the OBDD Loans are still outstanding; and

WHEREAS, the OBDD Loans are currently paid from the tax increment revenues of the South Beach Urban Growth Area;

WHEREAS, current interest rates are lower than the interest rates that are payable on the DEQ Loan and the OBDD Loans (the “Refundable Obligations”), and the City may be able to reduce debt service costs by refunding the Refundable Obligations; and

WHEREAS, the City has identified a need to obtain financing for up to \$600,000 for a utility billing system upgrade that will help automate reading of City utility meters;

NOW, THEREFORE, BE IT RESOLVED by the Newport City Council that:

1. Authorization of Financing Agreements.

- 1.1 The City is hereby authorized to enter into one or more financing agreements to refinance all or any portion of the Refundable Obligations pursuant to ORS 271.390. However, the City shall not refinance the Refundable Obligations unless the refinancing produces net debt service savings. The net proceeds of the financing agreements that are executed to refinance the Refundable Obligations shall not exceed the amount required to refinance the Refundable Obligations and pay estimated costs of the refinancing.
- 1.2 The City is hereby authorized to enter into one or more financing agreements to finance the utility billing system upgrade pursuant to ORS 271.390 and pay costs related to the

financing. The net proceeds of the financing agreements that are executed to finance the utility billing system upgrade shall not exceed \$600,000, plus estimated costs of the financing.

- 1.3 The financing agreements authorized by this Section 1 are referred to in this Resolution as the “Financing Agreements.”

2. Determination of Need.

The City hereby determines that the wastewater treatment plant financed with the Refundable Obligations and the utility billing system upgrade are needed.

3. Delegation.

The City Manager, the Interim Finance Director, or the person designated by the City Council to act on behalf of the City under this resolution (each of whom is referred to in this resolution as a “City Official”) may, on behalf of the City and without further action by the Council:

- 3.1 Negotiate, execute and deliver one or more escrow agreements or similar documents (the “Escrow Agreements”) that provide for the issuance of one or more series of “certificates of participation” or “full faith and credit obligations” (the “Obligations”) that represent ownership interests in the loan payments due from the City under the Financing Agreements. Subject to the limitations of this resolution, the Escrow Agreements and each series of Obligations may be in such form and contain such terms as the City Official may approve.
- 3.2 Select one or more commercial banks with which to negotiate and execute each Financing Agreement, solicit competitive bids for the purchase of each series of the Obligations and award their sale to the bidder offering the most favorable terms to the City, or select one or more underwriters, negotiate the terms of the sale of each series of Obligations, and sell that series to those underwriters.
- 3.3 Deem final and authorize the distribution of a preliminary official statement for each series of Obligations, authorize the preparation and distribution of a final official statement or other disclosure document for each series of Obligations, and enter into agreements to provide continuing disclosure for owners of each series of Obligations.
- 3.4 Apply for ratings for each series of Obligations, determine whether to purchase municipal bond insurance or obtain other forms of credit enhancements for each series of Obligations, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.
- 3.5 Engage the services of escrow agents or trustees and any other professionals whose services are desirable for the financing.

- 3.6 Determine the final principal amount, interest rates, payment dates, prepayment rights and all other terms of each Financing Agreement. Subject to the limitations of this resolution, each Financing Agreement may be in such form and contain such terms as the City Official may approve.
- 3.7 Negotiate, execute and deliver notes to evidence amounts due under the Financing Agreements.
- 3.8 Covenant for the benefit of the banks providing the Financing Agreements or the owners of Obligations to comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") which are required for the interest paid under the Financing Agreements to be excluded from gross income for federal income tax purposes.
- 3.9 Designate each Financing Agreement as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code.
- 3.10 Enter into an intergovernmental agreement with the City's urban renewal agency that obligates the agency to pay the debt service on the Financing Agreements that refinance the OBDD Loans from the tax increment revenues of the South Beach Urban Growth Area.
- 3.11 Execute and deliver any other certificates or documents and take any other actions which the City Official determines are desirable to carry out this resolution.

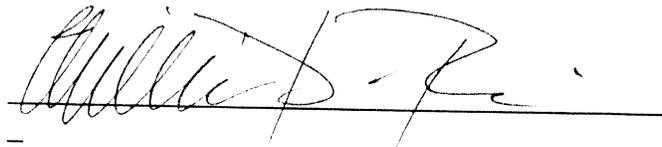
4. Security.

