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**CITY OF NEWPORT, OREGON
~~DRAFT~~ PERSONAL SERVICES AGREEMENT**

THIS AGREEMENT is between the City of Newport, an Oregon municipal corporation (City), and ECONorthwest (Contractor). This Agreement shall be effective when signed and dated by an authorized representative of each party.

RECITALS

- A. On October 19, 2021, the City of Newport distributed a Request for Proposals (RFP) for consulting services to prepare an HB 2003 Compliant Housing Capacity Analysis and Housing Production Strategy.
- B. Interested parties were given until 5:00 pm on December 3, 2021 to respond, and the City received three proposals from qualified firms.
- C. On December 15, 2021, proposals were reviewed and scored based upon the criteria contained in the RFP, and Contractor's proposal was found to have best met those standards.
- D. This solicitation for consulting services used an informal procurement process under the class exemption to the public contracting rules for "Personal Services for Other than Architect, Engineer, and/or Surveying Services," and the City is selecting Contractor to perform services outlined below, in conformance with its public contracting rules.

TERMS OF AGREEMENT

1. SERVICES TO BE PROVIDED

Contractor shall provide the services described in attached Exhibit A to this Agreement. To the extent there are any inconsistencies or conflicts between this Agreement and the attached Exhibit A, this Agreement shall control and prevail.

2. TERM

Once signed and dated by authorized representatives of each party, this Agreement will remain in effect, unless otherwise terminated or extended, until June 30, 2023.

3. COMPENSATION

Contractor shall be compensated as described in attached Exhibit A to this Agreement.

4. ASSIGNMENT / DELEGATION

Neither party shall assign or transfer any interest in or duty under this Agreement without the written consent of the other.

5. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR

Contractor certifies that:

- A. Contractor acknowledges that Contractor is an independent contractor as defined by ORS 670.600 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of the finding and to the full extent of any payments that City is required to make (to Contractor or third party) as a result of the finding.
- B. Contractor represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with this Agreement, except as specifically declared in writing.
- C. Contractor certifies that Contractor currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

6. INDEMNIFICATION

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws. Acceptance of contractor's work by City shall not operate as a waiver or release. Contractor agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney fees and witness costs (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this Agreement, except to the extent that the liability arises out of the negligence of the City and its employees. Contractor's indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal

or invalid for any reason whatsoever, the illegality or invalidity shall not affect the validity of the remainder of this indemnification.

7. INSURANCE

Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this Agreement. The insurance shall cover all activities of the contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverages:

A. Commercial General Liability Insurance

Contractor shall obtain, at contractor's expense, and keep in effect during the term of this Agreement, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	2,000,000
Products-Completed Operations Aggregate	1,000,000
Personal & Advertising Injury	1,000,000
Each Occurrence	1,000,000
Fire Damage (Any one fire)	50,000
Medical Expense (Any one person)	5,000

B. Commercial Automobile Insurance

Contractor shall also obtain, at contractor's expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,000,000.

C. Workers' Compensation Insurance

The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Agreement that are either subject employers that will comply with ORS 656.017 or employers exempt under ORS 656.126. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not

obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident.

D. Additional Insured Provision

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City as an additional insured with respect to this Agreement.

E. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days' notice of cancellation to City.

F. Certificates of Insurance

As evidence of the insurance coverage required by this Agreement, the Contractor shall furnish a Certificate of Insurance to the City. No contract shall be effective until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within the Agreement. A renewal certificate will be sent to the City's address 10 days prior to coverage expiration.

G. Primary Coverage Clarification

The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

H. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution, and errors and omissions policies required by this Agreement.

The procuring of required insurance shall not be construed to limit contractor's liability under this Agreement. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this Agreement.

8. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS

All notices, bills and payments shall be made in writing and may be given by personal delivery, mail or email. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices and other information:

City: Derrick Tokos
Community Development Director
City of Newport
169 SW Coast Hwy.
Newport, OR 97365
Phone: 541-574-0601

Contractor: Beth Goodman
Project Director & Senior Planner
ECONorthwest
222 SW Columbia Street, Suite 1600
Portland, OR 97201

Notices mailed to the address provided for notice in this section shall be deemed given upon deposit in United States mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery.

9. MERGER

This writing is intended both as a final expression of the agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of this Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

10. TERMINATION WITHOUT CAUSE

At any time and without cause, City shall have the right in its sole discretion, to terminate this Agreement by giving notice to Contractor. If City terminates the Agreement pursuant to this paragraph, it shall pay Contractor for services rendered to the date of termination.

11. TERMINATION WITH CAUSE

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

1. If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase

of the indicated quantity of services. This Agreement may be modified, or terminated, to accommodate a reduction in funds.

2. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
3. If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
4. If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.
5. If City determines that termination of this Agreement is in the best interest of the City.

Any such termination of this Agreement under paragraph (A) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:

1. If Contractor fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
2. If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.
3. If Contractor fails to eliminate a conflict as described in Section 11 of this Agreement.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (B), Contractor shall be entitled to receive payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees

specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable attorney fees, and other costs of litigation at trial and upon appeal.

12. ACCESS TO RECORDS

City shall have access to books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

13. FORCE MAJEURE

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disenabled, including but not restricted to, an act of nature or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disenabled shall within 10 days from the beginning of the delay, notify the other party in writing of the cause of delay and its probable extent. The notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate the cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under this Agreement.

14. NON-WAIVER

The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

15. NON-DISCRIMINATION

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

16. ERRORS

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delay and without additional cost.

17. EXTRA WORK

Only the City Manager may authorize additional work not described in Exhibit A. Failure of Contractor to secure written authorization for work not described in Exhibit A shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

18. ATTORNEY FEES

In any action arising under this Agreement, the prevailing party shall be entitled to such sum as the court may award as reasonable attorney fees and court costs, including attorney fees and court costs on appeal.

19. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.

20. COMPLIANCE WITH STATE AND FEDERAL LAWS / RULES

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers' compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapter 279B, the provisions of which are hereby made a part of this Agreement. (See attached Exhibit B.)

21. SEVERABILITY / COUNTERPARTS

In the event any provision of this Agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect. This Agreement may be executed in counterparts and a signed copy transmitted by facsimile or other electronic means, each of which will be deemed an original, but all of which taken together will constitute one and the same agreement.

CITY OF NEWPORT




Spencer Nebel, City Manager

21.1.22

Date

CONTRACTOR

DocuSigned by:


Lorelei Juntunen, President

1/24/2022

Date

EXHIBIT A
TO PERSONAL SERVICES AGREEMENT

ECONorthwest
ECONOMICS • FINANCE • PLANNING

DATE: January 11, 2021
TO: Derrick Tokos
FROM: Beth Goodman and Margaret Raimann
SUBJECT: Scope of work: Newport HCA and HPS

The City of Newport is contracting with ECONorthwest to develop a Housing Capacity Analysis (HCA) and Housing Production Strategy (HPS). This memorandum provides a scope of work for completing this project. It combines the Scope of Work from the Newport Request for Proposal (RFP) for the project with ECONorthwest's project approach language from our proposal.

Task 1: Project Kick-Off

Timeline: Jan 2022

The purpose of the project kick-off is for Consultant to become familiar with local conditions and with City's planning documents, for the parties to confirm the objectives of the project and refine the project schedule, and for the City to prepare for the Project. Consultant will contact the City to arrange a date for a site visit, where they will meet with a roundtable of city policymakers and housing stakeholders to learn about the community's housing needs and issues; tour the City to familiarize themselves with the type, location, and condition of Newport's housing stock and areas suitable for future housing; and wrap up the trip by meeting with city staff to confirm project expectations and data needs. Consultant will take information gleaned from this initial meeting to refine the project scope of work and develop a proposed schedule outlining actions required for the completion of all tasks. City will provide Consultant with relevant background documents, housing, and GIS data. This can be done in advance of, or after the kick-off meeting, depending upon Consultants preference.

