



AGENDA

June 11, 2012, 6:30PM
CITY COUNCIL CHAMBERS, CITY HALL
29592 ELLENSBURG AVE
GOLD BEACH OR 97444

Call to order: Time: _____

1. The pledge of allegiance

2. Roll Call:

	Present	Absent
Mayor James Wernicke		
Council Position #1 Jeff Crook		
Council Position #2 Larry Brennan		
Council Position #3 Brice Gregory		
Council Position #4 Doug Brand		
Council Position #5 Tamie Kaufman		
City Administrator Jodi Fritts		
Student Liaison Lyndsey Dixon		

3. Special Orders of Business:

Update from PW Super Will Newdall on Wastewater Treatment Plant project

4. Consent Calendar

Budget Committee Minutes: April 12, 2012

5. Citizens Comments

As presented to the Mayor at the beginning of the meeting

6. Public Hearing

(Resolutions to following in Ordinance & Resolution section)

- a. Supplemental Budget for FY 2011-2012
- b. Budget for FY 2012-2013
- c. City's Election to receive State Revenue Sharing funds

7. Citizen Requested Agenda Items

None Requested

8. Public Contracts and Purchasing

None scheduled

9. Ordinances & Resolutions

- a. Resolution R1112-33 Adopting FY 2012-2013 budget
- b. Resolution R1112-34 Election to receive State Revenue Sharing
- c. Resolution R1112-35 Amending Public Contracting Rules
- d. Resolution R1112-36 Supplemental Budget FY 2011-2012

The City of Gold Beach is dedicated to enhancing quality of life, while promoting health, safety, and welfare of our citizens, businesses, and visitors in the most fiscally responsible manner. In doing this, the City will respect the past, respond to current concerns, and plan for the future, while maintaining environmental sensitivity in our beach oriented community

- e. Resolution R1112-37 Streets/Sewer Reserve Interfund Loan
 - 10. Miscellaneous Items (including policy discussions and determinations)**
 - a. Begin discussion of FOG enforcement
 - b. Update on items to be revisited
 - c. Discussion of work session for code amendments
 - 11. City Administrator's Report**
To be presented at meeting
 - 12. Mayor and Council Member Comments**
 - a. Mayor James Wernicke
 - b. Councilors
 - 1) Jeff Crook
 - 2) Larry Brennan
 - 3) Brice Gregory
 - 4) Doug Brand
 - 5) Tamie Kaufman
 - c. Student Liaison, Lyndsey Dixon
 - 13. Citizens Comments**
As presented to the Mayor at the beginning of the meeting
 - 14. Executive Session**
None scheduled
- The next regularly scheduled meeting of the Gold Beach City Council is Monday, July 9, at 6:30PM in the Council Chambers of City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon.
- 15. Adjourn Time: _____**

The location of the hearing/meeting is accessible to the disabled. Advance notice is requested if special accommodations are needed. Call 541-247-7029 so that appropriate assistance can be provided. The City of Gold Beach is an affirmative action EEOE and complies with section 504 of the rehab act of 1973. Complaints of discrimination should be sent to: USDA, Attention Director, Office of Civil Rights, Washington, D.C. 20250-9419

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CONSENT CALENDAR



MINUTES
CITY OF GOLD BEACH BUDGET COMMITTEE
April 12, 2012, 6:00PM
CITY COUNCIL CHAMBERS, CITY HALL
29592 ELLENSBURG AVE
GOLD BEACH OR 97444

Call to order by Mayor: **Time: 6:07PM**

- 1. The pledge of allegiance**
- 2. Roll Call:**

	Present	Absent
Mayor James Wernicke	X	
Council Position #1 Jeff Crook	X	
Council Position #2 Larry Brennan	X	
Council Position #3 Brice Gregory		X
Council Position #4 Doug Brand	X	
Council Position #5 Tamie Kaufman	X	
Budget Position #1 Sandra Jill Benson	X	
Budget Position #2 Bob Derby	X	
Budget Position #3 Dave Sanders	X	
Budget Position #4 Kate Freedman		X
Budget Position #5 Olivia Israel		X
City Administrator & Budget Officer Jodi Fritts	X	

3. Additions to the Agenda, if any

Public input on State Revenue Sharing. Councilor Tamie Kaufman said she would like it placed at 5.A after delivery of the budget message.

4. Election of Budget Officers:
Chair, Vice-Chair, Secretary

Past Vice-Chair, Councilor Larry Brennan, acting for absent Chair, Katie Freedman called for officer nominations. Councilor Kaufman nominated Mayor James Wernicke to be the Chair. Mr. Mayor declined.

MOTION: Committee Member Jill Benson nominated Katie Freedman to be Chair. Councilor Larry Brennan seconded.

Discussion on nomination since Freedman was not present. All felt it was a good choice and she would be present for subsequent meetings. Vote:

Record of Vote	Ayes	Nayes	Abstain
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Council Position #1 Jeff Crook	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory			absent
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
Budget Position #1 Sandra Jill Benson	X		
Budget Position #2 Bob Derby	X		
Budget Position #3 Dave Sanders	X		
Budget Position #4 Kate Freedman			absent
Budget Position #5 Olivia Israel			absent

Nominations for Vice-Chair.

MOTION: Councilor Doug Brand nominated Councilor Larry Brennan to be Vice-Chair. Councilor Tamie Kaufman seconded.

No further discussion or debate was made. VOTE:

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory			absent
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
Budget Position #1 Sandra Jill Benson	X		
Budget Position #2 Bob Derby			
Budget Position #3 Dave Sanders			
Budget Position #4 Kate Freedman			absent
Budget Position #5 Olivia Israel			absent

Nominations for Secretary

MOTION: Jill Benson nominated Committee Member Bob Derby. Councilor Doug Brand seconded.

No further discussion or debate was made. VOTE:

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory			absent
Council Position #4 Doug Brand	X		

Council Position #5 Tamie Kaufman	X		
Budget Position #1 Sandra Jill Benson	X		
Budget Position #2 Bob Derby			
Budget Position #3 Dave Sanders			
Budget Position #4 Kate Freedman			absent
Budget Position #5 Olivia Israel			absent

5. Delivery of the Budget Message by the Budget Officer and presentation of proposed Fiscal Year 2012-2013 budget

Budget Officer, Jodi Fritts-Matthey, read the Budget Message (attached) and presented the proposed Fiscal Year 2012-2013 budget.

Public Input: Vice-Chair Brennan asked for any public input prior to the discussion of each fund. Budget Officer Fritts explained that input would also be taken during the individual funds discussions. Fritts respectfully requested that the Enterprise Funds could be done first since the General fund usually took the longest time. Everyone agreed it was okay to go with the Enterprise Funds first.

There was one audience member. Fritts asked if she wished to make any comments, the observer declined.

6. Discussion of All Budget Funds

Councilor Kaufman asked Fritts when the last water rate increase was. Fritts said the last increase was April 2010. Fritts said so far revenue was keeping pace with expenditures. PW Superintendent, Will Newdall said the City is currently completing a Water Master Plan. Once the plan is completed, we will look at a water rate study. A conservation plan will be looked into as part of the rate structure. Fritts said they would probably be moving to the same rate increase plan as sewer. Kaufman said she thought since the sewer was proposed to be raised by 0.60 then make the water go up by 0.40 so it was an even dollar increase. Fritts said that would be up to the Committee. Fritts explained a little more what Newdall has said about conservation. Our current rate structure actually rewards high users—the more you use the less it costs per gallon. Councilor Kaufman said she thought that went back to wanting to encourage people to water their lawns to make the City look nice. Brief discussion on water availability and lawns.

Into the Budget:

ENTERPRISE FUNDS

Fritts said the Enterprise Funds start on page 49. Fritts explained that an Enterprise Fund operates much like a private business: they provide services and take in fees to support those services just like Coos-Curry and CTR. Fritts briefly went over the Fund Description for Water included with the budget. Fritts explained that the proposed budget had proposed a new .75 FTE to be shared between Water & Sewer but after further discussion with Newdall they decided a fulltime FTE was needed. Fritts distributed a list of similarly sized city PW personnel.

Fritts and Newdall explained that the current PW crew (5 total FTE) run lean and mean. A lot of hands on work are required to keep the water treatment plant operating within regulatory guidelines. Fritts also explained that when the new Wastewater Plant goes online that will not eliminate the need for the additional laborer—in fact it will be probably be more needed. Each year DEQ and other agencies require more and more unfunded work to keep the water and wastewater plants within regulatory guidelines. That will only be more so in the future.

Councilor Brand asked if they had an individual in mind. Fritts said no, that if approved they would go through the selection and hiring process. Councilor Kaufman commented that most of the crew were long time employees with PTO (time off) requirements and coverage for when people are gone or sick. Fritts explained it was the reality of a small operation. We run lean and well, but when people are gone—in any department, it makes operations difficult. That is during normal operations but when we have storm events like we had in January it strains already strained human resources.

Fritts said there is \$\$ available between to the two funds for the additional shared FTE and she hoped the committee would approve the request. Councilor Brand asked if Fritts wanted an affirmation or a motion. Fritts thought a motion would be best.

MOTION: Committee Member Dave Sanders made a motion to change the .75 Public Works FTE to 1.0 FTE. Councilor Tamie Kaufman seconded.

No further discussion or debate was made. VOTE:

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory			absent
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
Budget Position #1 Sandra Jill Benson	X		
Budget Position #2 Bob Derby			
Budget Position #3 Dave Sanders			
Budget Position #4 Kate Freedman			absent
Budget Position #5 Olivia Israel			absent

Fritts went on to discuss Cost of Living Adjustment (COLA) proposed throughout the budget. Fritts said she proposed a 3.0% COLA for most employees based on the Social Security Administration 3.6% COLA for 2012—the first since 2009. Fritts said the proposed COLA should be something discussed, amended, or removed by the committee. Fritts said not all employees would be subject to the COLA: The Police Chief and City Administrator have contracts, the new Police Department contract does not include COLAs for the life of

the contract, and any new employees would not be subject to the COLA this year. Committee Member Dave Sanders said the Portland Index was 3.3%

Mr. Mayor asked if a COLA was offered for fiscal year 2011-2012. Fritts said no because we adopted the new salary schedule last year. Discussion on the COLA and merit raise. Fritts said she thought in the beginning former CA Barnes had proposed a COLA but then the salary schedule was discussed and when completed those wages would be agreed upon. Fritts said the issue could be brought back up later after it was thought about for a while. Mr. Mayor felt the employment situation was so bad that we may get negative feedback. Councilor Kaufman asked how it was worded last year. Councilor Jeff Crook thought it had been left up to the department heads and that an employee could get up to 3% but not a flat 3%. Brief discussion about COLA and merit raise.

Councilor Brand said that they could do a flat 1% and then allow the additional 2% to be given by supervisors for merit. Fritts clarified for her understanding: a flat 1% for COLA and then the possibility of up to an additional 2% for merit for a total no greater than 3%. Fritts said that realize that you would budget for the entire 3% but not necessarily expend the entire 3%. All agreed that was their understanding.

MOTION: Councilor Doug Brand made a motion to approve a 1% COLA increase for fiscal year 2012-2013 with an additional 2% based on merit for a total of up to a 3% increase. Councilor Jeff Crook seconded.

No further discussion or debate was made. VOTE:

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory			absent
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
Budget Position #1 Sandra Jill Benson	X		
Budget Position #2 Bob Derby			
Budget Position #3 Dave Sanders			
Budget Position #4 Kate Freedman			absent
Budget Position #5 Olivia Israel			absent

ENTERPRISE FUNDS

Water Utility

Mr. Mayor had a question about the 150kw refurbished generator. PW Super Newdall explained that this was a piece of existing equipment currently used at the wastewater plant. It's a 1994 backup generator that has been housed indoors and has only about 37 total hours of use. Newdall said they have taken good care of it. The Water Treatment Plant has never had an emergency power source. A new generator is part of the current Wastewater Plant upgrade so once that unit is installed at the Sewer Plant this unit will be moved up and

installed at the Water Treatment Plant. The budgeted 20K is for the electrical work needed to install it at the Water Plant. Committee Member Dave Sanders explained the unit would have to be isolated from Coos-Curry and specialized electrical work needed to install it.

Fritts asked Newdall if he could explain the replacement of the water reservoir computer. Newdall said this had been budgeted for FY 11-12 but the work has been more complicated than expected so he is budgeting it again for this year. He has been working with electrical programming contractors. He felt that they were proposing to build something for a much larger facility. The current controller is from 1980, no parts are available for this equipment. The age of the system accounts for a lot of the babysitting required of the Water Plant.

Fritts said the next 3 pages: 51, 51A (misnumbered!), 52 have the entire proposed Water Fund budget. Financial statements for year-to-date (end of March 2012) were available to all for comparison if needed. She asked if they would like to go through each line item or just those ones with questions.

Councilor Brand asked about Insurance & Bonds since it was all zeros. Fritts explained all the insurances (except medical) were moved last year to the Non-Department sub-fund within the General Fund to more easily see the total spent by the City for insurance and bonding. Fritts said this was the line item she mentioned in the Budget Message that had gone up dramatically. She said the insurance is a “moving target” because we have to budget for it in the spring but don’t actually get billed until months later. We ask the insurance company for estimates but obviously last years were low. She said she budgeted the actual cost paid for FY 11-12 plus an additional 5% to anticipate the increase.

Committee Member Sanders had a question on contracted services on page 51A. Last year it was \$77K, this year \$60K is proposed. He wondered why the decrease. PW Super Newdall explained that some of the engineering services proposed for FY 11-12 was not completed totally in that year so part of that was being carried over.

No more questions on Water Utility Fund, moving on to Sewer Utility Fund.

Sewer Utility

Fritts briefly went over the Fund explanation on page 53. Fritts pointed out that in all funds with employees the Workers Compensation costs went up significantly—just like the other insurance costs. Councilor Kaufman asked if there had been any WorkComp accidents, Fritts explained there had been a few minor ones but nothing significant and no major time loss.

Councilor Kaufman asked how anyone felt about the \$0.40 raise on the base water bill. Fritts said they were in the Sewer Fund now. Vice-Chair Brennan asked if we needed a rate study. PW Newdall said the rate study was proposed for this fall. Fritts said the reason she and Newdall did not propose a rate increase at this time was the Master Plan work was not complete and it may be discovered once it’s finished that our rates are okay. Councilor Brand pointed out if we adopted a conservation plan, a rate increase may not be required. Newdall said it could be a very “tender” political subject. He felt it would probably be good

to get a list of affected properties first before proceeding with a conservation plan that could affect rates.

One thing Newdall pointed out was the largest water user currently is actually the City. The sewer plant currently is the largest single user. He said this fall when new pumps go online that will dramatically reduce the amount of water needed to pump waste to the plant. He said this would lower the amount of water produced daily and that will ripple throughout the system by lower electric and other costs.

Councilor Kaufman asked if there were any transfers proposed to Water Reserve. Fritts thought not. 25K is being proposed as a transfer between Water Utility and Water Reserve. Kaufman said she was willing to wait until the water study was completed but she felt the increase should start this year.