Each Financing Agreement shall constitute an unconditional obligation of the City, which is payable from all legally available funds of the City. The City Official may pledge the City's full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution. In addition, the City Official may: (a) pledge the net operating revenues of the City's wastewater system to pay the portions of the Financing Agreements that refinance the DEQ Loan, and (b) pledge any amounts due to the City from the City's urban renewal agency under the intergovernmental agreement authorized by Section 3.10 of this resolution to pay the portions of the Financing Agreements that refinance the OBDD Loans.

5. Effective Date.

This resolution shall take effect on the date of its approval by the City Council.

Introduced and passed this 16th day of November, 2009.

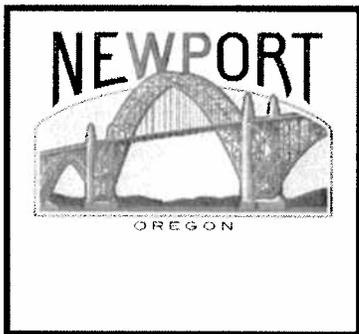


Mayor

ATTEST:



City Recorder



Agenda Item # IX.D.
 Meeting Date June 7, 2010

CITY COUNCIL AGENDA ITEM SUMMARY
 City Of Newport, Oregon

Issue/Agenda Title Approval of Task Order for Engineering Services to Civil West Engineering Services, Inc. for design and construction management services for Agate Beach Lower Water Storage Tank and Waterline

Prepared By: LRR Dept Head Approval: _____ City Mgr Approval: _____

Issue Before the Council: Authorize approval of a task order for Civil West Engineering Services, Inc. for engineering services for the Agate Beach Lower Water Storage Tank and Waterline project.

Staff Recommendation: Staff recommends that the Council authorize task order #1 for Civil West Engineering Services, Inc. for engineering services for the Agate Beach Lower Water Storage Tank and Waterline project (not to exceed \$207,675).

Proposed Motion: I move to approve task order #1 Civil West Engineering Services, Inc. and authorize the City Manager to sign the respective work scopes.

Key Facts and Information Summary: The City Council previously approved Civil West Engineering Services, Inc. (Civil West) to be engineers of record for projects relating to the City's water system. A master agreement was signed. The current approval is for a task order for a specific project which falls under the terms of the master agreement.

The **Agate Beach Lower Water Storage Tank and Water Line** project is in the current budget in the amount of \$1,992,492 and consists of funding from a the general obligation bond for the water treatment plant and the Agate Beach Storage Tank. The project includes a glass lined steel tank of approximately one million gallon capacity and a 12-inch diameter pipeline connecting the tank to an existing line in NE 71st Street. This tank and pipeline will provide added water flow capacity to the northern Agate Beach area – especially in the event of fire fighting requirements.

The tank has been included in the City's master water plans since 1988. The property was acquired a number of years ago.

Other Alternatives Considered: An epoxy painted steel tank was considered. The capital cost for the tank portion of the project would be about ¼ less, but the life-cycle cost of the glass lined tank is much less.

City Council Goals: The Council's 2009-10 goals under Essential Core Services – Water states "Complete design and begin construction of a 1,000,000 gallon water storage tank on NE 71st Street."

Attachment List: The proposed task order is attached

Fiscal Notes: The project is included in the current budget.

CITY OF NEWPORT

TASK ORDER NO. 1

TO ENGINEERING SERVICES AGREEMENT

This TASK ORDER NO.1 to the Engineering Services Agreement dated _____, 2010, hereinafter called Agreement, between the CITY OF NEWPORT (OWNER), and CIVIL WEST ENGINEERING SERVICES, INC. (ENGINEER).

A. DESCRIPTION OF PROJECT

Agate Beach Lower Storage Tank and Waterline

B. SCOPE OF SERVICES

OWNER agrees to utilize the services of ENGINEER and ENGINEER agrees to perform the following engineering services to the PROJECT.

1. ENGINEER shall prepare design and construction drawings, specifications, invitation to bid, and related contract forms for the Project described above and further described in Attachment A. ENGINEER shall also provide opinions of construction costs. The final drawings and specifications shall be approved by the OWNER prior to advertisement for bid.
2. ENGINEER shall assist OWNER with bidding and construction management services as further defined in Attachment B.
3. ENGINEER shall assist OWNER with construction observation services as further defined in Attachment C.