Task 1 Consultant Deliverables:

- Site reconnaissance meeting notes summarizing results of the roundtable discussion, field work, and photographs for reference and future work product
- Refined scope of work and project schedule

Task 1 City Deliverables:

- Background documents, including informational materials and relevant sections of the City's Comprehensive Plan, Zoning Ordinance, Municipal Code, SDC Methodology, previous Housing Needs Assessments, and budget related to housing and the City's housing incentive programs
- Geospatial data layers in shapefile or equivalent format including, tax lots, comprehensive plan designations, UGB, city limits, zoning, aerial imagery, building footprints, utilities, streets, terrain, hazard areas, wetlands, shoreland resources, natural areas, short-term rental data/overlay, design districts, and prior buildable land data

- Attend and facilitate site visit with consultants
- Coordinate policymaker/stakeholder roundtable session

Task 2: Education, Outreach, and Engagement

Timeline: Feb 2022 – Mar 2023

Consultant will develop informational materials in English and Spanish to help educate the community about the goals and objectives of the project, including a description of the basic elements of a Housing Capacity Analysis (HCA) and Housing Production Strategy (HPS) and how this planning effort and resulting product could help improve the availability of needed housing within the community. These materials will be brief, such as notices and summary handouts that will need to be translated into Spanish.

Additionally, Consultants will develop a Public Engagement Plan identifying strategies that are to be pursued through the course of the project to engage housing consumers, including direct outreach to individuals through interviews, focus groups, or other means; contacting community-based organizations and service providers to connect with those they serve; and hosting events (virtual or in-person).

City will provide Consultant with a list of groups and organizations that need to be engaged through the course of the project, who in turn may reach out to other interested parties. Engagement efforts will prioritize underrepresented communities within the City, including renters, low-income households, Hispanic/Latinx residents, other racial and ethnic minorities and immigrant or refugee communities, veterans, people with disabilities, seniors, agricultural workers, and formerly and currently homeless people. The engagement efforts are to build upon the City's previous housing related outreach and be coordinated with the event(s) required under HB4006 for severely rent burdened communities. Consultant will conduct about 12 interviews with people such as: service providers for people experiencing homelessness, affordable housing developers, market-rate housing developers, members of the Hispanic/Latinx community, and policy makers.

Consultant will conduct Project Advisory Committee (PAC) Meeting No. 1 to provide an overview of the project, solicit feedback on the draft public engagement plan, discuss and confirm desired outcomes, and review the project schedule. City will recruit and appoint the advisory committee members. City will also host a project webpage with Consultant being responsible for producing informational materials in a format suitable for use as website content and handouts. Through the course of the project, Consultant will be expected to prepare outreach materials, identifying appropriate topics, methods of soliciting input and developing survey questions. City staff will support Consultant, reviewing and providing feedback on materials, coordinating meetings and events, and advertising outreach opportunities. City staff will prepare minutes for all PAC meetings, with Consultant being responsible for drafting summaries of surveys, focus group discussions, and other engagement opportunities.

The follow is a preliminary schedule for PAC meeting topics:

- **Meeting 1: Project kickoff.** Provide an overview of the project and project schedule, discuss desired project outcomes, and ask for feedback about the public engagement plan
- **Meeting 2: Housing need.** Present the preliminary findings of Newport's housing needs, including reviewing the draft housing needed projection and contextualizing the housing needs memorandum.
- **Meeting 3: Buildable lands inventory.** Discuss the approaches, key assumptions, and draft results from the buildable lands inventory.
- **Meeting 4: Constructability assessment.** Discuss revisions to the BLI from meeting 3 (if any) and the draft results of the constructability assessment; possibly discuss policy approaches to address barriers to development of needed housing, given the preliminary results from the HCA.
- **Meeting 5: Residential land needs.** Present revisions to the forecast of housing need (meeting 2), buildable lands inventory (meeting 3), and discuss whether Newport has enough residential land to accommodate the forecast of housing both overall within the UGB and given the results of the constructability assessment; continue discussion of policy approaches to address barriers to development of needed housing, given the assessment of land sufficiency from the HCA
- **Meeting 6: Housing measures.** Discuss the options for changes to the City's comprehensive plan policies and land use regulations based on the results of the HCA; discuss PAC questions and comments about the draft HCA report
- **Meeting 7: Identify additional potential strategies.** Identifying additional strategies, beyond those discussed in meeting 6.
- **Meeting 8: Refine and narrow strategies.** Provide additional information about key strategies and work with the PAC to narrow the strategies to those with the most promise for addressing Newport's unmet housing needs; solicit advice on relative priority of the strategies.
- **Meeting 9: Finalize strategies.** Discuss the final list of strategies and discuss the timing of implementation of each strategy; discuss PAC questions and comments about the draft HPS report

Task 2 Consultant Deliverables:

- Education/outreach materials for use in handouts, flyers, and as website content in English and Spanish
- Public engagement plan (with refined project schedule incorporating outreach opportunities)
- Content for outreach sessions, including outlines of suggested survey or focus group questions and subject matter for meetings
- Up to 12 interviews with service providers, developers, and others
- PAC meeting 1

Task 2 City Deliverables:

- List of existing groups and organizations for engagement
- Advisory committee appointments and roster
- Preparation of project webpage
- Meeting advertisements, notices, agendas, and minutes

Task 3: Housing Needs Projection

Timeline: Feb 2022 – May 2022

Consultant will prepare a draft housing needs projection consistent with OAR Chapter 660, division 8. The housing needs projection will be used to determine the City's residential land need in Task 6 and is a baseline set of data that the Consultant will build upon to contextualize current and future housing needs for the Housing Production Strategy (HPS), considering population and market trends. Analysis of contextualized housing needs will include:

- Socio-economic and demographic trends of a jurisdiction's population, disaggregated by race to the extent possible with available data;
- Market conditions affecting the provision of needed housing, including demand for seasonal housing;
- Existing and expected barriers to the development of needed housing;
- Housing need for those experiencing homelessness, using the best available data;
- Percentage of Rent Burdened Households;
- Housing by Tenure (owner vs renter);
- Percentage of housing stock that is market rate vs. subsidized; and
- Units that are in the development pipeline by housing type.

A draft of the housing needs projection and a framework outlining the socio-economic and demographic data needed to contextualize housing need will be developed by Consultants. Analysis will be vetted with, and draw upon, information gathered through engagement with housing consumers, including underrepresented communities, before being presented at PAC Meeting No. 2. Comments from the PAC members will be addressed by Consultant, and a draft "Contextualized Housing Needs Memorandum" will be developed as a deliverable (which will later become a section of the HPS).

City will review and provide Consultant feedback on the housing needs projection and the contextualization of housing needs as the work product is being developed, will assist with coordinating and facilitating outreach and engagement, and will provide staff support for PAC Meetings No. 2 and 3, including preparation of meeting notices, agendas, and minutes. Consultant will coordinate with City on meeting arrangements and facilitate the advisory

committee meetings. The advisory committee may consider more than one deliverable at a meeting.

Task 3 Consultant Deliverables:

- Presentation materials to explain preliminary analyses and findings of the housing needs projection, including contextualization of housing needs, for review by the PAC, public, and interest groups (PAC Meeting No. 2)
- Draft housing needs projection
- Contextualized housing needs memorandum

Task 3 City Deliverables:

- Meeting advertisements, notices, agendas, and minutes

Task 4: Buildable Lands Inventory (BLI)

Timeline: Feb 2022 – Jun 2022

Consultant will prepare a draft inventory of buildable land consistent with OAR Chapter 660, Division 8. This task will result in a comprehensive inventory of buildable lands within the Newport UGB. Consultant will coordinate with City staff to obtain the required data coverages. The supply analysis builds from a parcel-level database to estimates of buildable land by plan designation and zoning.

The following steps are those Consultant will use to develop the buildable lands inventory

- **Step 1: Gather and Assemble Data.** Consultant will develop a data request to the City to obtain the appropriate datasets.
- **Step 2: Classify Land.** The first analytical step in a buildable lands analysis is the classification of each tax lot into a set of mutually exclusive categories. Consultant will develop a set of working definitions that specify the rules with input from City staff.
- **Step 3: Identify Constraints.** A key issue in identifying buildable lands is netting out lands that have physical or policy constraints. Constraints that are typically considered in buildable lands inventories include: tsunami inundation zone; riparian areas; steep slopes; geological hazards; and floodplains and floodways. Not all of these lands are undevelopable. For example, many cities allow development in wetlands. Thus, the inventory should differentiate between absolute constraints (constraints backed by policy that preclude development) and partial constraints (constraints that do not preclude development at lower densities).
- **Step 4: Verification.** After classifying tax lots, Consultant will work closely with City staff to verify the classifications and development constraints. The verification step will use aerial photos. This step will result in modifications to the tabular database and maps to City staff for final review and comment after this step.
- **Step 5: Summarize Results.** The buildable land summary will take the form of maps and tables.