Fritts asked if there were any questions on individual line items within the Sewer Utility Fund. No further questions

STREET FUND

Special Revenue Fund beginning on page 28. Fritts explained funding for the Street Fund comes from State Gas Tax. She asked PW Super Newdall to explain Storm Drain O&M and the two proposed equipment purchases.

Newdall explained that the crew was constantly needing to repair, replace, or add to the existing storm drain system and he would like to track that cost as its own line item. Fritts asked Newdall to explain the new proposed Culvert Replacement Reserve. Newdall said the fund will be used to collect reserve funds for large culvert replacement projects. Newdall said the main one of concern right now is at Buffington Park which passes under Harlow and exits at the skate park property. This will need serious rehabilitation soon and the bottom is rotted out. He said they could pull a liner through it or add slurry to the bottom. He said most of the repairs were "fix in place" and not removal and replacement to keep costs down. The reserve fund will allow the collection of funds so that the individual funds are not taking a direct hit when repairs are needed. Sanders pointed out the recent culvert failure at the City of Brookings.

Newdall next explained the need for replacement of two large equipment items: street sweeper and tractor brush cutter. The brush cutter is from 1969 and it just tired and spent. The crew over the year has done all kinds of creative welding and repairing to keep the machine operational but it is now dangerous and a complete failure. Newdall is hoping to purchase a good used tractor from state surplus. Newdall said a new one is not necessary for the amount of mowing that is done yearly.

The street sweeper is another story. A new one is needed and it is a big ticket item. The current one dates from 1993. Newdall explained even though it was purchased new the City has had nothing but problems with it and the City has put thousands of dollars in repairs into the unit. It's tired, rusted, parts are falling off, they have "spray-foamed" it to cover holes in the exterior. Newdall said they are doing everything they can to keep it running but it has no trade-in value. Discussion on the poor condition of the machine.

Newdall said the current machine is a 7 yard machine (can hold 7 yard of swept material before dumping). He said they could get by with a 4 yard machine. There is a large cost difference between the two sizes. A 4 yard machine runs about 140K, a 7 yard machine runs about 170K. These are both demo model prices. Fritts explained one option available for financing was through League of Oregon Cities LOCAP program which is for capital purchases with pretty low interest rates. Fritts said her and Newdall would look into that option. Councilor Kaufman asked why the City couldn't loan the money to itself through one of the reserve funds and keep the interest for the City. Fritts thought that was an excellent idea (and wished she thought of it!) Fritts would make the changes before the next budget meeting and prepare the interfund loan documents.

Councilor Jeff Crook asked if leasing was an option. Fritts and Newdall said it was and one vendor had a program that lets you opt out without penalties if your city's financial situation changes. Brief discussion on lease and own options. Warranty discussion. Kaufman said maybe lease for year and if we like it then buy it outright. Newdall said he would explore the different options with the vendors.

Brief discussion on street repairs and availability of asphalt.

PARKS

Overview of Parks Department. Fritts explained that the contract services went up for this year due to a new parks maintenance contract. The cost was double from last year because of a more comprehensive contract and a higher level of required work. The contractor is much more reliable. The park should look much better this coming summer. Brief discussion on other park maintenance and responsibilities.

PW Super Newdall explained the capital outlay items proposed. The east bathroom building sustained damage from a tree fall and the entire roof structure needs to be replaced: trusses, support members, decking, etc. Newdall thought the building was built in 1974 or 1976 and no work has been done to the building since. 30K is budgeted for the roof replacement.

Mr. Mayor proposed that bike racks be placed at the Pocket Park would be a good idea for traveling bikers. Everyone thought that was a good idea. Mr. Mayor felt they could be fabricated locally. Sanders said Freeman Marine could probably fabricate something.

Brief discussion on wood chips versus tire chips. Cost prohibitive. Councilor Crook commented that the work by PW crew on park drainage seems to be really helping.

Brief discussion on skate park and the City taking over and finishing the project through a state parks grant. Fritts said that it had been a priority for former CA Barnes then it kind of fell away. Fritts said she and Assistant Candy Cronberger would pick the ball up again later this year. Councilor Crook said maintenance is an issue that needs to be followed up on.

Quick break? No continue on.

GENERAL FUND

Police Department

Chief Dixon Andrews present so Fritts asked that they start there so he could go if he wanted. The Police budget begins on page 18. Fritts gave the overview of the Police budget narrative.

Fritts explained the biggest change in the PD budget was contracting with Curry County for Information Technology (IT) services. Fritts explained that we have never had adequate IT services for the PD. They are hooked to the county for law enforcement data and it requires special clearance to access the data lines. The County IT department has offered a maintenance package that includes the data services, server work, individual PC and software assistance and also phone services. The PD would be wired in directly to dispatch which will help facilitate communication between the PD and the Sheriff's Office. It is an excellent value for IT services and phone services.

Fuel was increased now that we have had a year of actual costs to compare.

Fritts said a police sedan is proposed for purchase this year. Last year no vehicle was proposed. For FY 11-12 we ended up having to purchase a new vehicle due to catastrophic failure on the Sergeant's vehicle. That will be made a supplemental budget for the current year. If we purchase a new sedan in FY 2012-2013 we will then get back to the every other year new car purchase with State Revenue Sharing funds. The purchase will be made out of the Fleet Replacement Fund—not the General Fund.

A new Collective Bargaining Agreement (CBA) was signed with Teamsters for the next three years. Fritts explained the Salary and Benefit adjustment line item. It shows \$6,500—this line item will account for the approved % increase on base salaries for approved certifications. This will allow us to track those costs separate from the base salary.

Councilor Kaufman asked Chief Andrews if he had enough \$\$ for ammunition. Andrews said they had budgeted a sufficient amount.

Andrews said he and his staff really went through the budget to present a budget of actual costs. Some line items went down and some went up.

Councilor Kaufman asked what the Contract Services was in this fund. Andrews explained that it covered the costs of background investigation and psych evaluations. It also includes the proposed IT services with the County.

Discussion on gas costs, and tax. Councilor Crook asked if there was any thought to going to an electric car. Brief discussion on electric cars. Andrews said some agencies had gone to flex-fuel and that had been a disaster. Other places have tried propane vehicles but when you need the horsepower it just isn't there. Brief discussion on bicycles.

Councilor Kaufman asked about a School Resource Officer and a grant we used to get to pay for that is that still available. Andrews said that program is gone. Andrews said that Officer Kinney serves as the SRO. Brief discussion on SRO and school duty.

Councilor Kaufman noted that the overall PD budget was up approximately 30K and asked where those \$\$ came from. Fritts explained that the PD is part of the General Fund budget and therefore General Fund revenue pays for this department. The City receives approximately \$450K in taxes. Between Public Safety: PD and Fire that takes the entire tax revenue to the City and then some. So other revenues such as muni court fines, franchise taxes, etc. go to fund these departments as well.

Fritts explained the General Fund is not an Enterprise Fund and the departments within the General Fund are not expected to “make money” for the City—that is not their purpose. Fritts said the expenditures within the PD reflect the City’s goals for Public Safety. The original goal was 24/7 coverage but we amended that in March to reflect 20/7 coverage. The budget implements the City’s goals. The City has a goal of Public Safety in our community and this budget reflects that goal.

Chief Andrews explained some of the cost is related to the CBA. He noted that their adopted salary schedule tops out some officers this year so those will be fixed cost for the next 3 years and they did not approve any COLAs for the life of the CBA.

Committee Member Benson noted that while walking down by the Port and jet boats area and she heard several comments from visitors about how nice it was to see police cars in the area. She said the officers are definitely noticed and they are appreciated.

Quick Break? 10 minute break.

GENERAL FUND

Budget Summary

Fritts quickly went through the summary pages at the beginning of the budget. Page 3 is the Budget Summary. Councilor Kaufman asked about the beginning and ending fund balances. She said they were significantly lower than projected for FY 11-12. Fritts briefly explained ending fund balance as the equity within a fund and it only changes once a year. Councilor Kaufman said that there was a goal in the Business Plan to have a 5% contingency and a 15% ending fund balance for the General Fund. The proposed budget did not meet that stated goal. Fritts said there was also the General Fund reserve fund which we did not previously have which is cash money. Fritts says there will be \$13K in that reserve fund. Kaufman said she was concerned that we had a \$500K beginning fund balance and we are proposing a \$132K ending fund balance. Kaufman said they could review that specific page when they get there. Fritts also said the proposed beginning fund balance for FY 2012-2013 is estimated so it could actually be lower or higher actually.

Kaufman asked what Bank Fees were under Administrative Costs. Fritts explained those are the fees the banks charge to do business. In the past we did not pay these fees. When Fritts started with the City in 2001 we used to make approximately \$20K in interest monthly. We

now make about \$900. In 2001 we paid no bank fees; we now pay about \$500 in bank fees. Brief discussion on fees and interest.

Administrative Cost Allocation Plan

Fritts explained what the cost allocation plan was. Fritts explained this spreadsheet helped to spread Indirect costs (indirect costs are costs that shared services utilized by all funds such as payroll, postage, attorney, audit, etc. that cannot be directly tied to a specific fund or program easily) proportionately to those funds that use them the most. Putting the indirect costs in one location presents more transparency in the budget and is easier to locate the total of a specific cost such as attorney fees.

Fritts explained how the costs are allocated based on use and total percentage of the city budget. For example: the Water Fund uses more administrative staff time than a fund like the Culvert Replacement Reserve Fund. No (or very little) staff time and resources are expended on funds like that. A lot of staff time and resources are expended on funds like the Enterprise Funds so they should pay a larger share of the indirect costs.

Fritts explained the funds that contributed to the Cost Allocation: the General Fund at about 40%, the Street Fund at about 4%, the Hwy 101 Sewer Fund at about 2% and the Enterprise Funds at about 26% each. She explained each line item in the chart in detail.

Councilor Brand asked about the \$7K license fee for Caselle. Fritts explained this included yearly tech support and software upgrades monthly. Fritts said this was money well spent because a trouble ticket was usually resolved in less than ½ hour preventing any down time in the front office.

Councilor Brennan commented that staff labor costs were probably much lower now. Fritts agreed. The software allows all the staff members to perform at a much higher efficiency level. Fritts said that \$7K over a year's staff time is really low when compared to the old program. Brief discussion on Caselle and the allocation.

Personnel Summary

Personnel Summary on page 5. This does not include the change from the .75 FTE for Public Works to the 1.0 FTE. The approved COLA and merit raise will be included here.

Salary Schedule

Page 6 is the Salary Schedule. Fritts said the schedule was basically the same as FY 11-12 but some position titles have changed and some have been combined or eliminated.

Committee Member Sanders asked if the new PW person would be an entry level. Fritts said yes they would come in as Public Works Operator/Laborer Step 1.

GENERAL FUND

Revenues

Councilor Brand asked about the Street Lighting and why it was zero. Fritts explained in the past this was not a line item at all because it was a pass through credit from Coos-Curry for franchise fees. The franchise fees were not paid in cash but were an offset to street light costs. The previous auditors had required that the transaction be "booked". Fritts checked with the new auditors last year and explained it was not a cash transaction and required a

journal entry each month so was it really necessary? The new auditors said it was not necessary so it has been eliminated for the new budget.

Councilor Kaufman asked about the telephone franchise reduction. Fritts said she reduced it this year because the actual was lower going into this fiscal year. She felt the reduction was due to cell phone usage rather than hard line phones. We get no franchise revenue from cell phones. Kaufman asked about the 911 tax to the county. Fritts explained that beginning in January of 2013 we will no longer receive those pass-thru dollars at all; they will go directly to the county. Kaufman asked if we received satellite TV franchise \$\$\$. Fritts said no, but we do get cable franchise \$\$\$. Fritts explained the FY 10-11 actual was so high because the franchise money went to the county by mistake so that was 2 years' worth in one year. She said it is normally around \$20K.

Fritts said another change for this year was the reintroduction of the miscellaneous revenue line item. It was eliminated last year but there truly is revenue that comes in during the year that cannot be put to a specific purpose or fund—the tsunami money was an example.

Councilor Kaufman asked if Muni Court was self-sufficient. Fritts said it's actually more than self-sufficient and brings money into the General fund. Brief discussion on the change in state ticket structure. Fritts said she upped the revenue for Muni Court based on last year's actual and March year-to-date actual for FY 11-12.

Councilor Kaufman said the General Fund room tax portion seemed optimistic. Fritts said that was based on actual for FY 10-11 and year-to-date actual for FY 11-12. FY 11-12 we budgeted \$58,229 she bumped that up to an even \$60K. Fritts said the FY 10-11 column is the actual audited figures and we brought in \$59K (general fund portion). Fritts said she tried to be really conservative on proposed revenue across all the funds.

Fritts pointed them to the analysis sheet she had prepared for FY 11-12 year-to-date. By end of March we should be at 75% revenue/expenditures. All of our revenues are all at, or above 75%, except for Streets which we are at the mercy of ODOT for those revenues as to when they arrive. By year end we should be okay in that fund. Fritts said this would increase the beginning fund balances going into FY 12-13 but she still estimated low to be safe. The General fund is looking very good at 95% revenue at 75% of the year.

Sanders asked how Hunter Creek Heights Water got to 600% of revenue. Fritts said Good Question! She explained that the largest Local Improvement District (LID) debtor paid in full this year (about \$50K) so that put the revenue out of the park. Fritts explained the remaining LID persons would be moved to the Water Reserve for this FY 12-13. Kaufman asked if the City's debt for the improvement had been paid. Fritts said yes, it was paid off in FY 10-11 along with the Visitor Center.

Brief discussion on ending fund and beginning fund balances for the next year and Business Plan goals. Mr. Mayor pointed out that we do have a General Fund reserve fund now; it is no longer in the unappropriated ending fund balance. Fritts said in the General Fund reserve she put all the funds into contingency so that they would be available if needed. If not needed, it will just roll over into the next year.

Fritts said there would be a supplemental budget for May for FY 11-12 (current year) to do minor housekeeping.

Non-Departmental

Fritts again explained the indirect costs that make up this fund. Fritts noted that she double-dipped on the PD IT services and she would correct that prior to the next meeting. It is already within the PD budget so that will reduce the non-departmental total cost allocation budget. Brief discussion on the IT changes and the PD phone changes.

City Council

Pretty much stayed the same. Brief discussion on Mayor and Council stipends. Fritts said since she started at the City in 2001 the stipends have been \$100 and \$95. She asked how the committee felt about changing the stipends. They all said no.

Administration & Finance

Fritts explained this is the Executive Branch of the City. There are 4 FTE's in this department. The change for this year was to have the Utility Clerk paid out of this fund and the Enterprise Funds billed for that service. Medical costs for all funds have been estimated on actual current year-to-date costs plus 5%. Fritts will be attending a CIS sponsored meeting to discuss next year's rates prior to the adoption of the budget so those figures can be amended in June prior to adoption.

Councilor Brand asked if the front office was down 1 FTE. Fritts said they used to have 5 and now have 4. Brand asked if Fritts needed additional staff especially if the Urban Renewal gets going. Brand said Fritts' load was much higher than last year. Fritts responded not at this time. Her current staff is very efficient. She thanked them for the offer.

