

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: CITY-DAF 16A Date: 5/7/24

Statement of Purpose: REIMBURSEMENT AGREEMENT FOR NE 73RD STORM PIPE IMPROVEMENTS

Department Head Signature: [Signature]

Remarks, if any: _____

City Attorney Review and Signature: (EMAIL ATTACHED) Date: 5/7/24

Other Signatures as Requested by the City Attorney: _____

Name/Position
Date: _____

Budget Confirmed: Yes No N/A

Certificate of Insurance Attached: Yes No N/A

City Council Approval Needed: Yes No Date: 5/6/24

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: _____

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: _____

Derrick Tokos

From: David Allen
Sent: Tuesday, May 7, 2024 4:32 PM
To: Derrick Tokos
Subject: Re: Draft IGA - ODF SDC Reimbursement Agreement - 4.30.24.docx

You can use this e-mail to confirm review of the draft IGA referenced below. --David

From: Derrick Tokos
Sent: Tuesday, May 7, 2024 1:48 PM
To: David Allen
Subject: FW: Draft IGA - ODF SDC Reimbursement Agreement - 4.30.24.docx

FYI. I am going to move ahead with getting the IGA signed. Could you send me a quick email response confirming that you reviewed the draft?

Derrick

* * * * *

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF NEWPORT AND
OREGON DEPARTMENT OF FORESTRY REGARDING
IMPROVEMENTS TO THE NE 73RD STREET
STORM DRAINAGE SYSTEM**

This Intergovernmental Agreement (“Agreement”) is between the State of Oregon, acting by and through the Oregon Department of Forestry (“ODF”) and the City of Newport, an Oregon municipal corporation (“City”).

City and ODF are each a “Party” and together the “Parties.” Oregon Revised Statutes (ORS) Chapter 190 authorizes written agreements between units of local government and state agencies for the performance of any or all functions and activities that a party to the agreement has authority to perform.

RECITALS

A. ODF owns property at 225 NE 73rd Street, identified as Parcel 2 of Partition Plat 2023-06 (Lincoln County Assessor’s Map 10-11-20-BD, Tax Lot 00502). It is 2.75 acres in size (“Property”).

B. On June 22, 2022, City and ODF entered into a Memorandum of Understanding (“MOU”) outlining the steps required to establish a 12,400+/- sq. ft. Joint Use Fire Resource Facility (“Facility”) on Property. City agreed to relinquish title to a 0.27 acre property that contained Newport Fire Station No. 3400, so that the building could be demolished and acreage incorporated into Property under ODF’s ownership. ODF is constructing the Facility with City contributing the value of the Fire Station No. 3400 and cash toward construction per the terms of a transfer agreement executed by the Parties on July 25, 2022. City will execute a 30 year lease with ODF for 1,800+/- sq. ft. of Facility once the building is completed.

C. In conjunction with constructing the Facility, ODF will be paving a portion of NE 73rd Street and improving the street’s storm drainage system between the Property and US 101. Improvements ODF is making to the storm drainage system will accommodate more storm run-off than will be generated from the Property.

D. City collects System Development Charge (SDC) fees when properties are developed or redeveloped in a manner that increases their impact on public services. The collected funds are used to improve undersized public infrastructure to meet current and future needs. The City’s SDC Methodology identifies public infrastructure projects that are eligible for the expenditure of SDC funds, with the extent of the eligibility being limited to the proportion of the work needed to accommodate future development.

E. City’s SDC Methodology identifies a need to retrofit the storm drainage system between NE 73rd and US 101. Specifically, the methodology calls for the drain pipe between US 101 and NE Avery Street to be upsized to a 24-inch line at an estimated cost of \$243,075, with half of that capacity serving existing development and half being needed to accommodate future development in the area.

F. City agrees to reimburse ODF for the costs it incurs to improve the storm drainage system between the Property and US 101 that is above and beyond what is

required for the Facility. Per the City's SDC Methodology, such reimbursement is to be equivalent to 50 percent of the actual costs incurred or \$121,537, whichever is lower.