The BLI will be used to determine the City's residential land sufficiency in Task 6. The BLI will be developed based on discussion with the PAC at one or more committee meetings.

City will schedule and provide notice and an agenda for one advisory committee meeting to review the draft BLI product. Consultant will coordinate with City on meeting arrangements and facilitate the advisory committee meetings. The advisory committee may consider more than one deliverable at a meeting.

Task 4 Consultant Deliverables:

- Draft BLI
- Presentation materials to explain preliminary analyses and findings to the advisory committee, the public, and interest groups (PAC Meeting No. 3)
- Geospatial data layer containing the results of the BLI analysis

Task 4 City Deliverables:

- Meeting notices, agendas, and minutes

Task 5: Housing Constructability Assessment

Timeline: May 2022 – Aug 2022

Considering the outcomes of Tasks 3 and 4, City will identify areas that are anticipated to be very costly to serve, those that have no particular infrastructure service issues, and those with moderate infrastructure needs. The constructability analysis will focus on areas with moderate infrastructure needs, to help inform policymakers as to how they might best invest the City's limited infrastructure funds to efficiently support areas that are most likely to produce needed housing.

Up to twelve (12) subareas will be defined out of the group of parcels with moderate infrastructure needs. Each subarea will consist of one or more parcels that have similar infrastructure and site development costs to other parcels in the same subarea. Consultant will analyze four (4) to six (6) housing "prototypes" (market-realistic development examples) that reflect housing types and densities that are allowed by zoning and align with market realities in Newport. Examples could include small-lot detached homes, large-lot detached homes, townhouses, and low-rise garden apartments. For each housing prototype, the Consultant will evaluate how much that type of housing development could absorb in combined land and infrastructure costs on a per unit basis, given estimated market pricing and construction costs. Consultant will estimate the total amount that development within a subarea could absorb in land and infrastructure costs based on the estimated zoned capacity for the subarea and the per-unit amount that the relevant housing types can absorb, then compare this to the total infrastructure costs to serve the area that are assumed to be a developer responsibility. Estimates of the zoned capacity of each subarea based on current development regulations and typical right-of-way and stormwater needs, including what type and density of housing is allowed. Where multiple types or differing densities are allowed, City will provide information

suggesting an assumed mix based on past trends in the same zone or citywide. Consultant will synthesize the above information into a housing constructability assessment memorandum. Assumptions and results of the housing constructability assessment will be vetted with the PAC at one or more committee meetings.

Consultant will use pro forma analysis of housing “prototypes” that align with market realities in Newport, such as single-family detached homes, townhouses, and low-rise garden apartments. Consultant will gather information on local housing market conditions and development costs, making sure that the analysis accurately reflects construction cost premiums associated with development in Newport. Consultant will use a pro forma analysis to calculate the “residual land value”—the amount a developer can afford to spend on a piece of buildable land—associated with a range of housing types in Newport’s housing market on a per-acre basis. Consultant will compare the estimated cost of providing infrastructure to various pieces of buildable land to the residual land value. If the cost of providing infrastructure is greater than the residual land value, the development is not viable even if the land were free. If the cost of infrastructure is less than the residual land value, this means there is potential value in selling the land for development.

Consultant will compare the residual land value for different housing types to see which is most financially feasible or has the greatest potential to absorb the cost of infrastructure. Consultant will also compare the residual land value remaining after the cost of infrastructure to recent land sales transactions to see whether it is plausible that the remaining land value would be enough for the property owner to sell the land for development.

City will schedule and provide notice and an agenda for one advisory committee meeting to review the housing constructability assessment. Consultant will coordinate with City on meeting arrangements and facilitate the advisory committee meetings. The advisory committee may consider more than one deliverable at a meeting.

Task 5 Consultant Deliverables:

- Presentation materials to explain preliminary analyses and findings to the advisory committee, the public, and interest groups (PAC Meeting No. 4)
- Draft housing constructability assessment
- Geospatial data layer containing the results of the subarea analysis

Task 5 City Deliverable:

- Memo summarizing infrastructure costs required to serve each subarea, and the share of those costs that will be developer responsibility (excluding the amount that will be paid through SDCs).
- Contact information for local residential contractors/builders/developers with experience building in Newport who can provide estimates for local construction and site preparation costs.

- Meeting notices, agendas, and minutes

Task 6: Residential Land Needs Analysis (RLNA)

Timeline: Jun 2022 – Sept 2022

Based on the outcomes of Tasks 3 and 4, Consultant will prepare a draft RLNA that addresses how much land and what zoning the City needs to accommodate its housing need, comparing the demand and supply provided in the deliverables produced in Tasks 3 and 4. The RLNA will be developed based on discussions with the PAC at one or more committee meetings.

If the analysis shows that the housing needs cannot be accommodated by the City's existing comprehensive plan, the RLNA will be developed concurrently with Task 6 in order to consider accommodating housing needs through changes to the comprehensive plan and land use regulations as required by OAR chapter 660, divisions 8 and 24.

City will schedule and provide notice and an agenda for one advisory committee meeting to review the draft RLNA product. Consultant will coordinate with City on meeting arrangements and facilitate the advisory committee meetings. The PAC may consider more than one deliverable at a meeting.

Task 6 Consultant Deliverables:

- Draft RLNA
- Presentation materials to introduce preliminary residential land need analyses and findings to the advisory committee, the public, and interest groups (PAC Meeting No. 5)

Task 6 City Deliverable:

- Meeting notices, agendas, and minutes

Task 7: Measures to Accommodate Needed Housing

Timeline: July 2022 – Oct 2022

Consultant will identify options for changes to the City's comprehensive plan and land use regulations to address housing and residential land needs determined in previous tasks. This task may be completed concurrently with Task 6, and will identify strategies for how the City might prioritize its infrastructure investments or adjust its requirements to efficiently support areas that are most likely to produce needed housing considering results of Task 5.

City will schedule and provide notice and an agenda for one or two advisory committee meeting to review the housing-accommodation product. Consultant will coordinate with City on meeting arrangements and facilitate the advisory committee meetings. The advisory committee may consider more than one deliverable at a meeting. City will initiate a legislative process to adopt the RLNA before the December 31, 2022 deadline set in HB 2003. This is an

interim step, and it is expected that the RLNA will need to be supplemented and/or refined as a result of the work on the Housing Production Strategy (HPS).

Task 7 Consultant Deliverables:

- Options for changes to City's comprehensive plan and land use regulations to address housing and residential land needs
- Presentation materials to introduce housing accommodation recommendations to the PAC, the public, and interest groups (PAC Meeting No. 6)
- Final draft of the RLNA (i.e. Housing Capacity Analysis)

Task 7 City Deliverables:

- Meeting notices, agendas, and minutes

Task 8: Strategies to Accommodate Future Housing Need (Housing Production Strategy)

Timeline: July 2022 – Dec 2022

Consultant will review and provide input to the City on a City-provided summary of measures already adopted by the City that promote the development of needed housing, and existing practices that affirmatively further fair housing, link housing to transportation, provide access in Opportunity Areas, address equitable distribution of services, and create opportunities for rental housing and homeownership as those terms and requirements are defined in the final rules and state guidance for the HPS. The follow are the steps in developing the HPS.

Identify existing affordable housing policies

The task will begin with a summary of existing affordable housing policies, including those considered but not adopted over the last few years The City will identify and provide all available information about existing relevant measures.

Identify potential strategies

The development of strategies begins with identification of goals for affordable housing development, focusing on unmet housing needs in Newport. Within each of these goals, Consultant will work with City staff to identify a range of potential strategies for consideration.

Refine and narrow strategies

Based on the measures selected through the project, Consultant may conduct additional research on a limited number of the strategies to understand the potential impact of potential strategies to address issues unique to the City. Working with City staff, the advisory committee, and using input from other engagement, Consultant will narrow our starting list of potential

strategies to those that both address the City's affordable housing needs and fit within the community's situation and goals.

Based on the list of measures identified above, Consultant will evaluate the measures' potential to meet the City's objectives and housing needs. The nature of this evaluation will depend on the number of measures selected for further evaluation, the level of detail needed to support future actions and recommendations, and the available budget.