Mr. Mayor mentioned the minor improvements to City Hall proposed in the narrative. He felt this would be a good place to put the bike racks mentioned earlier. Line item for Buildings & Grounds was increased to \$5K over the proposed \$2,500. More discussion on bike racks. Bike racks were proposed for all city property: Pocket Park, Buffington Park, City Hall, and the Visitor Center. Brief discussion on bike racks.

Municipal Court

Kaufman asked if there was enough money in Travel and Training. Fritts said yes.

Fritts said the Judge had asked her to increase the Clerks weekly hours. The budget reflects the Clerk at a .75 FTE. The revenues reflect the need for additional time. Currently she works about 15 hours a week. The FTE would be about 30 hours per week. Discussion on coverage for the Clerk if she is gone for backup. Fritts said the front office staff already fields most of the court calls for tickets. Mr. Mayor commented that in the summer months there may be 2 court days instead of just 1 a month.

Fritts said as a side note: the security that was discussed a few months earlier for the council chambers and the front lobby has been looked at by a contractor. A bid was received and it

actually came in much lower than expected. The costs included panic buttons for the council dais.

Police Department

Discussed earlier.

Fire Department

No big changes for the Fire Department.

Parks

Discussed earlier.

Emergency Management

Councilor Kaufman asked what we are doing for an Emergency Manager. Fritts said the duties were spread between her, the Police Chief and the Public Works Director. That worked out fine during the tsunami emergency last year. Brief discussion on Emergency Management. Kaufman said she would like to see more outreach to the motels and RV parks.

Discussion about getting one of the ocean danger signs like the Parks to install at South Beach Park (Visitor Center). Fritts said she would look into that.

SPECIAL REVENUE FUNDS

Street Fund discussed earlier.

Community Promotions

Began discussing this fund but then it was decided to wait until after the grievance hearing on April 16th. Will be discussed at next budget meeting on May 3rd.

Brief discussion on the general fund portion of the Transient Room tax.

State Revenue Sharing

Fritts explained this money in the past has gone to purchase police vehicles. That is the proposed expenditures this year. The money will be transferred to the Fleet Replacement fund and, as discussed during the PD budget, a police sedan is proposed for purchase this year.

Councilor Kaufman thought a motion was needed to accept the funds. Fritts said it was, but at the council portion of the budget process. Fritts said we had to have a public meeting to discuss use of the funds and that is what we are doing now. When we opened the budget meeting we said it was a public hearing. This would be the time for any of the public to comment on the use of these funds. None heard.

Special City Allotment

Fritts said the SCA grant is a competitive process through ODOT and not everyone that applies gets it. Each year you do not succeed helps your chances the following year. We

will again apply for this grant for the 3rd Street sidewalk to the library. The match will be from the Streets Fund.

The last time we succeeded at this grant was in 2007 for the Moore Street to the Post Office. Kaufman asked if it would help because it was going to the library. Fritts said yes, the partnership aspect improves our chances.

911 Fund

This fund was created last year by state mandate. It is a pass through to the County 911 Dispatch Center. A letter was received this week stating as of January 1, 2013 the monies would no longer come to the City but would go directly to the County as the Primary Public Safety Answering Point (PSAP). This budget is for July through December.

CAPITAL PROJECTS FUNDS

Inflow & Infiltration (I & I) Fund

We work on this every year to reduce storm water inflow into our sewer lines. No major changes for this year. Discussion about Hunter Creek I&I problems to be corrected.

Wastewater Treatment Plant Construction Fund

This is the actual construction fund for the new sewer plant. Fritts said she figured the budget at 75% of last year since we are at 25% of completion as of March 2011. Brief discussion on progress. Councilor Brand questioned why no contingency. Fritts said because it was all budgeted based on the bid. The project will not be completed in FY 2012-2013. Fritts clarified this was not "City" money but was the DEQ/USDA loans.

DEBT SERVICE FUNDS

Hwy 101 Sewer Line Debt Fund

Fritts explained that the only debt the City currently has is related to the Sewer Plant. Current long term debt total is approximately \$11.7 million. The City is current on their debt, the reserve funds are flush, and we have cash.

Fritts said the Hwy 101 Sewer Debt is paid from a portion of the total \$49 monthly sewer charge. Of the \$49, \$6 dollars is paid to this reserve for the debt service. The loan is due to be paid off in 2023.

Hunter Creek Heights/Emerald Hills Water Project

The loan for this water extension was paid off in FY 10-11. The fund will be closed this fiscal year since the largest LID debtor paid off in FY 11-12 as mentioned earlier. The small remainder of LID debt will be put into the Water Reserve Fund.

ENTERPRISE FUNDS

Were discussed earlier.

RESERVE FUNDS

Building Reserve Fund

Fritts said there was a correction on page 60. In the third column: 2011-2012 Council Adopted—line item Transfer to General Fund should be zero not \$23,000. Fritts said it did

not change the proposed budget but it does not accurately reflect the prior year. Kaufman asked if Fritts was proposing anything for this year. Fritts said she was proposing \$15K from the General Fund. Sanders asked if the transfer could be reduced to cover the proposed bike racks discussed earlier. Brief discussion on transfers. Kaufman said you could reduce the transfer or just increase the City Hall expenditures to \$9K for the City Hall beautification and the bike racks. More discussion on bike rack fabrication.

Fleet Replacement Fund

Fritts said this is where the State Revenue Sharing funds are transferred into.

Park Reserve Fund

Fritts said this fund was part of the Business Plan goals for a Park reserve. Brief discussion on possible uses in the future.

Non-insured Losses, Vehicle Damage, & Unemployment Reserve

No big changes in this fund.

General Fund Reserve

Again this was part of the Business Plan goals. Fritts told Kaufman she would review this reserve and correct the IT double dip and see how the ending fund balance comes out in the General Fund after those changes.

Water Reserve Fund

No big changes other than the Hunter Creek Heights LID debtors. This reserve is for savings for a new Water Treatment Plant. Fritts said she put the entire ending fund in contingency on the off chance we have a major reservoir failure or some distribution line failure that requires a lot of cash. This keeps the money available but is rolled over if not used. Questions about the Reservoir Repainting proposed for current FY (11-12). Fritts said part of the money was being rolled over because the bidding process has taken much longer than expected. Brief discussion on the Reservoir Repainting and lead paint.

Water Deposit Reserve Fund

No major changes. Kaufman commented there was a lot of money in the fund. Fritts explained that there had to be enough cash in reserve for the unlikely possibility that every customer closed their account at the same time. We have to prove to the auditors that we have that cash reserve.

Sewer Reserve Fund

No major changes to this fund. Fritts pointed out that Contingency and Reserves includes the reserves we are required to keep for each of our loans. It is not a requirement to list them individually but it shows clearly that we have them available.

Fire Truck Reserve Fund

Fritts said they we were probably not going to purchase the new truck in FY 2012-2013 but she put all the cash in the fund in contingency on the chance that we decided to do. It will be up to the Fire Chief as to when he wants to order it. Mr. Mayor asked about the Fire Truck Levy. Fritts said it could go on the September or the November ballot. If we have it go on

the September ballot we have to pay approximately \$5K for the special election. If we wait until the November general election we don't get charged. If it were on the November ballot we would not begin to collect the \$\$ until the following fiscal year which is not really a problem. It just makes it one year later to purchase that fire truck. Brief discussion on the ballot measure. Kaufman asked if Wedderburn Fire District still contributed. Fritts said yes, that was the \$91K listed as contributions.

Culvert Replacement Reserve Fund
New reserve fund discussed earlier.

END OF FUND BY FUND REVIEW

7. Announcement of next budget hearing or motion to approve FY 12-13 budget

Discussion of next budget hearing dates. Fritts directed everyone to page 1 for the Budget Calendar. Two more meetings: April 19, and 26th were set aside for additional meetings. She felt we could wait until the May 3rd meeting, have the proposed changes made and then make the recommendation to send it to the Council that evening. Sanders asked if they would have the opportunity to review the changes prior to May 3rd. Fritts said she would make the changes by April 26th and that would give everyone a chance to review them prior to the meeting.

Time on May 3rd? It was decided same time: 6PM to begin the meeting. Kaufman asked if they thought that would be a short meeting. Fritts said there were few changes so she expected it to be a short meeting.

MOTION: Committee Member Dave Sanders made a motion to adjourn. Secretary Bob Derby seconded the motion.

No further discussion or debate. Vote:

Record of Vote	Ayes	Nayes	Abstain
Council Position #1 Jeff Crook	X		
Council Position #2 Larry Brennan	X		
Council Position #3 Brice Gregory			absent
Council Position #4 Doug Brand	X		
Council Position #5 Tamie Kaufman	X		
Budget Position #1 Sandra Jill Benson	X		
Budget Position #2 Bob Derby	X		
Budget Position #3 Dave Sanders	X		
Budget Position #4 Kate Freedman			absent
Budget Position #5 Olivia Israel			absent

8. Adjourn Time: 9:20PM

PUBLIC HEARINGS

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **6. a**

Council Hearing Date: June 11, 2012

Department: Administration
& Finance

Contact/Title: Jodi Fritts, CA
Email: jfritts@goldbeachoregon.gov

TITLE: FY 11-12 Supplemental Budget

SUMMARY AND BACKGROUND:

These are year-end adjustments for either items that required larger expenditures than initially budgeted, or are unanticipated expenditures. The overall approved expenditures level have not been exceeded. Most items are reductions to one expenditure line item and increase to another (offsetting). The only items used from approved contingencies are Legal Services and Visitor Center Building expense. One item not budgeted was the transfer of water deposit savings from the Water Utility fund to the newly created Water Deposit Reserve Fund.

FINANCIAL IMPACT:

Overall, no impact as the supplemental items are not appropriating addition funds

DOCUMENTS ATTACHED:

- Supplement Budget Hearing notice that was published with the individual line item changes

REQUESTED MOTION/ACTION:

In the Ordinances & Resolutions section of the meeting a resolution has been prepared for adoption

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

NOTICE OF SUPPLEMENTAL BUDGET HEARING

A public hearing on a proposed supplemental budget for The City of Gold Beach for the fiscal year July 1, 2011, to June 30, 2012, will be held at Gold Beach City Council Chambers on June 11, 2012, at 6:30PM.

The purpose of the hearing is to discuss the supplemental budget with interested persons. A copy of the supplemental budget document may be inspected or obtained on or after May 30, 2012 at the City of Gold Beach Administrative/Finance Office, between the hours of 8AM and 5PM. City Hall is located at 29592 Ellensburg Avenue, Gold Beach.

SUMMARY OF SUPPLEMENTAL BUDGET

FUND: GENERAL

Resource	Amount	GL #	GL #	Expenditure	Amount
1 Support Specialist	\$4,000	10-43-112	10-40-510	1 Capital Outlay Software	\$4,000
2 Admin Services Director	\$30,000	10-43-120	10-43-113	2 City Recorder	\$30,000
3 Support Specialist	\$5,000	10-43-112	10-43-295	3 Contract Services	\$10,000
3 Admin Services Director	\$5,000				
4 Patrol Officer	\$25,000	10-54-120	10-54-545	4 Capital Outlay PD Vehicle	\$36,000
4 Medical Insurance	\$11,000	10-54-133			
5 Resurface Tennis Courts	\$5,000	10-64-530	10-64-291	5 Contract Services Buff Park	\$5,000
6 Medical Insurance	\$6,100	10-43-133	10-40-220	6 Insurance & Bonding	\$6,100
7 Contingency	\$15,000	10-40-415	10-40-260	7 Legal Services	\$15,000
Revised Total Resources	\$106,100			Revised Total Requirements	\$106,100

Comments:

- 1 Reduce Support Specialist line item and increase Software Capital Outlay for purchase of fixed asset module of finance software
- 2 Reduce ASD line and increase City Recorder line due to personnel reorganization in Admin/Finance Office
- 3 Reduce ASD & Support Specialist lines and increase Contract Services for approved Urban Renewal Feasibility study
- 4 Reduce partially unfilled Patrol position and Medical Insurance for unanticipated vehicle purchase
- 5 Reduce tennis court resurface and increase Contract Services for improved park mtc contract
- 6 Reduce CM medical insurance and increase Insurance & Bonding due to higher actual P/L insurance costs
- 7 Reduce Contingency and increase Legal Services due to actual legal costs

FUND: BUILDING RESERVE FUND

Resource	Amount	GL #	GL #	Expenditure	Amount
1 Contingency	\$7,100	93-40-415	93-40-561	1 City Hall Expenditures	\$2,000
			93-40-570	1 Visitor Center Expenditures	\$5,100
Revised Total Resources	\$7,100			Revised Total Requirements	\$7,100

Comments:

- 1 Reduce Contingency and increase City Hall expenditures for security upgrades (reimbursable by grant) and Visitor Center expenditures for unanticipated building repairs (windows and heat pump)

FUND: WATER UTILITY AND WATER DEPOSIT RESERVE FUNDS

Resource	Amount	GL #	GL #	Expenditure	Amount
1 Transfer to Water Deposit Reserve	\$150,000	22-41-716	97-39-120	1 Transfer from Water Utility	\$150,000
Revised Total Resources	\$150,000			Revised Total Requirements	\$150,000

Comments:

- 1 Created Water Deposit Reserve Fund but did not make a transfer line to move the deposits to new fund

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **6. b**

Council Hearing Date: June 11, 2012

Department: Administration
& Finance

Contact/Title: Jodi Fritts, CA
Email: jfritts@goldbeachoregon.gov

TITLE: Fiscal Year 2012-2013 Budget Adoption

SUMMARY AND BACKGROUND:

Two hearings of the Budget Committee were held this year: April 19th and May 3rd. The Budget Committee reviewed and made changes to the proposed budget. At the May 3rd meeting they approved the budget to be sent to the Council for adoption.

Oregon Budget Law permits the Council to make changes to the approved budget for each fund by \$5,000 or 10%, whichever is greater. If the Council chooses to they may make changes at this time.

FINANCIAL IMPACT:

If approved, the budget is in the amount of \$14,775,682 will be adopted for fiscal year 2012-2013

DOCUMENTS ATTACHED:

- Due to its size the approved budget is not attached to this document but is provided as a separate document for Council review

REQUESTED MOTION/ACTION:

In the Ordinances & Resolutions section of the meeting a resolution has been prepared for adoption

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 6. c

Council Hearing Date: June 11, 2012

Department: Administration
& Finance

Contact/Title: Jodi Fritts, CA
Email: jfritts@goldbeachoregon.gov

TITLE: Election to receive State Revenue Sharing funds

SUMMARY AND BACKGROUND:

ORS 221.770 requires the City to adopt an ordinance or resolution each year stating we wish to receive state revenue sharing funds. A public hearing on the use of the SRS funds is also required. During the budget hearing held on April 19th a public hearing was held to discuss the use of the SRS funds. The Budget Committee approved the use of the funds for police vehicle replacement. A public hearing before the Council will enable the public to comment on the use of the funds.