C. OWNER'S RESPONSIBILITIES

OWNER shall pay publishing costs for advertisement of notices, public hearings, requests for bids, and other similar items; pay for all permits and licenses that may be required by local, state, or federal authorities; and secure the necessary land, easements, rights-of-way, required for the project, if applicable.

D. COMPENSATION

1. OWNER shall pay ENGINEER according to the fee schedule set forth in Exhibit A to the Agreement.
2. OWNER shall pay ENGINEER as complete compensation for the ENGINEERING DESIGN SERVICES as described in Attachment A, a fee not to exceed **One Hundred Fifty Seven Thousand Three Hundred Sixty Five Dollars (\$157,365.00)**.
3. OWNER shall pay ENGINEER for bidding and construction management services as described in Attachment B, a fee not to exceed **Twenty Five Thousand One Hundred Ninety Dollars (\$25,190.00)**.

- 4. OWNER shall pay ENGINEER for construction observation services, including applicable reimbursables, as described in Attachment C, a fee not to exceed **Twenty Five Thousand One Hundred Twenty Dollars (\$25,120.00)**.
- 5. Any amount over the maximum estimated cost for the services as set forth in Attachment B and Attachment C because of scope of work changes will be negotiated and agreed upon between OWNER and ENGINEER in writing prior to beginning of additional work.
- 6. OWNER recognizes that the construction schedule or the level of service necessary for compliance with the project requirements is not controlled by ENGINEER, and that the compensation for services is dependent upon the actual time expended by the Construction Contractor for construction. The parties may agree in writing to increase the maximum estimated fees stated in Section D-3 and D-4 above if it is determined that more effort than is budgeted is required to complete the construction work.
- 7. In the event additional engineering services are required to complete this Project that exceed the budget and such services will extend beyond 2010, the hourly rates set forth in Exhibit A to the Agreement may be increased by ENGINEER with prior written notice to OWNER.

E. MISCELLANEOUS

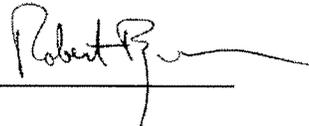
All terms and conditions of the Agreement apply to this Task Order as though fully set forth therein. In the event of a conflict between this Task Order and the Agreement, the terms of this Task Order shall apply.

The parties do mutually agree to all mutual covenants and agreements contained within this Task Order No. 1.

CITY OF NEWPORT

By: _____
 Title: _____
 Date: _____

CIVIL WEST ENGINEERING SERVICES, INC.

By: Robert E. Bynum 
 Title: President
 Date: May 14, 2010



May 14, 2010
 Attn: Lee Ritzman, PE
 City of Newport
 169 SW Coast Hwy
 Newport, Oregon 97365

**RE: Agate Beach Lower Tank and Associated Interconnection Piping
 Engineering Scope of Work and Proposed Fees**

Dear Lee:

Civil West is pleased to provide you with the following details regarding engineering services proposed for the Agate Beach Lower Tank and piping. According to the Water System Master Plan the tank will have a volume of 1-million gallons and a water surface elevation of 275'± matching that of the two main storage tanks. The proposed location for the tank is at the City owned site on NE 71st Street. Approximately 1500' of 12-inch piping is required to connect the tank to existing 12-inch piping on NE 71st St.

We proposed the following scope of work with the intent of providing complete engineering services from surveying through project completion:

Attachment A – Tasks 1a to 2d

Task 1 – Predesign Phase and Project Administration

- 1a Civil West will provide the necessary surveys to place the storage tank, design the piping routes, and prepare construction drawings.
- 1b Coordinate to arrange and manage geotechnical investigation at the tank site to allow proper tank foundation design and seismic detailing.
- 1c Provide general project oversight, management for design team and subconsultants throughout work. Coordinate with City. Prepare preliminary opinion of probable cost.
- 1d Develop preliminary plans for location of tank on City's property together with proposed site piping and fencing locations and details. Review and discuss with City and adjust as necessary to obtain consensus prior to proceeding with final design.
- 1e Develop preliminary plans for horizontal alignments and location for waterlines. Review and discuss with City and adjust as necessary to obtain consensus prior to proceeding with final design. Conduct hydraulic modeling to predict tank and pipeline interdependency.