Develop the draft HPS

For the strategies that are recommended for inclusion in the City's HPS, Consultant will produce the following for each strategy, based on Consultant's evaluation, input from staff, and feedback gathered through outreach and engagement:

- A description of the strategy;
- Identified housing need being fulfilled (tenure and income) and analysis of the income and demographic populations that will receive benefit and/or burden from the strategy, including low-income communities, communities of color, and other communities that have been discriminated against, according to fair housing laws;
- Approximate magnitude of impact, including (where possible/applicable) an estimate of the number of housing units that may be created, and the time frame over which the strategy is expected to impact needed housing;
- Timeline for adoption and implementation;
- Actions necessary for the local government and other stakeholders to take in order to implement the strategy; and
- Opportunities, constraints, or negative externalities associated with adoption of the strategy.

Consultants analysis will be informed by the recommendations contained in the final draft HCA, and is to be developed in consultation with the PAC before being synthesized into a draft HPS. The draft HPS will summarize existing measures, previously identified strategies, and additional strategies for consideration to address contextualized housing needs; provide additional evaluation and refinement of selected strategies; and summarize up to eight (8) documented discussions with housing producers and/or service providers to seek input on the potential housing strategies.

More than one PAC meeting will be needed to complete this task. One approach would be to introduce the concept of a Housing Production Strategy as part of PAC Meeting No. 6. A more thorough strategy discussion would then occur at PAC Meeting No. 7, and it is at this time that the final draft HCA would be available to the group. It is possible that PAC members will want additional information about certain strategies, which would be presented at PAC Meeting No. 8. This would also be the meeting where a set of preferred strategies are identified for inclusion in the HPS.

City will schedule and provide notice and an agenda for one advisory committee meeting to review the draft HPS product. Consultant will coordinate with City on meeting arrangements and facilitate the advisory committee meetings. The PAC may consider more than one deliverable at a meeting.

City will schedule one public workshop or open house to present draft residential land need and housing accommodation data, findings, and recommendations (collectively, the draft HCA) and the key strategies outlined in the draft HPS. This could occur before or after PAC Meeting No. 8. City will solicit input from the public on the draft deliverables. Consultant will coordinate with City on meeting arrangements and facilitate the public meeting(s).

Task 8 Consultant Deliverables:

- Presentation materials to introduce strategies recommended for inclusion in the City's HPS for review by the PAC, the public, and interest groups (PAC Meetings No. 7 and 8)
- Draft Housing Production Strategy
- Public workshop presentation materials outlining key recommendations

Task 8 City Deliverable:

- Meeting notices, agendas, and minutes (including summary of workshop attendance and feedback)
- List of existing housing production measures or strategies

Task 9: Final HCA and HPS Report

Timeline: Oct 2022 – Feb 2023

Consultant will prepare final drafts of the Housing Capacity Analysis and Housing Production Strategy. The final draft of the HCA will include an executive summary of the Newport's existing housing stock, projected housing needs, and measures to accommodate those needs in a format suitable for replacing the existing housing element of Newport Comprehensive Plan. This will include an updated set of housing goals, policies, and implementation measures with clear linkages between these measures and the HPS. The RLNA and BLI are to be included as appendices.

The final HPS report is to incorporate the results of the contextualized housing needs memorandum, summaries of existing measures and final proposed strategies from the draft HPS (Task 8); and an explanation of how the City's existing measures and final proposed strategies help to achieve fair and equitable housing outcomes, affirmatively further fair housing, and overcome discriminatory housing practices and racial segregation. The final HPS report shall conclude with a qualitative assessment of how the strategies collectively address the contextualized housing needs identified in the HCA and HPS; discussion how the proposed actions, taken collectively, will increase housing options for population groups experiencing a current or projected disproportionate housing need; speak to how the City's existing measures

and proposed strategies will affirmatively further fair housing, link housing to transportation, provide access to Opportunity Areas, address needs for people facing homelessness and equitable distribution of services, create opportunities for rental housing and homeownership, and mitigate vulnerabilities to displacement and housing instability; outline a rationale for any identified needs not otherwise addressed above; and outline the city's plan for monitoring progress on the housing production strategies.

Following review by staff and revisions as needed, Consultant will produce a public review draft of the Final HCA and HPS for review and comment by the PAC, Planning Commission, City Council, and interested parties. Consultant will summarize PAC comments on the draft (if addressing comments would require major updates) or make minor updates to the draft following the PAC review. Following public review and comment, Consultant will produce a Final copy of the HCA and HPS document.

Task 9 Consultant Deliverables:

- Public Review Draft of the HCA and HPS
- Agenda and presentation/meeting materials for PAC Meeting No. 9
- Presentation to Planning Commission
- Presentation to City Council
- Final copy of the HCA and HPS

Task 9 City Deliverable:

- Meeting notices, agendas, and minutes

Task 10: Adoption

Timeline: Mar 2023 (initiate)

City will initiate a formal legislative process to update its Housing Capacity Analysis to pick up concepts developed in Tasks 8 and 9. The Housing Production Strategy may be formally adopted or acknowledged by resolution of the City Council. Consultant will prepare presentation materials addressing the major components of the HCA and HPS for City staff's use during the adoption process. City does not anticipate needing Consultants assistance during the hearing adoption process.

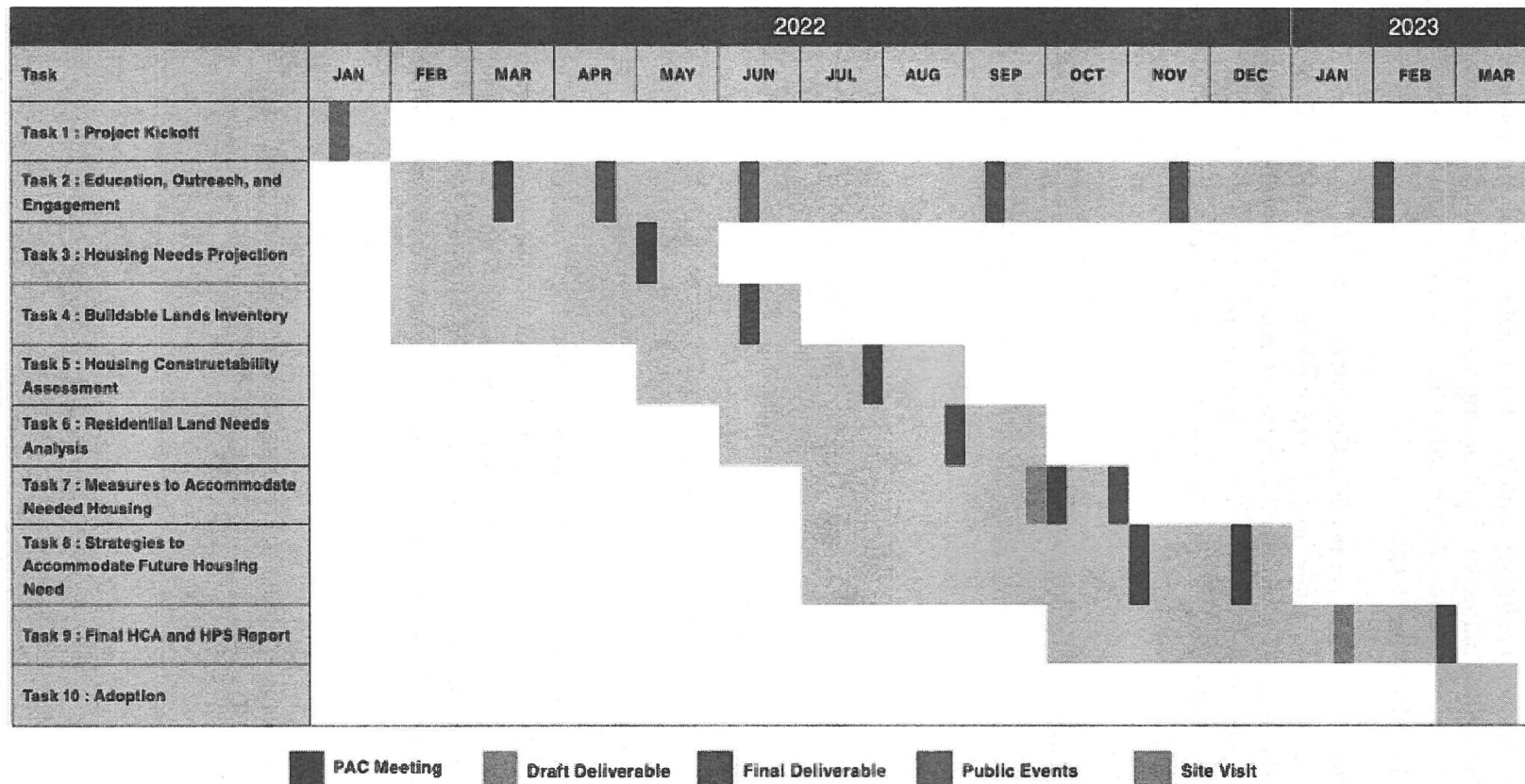
Task 10 Consultant Deliverable:

- Presentation materials to explain final draft updates to the hearing bodies

Task 10 City Deliverable:

- A set of official minutes from the meeting where the legislative process is initiated

Project Schedule



Project Budget

ECONorthwest will complete the project on a time-and-expense basis for a not-to-exceed sum of \$105,000. The budget below provides an estimate of cost by task and staff person.