FINANCIAL IMPACT:

The City receives approximately \$18,000 in State Shared Revenues

DOCUMENTS ATTACHED:

- Copy of SRS information from the Department of Administrative Services

REQUESTED MOTION/ACTION:

In the Ordinances & Resolutions section of the meeting a resolution has been prepared for adoption

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council



Oregon

John A. Kitzhaber, MD, Governor

Department of Administrative Services

Operations

155 Cottage ST NE U90

Salem, OR 97301-3972

(503)378-4869

FAX (503)373-1273

Faye.L.Stevenson@state.or.us

May 21, 2012

CITY OF GOLD BEACH
CITY TREASURER
29592 ELLENSBURG AVE
GOLD BEACH OR 97444

RECEIVED

MAY 23 2012

CITY OF GOLD BEACH

1st Reminder

Finance Director,

State Revenue Sharing Law, ORS 221.770, requires cities to pass an ordinance or resolution each year stating that they want to receive state revenue sharing money. A copy of this ordinance or resolution must be filed with the Operations Unit of the Department of Administrative Services before July 31. You may fax it to (503) 373-1273.

As to date, this ordinance or resolution has not been received from your city.

Please make sure that the above ordinance or resolution is in our office as soon as possible in order to give us time to process your paperwork before the July 31 statutory deadline. **We cannot authorize State Revenue Sharing payments to your city unless we receive this form.** If your records show that the data has been sent, please submit a duplicate copy.

For your convenience, enclosed with this letter is a copy of an ordinance letter that you can use. The address on the ordinance form is formatted to fit in a window envelope. Please use the address on this ordinance to return the form back to me. By not using the correct address, the ordinance could be delayed for up to four weeks and this will mean that you will not receive State Revenue Sharing payments. We will accept a fax of the ordinance form; the fax number is on the form in the upper right hand corner.

Please note: The attached ordinance letter has a Deadline Date of June 30. We would appreciate receiving your documentation by this deadline date so that we can process your certifications and have time to notify and work with any cities that have not submitted their paperwork by that date. However, the statutory deadline for compliance is July 31.

If you have any questions, you can contact me Monday through Friday 8:00 AM – 4:30 PM.

Sincerely,

Faye Stevenson
Disbursements Accountant
Operations Division



Oregon

John A. Kitzhaber, MD, Governor

Department of Administrative Services

Operations

155 Cottage ST NE U90

Salem, OR 97301-3972

(503)378-4869

FAX (503)373-1273

RETURN TO:

DEPARTMENT OF ADMINISTRATIVE SERVICES
OPERATIONS
ATTN Faye Stevenson
155 COTTAGE ST NE U90
SALEM OR 97301-3972

AN ORDINANCE/RESOLUTION DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES

The City of GOLD BEACH ordains as follows:

Section 1. Pursuant to ORS 221.770, the city hereby elects to receive state revenues for fiscal year 2012-13.

Passed by the Common Council the _____ day of _____, 2012.

Approved by the Mayor this _____ day _____, 2012.

Mayor _____

Attest _____

I *certify that a public hearing before the Budget Committee was held on _____, 2012 and a public hearing before the City Council was held on _____, 2012, giving citizens an opportunity to comment on use of State Revenue Sharing.

City Recorder

DEADLINE JUNE 30, 2012

* NOTE: Please send certification only. We do not need copies of notices.

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **9. a**

Council Hearing Date: June 11, 2012

Department: Administration
& Finance

Contact/Title: Jodi Fritts, CA
Email: jfritts@goldbeachoregon.gov

TITLE: Resolution R1112-33 Adopting FY12-13 Budget

SUMMARY AND BACKGROUND:

As mentioned previously, the Budget Committee met on April 19th and May 3rd and approved the FY 2012-2013 budget. A public hearing was held earlier in the meeting to discuss the budget. This resolution will adopt the budget for FY 2012-2013.

FINANCIAL IMPACT:

Adoption of the FY12-13 budget in the amount of \$14,775,682

DOCUMENTS ATTACHED:

- Resolution R1112-33, A resolution adopting the FY 2012-2013 budget, making appropriations, imposing and categorizing the tax

REQUESTED MOTION/ACTION:

A motion to adopt/reject R1112-33

Sample Motion: I move that the Council adopt resolution R1112-33: a resolution adopting the FY 2012-2013 budget, making appropriations and imposing and categorizing the tax.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

RESOLUTION R1112-33

**A RESOLUTION ADOPTING THE FY2012-2013 BUDGET, MAKING
APPROPRIATIONS, IMPOSING AND CATEGORIZING THE TAX**

Adopt the budget:

BE IT RESOLVED that the City Council of the City of Gold Beach hereby adopts the budget for fiscal year 2012-2013, in the total of \$14,775,682 now on file at the Gold Beach City Hall located at 29592 Ellensburg Avenue, Gold Beach, Oregon.

Making Appropriations:

BE IT RESOLVED that the amounts for the fiscal year beginning July 1, 2012, and for the purposes shown below are hereby appropriated:

FUNDS REQUIRING A PROPERTY TAX TO BE LEVIED

General Fund

City Council	\$16,160
Administration & Finance.....	\$321,776
Municipal Court.....	\$49,554
Police Department.....	\$611,294
Fire Department	\$81,665
Parks Department.....	\$80,460
Emergency Management	\$500
Non-Departmental.....	\$212,050
Transfers	\$39,500
Contingency	\$51,500
Total General Fund Appropriation.....	\$1,464,459

FUNDS NOT REQUIRING A PROPERTY TAX TO BE LEVIED

Street Tax Fund

Personnel Services	\$38,519
Materials and Services	\$40,750
Capital Outlay	\$267,000
Debt Service.....	\$0
Transfers	\$33,628
Contingencies.....	\$60,000
Special Payments	\$0
Total Street Tax Fund Appropriation.....	\$439,897

Community Promotion Fund

Personnel Services	\$104,100
Materials and Services	\$176,000

Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$0
Contingencies.....	\$20,000
Special Payments	\$0
Total Community Promotion Fund Appropriation	\$300,100

State Revenue Sharing Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$18,000
Contingencies.....	\$0
Special Payments	\$0
Total State Revenue Sharing Fund Appropriation.....	\$18,000

Small City Allotment Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$75,000
Contingencies.....	\$0
Special Payments	\$0
Total Small City Allotment Fund Appropriation.....	\$75,000

911 Fund

Personnel Services	\$0
Materials and Services	\$5,400
Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$0
Contingencies.....	\$0
Special Payments	\$0
Total 911 Fund Appropriation	\$5,400

I & I Correction Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$40,000
Debt Service.....	\$0
Transfers	\$0
Contingencies.....	\$50,000
Special Payments	\$0
Total I & I Correction Fund Appropriation	\$90,000

WWTP Improvement Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$5,671,641
Debt Service	\$0
Transfers	\$0
Contingencies.....	\$0
Special Payments	\$0
Total WWTP Improvement Fund Appropriation	\$5,671,641

HWY 101 Sewer Project Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$0
Debt Service.....	\$115,244
Transfers	\$7,822
Contingencies.....	\$0
Special Payments	\$0
Total HWY 101 Sewer Project Fund Appropriation	\$123,066

Water Utility Fund

Personnel Services	\$209,200
Materials and Services	\$242,042
Capital Outlay	\$401,000
Debt Service.....	\$0
Transfers	\$163,708
Contingencies.....	\$200,000
Special Payments	\$0
Total Water Utility Fund Appropriation	\$1,215,950

Sewer Utility Fund

Personnel Services	\$204,011
Materials and Services	\$163,800
Capital Outlay	\$20,000
Debt Service.....	\$0
Transfers	\$195,108
Contingencies.....	\$250,000
Special Payments	\$0
Total Sewer Utility Fund Appropriation.....	\$832,919

Building Reserve Fund

Personnel Services	\$0
Materials and Services	\$9,000
Capital Outlay	\$20,000
Debt Service.....	\$0

Transfers	\$30,000
Contingencies.....	\$377,560
Special Payments	\$0
Total Building Reserve Fund Appropriation	\$436,560

Fleet Replacement Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$35,000
Debt Service.....	\$0
Transfers	\$0
Contingencies.....	\$0
Special Payments	\$0
Total Fleet Replacement Fund Appropriation	\$35,000

Parks Reserve Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$0
Contingencies.....	\$11,025
Special Payments	\$0
Total Parks Reserve Fund Appropriation	\$11,025

Uninsured Damage/Unemployment Fund

Personnel Services	\$0
Materials and Services	\$10,500
Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$0
Contingencies.....	\$64,584
Special Payments	\$0
Total Uninsured Damage/Unemp. Fund Appropriation ..	\$75,084

General Fund Reserve Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$0
Contingencies.....	\$13,020
Special Payments	\$0
Total General Fund Reserve Fund Appropriation	\$13,020

Water Reserve Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$0
Contingencies.....	\$338,459
Special Payments	\$0
Total Water Reserve Fund Appropriation.....	\$338,459

Water Deposit Reserve Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$0
Contingencies.....	\$111,663
Special Payments	\$12,000
Total Water Deposit Reserve Fund Appropriation	\$123,663

Sewer Reserve Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$0
Debt Service.....	\$110,000
Transfers	\$512,969
Contingencies.....	\$1,444,231
Special Payments	\$0
Total Sewer Reserve Fund Appropriation	\$2,067,200

Fire Truck Reserve Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$0
Contingencies.....	\$385,850
Special Payments	\$0
Total HC Heights/Em. Hills Proj. Fund Appropriation ...	\$385,850

Culvert Replacement Reserve Fund

Personnel Services	\$0
Materials and Services	\$0
Capital Outlay	\$0
Debt Service.....	\$0
Transfers	\$0

Contingencies.....\$15,025
Special Payments\$0
Total Culver Replacement Reserve Fund Appropriation.\$15,025

TOTAL APPROPRIATIONS (all funds)\$10,314,401
TOTAL UNAPPROPRIATED & RESERVES (all funds) ...\$4,461,281
TOTAL ADOPTED BUDGET.....\$14,775,682

Imposing the Tax:

BE IT RESOLVED that the City Council of the City of Gold Beach hereby imposes the taxes provided for in the adopted budget:

1. At the rate of \$2.3360 per \$1,000 of assessed value of operations.

These taxes are hereby imposed and categorized for tax year 2012-2013 upon the assessed value of all taxable property within the district as follows:

Categorizing the Tax:

General Government Limitation
General Fund.....\$2.3360/\$1,000

Passed by the City Council of the City of Gold Beach, County of Curry, State of Oregon, this 11th day of June, 2012.

James H. Wernicke, Mayor

ATTEST:

Candy Cronberger, City Recorder

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **9. b**

Council Hearing Date: June 11, 2012

Department: Administration
& Finance

Contact/Title: Jodi Fritts, CA
Email: jfritts@goldbeachoregon.gov

TITLE: Resolution R1112-34 State Revenue Sharing

SUMMARY AND BACKGROUND:

As mentioned previously, the City must elect to receive State Revenue Sharing funds.

FINANCIAL IMPACT:

The City receives approximately \$18,000 in SRS funds

DOCUMENTS ATTACHED:

- Resolution R1112-34, a resolution declaring the city's election to receive state revenues

REQUESTED MOTION/ACTION:

A motion to adopt/reject R1112-34

Sample Motion: I move that the Council adopt resolution R1112-34: a resolution declaring the city's election to receive state revenues.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

RESOLUTION R1112-34

**RESOLUTION DECLARING THE CITY'S ELECTION TO
RECEIVE STATE REVENUES**

WHEREAS: ORS 221.770 provides that a share of certain revenues of the state of Oregon will be apportioned among and distributed to the cities of the state for general purposes; and

WHEREAS: Pursuant to ORS 221.770, a public hearing was held before the City of Gold Beach Budget Committee on April 12th, 2012 giving, citizens the opportunity to provide written and oral comment to the authority responsible for approving the proposed city budget on the possible use of State Revenue Sharing distribution to the City of Gold Beach; and

WHEREAS: Pursuant to ORS 221.770, a public hearing was held before the City of Gold Beach City Council on June 11, 2012, giving citizens an opportunity to provide written and oral comment to the authority responsible for adoption the city budget on the possible uses of the State Revenue Sharing distribution to the City of Gold Beach; and

WHEREAS: Pursuant to ORS 221.770, the City of Gold Beach levied property taxes in the year preceding Fiscal Year 2012-2013.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Gold Beach, Oregon, hereby elects to receive state revenues for Fiscal Year 2012-2013 pursuant to ORS 221.770.

Passed by the City Council of the City of Gold Beach, County of Curry, State of Oregon, this 11th Day of June 2012.

James H. Wernicke, Mayor

ATTEST:

Candy Cronberger, City Recorder

I certify that a public hearing before the Budget Committee of the City of Gold Beach was held on April 12, 2012 and a public hearing before the City of Gold Beach City Council was held on June 11, 2012, giving citizens an opportunity to comment on use of State Revenue Sharing.

Candy Cronberger, City Recorder

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **9. c**

Council Hearing Date: June 11, 2012

Department: Administration

Contact/Title: Jodi Fritts, CA

Email: jfritts@goldbeachoregon.gov

TITLE: Resolution R1112-35 Amending Public Contracting Rules

SUMMARY AND BACKGROUND:

In December of 2011 the City adopting new public contracting rules. Changes were made to the rules by the 2011 state legislative session. Our attorneys have codified these changes and provided updates to our contracting rules.

FINANCIAL IMPACT:

None at this time but contracting rules affect city purchasing and ensure we are in compliance with state contracting law.

DOCUMENTS ATTACHED:

- Resolution R1112-35 a resolution amending Resolution R1112-20 which adopted our public contracting rules.
- A copy of update letter from Local Government Law Group

REQUESTED MOTION/ACTION:

A motion to adopt/reject R1112-35

Sample Motion: I move that the Council adopt resolution R1112-35: a joint resolution of the City Council and the Local Public Contract Review Board for the City of Gold Beach amending resolution R1112-20 to conform to 2011 legislative amendments to the Oregon Public Contracting Code.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

Local Government Law Group PC

a member of SPEER HOYT LLC

J. Kenneth Jones*
Carolyn H. Connelly
Christy K. Monson
Ross M. Williamson*
Lauren A. Sommers
Teresa J. Wilson, *Of Counsel*
Russell D. Poppe, *Of Counsel*
John A. Wolf, *Of Counsel*
*Admitted in Washington

RECEIVED

MAY 16 2012

CITY OF GOLD BEACH

May 16, 2012

***Via Email To: jfritts@goldbeachoregon.gov
And First Class Mail***

Jodi Fritts
City Administrator
City of Gold Beach
29592 Ellensburg Avenue
Gold Beach, OR 97444

Re: 2012 Public Contracting Rules Update

Dear Jodi:

Enclosed are updated public contracting rules for insertion into your existing rule packet and an amending resolution. These amended rules incorporate the 2011 legislative amendments to the Oregon Public Contracting Code. Per ORS 279A.065(5)(b), your City is required to review your public contracting rules and ensure statutory compliance each time the Attorney General modifies its model rules. I have reviewed all changes to the model rules and made all legally required modifications. As many of the rules will remain unchanged, we are providing only one rule update in each of your Division 47 and 49 rules. Only Division 48 will be replaced, in full. Division 46 and your exemptions remain unchanged.

The primary rule changes reflect the following statutory amendments:

- 1) The addition of photogrammetric mapping and transportation planning service providers to the professions covered by Division 48. Please note that the only transportation planners subject to these new requirements are those which will perform services on projects subject to the National Environmental Policy Act (NEPA). In other words, Division 48 should only apply to transportation planning services provided on federally funded projects.