G. Parties wish to enter into this Agreement to spell out obligations of both parties relating to the installation of storm drainage improvements along NE 73rd Street between the Property and US 101.

TERMS OF AGREEMENT

1. ODF's NE 73rd Street Storm Drainage Obligations. ODF agrees to retrofit the storm drainage system along NE 73rd Street between the Facility and US 101, with the storm drainage line from NE Avery Street to US 101 being upsized to 24-inches in diameter, as generally depicted on the schematic drawing attached as Exhibit A to this Agreement. The scope of work includes the installation of erosion control measures; traffic control; excavation and removal of the existing undersized storm drain pipe and catch basins; placement of trench fill; installation of new storm drain lines, catch basins and manholes; landscape repair; and asphalt patching and striping to match adjacent conditions. These ODF obligations are referred to herein as the "NE 73rd Street Storm Drainage Improvements" or "Improvements".

2. City's NE 73rd Street Storm Drainage Obligations. City shall reimburse ODF for costs associated with the NE 73rd Street Storm Drainage Improvements that are above and beyond the expenses ODF will incur to construct its Facility. This amounts to City picking up \$121,537 of the \$403,363 in anticipated cost (30%), with ODF being responsible for \$281,826 of the work (70%). ODF's detailed cost estimate is included as Exhibit B.

3. Scope of Work Refinements. ODF and City may refine the scope of Improvements described in Section 1, and cost sharing responsibilities outlined in Section 2, provided such refinements are agreed upon, in writing, by duly authorized representatives of both parties.

4. Payment. ODF shall invoice City for the actual cost incurred to construct the Improvements, up to a maximum of \$121,537. Such invoices shall be supported with Contractor's invoice(s) and a signed statement from the Contractor confirming they have received payment.

5. Term of Agreement. ODF's obligations under this Agreement related to the construction of the NE 73rd Street Storm Drainage Improvements shall cease once the Improvements are accepted, in writing, by the City of Newport Public Works Department.

6. Relationship to Approved Building Permits. This Agreement outlines a cost sharing arrangement between the City and ODF for Improvements to public facilities described in Sections 1 and 2. Some of the Improvements are also identified on City approved building plans (Permit #625-23-000833-STR). This Agreement does not, in any way, alter the City's approval of ODF's building plans, including conditions of approval listed therein.

7. Insurance. The parties represent that they are insured according to statutory limits set in the State of Oregon for any liability, property, or automobile claims. The

parties represent that they will maintain insurance to cover any claim that may result from or arise out of this Agreement. Each party is either a subject employer under the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires each to provide Worker's Compensation coverage for all its subject workers, or is an employer that is exempt under ORS 656.126. Furthermore, both the City and ODF agree to obtain and maintain in force at all times during the term of this Agreement a policy or policies of general liability insurance with liability limits of at least \$2,000,000 (two million dollars) per occurrence and \$3,000,000 (three million dollars) in the annual aggregate, with the City policy or policies naming the ODF and its officers, employees, and agents as additional insureds, and the ODF policy or policies naming the City and its officers, employees, and agents as additional insureds.

8. Notice. All notices required under this Agreement shall be written and sent to the parties at the following addresses, or such other address to which either party may have properly notified the other:

City of Newport
Attention: City Manager
169 SW Coast Highway
Newport, Oregon 97365

Oregon Department of Forestry
Attention: Statewide Construction Manager

████████████████████
████████████████████

9. Attorney Fees. If either party commences any arbitration, legal action, suit, or proceeding against the other to rescind, interpret, enforce, or recover damages for breach of the terms of this Agreement, the parties agree that the prevailing party shall be awarded reasonable attorney fees and costs incurred in any such arbitration, action, suit or proceeding and in any later appeals filed as a consequence thereof. Such costs shall bear interest at the statutory legal rate from the date incurred, until the date paid.