Labor Expenses	HOURS BY TASK											TOTALS		
	Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10				
	Project Kickoff	Education Outreach, and Engagement	Housing Needs Projection	Buildable Lands Inventory	Housing Constructability Assessment	Residential Land Needs Analysis	Accommodate Needed Housing	Measures to Accommodate Future Housing Need	Strategies to Accommodate Future Housing Need	Final HCA and HPS Report	Adoption			
	\$/Hour											Hours	\$	% of Budget
ECONorthwest														
Beth Goodman, Project Director	190	8	50	20	6	16	10	25	30	10	6	181	\$34,390	33%
Bob Parker, Senior Advisor	220			3				4				7	\$1,540	1%
Emily Picha, Senior Policy Analyst	170								25			25	\$4,250	4%
Becky Hewitt, Real Estate Policy Analyst	170				26							26	\$4,420	4%
Margaret Raimann, Project Manager	155	6	15	35	10	4	15	10	20	15	6	136	\$21,080	20%
Barrett Lewis, GIS Analyst	135			40	16							56	\$7,560	7%
James Kim, Associate	135				46							46	\$6,210	6%
Nicole Underwood, Associate	130		30	30		4	10	40	10			124	\$16,120	15%
Research Analyst	95		15	40	24			10				89	\$8,455	8%
Sub-Total		14	110	125	59	132	29	49	125	35	12	690	\$104,025	99%
Non-Labor Expenses														
Travel	\$107	\$428			\$107		\$107	\$107	\$107	\$107			\$963	1%
Total	\$107	\$428	\$0	\$0	\$107	\$0	\$107	\$107	\$107	\$107	\$0		\$963	1%
Totals by Task														
Total Labor	\$2,450	\$17,150	\$16,925	\$8,750	\$18,730	\$4,745	\$8,480	\$19,200	\$5,525	\$2,070		Totals	Summary of Expenses	
Direct Expense	\$107	\$428	\$0	\$0	\$107	\$0	\$107	\$107	\$107	\$0		Labor	\$104,025	99%
Total by Task	\$2,557	\$17,578	\$16,925	\$8,750	\$18,837	\$4,745	\$8,587	\$19,307	\$5,632	\$2,070		Non-Labor	\$963	1%
% of Total Budget	2%	17%	16%	8%	18%	5%	8%	18%	5%	2%		Budget	\$104,988	100%

EXHIBIT B
TO PERSONAL SERVICES AGREEMENT

RELEVANT PROVISIONS OF ORS CHAPTER 279B

279B.220 Conditions concerning payment, contributions, liens, withholding. Every public contract shall contain a condition that the contractor shall:

1. Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
2. Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.
3. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
4. Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

279B.230 Condition concerning payment for medical care and providing workers' compensation.

1. Every public contract shall contain a condition that the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
2. Every public contract shall contain a clause or condition that all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

279B.235 Condition concerning hours of labor; compliance with pay equity provisions; employee discussions of rate of pay or benefits.

1. An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
2. In the case of contracts for personal services as described in ORS 279A.055, the contract shall contain a provision that the employee shall be paid at least time

and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.

3. (a) Except as provided in subsection (4) of this section, contracts for services must contain a provision that requires that persons employed under the contracts shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater.

(b) An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/1/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Ward Insurance Agency Inc. PO Box 10167 Eugene OR 97440	CONTACT NAME: Kristy Martin	
	PHONE (A/C, No, Ext): 541-687-1117 FAX (A/C, No): 541-342-8280	
	E-MAIL ADDRESS: kristy@wardinsurance.net	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Philadelphia Indemnity Ins	18058
	INSURER B: Cincinnati Insurance Company	10677
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 1857292792 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	ECP 0315866	4/1/2021	4/1/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	EBA 0315866	4/1/2021	4/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Hired & Non-Owned \$ 1,000,000
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			EPC 0315866	4/1/2021	4/1/2022	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			PHSD1608989	4/1/2021	4/1/2022	\$3,000,000 Per Claim 3,000,000 Aggregate \$10,000 Ded. Per Claim

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate holder and all entities required by written contract are included as additional insureds with waiver of subrogation as respects to the general liability and auto liability, including waiver of subrogation as required by written contract per attached endorsements. Umbrella is excess over General Liability, Auto Liability and Employers Liability. Subject to policy limits, terms, conditions and exclusions.

Project Name and Number: ECO PR#:24884 Newport Housing Capacity Analysis and Housing Production Strategy

CERTIFICATE HOLDER	CANCELLATION
City of Newport 169 SW Coast Hwy Derrick Tokos, Community Development Director Newport, OR 97365	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CONTRACTORS ADDITIONAL INSURED - AUTOMATIC STATUS
WHEN REQUIRED IN WRITTEN CONTRACT, AGREEMENT,
PERMIT OR AUTHORIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. Additional Insured - Owners, Lessees Or
Contractors - Automatic Status For Other
Parties When Required In Written Contract
Or Agreement With You**

1. **Section II - Who Is An Insured** is amended to include as an additional insured any person or organization you have agreed in writing in a contract or agreement to add as an additional insured on this Coverage Part. Such person(s) or organization(s) is an additional insured only with respect to liability for:

a. "Bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by the performance of your ongoing operations by you or on your behalf, under that written contract or written agreement. Ongoing operations does not apply to "bodily injury" or "property damage" occurring after:

(1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

(2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project; and

b. "Bodily injury" or "property damage" caused, in whole or in part, by "your work" performed under that written contract or written agreement and included in the "products-completed operations hazard", but only if:

(1) The Coverage Part to which this endorsement is attached provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard"; and

(2) The written contract or written agreement requires you to provide additional insured coverage included within the "products-completed operations hazard" for that person or organization.

If the written contract or written agreement requires you to provide additional insured coverage included within the "products-completed operations hazard" for a specified length of time for that person or organization, the "bodily injury" or "property damage" must occur prior to the expiration of that period of time in order for this insurance to apply.

If the written contract or written agreement requires you to provide additional insured coverage for a person or organization per ISO additional insured endorsement form number CG 20 10, without specifying an edition date, this Paragraph b. does not apply to that person or organization.

2. If the written contract or written agreement described in Paragraph 1, above specifically requires you to provide additional insured coverage to that person or organization:

a. *Arising out of your ongoing operations or arising out of "your work";* or

b. By way of an edition of an ISO additional insured endorsement that includes *arising out of your ongoing operations or arising out of "your work";*

then the phrase *caused, in whole or in part*, by in Paragraph A.1.a. and/or Paragraph A.1.b. above, whichever applies, is replaced by the phrase *arising out of*.

3. With respect to the insurance afforded to the additional insureds described in Paragraph A.1., the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

a. The preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

4. This Paragraph A. does not apply to additional insureds described in Paragraph B.

**B. Additional Insured - State Or Governmental
Agency Or Subdivision Or Political Subdi-
vision - Automatic Status When Required
In Written Permits Or Authorizations**

1. **Section II - Who Is An Insured** is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision you have agreed in writing in a contract, agreement, permit or authorization to add as an additional insured on this Coverage Part. Such state or governmental agency or subdivision or political subdivision is an additional insured only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision issued, in writing, a contract, agreement, permit or authorization.