Task 2 – Final Design Phase

- 2a Complete design and prepare final construction drawings for tank site including all necessary grading, surfacing, drainage, site piping, fencing, etc. required for complete tank site plans.
- 2b Complete design and prepare final construction drawings for steel storage tank including all required details for subbase, concrete foundation and structural ties, steel shell, aluminum roof, mixing system, overflow piping, inlet/outlet piping, piping supports, hatchways and vents, ladders, safety railing, water level indicator, etc. for complete storage tank system.
- 2c Complete design and prepare final construction drawings for waterlines including plan and profile views, stationing, and detailed information at fitting clusters and other appurtenances.
- 2d Develop complete bid documents including plans, technical specifications, bid forms, contract forms, general conditions, advertisement for bids, instructions to bidders, performance and

payment bond forms, and other industry standard forms. Provide for two separate schedules of work to allow for separate tank and pipeline contractors. Documents will be prepared using 2007 EJCDC forms and format. Technical specifications will be in CSI 16 Division format. Provide three check sets to City for review and adjust as necessary prior to advertisement for bids. Prepare engineer's estimate of construction cost.

Attachment B – Tasks 3a to 4a

Task 3 – Bid and Contract Phase

- 3a Assist with placement of advertisement for bids. Provide complete contract documents to 5 contractor plan centers. Provide complete contract documents to all prospective bidders and suppliers requesting such. Be readily available during a 3 to 4 week bid process and provide answers to questions that arise from bidders. Provide written clarifications and addenda as required. Maintain accurate plan holder list and record of bid process. Attend pre-bid meeting at site(s). Assist with bid opening at City. Review and tabulate bids. Make written recommendation of award and prepare Notice of Award as directed by City. Provide contract forms and documents to successful bidder. Assist with finalizing contract for construction between City and Contractor(s).

Task 4 – Construction Phase

- 4a Provide construction management for duration of construction contract(s) up to 6 months. Review all submittals and shop drawings and provide written submittal reviews. Provide clarifications, interpretations, and field orders as necessary. Provide recommendations to City should change orders be warranted or requested and prepare written change orders as needed for City approval. Monitor work progress and review monthly progress payment requests by Contractor and make written monthly payment recommendations to City. Conduct weekly phone updates to City and monthly progress update meetings with City. Provide paper and digital copies of record drawings (as-builts). Provide final completion certification and conduct on-site warranty inspection.

Attachment C – Task 4b

- 4b Provide on-site construction observation (inspection) to facilitate specification and plan compliance, serve as engineer's liaison, document construction progress, and help record construction details. Prepare inspection reports for each daily inspection and provide to City on monthly or weekly basis as desired. Provide final inspection.

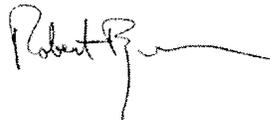
To complete the tasks summarized above we propose a fee not to exceed \$207,675.00 including all surveying and geotechnical investigations. A breakdown and summary of estimated hours per task is shown on the following page.

City of Newport - Lower Agate Beach Tank (1 MG) and Interconnecting Piping (1500' of 12")

Task No.	Task Description	Principal Engineer	Project Manager	Senior Engineer	Project Engineer	Engineer Technician	Inspector	Clerical	Sub-Consultant Fee	Total Hours	Task Fee	
		\$125.00	\$115.00	\$108.00	\$102.00	\$88.00	\$73.00	\$40.00				
1a	Survey and Data Collection		10						\$4,000.00	10	\$5,150.00	
1b	Geotechnical Investigation	1	8						\$15,000.00	9	\$16,045.00	
1c	Project Management/Administration	40	60							100	\$11,900.00	
1d	Pre-design Layouts, Tank Site	4	24	8	80					116	\$12,284.00	
1e	Pre-design Layouts, Piping	8	8		40	23				79	\$8,024.00	
2a	Final Design, Tank Site	12	24	80	160	80				356	\$36,260.00	
2b	Final Design, Tank Mech/Structural	8	20	90	90	90				298	\$30,120.00	
2c	Final Design, 1500' Piping	8	8	24		60				100	\$9,792.00	
2d	Develop Bid Documents	18	40	20	80	90		30		278	\$26,290.00	
3a	Bid Phase Services	14	8	20				100		142	\$8,830.00	
4a	Construction Management	40	80	20						140	\$16,360.00	
4b	Construction Observation	8	40				240			288	\$23,120.00	
										Printing, Postage, Reimbursables		\$700.00
										Mileage, Meals, Lodging, Per Diem		\$2,800.00
										Engineering Fee Total		\$207,675.00

Based on an estimated average construction cost for the project of \$1.1 million, the total engineering fees (including surveying and geotechnical) are 19.1%. Civil West fees are approximately 17.3% of construction cost while the remainder is allocated to Civil West subconsultants to conduct the necessary surveying and geotechnical investigations.