10. Indemnification. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act, each party shall indemnify, defend, and hold the other party and its officers, agents, and employees harmless from any liability, claims, losses, injury, demand, expenses, or lawsuits and actions arising out of or based upon damages or injuries to persons or property caused by the indemnifying party, or its officers, agents, or employees, in the performance of or failure to perform under this Agreement. Each party shall be responsible for the negligent or otherwise wrongful acts or omissions of its own officers, employees, and agents. No party to this Agreement will be required to indemnify or defend the other party for any liability arising solely out of wrongful acts of another party or third party, or that other party's own officers, employees, or agents. Indemnity and defense for claims arising during the term of this Agreement shall survive expiration or termination of this Agreement.

11. Governing Law. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, and any legal action

involving any question arising under this Agreement must be brought in Lincoln County Circuit Court.

12. Force Majeure. Neither party shall be responsible for delay or default caused by any contingency beyond its control, including but not limited to war or insurrection, strikes, lockouts, or walkouts by the party's employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the ODF or the City.

13. Modification or Amendment. No waiver, consent, modification, or change in the terms of this Agreement shall bind either party unless in writing signed by both parties.

14. Severability. 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.

15. Entire Agreement. This Agreement contains the entire agreement and understanding between the parties as to the subject matter herein and supersedes all prior agreements, commitments, representations, and discussions between the parties, whether written or verbal, relating to the subject matter of this Agreement.

16. Authority. Each party and their undersigned represent that they have the authority to sign and enter into this Agreement on behalf of their respective public body.

IN WITNESS WHEREOF, the parties have executed this Agreement by the date set forth below.

State of Oregon, by and through the
Oregon Department of Forestry

City of Newport



By: Michael Curran, District Forester

By: Spencer Nebel, City Manager

Date: _____

Date: 05-07-24

involving any question arising under this Agreement must be brought in Lincoln County Circuit Court.

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IN WITNESS WHEREOF, the parties have executed this Agreement by the date set forth below.

State of Oregon, by and through the
Oregon Department of Forestry
Michael Curran Digitally signed by Michael Curran
Date: 2024.05.10 14:03:11 -07'00'
By: Michael Curran, District Forester
Date: _____