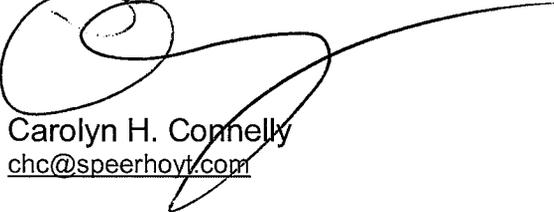
Jodi Fritts, City Administrator
City of Gold Beach
May 16, 2012
Page 2 of 2

- 2) Solicitations for professionals governed by Division 48 must now be based solely upon qualifications, not cost, for contracts with estimated service fees over \$100,000. For such contracts, fee information can be requested and considered after awardee selection.
- 3) Prevailing wage/BOLI statutes now more clearly require the payment of the higher of state or federal prevailing wages, for projects where both apply. These rules reflect that clarification.

In contrast to past rule adoptions and amendments, no special notice or public hearing of your contract review board is required. This is because no exemptions are being added or modified. Instead, simply place this resolution on an agenda for adoption at a joint meeting of both the City Council and the local public contract review board. As in the past, your Council will be wearing both "hats". The resolution and rules may be adopted at that meeting, after any desired staff report, without other formal proceedings.

Please call with any questions.

Sincerely yours,



Carolyn H. Connelly
chc@speerhoyt.com

CHC:cc

Enclosure

RESOLUTION R1112-35

JOINT RESOLUTION OF THE CITY COUNCIL AND LOCAL PUBLIC CONTRACT REVIEW BOARD FOR THE CITY OF GOLD BEACH AMENDING RESOLUTION R1112-20, TO CONFORM TO 2011 LEGISLATIVE AMENDMENTS TO THE OREGON PUBLIC CONTRACTING CODE

WHEREAS, the 2011 Oregon legislature adopted certain amendments to Oregon's Public Contracting Code and the Attorney General has modified its Model Public Contracting Rules, accordingly; and

WHEREAS, ORS 279A.065(5)(b) requires a local contracting agency to review all legislative changes and update its local public contracting rules to ensure statutory compliance each time the Attorney General modifies its Model Rules; and

WHEREAS, the 2011 legislature amended the Public Contracting Code to require all local contracting agencies to utilize a qualifications-based solicitation (QBS) for certain contracts with architects, engineers, and land surveyors, and added two professions to this list of specialized professionals; and

WHEREAS, the local contract review board and City Council have determined to make the following amendments to the City's public contracting rules in compliance with these legislative amendments to the Oregon Public Contracting Code; and

WHEREAS, no amendments affect the City's previously established public contracting exemptions or rules not listed below.

NOW, THEREFORE, it is resolved as follows:

1. Amendments. The City hereby amends the rules adopted by Resolution R1112-20 and Establishing Public Contracting Rules, as follows: Chapter 137, Division 47, Rule 0260; Chapter 137, Division 48, Rules 0100 through 0320; and Chapter 137, Division 49, Rule 0860 are hereby repealed and replaced with the rules set forth in the pages attached and incorporated herein as Exhibit A.

2. Prior Acts. All provisions of City's previously adopted Resolution No. R1112-20 of the City Council and Public Contract Review Board adopting City's existing Public Contracting Rules, with the exception of the above amendments, shall continue in full force and effect.

3. Effective Date. This Resolution shall take immediate effect and be in full force and effect when adopted by the Council and signed by the Mayor.

Passed by the City Council of the City of Gold Beach, County of Curry, State of Oregon, this 11th day of June, 2012.

James H. Wernicke, Mayor

ATTEST:

Candy Cronberger, City Recorder

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**EXHIBIT A
RESOLUTION R1112-35
PUBLIC CONTRACTING
RULES UPDATE**

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such is not the case, the Contracting Agency may issue an Addendum to the Invitation to Bid or engage in technical discussions as set forth in subsection (5)(e) of this rule.

(e) Discussion of Un-priced Technical Bids. The Contracting Agency may seek clarification of a technical Bid by any eligible, or potentially eligible Bidder. During the course of such discussions, the Contracting Agency shall not disclose any information derived from one un-priced technical Bid to any other Bidder. Once discussions are begun, any Bidder who has not been notified that its Bid has been finally found ineligible may submit supplemental information amending its technical Bid at any time until the Closing of the final step established by the Contracting Agency. Such submission may be made at the request of the Contracting Agency or upon the Bidder's own initiative.

(f) Notice of Ineligible Un-priced Technical Bid. When the Contracting Agency determines a Bidder's un-priced technical Bid to be ineligible, such Bidder shall not be afforded an additional opportunity to supplement its technical Bids.

(g) Mistakes During Multistep Sealed Bidding. Mistakes may be corrected or Bids may be withdrawn during phase one:

(A) Before un-priced technical Bids are considered;

(B) After any discussions have commenced under subsection(5)(e);

(C) When responding to any Addenda of the Invitation to Bid; or

(D) In accord with Rule 137-047-0470.

(6) Procedure for Phase Two of Multistep Sealed Bids.

(a) Initiation. Upon the completion of phase one, the Contracting Agency shall either:

(A) Open price Bids submitted in phase one (if price Bids were required to be submitted) from Bidders whose un-priced technical Bids were found to be eligible; or

(B) If price Bids have not been submitted, technical discussions have been held, or Addenda to the Invitation to Bid have been issued, invite each eligible Bidder to submit a price Bid.

(b) Conduct. Phase Two shall be conducted as any other competitive sealed Bid Procurement except:

(A) As specifically set forth in this rule;

(B) No public notice need be given of this invitation to submit price Bids because such notice was previously given.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.055

137-047-0260

Competitive Sealed Proposals

(1) Generally. A Contracting Agency may procure Goods or Services by competitive sealed Proposals as set forth in ORS 279B.060. A Request for Proposal is used to initiate a competitive sealed Proposal solicitation and shall contain the information required by ORS 279B.060(2) and by section 2 of this rule. The Contracting Agency shall provide public notice of the competitive sealed Proposal as set forth in Rule 137-047-0300.

(2) Request for Proposal. In addition to the provisions required by ORS 279B.060(2), the Request for Proposal shall include the following:

(a) General Information.

(A) Notice of any pre-Offer conference as follows:

(i) The time, date and location of any pre-Offer conference; and

(ii) Whether attendance at the conference will be mandatory or voluntary; and

(iii) A provision that provides that statements made by the Contracting Agency's representatives at the conference are not binding upon the Contracting Agency unless confirmed by Written Addendum.

(B) The form and instructions for submission of Proposals and any other special information, e.g., whether Proposals may be submitted by electronic means (See Rule 137-047-0330 for required provisions of electronic Proposals);

(C) The time, date and place of Opening;

(D) The office where the Solicitation Document may be reviewed;

(E) Proposer's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110(4). (See Rule 137-046-0210(3)); and

(F) How the Contracting Agency will notify Proposers of Addenda and how the Contracting Agency will make Addenda available. (See Rule 137-047-0430).

(b) Contracting Agency Need. The character of the Goods or Services the Contracting Agency is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements. Pursuant to ORS 279B.060(2)(c), the Contracting Agency's description of its need to purchase must:

(A) Identify the scope of the work to be performed under the resulting Contract, if the Contracting Agency awards one;

(B) Outline the anticipated duties of the Contractor under any resulting Contract;

(C) Establish the expectations for the Contractor's performance of any resulting Contract; and

(D) Unless the Contractor under any resulting Contract will provide architectural, engineering, photogrammetric mapping, transportation planning and land surveying services or related services that are subject to ORS 279C.100 to 279C.125, or the Contracting Agency for Good Cause specifies otherwise, the scope of work must require the Contractor to meet the highest standards prevalent in the industry or business most closely involved in providing the Goods or Services that the Contracting Agency is purchasing.

(c) Proposal and Evaluation Process.

(A) The anticipated solicitation schedule, deadlines, protest process, and evaluation process;

(B) The Contracting Agency shall set forth selection criteria in the Solicitation Document in accordance with the requirements of ORS 279B.060(3)(e). Evaluation criteria need not be precise predictors of actual future costs and performance, but to the extent possible, such factors shall be reasonable estimates of actual future costs based on information available to the Contracting Agency; and

(C) If the Contracting Agency intends to Award Contracts to more than one Proposer pursuant to Rule 137-047-0600(4)(d), the Contracting Agency must identify in the Solicitation Document the manner in which it will determine the number of Contracts it will Award.

(d) Applicable Preferences, including those described in ORS 279A.120, 279A.125(2) and 282.210.

(e) For Contracting Agencies subject to ORS 305.385, Proposer's certification of compliance with the Oregon tax laws in accordance with ORS 305.385.

(f) All Contract terms and conditions, including a provision indicating whether the Contractor can assign the Contract, delegate its duties, or subcontract the Goods or Services without prior written approval from the Contracting Agency. Pursuant to ORS 279B.060, the Contract terms and conditions must specify the consequences of the Contractor's failure to perform the scope of work or to meet the performance standards established by the resulting Contract. Those consequences may include, but are not limited to:

(A) The Contracting Agency's reduction or withholding of payment under the Contract;

(B) The Contracting Agency's right to require the Contractor to perform, at the Contractor's expense, any additional work necessary to perform the scope of work or to meet the performance standards established by the resulting Contract; and

(C) The Contracting Agency's rights, which the Contracting Agency may assert individually or in combination, to declare a default of the resulting Contract, to terminate the resulting Contract, and to seek damages and other relief available under the resulting Contract or applicable law.

(3) The Contracting Agency may include the applicable contractual terms and conditions in the form of Contract provisions, or legal concepts to be included in the resulting Contract. Further, the Contracting Agency may specify that it will include or use Proposer's terms and conditions that have been pre-negotiated under Rule 137-047-0550(3), but the Contracting Agency may only include or use a Proposer's pre-negotiated terms and conditions in the resulting Contract to the extent those terms and conditions do not materially conflict with the applicable Contract terms and conditions. The Contracting Agency shall not agree to any Proposer's terms and conditions that were expressly rejected in a solicitation protest under Rule 137-047-0420.

(4) For multiple Award Contracts, the Contracting Agency may enter into Contracts with different terms and conditions with each Contractor to the extent those terms and conditions do not materially conflict with the applicable contractual terms and conditions. The Contracting Agency shall not agree to any Proposer's terms and conditions that were expressly rejected in a solicitation protest under Rule 137-047-0420.

(5) Good Cause. For the purposes of this rule, "Good Cause" means a reasonable explanation for not requiring Contractor to meet the highest standards, and may include an explanation of circumstances that support a finding that the requirement would unreasonably limit competition or is not in the best interest of the Contracting Agency will have Good Cause to specify otherwise under the following circumstances:

(A) The use or purpose to which the Goods or Services will be put does not justify a requirement that the Contractor meet the highest prevalent standards in performing the Contract;

(B) Imposing express technical, standard, dimensional or mathematical specifications will better ensure that the Goods or Services will be compatible with, or will operate efficiently or effectively with, associated information technology, hardware, software, components, equipment, parts, or on-going Services with which the Goods or Services will be used, integrated, or coordinated;

(C) The circumstances of the industry or business that provides the Goods or Services are sufficiently volatile in terms of innovation or evolution of products, performance techniques, or scientific developments, that a reliable highest prevalent standard does not exist or has not been developed;

(D) Any other circumstances in which the Contracting Agency's interest in achieving economy, efficiency, compatibility or availability in the Procurement of the Goods or Services reasonably outweighs the Contracting Agency's practical need for the highest standard prevalent in the applicable or closest industry or business that supplies the Goods and Services to be delivered under the resulting Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

PUBLIC CONTRACTING RULES 2012

DIVISION 48

CONSULTANT SELECTION: ARCHITECTURAL, ENGINEERING, PHOTOGRAMMETRIST, TRANSPORTATION
PLANNING AND LAND SURVEYING SERVICES AND RELATED SERVICES CONTRACTS

137-048-0100

Application

These division 48 rules apply to the screening and selection of Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors and providers of Related Services under Contracts, and set forth the following procedures:

- (a) Procedures through which Contracting Agency selects Consultants to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services; and
- (b) Two-tiered procedures for selection of Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors and providers of Related Services for certain public improvements owned and maintained by a Local Government.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 19-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0110

Definitions

In addition to the definitions set forth in ORS 279A.010, 279C.100, and Rule 137-046-0110, the following definitions apply to these division 48 rules:

- (1) "**Consultant**" means an Architect, Engineer, Photogrammetrist, Transportation Planner, Land Surveyor or provider of Related Services. A Consultant includes a business entity that employs Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors or providers of Related Services, or any combination of the foregoing.
- (2) "**Estimated Fee**" means Contracting Agency's reasonably projected fee to be paid for a Consultant's services under the anticipated Contract, excluding all anticipated reimbursable or other non-professional fee expenses. The Estimated Fee is used solely to determine the applicable Contract solicitation method and is distinct from the total amount payable under the Contract.
- (3) "**Price Agreement**," for purposes of this Division 48, is limited to mean an agreement related to the procurement of Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services, under agreed-upon terms and conditions, including, but not limited to terms and conditions of later work orders or task orders for Project-specific Services, and which may include price or Consultant compensation information, with:
 - (a) No guarantee of a minimum or maximum purchase; or
 - (b) An initial work order, task order or minimum purchase, combined with a continuing Consultant obligation to provide Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services in which the Contracting Agency does not guarantee a minimum or maximum additional purchase.
- (4) "**Project**" means all components of a Contracting Agency's planned undertaking that gives rise to the need for a Consultant's Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services, under a Contract.
- (5) "**Transportation Planning Services**" include only Project-specific transportation planning involved in categorical exclusions, environmental assessments, environmental impact statements and other documents required for compliance with the National Environmental Policy Act, 42 USC 4321 et. seq. Transportation Planning Services do not include transportation planning for corridor plans, transportation system plans, interchange area management plans, refinement plans and other transportation plans not associated with an individual Project that will require compliance with the National Environmental Policy Act, 42 USC 4321 et. seq. Transportation Planning Services also do not include transportation planning for Projects not subject to the National Environmental Policy Act, 42 USC 4321 et. seq.
- (6) "**Related Services**" means personal services, other than architectural, engineering, photogrammetric, mapping, Transportation Planning or land surveying services, that are related to planning, designing, engineering or overseeing public improvement projects or components of public improvements, including, but not limited to, landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services,

material testing services, mechanical system balancing services, commissioning services, project management services, construction management services, and owner's representation services or land-use planning services.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0120

[Reserved.]

137-048-0130

Applicable Selection Procedures; Pricing Information; Disclosure of Proposals; Conflicts of Interest

(1) When selecting the most qualified Consultant to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, Contracting Agency shall follow the applicable selection procedure under either Rule 137-048-0200 (Direct Appointment Procedure), 137-048-0210 (Informal Selection Procedure) or 137-048-0220 (Formal Selection Procedure). For projects utilizing Informal or Formal Selection Procedures, Contracting Agency may solicit or use pricing policies and pricing proposals, or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead, to determine a Consultant's compensation only after the Contracting Agency has selected the most qualified Consultant in accordance with the applicable selection procedure.