Respectfully,
Civil West Engineering Services, Inc.



Robert Bynum, PE
 President

cc: file

May 17, 2010
1:13 P.M.
Newport, Oregon

The Urban Renewal Agency of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Bain, Bertuleit, Kilbride, McConnell, and Patrick were present. Brusselback and Obteshka were excused.

Staff present was City Manager Voetberg, City Recorder Hawker, City Attorney McCarthy, Community Director Tokos, Public Works Director Ritzman, Police Chief Miranda, and Interim Finance Director Brown.

CONSENT CALENDAR

The consent calendar consisted of the following items:

- A. Approval of minutes from the URA meeting of May 3, 2010;
- B. Report of accounts paid for April 2010.

MOTION was made by Bain, seconded by Bertuleit, to approve the consent calendar as presented. The motion carried unanimously in a voice vote.

ACTION ITEMS

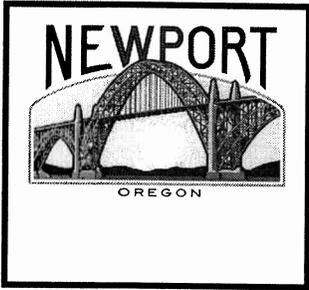
Consideration of an Immediate Opportunity Urban Renewal Grant Agreement with the State of Oregon in the amount of \$1,000,000. Tokos explained that the issue before the URA is the consideration of an Immediate Opportunity Fund Grant Agreement with the State of Oregon, Department of Transportation for \$1,000,000 to be used toward construction of roadway improvements along SE Marine Science Drive in conjunction with the arrival of NOAA's Marine Operations Center, and as identified in the South Beach Peninsula Transportation Refinement Plan. Patrick asked whether the chair of the URA should be a party to the agreement, and it was noted that the agreement is with the city. MOTION was made by Bain, seconded by McConnell, to authorize the city manager, in consultation with the city attorney, to finalize the Immediate Opportunity Grant Agreement for signature by the city manager and mayor. The motion carried unanimously in a voice vote.

ADJOURNMENT

Having no further business, the meeting adjourned at 1:20 P.M.

Margaret M. Hawker, City Recorder

Patricia Patrick-Joling, Chair



Agenda Item # V.A.
Meeting Date June 7, 2010

URBAN RENEWAL AGENCY AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title Public Hearing regarding the Urban Renewal 2010-11 Fiscal Year Budget

Prepared By: Brown Dept Head Approval: LBrown City Mgr Approval: [Signature]

Issue Before the Agency: Holding a Public Hearing for the Urban Renewal fiscal year 2010-2011 budget.

Staff Recommendation: Staff recommends that a public hearing be held on the Budget Committee approved fiscal year 2010-2011 Urban Renewal Budget.

Proposed Motion: None, consideration of adopting the budget will be on June 21, 2010

Key Facts and Information Summary:

In accordance with Oregon Budget Law, a public hearing has been advertised for June 7, 2010, to hear public comment on the approved fiscal year 2010-2011 Urban Renewal Budget. Adoption of the budget is scheduled for June 21, 2010. A copy of the Urban Renewal Budget for 2010-2011 can be reviewed by contacting the City Finance Department.

At its meeting of May 17, 2010, the Budget Committee approved the fiscal year 2010-2011 Urban Renewal Budget. As a housecleaning item, the budget for public comment includes changes to the South Beach Urban Renewal Fund and in the City's budget the Capital Project Fund which was discussed by the Budget Committee on May 5th, but were inadvertently omitted in the approval motions on May 17th. In checking with the State, these changes do not require formal action since the changes were discussed by the Budget Committee, increased the contingency in the Urban Renewal Fund and decreased the Capital Project Fund. As the Agency may recall, these changes occurred as a result of various projects associated with South Beach Urban Renewal Fund, which were modified to coincide with changes to development phases approved by the Agency and the acceptance of the \$1,000,000 Immediate Opportunity Grant.