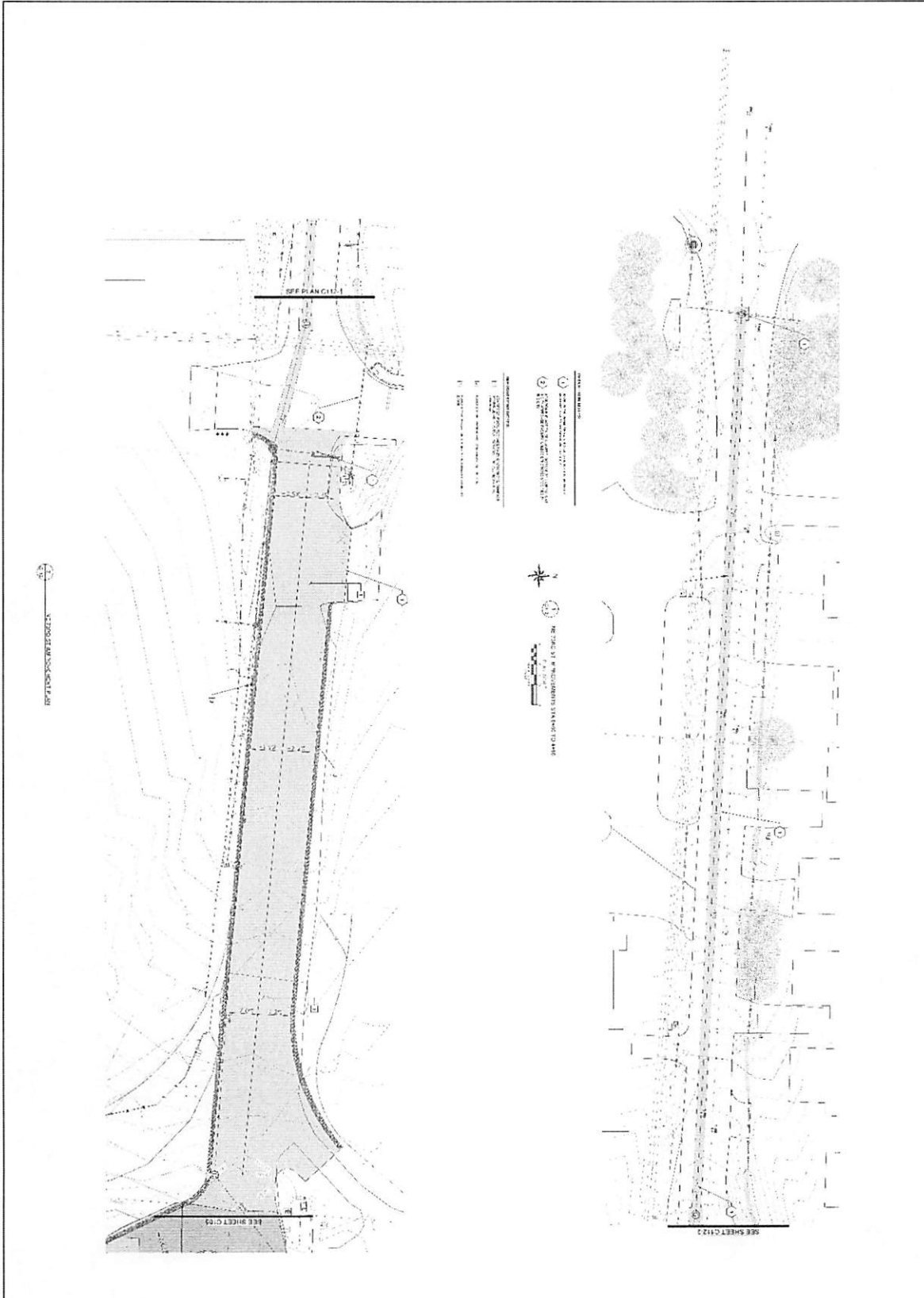
City of Newport

By: Spencer Nebel, City Manager
Date: 05-07-24

Exhibit A

Schematic Drawing - Extent of Improvements

DATE: 10/23 FILE: N:\210 CAPRI\081600\1210.002.DWG DWG Design and Development\1210.002.DWG PROJECTOR: CHD PRODUCTION 24.10.10



	NE 73RD ST IMPROVEMENT PLAN	CAPRI ARCHITECTURE 325 NE 73RD ST, NEWPORT, OR 97126 OREGON DEPARTMENT OF FORESTRY NEWPORT UNIT	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="font-size: 8px;">NO.</td> <td style="font-size: 8px;">DATE</td> <td style="font-size: 8px;">BY</td> <td style="font-size: 8px;">APP.</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	BY	APP.					<p style="font-size: 8px;">Civil West Engineering Services Inc. 15200 Hwy 44, Suite B-1 Eagle Point, Oregon 97124 503.238.9033 www.civilwest.com</p>	PRELIMINARY
NO.	DATE	BY	APP.										