2. With respect to the insurance afforded to the additional insureds described in Paragraph B.1., the following additional exclusions apply:

This insurance does not apply to:

a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or

b. "Bodily injury" or "property damage" included within the "products-completed operations hazard."

C. The insurance afforded to additional insureds described in Paragraphs A. and B.:

1. Only applies to the extent permitted by law; and

2. Will not be broader than that which you are required by the written contract, written agreement, written permit or written authorization to provide for such additional insured; and

3. Does not apply to any person, organization, state, governmental agency or subdivision or political subdivision specifically named as an additional insured for the same project in the schedule of an endorsement added to this Coverage Part.

D. With respect to the insurance afforded to the additional insureds described in Paragraphs A. and B., the following is added to **Section III - Limits Of Insurance**:

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract, written agreement, written permit or written authorization described in Paragraphs A. and B.; or

2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

E. **Section IV - Commercial General Liability
Conditions** is amended to add the following:

Automatic Additional Insured Provision

This insurance applies only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

1. During the policy period; and

2. Subsequent to your execution of the written contract or written agreement, or the issuance of a written permit or written authorization, described in Paragraphs A. and B.

F. Except when G. below applies, the following is added to **Section IV - Commercial General Liability Conditions, 5. Other Insurance**, and supersedes any provision to the contrary:

When Other Additional Insured Coverage Applies On An Excess Basis

This insurance is primary to other insurance available to the additional insured described in Paragraphs A. and B. except:

1. As otherwise provided in **Section IV - Commercial General Liability Conditions, 5. Other Insurance, b. Excess Insurance**; or
2. For any other valid and collectible insurance available to the additional insured as an additional insured by attachment of an endorsement to another insurance policy that is written on an excess basis. In such case, this insurance is also excess.

G. The following is added to **Section IV - Commercial General Liability Conditions, 5. Other Insurance**, and supersedes any provision to the contrary:

Primary Insurance When Required By Written Contract, Agreement, Permit Or Authorization

Except when wrap-up insurance applies to the claim or "suit" on behalf of the additional insured, this insurance is primary to any other insurance available to the additional insured described in Paragraphs A. and B. provided that:

1. The additional insured is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract, agreement, permit or authorization described in Paragraph A. or B. that this insurance would be primary to any other insurance available to the additional insured.

As used in this endorsement, wrap-up insurance means any insurance provided by a consolidated (wrap-up) insurance program.

Primary And Noncontributory Insurance When Required By Written Contract, Agreement, Permit Or Authorization

Except when wrap-up insurance applies to the claim or "suit" on behalf of the additional insured, this insurance is primary to and will not seek contribution from any other insurance available to the additional insured described in Paragraphs A. and B. provided that:

1. The additional insured is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract, agreement, permit or authorization described in Paragraph A. or B. that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

As used in this endorsement, wrap-up insurance means any insurance provided by a consolidated (wrap-up) insurance program.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CinciPak™
COMMERCIAL GENERAL LIABILITY BROADENED
ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Endorsement - Table of Contents:

<u>Coverage:</u>	<u>Begins on Page:</u>
1. Employee Benefit Liability Coverage.....	2
2. Unintentional Failure To Disclose Hazards.....	8
3. Supplementary Payments.....	8
4. Medical Payments.....	8
5. 180 Day Coverage For Newly Formed Or Acquired Organizations.....	8
6. Waiver Of Subrogation.....	8
7. Automatic Additional Insured - Specified Relationships:.....	8
• Managers Or Lessors Of Premises;	
• Lessor Of Leased Equipment;	
• Vendors;	
• State Or Governmental Agency Or Subdivision Or Political Subdivision - Permits	
Or Authorizations Relating To Premises; and	
• Mortgagee, Assignee Or Receiver	
8. Property Damage To Borrowed Equipment.....	11
9. Employees As Insureds - Specified Health Care Services And Good Samaritan	
Services.....	12
10. Broadened Notice Of Occurrence.....	12
11. Nonowned Aircraft.....	12
12. Bodily Injury Redefined.....	13
13. Expected Or Intended Injury Redefined.....	13
14. Former Employees As Insureds.....	13

B. Limits Of Insurance:

The Commercial General Liability Limits of Insurance apply to the insurance provided by this endorsement, except as provided below:

1. **Employee Benefit Liability Coverage**
Each Employee Limit: \$1,000,000
Aggregate Limit: \$3,000,000
Deductible Amount: \$ 1,000
3. **Supplementary Payments**
Bail Bonds: \$ 2,500
4. **Medical Payments**
Medical Expense Limit: \$ 10,000
8. **Property Damage To Borrowed Equipment**
Each Occurrence Limit: \$10,000
Deductible Amount: \$ 250

C. Coverages

1. Employee Benefit Liability Coverage

- a. The following is added to Section I - Coverages:

Employee Benefit Liability Coverage

(1) Insuring Agreement

- (a) We will pay those sums that the insured becomes legally obligated to pay as damages caused by any act, error or omission of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any claim or "suit" that may result. But:

- 1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and

- 2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **Supplementary Payments**.

- (b) This insurance applies to damages only if the act, error or omission, is negligently committed in the "administration" of your "employee benefit program"; and

- 1) Occurs during the policy period; or

- 2) Occurred prior to the "first effective date" of

this endorsement provided:

- a) You did not have knowledge of a claim or "suit" on or before the "first effective date" of this endorsement.

You will be deemed to have knowledge of a claim or "suit" when any "authorized representative":

- i) Reports all, or any part, of the act, error or omission to us or any other insurer;

- ii) Receives a written or verbal demand or claim for damages because of the act, error or omission; and

- b) There is no other applicable insurance.

(2) Exclusions

This insurance does not apply to:

- (a) **Bodily Injury, Property Damage Or Personal And Advertising Injury**

"Bodily injury", "property damage" or "personal and advertising injury".

- (b) **Dishonest, Fraudulent, Criminal Or Malicious Act**

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

- (c) **Failure To Perform A Contract**

Damages arising out of failure of performance of contract by any insurer.

(d) **Insufficiency Of Funds**

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program".

(e) **Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation**

Any claim based upon:

- 1) Failure of any investment to perform;
- 2) Errors in providing information on past performance of investment vehicles; or
- 3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

(f) **Workers' Compensation And Similar Laws**

Any claim arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

(g) **ERISA**

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

(h) **Available Benefits**

Any claim for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

(i) **Taxes, Fines Or Penalties**

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

(j) **Employment-Related Practices**

Any liability arising out of any:

- (1) Refusal to employ;
- (2) Termination of employment;
- (3) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, acts or omissions; or
- (4) Consequential liability as a result of (1), (2) or (3) above.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

(3) **Supplementary Payments**

Section I - Coverages, Supplementary Payments - Coverages A and B also apply to this Coverage.

b. Who Is An Insured

As respects Employee Benefit Liability Coverage, Section II - Who Is An Insured is replaced by the following:

- (1) If you are designated in the Declarations as:
 - (a) An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - (b) A partnership or joint venture, you are an insured. Your members, your part-

ners, and their spouses are also insureds but only with respect to the conduct of your business.

- (c) A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

- (d) An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

- (e) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

- (2) Each of the following is also an insured:

- (a) Each of your "employees" who is or was authorized to administer your "employee benefit program";

- (b) Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed; or

- (c) Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

- (3) Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organi-

zation. However, coverage under this provision:

- (a) Is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- (b) Does not apply to any act, error or omission that was committed before you acquired or formed the organization.

c. Limits Of Insurance

As respects Employee Benefit Liability Coverage, Section III - Limits Of Insurance is replaced by the following:

- (1) The Limits of Insurance shown in Section B. Limits Of Insurance. 1. Employee Benefit Liability Coverage and the rules below fix the most we will pay regardless of the number of:

- (a) Insureds;
- (b) Claims made or "suits" brought;
- (c) Persons or organizations making claims or bringing "suits";
- (d) Acts, errors or omissions; or
- (e) Benefits included in your "employee benefit program".

- (2) The Aggregate Limit shown in Section B. Limits Of Insurance. 1. Employee Benefit Liability Coverage of this endorsement is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".