A draft resolution adopting the fiscal year 2010-2011 Urban Renewal Budget that will be considered on June 21st has been prepared and is attached for Agency review.

Other Alternatives Considered:

None

City Council Goals:

The budget reflects the Urban Renewal Agency Plan.

Attachment List:

Draft resolution to adopt the 2010-11 Urban Renewal Budget and adjusted South Beach Urban Renewal District Fund.

Fiscal Notes:

The annual budget authorizes the Agency to legally expend monies during the fiscal year 2010-2011.

NEWPORT URBAN RENEWAL AGENCY

RESOLUTION NUMBER _____

**A RESOLUTION ADOPTING THE 2010-2011 BUDGET MAKING APPROPRIATIONS AND
DECLARING A TAX INCREMENT**

BE IT RESOLVED that the Newport Urban Renewal Agency hereby adopts the budget for the fiscal year 2010-2011 in the sum of \$12,951,561 now on file at City Hall.

BE IT FURTHER RESOLVED that the amounts for the fiscal year beginning July 1, 2010 and for the purposes shown below are hereby appropriated as follows:

South Beach Urban Renewal District		North Side Urban Renewal District	
Material & Services	91,032	Material & Services	23,114
Debt Service	448,308	Debt Service	459,143
Special Payments	814,712	Special Payments	4,165,198
Transfer to Capital Projects	4,110,000	Contingency	266,505
Contingency	<u>2,573,549</u>	Total	<u>4,913,960</u>
Total	8,037,601	Total Appropriations	12,951,561
		Total Requirements	<u><u>12,951,561</u></u>

BE IT FURTHER RESOLVED that the Agency will certify to the County Assessor for the North Side Urban Renewal District area a request for \$550,000 and South Beach Urban Renewal District area a request for the maximum amount of revenue that may be raised by dividing the taxes under Section 1c, Article IX, of the Oregon Constitution, and no amount to be raised by the imposition of a special levy.

PASSED AND ADOPTED BY THE NEWPORT RENEWAL AGENCY ON THIS 21ST DAY OF JUNE, 2010.

Signed:

Patricia Patrick-Joling, Chairperson

Attest:

Margaret Hawker, City Recorder

**CITY OF NEWPORT
FY 2010/2011 - Budget**

Description	Actual FY 07/08	Actual FY 08/09	Budget FY 09/10	Projected FY 2010	Proposed Budget FY 2011	Approved Budget FY 2011	Adopted Budget FY 2011
URBAN RENEWAL AGENCY FUND							
So Beach Urban Renewal District							
SOURCES							
Beginning Fund Balance-SB URD Constr	1,623,235	2,907,109	2,134,362	766,767	825,250	825,250	825,250
Beginning Fund Balance-SB URD Debt				2,082,789	2,117,351	2,117,351	2,117,351
Current Property Taxes	1,552,562	1,723,301	1,800,000	1,800,000	1,854,000	1,854,000	1,854,000
Delinquent Property Taxes	34,796	37,816	50,000	50,000	50,000	50,000	50,000
Immediate Opportunity Fund Grant							1,000,000
ODOT							100,000
Hatfield Marine Science Center							16,000
Port of Newport							50,000
Miscellaneous Sales & Service	799		0	0	0	0	0
Aquarium Loan Repayment	100,000	8,333	0	0	0	0	0
Interest	85,589	89,323	43,500	25,000	25,000	25,000	25,000
Tax Increment Bond Proceeds	2,530,000	0	0	145,833	2,000,000	2,000,000	2,000,001
Transfer from SB URD Debt					0	0	0
Total Revenue	4,303,746	1,858,774	1,893,500	2,020,833	3,929,000	3,929,000	5,095,001
TOTAL SOURCES	5,926,981	4,765,882	4,027,862	4,870,389	6,871,601	6,871,601	8,037,602
USES							
PERSONAL SERVICES							
MATERIALS & SERVICES							
Contractual Services	77,490	35,468	17,500	18,300	68,350	68,350	68,350
Grants							
Materials & Supplies	96	0	0	200	150	150	150
Travel & Training	95	0	0	100	50	50	50
Utilities							
Bldg, Equip & Vehicle Maintenance							
Miscellaneous							
Services Provided by Other Funds	150,000	200,000	136,250	136,250	22,482	22,482	22,482
Total Material & Services:	227,681	235,468	153,750	154,850	91,032	91,032	91,032
CAPITAL OUTLAY							
Storm Drain Construction	14,204	0	0	0			
SE 40th Road Improvements	1,125,000	472,792	0	0			
SB Sidewalk Construction	0	0	70,000	10,000			
Strom Drain Plan - 4B Project	688,306	0	0	0			
Highway 101 Waterline			320,000	100,000			
Ash Street Design & Construction	0	0	425,000	75,000			
Coho/Brant Neighborhood Project	0	0	70,000	0			
Total Capital Outlay	1,827,511	472,792	885,000	185,000	0	0	0
DEBT SERVICE							
Loan Fees	0	12,056	0	0	0	0	0
Assess Aquarium Loan # L89019	40,121	40,121	40,122	40,122	15,198	15,198	15,198
2007 B of A Loan 4B Project	118,188	118,733	118,795	117,795	118,647	118,647	118,647
2008 B of A Bonded Debt	0	317,603	318,813	318,813	314,463	314,463	314,463
WWTP 1996 DEQ Loan # R68931	344,626	257,814	0	0	0	0	0
OECDL Loan # B00009	230,873	230,885	0	0	0	0	0
OECDL Loan # G00005	230,873	230,885	0	0	0	0	0
Total Debt Service	964,681	1,208,095	477,730	476,730	448,308	448,308	448,308