(2) When selecting Consultants to perform Related Services Contracting Agency shall follow either its Division 47 or Division 48 rules, as determined in its sole discretion.

(3) A Contracting Agency is not required to follow the procedures in Section (1) or Section (2) of this rule, when the Contracting Agency has established Price Agreements with more than one Consultant and is selecting a single Consultant to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services under an individual work order or task order. Provided, however, the criteria and procedures the Contracting Agency uses to select a single Consultant, when the Contracting Agency has established Price Agreements with more than one Consultant, must meet the requirements of Rule 137-048-0270 (Price Agreements).

(4) Contracting Agency may use electronic methods to screen and select a Consultant in accordance with the procedures described in Rule 137-047-0330 (Electronic Procurement).

(5) For purposes of these division 48 rules, a "mixed" Contract is one requiring the Consultant to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, and also provide Related Services, other Services or other related Goods under the Contract. A Contracting Agency's classification of a procurement that will involve a "mixed" Contract will be determined by the predominant purpose of the Contract. A Contracting Agency will determine the predominant purpose of the Contract by determining which of the Services involves the majority of the total Estimated Fee to be paid under the Contract. If the majority of the total Estimated Fee to be paid under the Contract is for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, the Contracting Agency shall comply with the requirements of ORS 279C.110 and Section (1) of this rule. If the majority of the total Estimated Fee to be paid under the Contract is for Related Services, the Contracting Agency shall comply with the requirements of ORS 279C.120 and Section (2) of this rule. If the majority of the total Estimated Fee to be paid under the Contract is for some other Services or Goods under the Public Contracting Code, the Contracting Agency shall comply with the applicable provisions of the Public Contracting Code and Divisions 46, 47 and 49 of these Rules that match the predominant purpose of the Contract.

(6) Consistent with the requirements of ORS 279C.107 and the remaining requirements of ORS 279C.100, 279C.105 and 279C.110 through 279C.125, the following provisions apply to proposals received by a Contracting Agency for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services:

(a) The term "competitive proposal," for purposes of ORS 279C.107, includes proposals submitted under these Division 48 Rules.

(b) In the limited circumstances permitted by ORS 279C.110, 279C.115 and 279C.120, where the Contracting Agency is conducting discussions or negotiations with proposers who submit proposals that the Contracting Agency has determined to be closely competitive or to have a reasonable chance of being selected for award, the Contracting Agency may open proposals so as to avoid disclosure of proposal contents to competing Proposers, consistent with the requirements of ORS 279C.107. Otherwise, Contracting Agency may open proposals in such a way as to avoid disclosure of the contents until after the Contracting Agency executes a Contract with the selected Consultant. If the Contracting Agency determines that it is in the best interest of the Contracting Agency to do so, the Contracting Agency may make proposals available for public inspection following the Contracting Agency's issuance of a notice of intent to award a Contract to a Consultant.

(c) Disclosure of proposals and proposal information is otherwise governed by ORS 279C.107.

(7) As required by ORS 279C.307, pertaining to requirements to ensure the objectivity and independence of providers of certain Personal Services which are procured under ORS chapter 279C, Contracting Agency may not:

(a) Procure services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a public contract from a Contractor or an affiliate of a Contractor who is a party to the Public Contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the Services; or

(b) Procure services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a public contract through the Public Contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the Services.

(8) The requirements of ORS 279C.307 and Section (7) of this rule apply in the following circumstances, except as provided in Section (9) of this rule:

(a) A Contracting Agency requires the Procurement of Personal Services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a Public Contract or performance under a Public Contract that is subject to ORS chapter 279C. A Public Contract that is "subject to ORS chapter 279C" includes a Public Contract for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, a Public Contract for Related Services or a Public Contract for construction services under ORS chapter 279C.

(b) The Procurements of Personal Services subject to the restrictions of ORS 279C.307 include, but are not limited to, the following:

(A) Procurements for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, which involve overseeing or monitoring the performance of a construction Contractor under a Public Contract for construction services subject to ORS chapter 279C;

(B) Procurements for commissioning services, which involve monitoring, inspecting, evaluating or otherwise overseeing the performance of a Contractor providing Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or the performance of a construction Contractor under a Public Contract for construction services subject to ORS chapter 279C;

(C) Procurements for project management services, which involve administration, management, monitoring, inspecting, evaluating compliance with or otherwise overseeing the performance of a Contractor providing Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, construction services subject to ORS chapter 279C, commissioning services or other Related Services for a Project;

(D) Procurements for special inspections and testing services, which involve inspecting, testing or otherwise overseeing the performance of a construction Contractor under a Public Contract for construction services subject to ORS chapter 279C; and

(E) Procurements for other Related Services or Personal Services, which involve administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing the Public Contracts described in Section (8)(a) of this rule.

(9) The restrictions of ORS 279C.307 do not apply in the following circumstances, except as further specified below:

(a) To a Contracting Agency's Procurement of both design services and construction services through a single "Design-Build" Procurement, as that term is defined in Rule 137-049-0610. Such a Design-Build Procurement includes a Procurement under an Energy Savings Performance Contract, as defined in ORS 279A.010. Provided, however, the restrictions of ORS 279C.307 do apply to a Contracting Agency's Procurement of Personal Services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a Design-Build Contract or performance under such a Contract resulting from a Design-Build Procurement; and

(b) To a Contracting Agency's Procurement of both pre-construction services and construction services through a single "Construction Manager/General Contractor" Procurement, as defined in Rule 137-049-0610. Provided, however, the restrictions of ORS 279C.307 do apply to a Contracting Agency's Procurement of Personal Services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a Construction Manager/General Contractor Contract or performance under such a Contract resulting from a Construction Manager/General Contractor Procurement.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065, 279C.100-279C.125, OL 2009, ch. 880, sec. 11, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 19-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

SELECTION PROCEDURES

137-048-0200

Direct Appointment Procedure

(1) Contracting Agency may enter into a Contract directly with a Consultant without following the selection procedures set forth elsewhere in these rules if:

- (a) Contracting Agency finds that an Emergency exists; or
- (b) The Estimated Fee to be paid under the Contract does not exceed \$100,000; or
- (c) The following requirements are met:
 - (A) The services consist of or are related to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services that have been substantially described, planned or otherwise previously studied in an earlier Contract with the same Consultant and are rendered for the same Project as the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services rendered under the earlier Contract; and
 - (B) Contracting Agency used either the formal selection procedure under Rule 137-048-0220 (Formal Selection Procedure) or the formal selection procedure applicable to selection of the Consultant at the time of original selection to select the Consultant for the earlier Contract.
- (d) Continuation of Project With Extensive Estimated Fee. Where a Project is being under subsection 1(c) of this rule, and the Estimated Fee is expected to exceed \$250,000, the Contracting Agency must make written findings that entering into a Contract with the Consultant, whether in the form of an amendment to an existing Contract or a separate Contract for the additional scope of services, will:
 - (A) Promote efficient use of public funds and resources and result in substantial cost savings to the Contracting Agency; and,
 - (B) Protect the integrity of the Public Contracting process and the competitive nature of the Procurement by not encouraging favoritism or substantially diminishing competition in the award of the Contract.
- (2) Contracting Agency may select a Consultant for a Contract under this rule from any and all Consultants offering the required Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services that the Contracting Agency reasonably can identify under the circumstances.
- (3) The Contracting Agency shall direct negotiations with a Consultant selected under this rule toward obtaining written agreement on:
 - (a) The Consultant's performance obligations and performance schedule;
 - (b) Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to the Contracting Agency as determined solely by the Contracting Agency, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services; and
 - (c) Any other provisions the Contracting Agency believes to be in the Contracting Agency's best interest to negotiate.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279C110 & 279C.115, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 19-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0210

Informal Selection Procedure

- (1) Contracting Agency may use the informal selection procedure described in this rule to obtain a Contract if the Estimated Fee is expected not to exceed \$250,000.
- (2) Contracting Agency using the informal selection procedure shall:
 - (a) Create a Request for Proposals that includes at a minimum the following:
 - (A) A description of the Project for which a Consultant's Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services are needed and a description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services that will be required under the resulting Contract;
 - (B) The anticipated Contract performance schedule;
 - (C) Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including construction services;
 - (D) The date and time Proposals are due and other directions for submitting Proposals;
 - (E) Criteria upon which the most qualified Consultant will be selected. Selection criteria may include, but are not limited to, the following:
 - (i) The amount and type of resources and number of experienced staff the Consultant has committed to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the Request for Proposals within the applicable time limits, including the current and projected workloads of such staff and the proportion of time such staff would have available for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services;
 - (ii) Proposed management techniques for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the Request for Proposals;
 - (iii) A Consultant's capability, experience and past performance history and record in providing similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services,

- including but not limited to quality of work, ability to meet schedules, cost control methods and Contract administration practices;
- (iv) A Consultant's approach to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the Request for Proposals and design philosophy, if applicable;
 - (v) A Consultant's geographic proximity to and familiarity with the physical location of the Project;
 - (vi) Volume of work, if any, previously awarded to a Consultant, with the objective of effecting equitable distribution of Contracts among qualified Consultants, provided such distribution does not violate the principle of selecting the most qualified Consultant for the type of professional services required;
 - (vii) A Consultant's ownership status and employment practices regarding women, minorities and emerging small businesses or historically underutilized businesses;
 - (viii) If the Contracting Agency is selecting a Consultant to provide Related Services, pricing policies and pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead.
- (F) A Statement that Proposers responding to the RFP do so solely at their expense, and Contracting Agency is not responsible for any Proposer expenses associated with the RFP; and
- (G) A statement directing Proposers to the protest procedures set forth in these Division 48 rules.
- (b) Provide a Request for Proposals to a minimum of three (3) prospective Consultants drawn from any and all Consultants that the Contracting Agency reasonably can locate that offer the desired Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services, or any combination of the foregoing. If three (3) prospective Consultants cannot reasonably be located, Contracting Agency shall document its efforts in writing and provide the RFP to those Consultants that were located.
 - (c) Review and rank all Proposals received according to the criteria set forth in the Request for Proposals.
- (3) If Contracting Agency does not cancel the RFP after it reviews and ranks each Proposer, Contracting Agency will begin negotiating a Contract with the highest ranked Proposer. Contracting Agency shall direct negotiations toward obtaining written agreement on:
- (a) The Consultant's performance obligations and performance schedule;
 - (b) Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to the Contracting Agency as determined solely by the Contracting Agency, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services; and
 - (c) Any other provisions the Contracting Agency believes to be in the Contracting Agency's best interest to negotiate.
- (4) The Contracting Agency shall, either orally or in writing, formally terminate negotiations with the highest ranked Proposer, if the Contracting Agency and Proposer are unable for any reason to reach agreement on a Contract within a reasonable amount of time. The Contracting Agency may thereafter negotiate with the second ranked Proposer, and if necessary, with the third ranked Proposer, in accordance with Section (3) of this rule, until negotiations result in a Contract. If negotiations with any of the Proposers do not result in a Contract within a reasonable amount of time, the Contracting Agency may end the particular informal solicitation and thereafter may proceed with a new informal solicitation under this rule or proceed with a formal solicitation under Rule 137-048-0220 (Formal Selection Procedure).
- (5) The Contracting Agency shall terminate the informal selection procedure and proceed with the formal selection procedure under Rule 137-048-0220 if the scope of the anticipated Contract is revised during negotiations so that the Estimated Fee will exceed \$250,000.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458
 Stats. Implemented: ORS 279C.110, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 19-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0220

Formal Selection Procedure

- (1) Contracting Agency shall use the formal selection procedure described in this rule to select Consultants if the Consultants cannot be selected under either 137-048-0200 (Direct Appointment Procedure) or under 137-048-0210 (Informal Selection Procedure). The formal selection procedure described in this rule may otherwise be used at Contracting Agency's discretion.
- (2) When using the formal selection procedure Contracting Agency shall obtain Contracts through public advertisement of Requests for Proposals, or Requests for Qualifications followed by Requests for Proposals.
 - (a) Except as provided in subsection (b) of this section, Contracting Agency shall advertise each RFP and RFQ at least once in at least one newspaper of general circulation in the area where the Project is located and in as many

other issues and publications as desired by Contracting Agency to achieve adequate competition. Other issues and publications may include, but are not limited to, local newspapers, trade journals, and publications targeted to reach the minority, women and emerging small business enterprise audiences.

(A) Contracting Agency shall publish the advertisement within a reasonable time before the deadline for the Proposal submission or response to the RFQ or RFP, but in any event no fewer than fourteen (14) calendar days before the closing date set forth in the RFQ or RFP.

(B) Contracting Agency shall include a brief description of the following items in the advertisement:

(i) The Project;

(ii) A description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services the Contracting Agency seeks;

(iii) How and where Consultants may obtain a copy of the RFQ or RFP; and

(iv) The deadline for submitting a Proposal or response to the RFQ or RFP.

(b) In the alternative to advertising in a newspaper as described in subsection (2)(a) of this rule, the Contracting Agency shall publish each RFP and RFQ by one or more of the electronic methods identified in Rule 137-046-0110(14). The Contracting Agency shall comply with subsections (2)(a)(A) and (2)(a)(B) of this rule when publishing advertisements by electronic methods.

(3) Request for Qualifications Procedure. Contracting Agency may use the RFQ procedure to evaluate potential Consultants and establish a short list of qualified Consultants to whom the Contracting Agency may issue an RFP for some or all of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQ.

(a) A Contracting Agency shall include the following, at a minimum, in each RFQ:

(A) A brief description of the Project for which the Contracting Agency is seeking Consultants;

(B) A description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services the Contracting Agency seeks for the Project;

(C) Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including but not limited to construction services;

(D) The deadline for submitting a response to the RFQ;

(E) A description of required Consultant qualifications for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services the Contracting Agency seeks;

(F) The RFQ evaluation criteria, including weights, points or other classifications applicable to each criterion;

(G) A statement whether or not the Contracting Agency will hold a pre-qualification meeting for all interested Consultants to discuss the Project and the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQ and if a pre-qualification meeting will be held, the location of the meeting and whether or not attendance is mandatory; and

(H) A Statement that Consultants responding to the RFQ do so solely at their expense, and that the Contracting Agency is not responsible for any Consultant expenses associated with the RFQ.

(b) A Contracting Agency may include a request for any or all of the following in each RFQ:

(A) A statement describing Consultants' general qualifications and related performance information;

(B) A description of Consultants' specific qualifications to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQ including Consultants' committed resources and recent, current and projected workloads;

(C) A list of similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services and references concerning past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration;

(D) A copy of all records, if any, of Consultants' performance under Contracts with any other Contracting Agency;

(E) The number of Consultants' experienced staff committed to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQ, including such personnel's specific qualifications and experience and an estimate of the proportion of time that such personnel would spend on those services;

(F) Consultants' approaches to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQ and design philosophy, if applicable;

(G) Consultants' geographic proximity to and familiarity with the physical location of the Project;

(H) Consultants' Ownership status and employment practices regarding women, minorities and emerging small businesses or historically underutilized businesses;

(I) If the Contracting Agency is selecting a Consultant to provide Related Services, Consultants' pricing policies and pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead;

(J) Consultants' ability to assist Contracting Agency in complying with the solar energy technology requirements of ORS 279C.527; and

(K) Any other information Contracting Agency deems reasonably necessary to evaluate Consultants' qualifications.