- (3) Subject to the limit described in (2) above, the Each Employee Limit shown in Section B. Limits Of Insurance. 1. Employee Benefit Liability Coverage of this endorsement is the most we will pay for all damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:

- (a) An act, error or omission; or

- (b) A series of related acts, errors or omissions, regardless of the amount of time that lapses between such acts, errors or omissions;

negligently committed in the "administration" of your "employee benefit program".

However, the amount paid under this endorsement shall not exceed, and will be subject to the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program."

(4) Deductible Amount

- (a) Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the Deductible Amount stated in the Declarations as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.

- (b) The Deductible Amount stated in the Declarations applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.

- (c) The terms of this insurance, including those with respect to:

- 1) Our right and duty to defend the insured against any "suits" seeking those damages; and
- 2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or claim;

apply irrespective of the application of the Deductible Amount.

- (d) We may pay any part or all of the Deductible Amount to effect settlement of any claim or "suit" and, upon no-

tification of the action taken, you shall promptly reimburse us for such part of the Deductible Amount as we have paid.

d. Additional Conditions

As respects Employee Benefit Liability Coverage, Section IV - Commercial General Liability Conditions is amended as follows:

- (1) Item 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit is replaced by the following:

2. Duties In The Event Of An Act, Error Or Omission, Or Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a claim. To the extent possible, notice should include:

- (1) What the act, error or omission was and when it occurred; and
- (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

- b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers re-

ceived in connection with the claim or "suit";

- (2) Authorize us to obtain records and other information;

- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.

- (2) Item 5. Other Insurance is replaced by the following:

5. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when c. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in b. below.

b. Method Of Sharing

If all of the other insurance permits contribu-

tion by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

c. No Coverage

This insurance shall not cover any loss for which the insured is entitled to recovery under any other insurance in force previous to the effective date of this Coverage Part.

e. Additional Definitions

As respects Employee Benefit Liability Coverage, Section V - Definitions is amended as follows:

- (1) The following definitions are added:

1. "Administration" means:

- a. Providing information to "employees", including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
- b. Interpreting the "employee benefit programs";
- c. Handling records in connection with the "employee benefit programs"; or
- d. Effecting, continuing or terminating any "employee's" participation in

any benefit included in the "employee benefit program".

However, "administration" does not include:

- a. Handling payroll deductions; or
 - b. The failure to effect or maintain any insurance or adequate limits of coverage of insurance, including but not limited to unemployment insurance, social security benefits, workers' compensation and disability benefits.
2. "Cafeteria plans" means plans authorized by applicable law to allow "employees" to elect to pay for certain benefits with pre-tax dollars.
3. "Employee benefit programs" means a program providing some of all of the following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:
- a. Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
 - b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;
 - c. Unemployment insurance, social security benefits, workers' compensation and disability benefits; and
 - d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies.
4. "First effective date" means the date upon which coverage was first effected in a series of uninterrupted renewals of insurance coverage.
- (2) The following definitions are deleted in their entirety and replaced by the following:
8. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
21. "Suit" means a civil proceeding in which money damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent;
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent; or
 - c. An appeal of a civil proceeding.

2. Unintentional Failure To Disclose Hazards

Section IV - Commercial General Liability Conditions, 7. Representations is amended by the addition of the following:

Based on our dependence upon your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not reject coverage under this Coverage Part based solely on such failure.

3. Supplementary Payments

Under **Section I - Supplementary Payments - Coverages A and B:**

Paragraph 2. is replaced by the following:

Up to the limit shown in Section B, Limits Of Insurance, 3. Bail Bonds of this endorsement for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

This amendment of the Supplementary Payments - Bail Bonds limit replaces, and is not in addition to, the amendment of the Supplementary Payments - Bail Bonds limit (II.A.2.) in the CinciPak Commercial General Liability Amendatory Endorsement.

4. Medical Payments

The Medical Expense Limit of Any One Person as stated in the Declarations is amended to the limit shown in Section B, Limits Of Insurance, 4. Medical Payments of this endorsement.

5. 180 Day Coverage For Newly Formed Or Acquired Organizations

Section II - Who Is An Insured is amended as follows:

Subparagraph a. of Paragraph 3. is replaced by the following:

- a. Insurance under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

6. Waiver Of Subrogation

Section IV - Commercial General Liability Conditions, 9. Transfer Of Rights Of Recovery Against Others To Us is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization against whom you have agreed to waive such right of recovery in a written contract or agreement because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a written contract or agreement with that person or organization and included in the "products-completed operations hazard". However, our rights may only be waived prior to the "occurrence" giving rise to the injury or damage for which we make payment under this Coverage Part. The insured must do nothing after a loss to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce those rights.

7. Automatic Additional Insured - Specified Relationships

- a. The following is added to **Section II - Who Is An Insured:**

(1) Any person(s) or organization(s) described in Paragraph 7.a.(2) of this endorsement (hereinafter referred to as additional insured) whom you are required to add as an additional insured under this Coverage Part by reason of a written contract, written agreement, written permit or written authorization.

(2) Only the following persons or organizations are additional insureds under this endorsement, and insurance coverage provided to such additional insureds is limited as provided herein:

(a) Managers Or Lessors Of Premises

The manager or lessor of a premises leased to you with whom you have agreed per Paragraph 7.a.(1) of this endorsement to provide insurance, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you, subject to the following additional exclusions:

This insurance does not apply to:

- (i) Any "occurrence" which takes place after you

cease to be a tenant in that premises;

- (ii) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

(b) Lessor Of Leased Equipment

Any person or organization from whom you lease equipment when you and such person(s) or organization(s) have agreed per Paragraph 7.a.(1) of this endorsement to provide insurance. Such person(s) or organization(s) are insureds only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s). A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends. However, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

(c) Vendors

Any person or organization (referred to below as vendor) with whom you have agreed per Paragraph 7.a.(1) of this endorsement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

- (i) The insurance afforded the vendor does not apply to:

- 1) "Bodily injury" or "property damage"

for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

- 2) Any express warranty unauthorized by you;
- 3) Any physical or chemical change in the product made intentionally by the vendor;
- 4) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- 5) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make in the usual course of business, in connection with the distribution or sale of the products;
- 6) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- 7) Products which, after distribution or

sale by you, have been labeled or re-labeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- 8) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- a) The exceptions contained in Paragraphs (c)(1)(4) or (6) of this endorsement; or

- b) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (ii) This insurance does not apply to any insured person or organization:

- 1) From whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products; or
- 2) When liability included within the "products-completed operations hazard" has

been excluded under this Coverage Part with respect to such products.

(d) State Or Governmental Agency Or Subdivision Or Political Subdivision - Permits Or Authorizations Relating To Premises

Any state or governmental agency or subdivision or political subdivision with which you have agreed per Paragraph 7.a.(1) of this endorsement to provide insurance, subject to the following additional provision:

This insurance applies only with respect to the following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

- (i) The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures; or
- (ii) The construction, erection or removal of elevators; or
- (iii) The ownership, maintenance or use of any elevators covered by this insurance.

(e) Mortgagee, Assignee Or Receiver

Any person or organization with whom you have agreed per Paragraph 7.a.(1) of this endorsement to provide insurance, but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or

use of the premises by you. However, this insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

(3) The insurance afforded to additional insureds described in Paragraph 7.a.(1) of this endorsement:

(a) Only applies to the extent permitted by law; and

(b) Will not be broader than that which you are required by the written contract, written agreement, written permit or written authorization to provide for such additional insured; and

(c) Does not apply to any person, organization, vendor, state, governmental agency or subdivision or political subdivision, specifically named as an additional insured under any other provision of, or endorsement added to, this Coverage Part, provided such other provision or endorsement covers the injury or damage for which this insurance applies.

b. With respect to the insurance afforded to the additional insureds described in Paragraph 7.a.(1) of this endorsement, the following is added to Section III - Limits Of Insurance:

The most we will pay on behalf of the additional insured is the amount of insurance:

(1) Required by the written contract, written agreement, written permit or written authorization described in Paragraph 7.a.(1) of this endorsement; or

(2) Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

c. Section IV - Commercial General Liability Conditions is amended to add the following:

Automatic Additional Insured Provision

This insurance applies only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

(1) During the policy period; and

(2) Subsequent to your execution of the written contract or written agreement, or the issuance of a written permit or written authorization, described in Paragraph 7.a.(1).

d. Section IV - Commercial General Liability Conditions is amended as follows:

Condition 5. Other Insurance is amended to include:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured per Paragraph 7.a.(1) of this endorsement provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract, agreement, permit or authorization described in 7.a.(2) of this endorsement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

8. Property Damage To Borrowed Equipment

a. The following is added to Exclusion 2.j. Damage To Property under Section I - Coverage A - Bodily Injury And Property Damage Liability:

Paragraphs (3) and (4) of this exclusion do not apply to tools or equipment loaned to you, provided they are not being used to perform operations at the time of loss.

b. With respect to the insurance provided by this section of the endorse-

ment, the following additional provisions apply:

(1) The Limits of Insurance shown in the Declarations are replaced by the limits designated in Section B. Limits Of Insurance. 8. Property Damage To Borrowed Equipment of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in Section B. Limits Of Insurance, 8. Property Damage To Borrowed Equipment of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

(a) Insureds;

(b) Claims made or "suits" brought; or

(c) Persons or organizations making claims or bringing "suits".