Exhibit B Construction Cost Estimate

ODF Newport Central Coast Relocation Project Newport, Oregon Capri Architects Newport, Oregon DD Probable Cost Estimate 1.3	ACC Cost Consultants, LLC Seth J. Pszczolkowski 8060 SW Pfaffle Street, Suite 110 Tigard, Oregon 97223-8489 Phone: (503) 718-0075 www.archcost.com	Estimate Date: 30-Apr-24 Document Date: 02-Oct-23 Print Date: 30-Apr-24 Print Time: 10:15 AM Constr. Start: April 2024
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ROW Work Estimate	Quantity	Unit	Cost / Unit	Cost	Sub-totals	Comments
02 EXISTING CONDITIONS						
Site Demolition						
sawcut ac paving	1,145	lf	\$8.00	\$9,160		
remove ac paving	6,480	sf	0.75	4,860		
remove sd pipe between cb's	206	lf	20.00	4,120		
remove catchbasin	1	ea	300.00	300		
haul & disposal	1	sum	2,770.00	2,770		
temp barricades, flagging, etc.	1	sum	6,600.00	6,600		
Sub-total					\$27,810	
SUB-TOTAL 02 EXISTING CONDITIONS					\$27,810	
31 EARTHWORK						
Grading / Site Excavation & Fill						
scarify gravel paving to new grade	14,185	sf	0.60	8,511		
rough grading	2,835	sf	0.75	2,126		
proof rolling	15,920	sf	0.50	7,960		
Sub-total					18,597	
Erosion & Sedimentation Controls						
silt fence	370	lf	3.00	1,110		
inlet protection	4	ea	125.00	500		
straw wattles	320	lf	4.00	1,280		
maintenance	1	sum	1,350.00	1,350		
Sub-total					4,240	
SUB-TOTAL 31 EARTHWORK					\$22,837	
32 EXTERIOR IMPROVEMENTS						
Base Courses						
10" base course at 4" ac pavement	90.1	cy	60.00	5,405		at trenching
2" leveling course at 4" ac pavement	18.0	cy	65.00	1,171		at trenching
geotextile fabric at ac pavement	1,946	sy	2.00	3,892		
gravel shoulder, 2'w x 6"d	1,330	sf	2.50	3,325		
Sub-total					13,793	
Asphalt Paving						
4" ac pavement, at trenching	58.4	ton	120.00	7,005		2,335 sf
4" ac pavement, at scarified gravel	339.6	ton	120.00	40,755		13,585 sf
ac berm/curb	20	lf	10.00	200		
Sub-total					47,960	
Paving Specialties						
pavement markings						
striping, allowance	1	allow	3,000.00	3,000		
Sub-total					3,000	
Planting						
repair landscaping	1	allow	2,000.00	2,000		
Sub-total					2,000	
SUB-TOTAL 32 EXTERIOR IMPROVEMENTS					\$66,753	

ODF Newport Central Coast Relocation Project Newport, Oregon Capri Architects Newport, Oregon DD Probable Cost Estimate 1.3	ACC Cost Consultants, LLC Seth J. Pszczoikowski 8060 SW Pfaffle Street, Suite 110 Tigard, Oregon 97223-8488 Phone: (503) 718-0075 www.archcost.com	Estimate Date: 30-Apr-24 Document Date: 02-Oct-23 Print Date: 30-Apr-24 Print Time: 10:15 AM Constr. Start: April 2024
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ROW Work Estimate	Quantity	Unit	Cost / Unit	Cost	Sub-totals	Comments
33 UTILITIES						
Storm Drainage Utilities						
site drainage systems						
10" pvc pipe	5	lf	85.00	425		
24" pvc pipe	918	lf	165.00	151,470		
48" sd manhole	5	ea	6,000.00	30,000		
catchbasins	2	ea	3,000.00	6,000		
pothole existing utility	3	ea	850.00	2,550		
patch cb pipe hole	2	ea	500.00	1,000		
tie-in to existing cb/line	2	ea	1,500.00	3,000		
connect existing sd line to sdmh	2	ea	1,800.00	3,600		
Sub-total					198,045	
SUB-TOTAL 33 UTILITIES					\$198,045	
SUB-TOTAL				315,445	\$315,445	
Estimating / Design Contingency			8.00%	25,236		
Escalation To Construction Start	April 2024		3.00%	10,221		@ ± 6% per year
General Conditions & Requirements / Ins / Bond			10.00%	35,091		
General Contractor OH & Profit			4.50%	17,370	87,918	27.87%
TOTAL DIRECT CONSTRUCTION COST						
ROW Work Estimate					\$403,363	