(c) Contracting Agency may use any reasonable screening or evaluation method to establish a short list of qualified Consultants, including but not limited to, the following:

- (A) Requiring Consultants responding to an RFQ to achieve a threshold score before qualifying for placement on the short list;
- (B) Placing a pre-determined number of the highest scoring Consultants on a short list;
- (C) Placing on a short list only those Consultants with certain essential qualifications or experience, whose practice is limited to a particular subject area, or who practice in a particular geographic locale or region, provided that such factors are material, would not unduly restrict competition, and were announced as dispositive in the RFQ.
- (d) No Consultant will be eligible for placement on a Contracting Agency's short list established under subsection (3)(d) of this rule if Consultant or any of Consultant's principals, partners or associates are members of the Contracting Agency's RFQ evaluation committee.
- (e) Except when the RFQ is cancelled, a Contracting Agency shall provide a copy of the subsequent RFP to each Consultant on the short list.
- (4) Formal Selection of Consultants Through Request for Proposals. Contracting Agency shall use the procedure described in this Section (4) of this rule when issuing an RFP for a Contract described in Section (1) of this rule.
- (a) RFP Required Contents. Contracting Agency using the formal selection procedure shall include at least the following in each Request for Proposals, whether or not the RFP is preceded by an RFQ:
- (A) General background information, including a description of the Project and the specific Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services sought for the Project, the estimated Project cost, the estimated time period during which the Project is to be completed, and the estimated time period in which the specific Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services sought will be performed.
- (B) The RFP evaluation process and the criteria which will be used to select the most qualified Proposer, including the weights, points or other classifications applicable to each criterion. If the Contracting Agency does not indicate the applicable number of points, weights or other classifications, then each criterion is of equal value. Evaluation criteria may include, but are not limited to, the following:
- (i) Proposers' availability and capability to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP;
- (ii) Experience of Proposers' key staff persons in providing similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, or Related Services on comparable projects;
- (iii) The amount and type of resources, and number of experienced staff persons Proposers have committed to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP;
- (iv) The recent, current and projected workloads of the staff and resources referenced in subsection (4)(a)(B)(iii), above;
- (v) The proportion of time Proposers estimate that the staff referenced in subsection (4)(a)(B)(iii), above, would spend on the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP;
- (vi) Proposers' demonstrated ability to complete successfully similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services on time and within budget, including whether or not there is a record of satisfactory performance;
- (vii) References and recommendations from past clients;
- (viii) Proposers' performance history in meeting deadlines, submitting accurate estimates, producing high quality work, meeting financial obligations, price and cost data from previous projects, cost controls and contract administration;
- (ix) Status and quality of any required license or certification;
- (x) Proposers' knowledge and understanding of the Project and Architectural, Engineering and Land Surveying Services or Related Services described in the RFP as shown in Proposers' approaches to staffing and scheduling needs for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services and proposed solutions to any perceived design and constructability issues;
- (xi) Results from interviews, if conducted;
- (xii) Design philosophy, if applicable, and approach to the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP;
- (xiii) If the Contracting Agency is selecting a Consultant to provide Related Services, pricing policies and pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead; and
- (xiv) Any other criteria that the Contracting Agency deems relevant to the Project and the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP, including, where the nature and budget of the Project so warrant, a design competition between competing Proposers. Provided, however, these additional criteria cannot include pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead, when the sole purpose or predominant purpose of the RFP is to obtain Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services.

- (C) Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including but not limited to construction services;
- (D) Whether interviews are possible and if so, the weight, points or other classifications applicable to the potential interview;
- (E) The date and time Proposals are due, and the delivery location for Proposals;
- (F) Reservation of the right to seek clarifications of each Proposal;
- (G) Reservation of the right to negotiate a final Contract that is in the best interest of the Contracting Agency;
- (H) Reservation of the right to reject any or all Proposals and reservation of the right to cancel the RFP at anytime if doing either would be in the public interest as determined by the Contracting Agency;
- (I) A Statement that Proposers responding to the RFP do so solely at their expense, and Contracting Agency is not responsible for any Proposer expenses associated with the RFP;
- (J) A statement directing Proposers to the protest procedures set forth in these division 48 rules;
- (K) Special Contract requirements, including but not limited to disadvantaged business enterprise ("DBE"), minority business enterprise ("MBE"), women business enterprise ("WBE") and emerging small business enterprise ("ESB") participation goals or good faith efforts with respect to DBE, MBE, WBE and ESB participation, and federal requirements when federal funds are involved;
- (L) A statement whether or not the Contracting Agency will hold a pre-Proposal meeting for all interested Consultants to discuss the Project and the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP and if a pre-Proposal meeting will be held, the location of the meeting and whether or not attendance is mandatory;
- (M) A request for any information the Contracting Agency deems reasonably necessary to permit the Contracting Agency to evaluate, rank and select the most qualified Proposer to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP; and
- (N) A sample form of the Contract.
- (b) RFP Evaluation Committee. The Contracting Agency shall either establish a committee or designate an individual to review, score and rank Proposals according to the evaluation criteria set forth in the RFP. If the RFP has followed an RFQ, the Contracting Agency may include the same members who served on the RFQ evaluation committee. The Contracting Agency may appoint to the evaluation committee Contracting Agency employees or employees of other public agency with experience in Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying, Related Services, construction services or Public Contracting. At least one member of an evaluation committee must be a Contracting Agency employee. If the Contracting Agency procedure permits, the Contracting Agency may include on the evaluation committee private practitioners of architecture, engineering, land surveying or related professions. If formed, the Contracting Agency shall designate a member of the evaluation committee as the evaluation committee chairperson.
- (A) No Proposer will be eligible for award of the Contract under the RFP if Proposer or any of Proposer's principals, partners or associates are members of the Contracting Agency's RFP evaluation committee for the Contract;
- (c) If the Contracting Agency does not cancel the RFP after completing the scoring and ranking for each Proposer, the Contracting Agency will begin negotiating a Contract with the highest ranked Proposer. The Contracting Agency shall direct negotiations toward obtaining written agreement on:
- (A) The Consultant's performance obligations and performance schedule;
- (B) Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to the Contracting Agency as determined solely by the Contracting Agency, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services; and
- (C) Any other provisions the Contracting Agency believes to be in the Contracting Agency's best interest to negotiate.
- (d) The Contracting Agency shall, either orally or in writing, formally terminate negotiations with the highest ranked Proposer if the Contracting Agency and Proposer are unable for any reason to reach agreement on a Contract within a reasonable amount of time. The Contracting Agency may thereafter negotiate with the second ranked Proposer, and if necessary, with the third ranked Proposer, and so on, in accordance with subsection (4)(c) of this rule, until negotiations result in a Contract. If negotiations with any Proposer do not result in a Contract within a reasonable amount of time, the Contracting Agency may end the particular formal solicitation. Nothing in this rule precludes a Contracting Agency from proceeding with a new formal solicitation for the same Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP that failed to result in a Contract.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279C.110, 279C.527, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 19-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0230

Ties Among Proposers

(1) If Contracting Agency is selecting a Consultant on the basis of qualifications alone and determines after the ranking of Proposers that two or more Proposers are equally qualified, the Contracting Agency may select a candidate through any process that the Contracting Agency believes will result in the best value for the Contracting Agency taking into account the scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services. Provided, however, the tie breaking process established by the Contracting Agency under this Section (1) cannot be based on the Consultant's pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead. The process must be designed to instill public confidence through ethical and fair dealing, honesty and good faith on the part of the Contracting Agency and Proposers and shall protect the integrity of the Public Contracting process. Once a tie is broken, the Contracting Agency and the selected Proposer shall proceed with negotiations under Rules 137-048-0210(3) or 137-048-0220(4)(c), as applicable.

(2) If Contracting Agency is selecting a Consultant on the basis of price alone, or on the basis of price and qualifications, and determines after the ranking of Proposers that two or more Proposers are identical in terms of price or are identical in terms of price and qualifications, then the Contracting Agency shall follow the procedure set forth in Rule 137-046-0300 (Preferences for Oregon Goods and Services), to select the Consultant.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279C.110, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0240

Protest Procedures

(1) **RFP Protest and Request for Change.** Consultants may submit a written protest of anything contained in an RFP and may request a change to any provision, specification or Contract term contained in an RFP, no later than seven (7) calendar days prior to the date Proposals are due, unless a different deadline is indicated in the RFP. Each protest and request for change must include the reasons for the protest or request, and any proposed changes to the RFP provisions, specifications or Contract terms. The Contracting Agency may not consider any protest or request for change that is submitted after the submission deadline.

(2) **Protest of Consultant Selection.**

(a) **Single Award.** In the event of an award to a single Proposer, the Contracting Agency shall provide to all Proposers a copy of the selection notice that the Contracting Agency sent to the highest ranked Proposer. A Proposer who claims to have been adversely affected or aggrieved by the selection of the highest ranked Proposer may submit a written protest of the selection to the Contracting Agency no later than seven (7) calendar days after the date of the selection notice unless a different deadline is indicated in the RFP. A Proposer submitting a protest must claim that the protesting Proposer is the highest ranked Proposer because the Proposals of all higher ranked Proposers failed to meet the requirements of the RFP or because the higher ranked Proposers otherwise are not qualified to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP.

(b) **Multiple Award.** In the event of an award to more than one Proposer, the Contracting Agency shall provide to all Proposers copies of the selection notices that the Contracting Agency sent to the highest ranked Proposers. A Proposer who claims to have been adversely affected or aggrieved by the selection of the highest ranked Proposers may submit a written protest of the selection to the Contracting Agency no later than seven (7) calendar days after the date of the selection notices, unless a different deadline is indicated in the RFP. A Proposer submitting a protest must claim that the protesting Proposer is one of the highest ranked proposers because the Proposals of all higher ranked Proposers failed to meet the requirements of the RFP, or because a sufficient number of Proposals of higher ranked Proposers failed to meet the requirements of the RFP. In the alternative, a Proposer submitting a protest must claim that the Proposals of all higher ranked Proposers, or a sufficient number of higher ranked Proposers, are not qualified to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFP.

(c) **Effect of Protest Submission Deadline.** A Contracting Agency may not consider any protest that is submitted after the submission deadline.

(3) **Resolution of Protests.** A duly authorized representative of the Contracting Agency shall resolve all timely submitted protests within a reasonable time following the Contracting Agency's receipt of the protest and once resolved, shall promptly issue a written decision on the protest to the Proposer who submitted the protest. If the protest results in a change to the RFP, the Contracting Agency shall revise the RFP accordingly and shall re-advertise the RFP in accordance with these rules.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065 & 279C.110, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 19-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0250

Solicitation Cancellation, Delay or Suspension; Rejection of All Proposals or Responses; Consultant Responsibility For Costs

A Contracting Agency may cancel, delay or suspend a solicitation, RFQ or other preliminary Procurement document, whether related to a Direct Appointment Procedure (Rule 137-048-0200), the Informal Selection Procedure (Rule 137-048-0210), or the Formal Selection Procedure (Rule 137-048-0220), or reject all Proposals, responses to RFQs, responses to other preliminary Procurement documents, or any combination of the foregoing, if the Contracting Agency believes it is in the public interest to do so. In the event of any such cancellation, delay, suspension or rejection, the Contracting Agency is not liable to any Proposer for any loss or expense caused by or resulting from any such cancellation, delay, suspension or rejection. Consultants responding to either solicitations, RFQs or other preliminary Procurement documents are responsible for all costs they may incur in connection with submitting Proposals, responses to RFQs or responses to other preliminary Procurement documents.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065, 279C.110

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 19-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0260

Two-Tiered Selection Procedure when State Agency is Lead Contracting Agency

(1) If the Contracting Agency requires an Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services for a public improvement owned and maintained by that Local Contracting Agency, and a State Agency will serve as the lead Contracting Agency and will enter into Contracts with Architects, Photogrammetrists, Transportation Planners, Engineers or Land Surveyors for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services for that public improvement, Contracting Agency shall utilize the two-tiered selection process described below to obtain these Contracts with Architects, Engineers, Photogrammetrists, Transportation Planners, or Land Surveyors.

(2) Tier One. The State Contracting Agency shall, when feasible, identify no fewer than the three (3) most qualified Proposers responding to an RFP pursuant to its own rules or, if permitted by state, by these Division 48 rules applicable selection procedures described in from among Architects, Engineers, Photogrammetrists, Transportation Planners, or Land Surveyors, and shall notify Contracting Agency of the Architects, Engineers, Photogrammetrists, Transportation Planners, or Land Surveyors selected.

(3) Tier Two. In accordance with the qualifications based selection requirements of ORS 279C.110, Contracting Agency shall either:

(a) Select an Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor from the State Contracting Agency's list of Proposers to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services for Local Contracting Agency's public improvement; or

(b) Select an Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services for Local Contracting Agency's public improvement through an alternative process adopted by Contracting Agency, consistent with the provisions of the applicable RFP, if any, and these division 48 rules. Contracting Agency's alternative process must be described in the applicable RFP, may be structured to take into account the unique circumstances of Contracting Agency and may include provisions to allow Contracting Agency to perform its tier two responsibilities efficiently and economically, alone or in cooperation with other Local Contracting Agencies. Contracting Agency's alternative process may include, but is not limited to, one or more of the following methods:

(A) A general written direction from Contracting Agency to the State Contracting Agency, prior to the advertisement of a Procurement or series of Procurements or during the course of the Procurement or series of Procurements, that Contracting Agency's tier two selection shall be the highest-ranked firm identified by the State Contracting Agency during the tier one process, and that no further coordination or consultation with Contracting Agency is required. However, Contracting Agency may provide written notice to the State Contracting Agency that Contracting Agency's general written direction is not to be applied for a particular Procurement and describe the process that Contracting Agency will utilize for the particular Procurement. In order for a written direction from Contracting Agency consistent with this subsection to be effective for a particular Procurement, it must be received by the State Contracting Agency with adequate time for the State Contracting Agency to revise the RFP in order for Proposers to be notified of the tier

two process to be utilized in the Procurement. In the event of a multiple award under the terms of the applicable Procurement, the written direction from Contracting Agency may apply to the highest ranked firms that are selected under the terms of the Procurement document.

(B) An intergovernmental agreement between Contracting Agency and the State Contracting Agency outlining the alternative process that Contracting Agency has adopted for a Procurement or series of Procurements.

(C) Where multiple Local Government Agencies are involved in a two-tiered selection procedure, the Local Government Agencies may name one or more authorized representative(s) to act on behalf of all the Local Government Agencies, whether the Local Government Agencies are acting collectively or individually, to select the Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services under the tier two selection process. In the event of a multiple award under the terms of the applicable Procurement, the authorized representative(s) of the Local Contracting Agencies may act on behalf of the Local Contracting Agencies to select the highest ranked firms that are required under the terms of the Procurement document, as part of the tier two selection process.

(4) Contracting Agency or State shall thereafter begin Contract negotiations with the selected Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor in accordance with the negotiation provisions in Rule 137-048-0200 (Direct Appointment Procedure), 137-048-0210 (Informal Selection Procedure) or 137-048-0220 (Formal Selection Procedure) as applicable.