(2) Deductible Clause

(a) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the Deductible Amount stated in Section B. Limits Of Insurance. 8. Property Damage To Borrowed Equipment of this endorsement. The limits of insurance will not be reduced by the application of such deductible amount.

(b) Section IV - Commercial General Liability Conditions. 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit, applies to each claim or "suit" irrespective of the amount.

(c) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

9. Employees As Insureds - Specified Health Care Services And Good Samaritan Services

Paragraph 2.a.(1)(d) under Section II - Who Is An Insured does not apply to:

a. Your "employees" who provide professional health care services on your behalf as a duly licensed nurse, emergency medical technician or paramedic in the jurisdiction where an "occurrence" or offense to which this insurance applies takes place; or

b. Your "employees" or "volunteer workers", other than an employed or volunteer doctor, providing first aid or good samaritan services during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

10. Broadened Notice Of Occurrence

Paragraph a. of Condition 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit under Section IV - Commercial General Liability Conditions is replaced by the following:

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

(1) How, when and where the "occurrence" or offense took place;

(2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

This requirement applies only when the "occurrence" or offense is known to an "authorized representative".

11. Nonowned Aircraft

The following is added to Exclusion 2.g. Aircraft, Auto Or Watercraft under Section I - Coverage A - Bodily Injury And Property Damage Liability:

This exclusion does not apply to an aircraft you do not own, provided that:

a. The pilot in command holds a current effective certificate, issued by a duly constituted authority of the United

States of America or Canada, designating that person as a commercial or airline transport pilot;

- b. The aircraft is rented with a trained, paid crew; and
- c. The aircraft does not transport persons or cargo for a charge.

12. Bodily Injury Redefined

Section V - Definitions, 4. "Bodily injury" is replaced by the following:

- 4. "Bodily injury" means bodily harm or injury, sickness, disease, disability, humiliation, shock, fright, mental anguish or mental injury, including care, loss of services or death resulting from any of these at any time.

13. Expected Or Intended Injury Redefined

The last sentence of Exclusion 2.a. Expected Or Intended Injury under Section I - Coverage A - Bodily Injury And

Property Damage Liability is replaced by the following:

This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

14. Former Employees As Insureds

The following is added to Paragraph 2. under Section II - Who Is An Insured:

- 2. Each of the following is also an insured:

Any of your former "employees", directors, managers, members, partners or "executive officers", including but not limited to retired, disabled or those on leave of absence, but only for acts within the scope of their employment by you or for duties related to the conduct of your business.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED BY CONTRACT

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM**

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 04-01-2021	Policy Number: EBA 031 58 66
Named Insured: ECONOMIC CONSULTANTS OREGON LTD DBA ECONORTHWEST	
Countersigned by:	

(Authorized Representative)

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who is an Insured is amended to include as an insured any person or organization with which you have agreed in a valid written contract to provide insurance as is afforded by this policy.

This provision is limited to the scope of the valid written contract.

This provision does not apply unless the valid written contract has been executed prior to the "bodily injury" or "property damage".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET WAIVER OF SUBROGATION - AUTO

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 04-01-2021	Policy Number: EBA 031 58 66
Named Insured: ECONOMIC CONSULTANTS OREGON LTD DBA ECONORTHWEST	
Countersigned by:	

(Authorized Representative)

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

1. Blanket Waiver of Subrogation

SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer of Rights of Recovery Against Others to Us is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of

payments we make for "bodily injury" or "property damage" arising out of the operation of a covered "auto" when you have assumed liability for such "bodily injury" or "property damage" under an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the "insured contract".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 04-01-2021	Policy Number: EBA 031 50 66
Named Insured: ECONOMIC CONSULTANTS OREGON LTD DBA ECONORTHWEST	
Countersigned by: (Authorized Representative)	

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

1. Noncontributory Insurance

SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance is replaced by the following:

- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Liability Coverage is primary and we will not seek contribution from any other insurance for any liability assumed under an "insured contract" that requires liability to be assumed on a primary noncontributory basis.

Oregon Workers' Compensation Certificate of Insurance

Certificate holder:

CITY OF NEWPORT
ATTENTION: DERRICK TOKOS, COMMUNITY
169 SW COAST HWY
NEWPORT, OR 97365

The policy of insurance listed below has been issued to the insured named below for the policy period indicated. The insurance afforded by this policy is subject to all the terms, exclusions and conditions of such policy; this policy is subject to change or cancellation at any time.

Insured		Producer/contact	
Economic Consultants Oregon LTD Eco Northwest 222 SW Columbia St Ste 1600 Portland, Or 97201-6616		Hub International Northwest LLC-Eugene Mike Godfrey 541.687.1117 mike@wardinsurance.net	
Issued	Policy	Limits of liability	
02/01/2022	356035	Bodily Injury by Accident \$1,000,000 each accident	
Period 04/01/2021 to 04/01/2022		Bodily Injury by Disease \$1,000,000 each employee	
		Body Injury by Disease \$1,000,000 policy limit	

Description of operations/locations/special items

ECO PR#:24884 Newport Housing Capacity Analysis and Housing Production Strategy

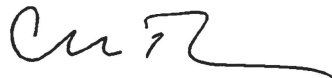
Important

This certificate is issued as a matter of information only and confers no rights to the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies above. This certificate does not constitute a contract between the issuing insurer, authorized representative or producer and the certificate holder.

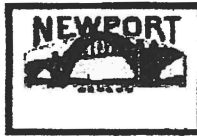
CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED TO THE POLICYHOLDER AND CERTIFICATE HOLDER IN ACCORDANCE WITH THE POLICY PROVISIONS AND OREGON LAW. SAIF WILL ENDEAVOR TO PROVIDE WRITTEN NOTICE WITHIN 30 DAYS WHENEVER POSSIBLE.

Authorized representative



Chip Terhune
President and CEO



**AUTHORIZATION FOR
AGREEMENTS, MOUs, OR
OTHER DOCUMENTS OBLIGATING
THE CITY**

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: Agreement with ECONorthwest Date: 2/1/22

Statement of Purpose: Agreement approved by Local Contract Review Board. Consulting
Contract to prepare Housing Capacity Analysis and Production Strategy.

Department Head Signature: *[Signature]*

Remarks, if any: _____

City Attorney Review and Signature: *[Signature]* Date: 2/01/2022

Other Signatures as Requested by the City Attorney: _____

	Signature	Name/Position
Budget Confirmed:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	Date: _____
Certificate of Insurance Attached:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	
City Council Approval Needed:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Date: <u>4/18/22</u>

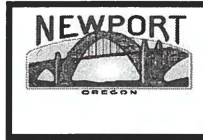
After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: *[Signature]* Date: 2/1/22

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: _____ Date: _____

Date posted on website: _____

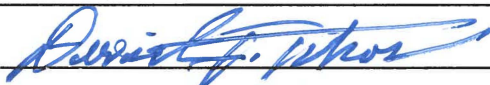


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Department Head Signature: 

Remarks, if any: _____

City Attorney Review and Signature: _____ Date: _____

Other Signatures as Requested by the City Attorney: _____


Signature
Date: _____

Budget Confirmed: Yes ☒ No ☐ N/A ☐

Certificate of Insurance Attached: Yes ☐ No ☒ N/A ☐

City Council Approval Needed: Yes ☒ No ☐ Date: 1/18/22

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature:  Date: 2/1/22

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: _____ Date: _____

Date posted on website: _____