URBAN RENEWAL AGENCY FUND
So Beach Urban Renewal District (Continues)

SPECIAL PAYMENTS

Special Payment to Debt Service - WWTP#R68931					344,466	344,466	344,466
Special Payment to Debt Service - OECD Loan # B00009					235,123	235,123	235,123
Special Payment to Debt Service - OECD Loan # G00005					235,123	235,123	235,123

Total Special Payments	0	0	1,111,208	1,111,208	814,712	814,712	814,712
------------------------	---	---	-----------	-----------	---------	---------	---------

TRANSFERS

Transfer to Capital Projects - SB Sidewalk Construction					500,000	500,000	
Transfer to Capital Projects - Highway 101 Waterline					220,000	220,000	220,000
Transfer to Capital Projects - Ash Street Design & Construction					500,000	500,000	500,000
Transfer to Capital Projects - Coho/Brant Neighborhood Project					100,000	100,000	70,000
Transfer to Capital Projects - Marine Science Drive trail & landscaping					1,131,000	1,131,000	
Transfer to Capital Projects - Marine Science Drive gravel shoulder					375,000	375,000	
Transfer to Capital Projects - Marine Science Drive							2,304,000
Transfer to Capital Projects - Realign Rogue Access					337,000	337,000	
Transfer to Capital Projects - Realign 25th					111,000	111,000	
Transfer to Capital Projects - Realign Rogue & 25th							448,000
Transfer to Capital Projects - Pacific Way Improvements					251,000	251,000	251,000
Transfer to Capital Projects - OSU/Marine Science Drive Roundabout					798,000	798,000	
Transfer to Capital Projects - South Jetty Trail					390,000	390,000	
Transfer to Capital Projects - Improve SE 35th / Ferry Slip Road							317,000
	0	0	0	0	4,713,000	4,713,000	4,110,000

Total Expenses	3,019,873	1,916,355	2,627,688	1,927,788	6,067,052	6,067,052	5,464,052
-----------------------	-----------	-----------	-----------	-----------	-----------	-----------	-----------

RESERVE FOR FUTURE CAPITAL

CONTINGENCY			1,057,174		804,549	804,549	2,573,550
-------------	--	--	-----------	--	---------	---------	-----------

UNAPPROPRIATED			343,000				
----------------	--	--	---------	--	--	--	--

TOTAL USES	3,019,873	1,916,355	4,027,862	1,927,788	6,871,601	6,871,601	8,037,602
-------------------	-----------	-----------	-----------	-----------	-----------	-----------	-----------

(Total Sources less Uses)	2,907,109	2,849,527	0	2,942,601	0	0	0
---------------------------	-----------	-----------	---	-----------	---	---	---