(5) Nothing in these division 48 rules should be construed to deny or limit Contracting Agency's ability to enter into a Contract directly with Architects, Engineers, Photogrammetrists, Transportation Planners, or Land Surveyors pursuant to ORS 279C.125(4), through a selection process established by Contracting Agency.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279C.110, 279C.125, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0270

Price Agreements

(1) Contracting Agency may establish Price Agreements for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services, when the Contracting Agency cannot determine the precise quantities of those Services which the Contracting Agency will require over a specified time period.

(2) When establishing Price Agreements under this rule, a Contracting Agency shall select no fewer than three Consultants, when feasible. The selection procedures for establishing Price Agreements shall be in accordance with Rule 137-048-0130(1) or 137-048-0130(2), as applicable. Contracting Agency may select a single Consultant, when a Price Agreement is awarded to obtain services for a specific Project or a closely-related group of Projects.

(3) Solicitation materials and the terms and conditions for a Price Agreement for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services must:

(a) Include a scope of services, menu of services, a specification for services or a similar description of the nature, general scope, complexity and purpose of the procurement that will reasonably enable a prospective bidder or Proposer to decide whether to submit a bid or proposal;

(b) Specify whether the Contracting Agency intends to award a Price Agreement to one Consultant or to multiple Consultants. If the Contracting Agency will award a Price Agreement to more than one Consultant, the solicitation document and Price Agreement shall describe the criteria and procedures the Contracting Agency will use to select a Consultant for each individual work order or task order. Subject to the requirements of ORS 279C.110, the criteria and procedures to assign work orders or task orders that only involve or predominantly involve Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying services are at the Contracting Agency's sole discretion; provided, however, in circumstances where a direct contract is not permitted under Rule 137-048-0200, the selection criteria cannot be based on pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the Services required, expenses, hourly rates and overhead. In accordance with Rule 137-048-0130(2) applicable to Related Services procurements, the selection criteria and procedures may be based solely on the qualifications of the Consultants, solely on pricing information, or a combination of both qualifications and pricing information. Pricing information may include the number of hours proposed for the Related Services required, expenses, hourly rates, overhead and other price factors. Work order or task order assignment procedures under Price Agreements may include direct appointments, subject to the requirements of Rule 137-048-0200; and

(c) Specify the maximum term for assigning Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services under the Price Agreement.

(4) All Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services assigned under a Price Agreement require a written work order or task order issued by the

Contracting Agency. Any work orders or task orders assigned under a Price Agreement must include, at a minimum, the following:

- (a) A clearly defined statement of work and schedule for any deliverables;
- (b) A maximum, not-to-exceed price or fixed price amount for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services specified and authorized under the work order or task order; and
- (c) Language that incorporates all applicable terms and conditions of the Price Agreement into the work order or task order.

Stat. Auth.: ORS 279A.065 & OL 2011, ch 458
Stats. Implemented: ORS 279A.065, 279C.110, 279C.120 & OL 2011, ch 458
Hist.: DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

POST-SELECTION CONSIDERATIONS

137-048-0300

Prohibited Payment Methodology; Purchase Restrictions

(1) Except as otherwise allowed by law, Contracting Agency shall not enter into any Contract which includes compensation provisions that expressly provide for payment of:

- (a) Consultant's costs under the Contract plus a percentage of those costs; or
- (b) A percentage of the Project construction costs or total Project costs.

(2) Except as otherwise allowed by law, Contracting Agency shall not enter into any Contract in which:

- (a) The compensation paid under the Contract is solely based on or limited to the Consultant's hourly rates for the Consultant's personnel working on the Project and reimbursable expenses incurred during the performance of work on the Project (sometimes referred to as a "time and materials" Contract); and
- (b) The Contract does not include a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract.

(3) Except in cases of Emergency or in the particular instances noted in the subsections below, Contracting Agency shall not purchase any building materials, supplies or equipment for any building, structure or facility constructed by or for Contracting Agency from any Consultant under a Contract with Contracting Agency to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services, for the building, structure or facility. This prohibition does not apply if either of the following circumstances exists:

- (a) The Consultant is providing Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services under a Contract with a Contracting Agency to perform Design-Build services or Energy Savings Performance Contract services (see Rules 137-049-0670 and 137-049-0680); or
- (b) That portion of the Contract relating to the acquisition of building materials, supplies or equipment was awarded to the Consultant pursuant to applicable law governing the award of such a Contract.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458
Stats. Implemented: ORS 279A.065, OL 2011, ch 458
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 19-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0310

Expired or Terminated Contracts; Reinstatement

(1) If Contracting Agency enters into a Contract for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services and that Contract subsequently expires or is terminated, the Contracting Agency may proceed as follows, subject to the requirements of subsection (2) of this rule:

(a) Expired Contracts. If the Contract has expired as the result of Project delay caused by the Contracting Agency or caused by any other occurrence outside the reasonable control of the Contracting Agency or the Consultant, and if no more than one year has passed since the Contract expiration date, the Contracting Agency may amend the Contract to extend the Contract expiration date, revise the description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract to reflect any material alteration of the Project made as a result of the delay, and revise the applicable performance schedule. Beginning on the effective date of the amendment, the Contracting Agency and the Consultant shall continue performance under the Contract as amended; or

(b) Terminated Contracts. If Contracting Agency or both parties to the Contract have terminated the Contract for any reason and if no more than one year has passed since the Contract termination date, then the Contracting Agency may enter into a new Contract with the same Consultant to perform the remaining Architectural, Engineering and Land Surveying Services, or Related Services not completed under the original Contract, or to perform any remaining

Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services not completed under the Contract as adjusted to reflect a material alteration of the Project.

(2) The Contracting Agency may proceed under either subsection (1)(a) or subsection (1)(b) of this rule only after making written findings that amending the existing Contract or entering into a new Contract with the Consultant will:

(a) Promote efficient use of public funds and resources and result in substantial cost savings to the Contracting Agency;

(b) Protect the integrity of the Public Contracting process and the competitive nature of the Procurement process by not encouraging favoritism or substantially diminishing competition in the award of Contracts; and

(c) Result in a Contract that is still within the scope of the final form of the original Procurement document.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065 & 279C.110, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-048-0320

Contract Amendments

(1) A Contracting Agency may amend any Contract if the Contracting Agency, in its sole discretion, determines that the amendment is within the scope of the Solicitation Document and that the amendment would not materially impact the field of competition for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the final form of the original Procurement document. In making this determination, the Contracting Agency shall consider potential alternative methods of procuring the services contemplated under the proposed amendment. An amendment would not materially impact the field of competition for the services described in the Solicitation Document if the Contracting Agency reasonably believes that the number of Proposers would not significantly increase if the Procurement document were re-issued to include the additional services.

(2) The Contracting Agency may amend any Contract if the additional services are required by reason of existing or new laws, rules, regulations or ordinances of federal, state or local agencies, which affect performance of the original Contract.

(3) All amendments to Contracts must be in writing, must be signed by an authorized representative of the Consultant and the Contracting Agency and must receive all required approvals before the amendments will be binding on the Contracting Agency.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065, 279C.110, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 19-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

thirty Days after the Contractor submitted a claim for payment to the Contracting Agency in Writing or otherwise in accordance with the Contract requirements.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.570.

137-049-0850

Final Inspection

(1) **Notification of Completion; inspection.** The Contractor shall notify the Contracting Agency in Writing when the Contractor considers the Contract Work completed. Within 15 Days of receiving Contractor's notice, the Contracting Agency will inspect the project and project records, and will either accept the Work or notify the Contractor of remaining Work to be performed.

(2) **Acknowledgment of acceptance.** When the Contracting Agency finds that all Work required under the Contract has been completed satisfactorily, the Contracting Agency shall acknowledge acceptance of the Work in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.570(8)

137-049-0860

Public Works Contracts

(1) **Generally.** ORS 279C.800 to 279C.870 regulates Public Works Contracts, as defined in 279C.800(6), and requirements for payment of prevailing wage rates. Also see administrative rules of the Bureau of Labor and Industries (BOLI) at OAR chapter 839.

(2) **Required Contract Conditions.** As detailed in the above statutes and rules, every Public Works Contract must contain the following provisions:

(a) Contracting Agency authority to pay certain unpaid claims and charge such amounts to Contractors, as set forth in ORS 279C.515(1).

(b) Maximum hours of labor and overtime, as set forth in ORS 279C.520(1).

(c) Employer notice to employees of hours and days that employees may be required to work, as set forth in ORS 279C.520(2).

(d) Contractor required payments for certain services related to sickness or injury, as set forth in ORS 279C.530.

(e) A requirement for payment of prevailing rate of wage, as set forth in ORS 279C.830(1). If both state and federal prevailing rates of wage apply, the contract and every subcontract must provide that all workers must be paid the higher of the applicable state or federal prevailing rate of wage.

(f) A requirement for filing a public works bond by contractor and every subcontractor, as set forth in ORS 279C.830(2).

(3) **Requirements for Specifications.** The Specifications for every Public Works Contract, consisting of the procurement package (such as the project manual, Bid or Proposal booklets, request for quotes or similar procurement Specifications), must contain the following provisions:

(a) The state prevailing rate of wage, and, if applicable, the federal prevailing rate of wage, as required by ORS 279C.830(1)(a):

(A) Physically contained within or attached to hard copies of procurement Specifications;

(B) Included by a statement incorporating the applicable wage rate publication into the Specifications by reference, in compliance with OAR 839-025-0020; or, (iii) when the rates are available electronically or by Internet access, the rates may be incorporated into the Specifications by referring to the rates and providing adequate information on how to access them in compliance with OAR 839-025-0020.

(b) If both state and federal prevailing rates of wage apply, a requirement that the contractor shall pay the higher of the applicable state or federal prevailing rate of wage to all workers. See BOLI rules at OAR 839-025-0020 and 0035.

(c) A requirement for filing a public works bond by contractor and every subcontractor, as set forth in ORS 279C.830(2).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.800 - 279C.870, OL 2011, ch 458

Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 19-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 10-2011, f. 11-29-11, cert. ef. 1-1-12

137-049-0870

Specifications; Brand Name Products

(1) **Generally.** The Contracting Agency's Solicitation Document shall not expressly or implicitly require any product by brand name or mark, nor shall it require the product of any particular manufacturer or seller, except pursuant to an exemption granted under ORS 279C.345(2).

(2) **Equivalents.** A Contracting Agency may identify products by brand names so long as the following language: "approved equal"; "or equal"; "approved equivalent" or "equivalent," or similar language is included in the Solicitation Document. The Contracting Agency shall determine, in its sole discretion, whether an Offeror's alternate product is "equal" or "equivalent."

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.345

137-049-0880

Records Maintenance; Right to Audit Records

(1) **Records Maintenance; Access.** Contractors and subcontractors shall maintain all fiscal records relating to Contracts in accordance with generally accepted accounting principles ("GAAP"). In addition, Contractors and subcontractors shall maintain all other records necessary to clearly document (i) their performance; and (ii) any claims arising from or relating to their performance under a Public Contract. Contractors and subcontractors shall make all records pertaining to their performance and any claims under a Contract (the books, fiscal records and all other records, hereafter referred to as "Records") accessible to the Contracting Agency at reasonable times and places, whether or not litigation has been filed as to such claims.

(2) **Inspection and Audit.** A Contracting Agency may, at reasonable times and places, have access to and an opportunity to inspect, examine, copy, and audit the Records of any Person that has submitted cost or pricing data according to the terms of a Contract to the extent that the Records relate to such cost or pricing data. If the Person must provide cost or pricing data under a Contract, the Person shall maintain such Records that relate to the cost or pricing data for 3 years from the date of final payment under the Contract, unless a shorter period is otherwise authorized in Writing.

(3) **Records Inspection; Contract Audit.** The Contracting Agency, and its authorized representatives, shall be entitled to inspect, examine, copy, and audit any Contractor's or subcontractor's Records, as provided in section 1 of this rule. The Contractor and subcontractor shall maintain the Records and keep the Records accessible and available at reasonable times and places for a minimum period of 3 years from the date of final payment under the Contract or subcontract, as applicable, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later, unless a shorter period is otherwise authorized in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.030, ORS 279C.375, ORS 279C.380 & ORS 279C.440

137-049-0890

Contracting Agency Payment for Unpaid Labor or Supplies

(1) **Contract incomplete.** If the Contract is still in force, the Contracting Agency may, in accordance with ORS 279C.515(1), pay a valid claim to the Person furnishing the labor or services, and charge the amount against payments due or to become due to the Contractor under the Contract. If a Contracting Agency chooses to make such a payment as provided in ORS 279C.515(1), the Contractor and the Contractor's surety shall not be relieved from liability for unpaid claims.

(2) **Contract completed.** If the Contract has been completed and all funds disbursed to the prime Contractor, all claims shall be referred to the Contractor's surety for resolution. The Contracting Agency shall not make payments to subcontractors or suppliers for Work already paid for by the Contracting Agency.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.515

137-049-0900

Contract Suspension; Termination Procedures

(1) **Suspension of Work.** In the event a Contracting Agency suspends performance of Work for any reason considered by the Contracting Agency to be in the public interest other than a labor dispute, the Contractor shall be entitled to a reasonable extension of Contract time, and to reasonable compensation for all costs, including a reasonable allowance for related overhead, incurred by the Contractor as a result of the suspension.

(2) **Termination of Contract by mutual agreement for reasons other than default.**

- (a) Reasons for termination. The parties may agree to terminate the Contract or a divisible portion thereof if:
- (A) The Contracting Agency suspends Work under the Contract for any reason considered to be in the public interest (other than a labor dispute, or any judicial proceeding relating to the Work filed to resolve a labor dispute); and
 - (B) Circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the Work.
- (b) Payment. When a Contract, or any divisible portion thereof, is terminated pursuant to this section (2), the Contracting Agency shall pay the Contractor a reasonable amount of compensation for preparatory Work completed, and for costs and expenses arising out of termination. The Contracting Agency shall also pay for all Work completed, based on the Contract Price. Unless the Work completed is subject to unit or itemized pricing under the Contract, payment shall be calculated based on percent of Contract completed. No claim for loss of anticipated profits will be allowed.
- (3) **Public interest termination by Contracting Agency.** A Contracting Agency may include in its Contracts terms detailing the circumstances under which the Contractor shall be entitled to compensation as a matter of right in the event the Contracting Agency unilaterally terminates the Contract for any reason considered by the Contracting Agency to be in the public interest.
- (4) **Responsibility for completed Work.** Termination of the Contract or a divisible portion thereof pursuant to this rule shall not relieve either the Contractor or its surety of liability for claims arising out of the Work performed.
- (5) **Remedies cumulative.** The Contracting Agency may, at its discretion, avail itself of any or all rights or remedies set forth in these rules, in the Contract, or available at law or in equity.
- (6) Application of this rule does not apply to suspension of the work or termination of the Contract as a result of Contractor's violation of any provision of law or Contract term.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.650, ORS 279C.326, ORS 279C.655, ORS 279C.660, ORS 279C.665 & ORS 279C.670

137-049-0910

Changes to the Work and Contract Amendments

(1) **Definitions for Rule.** As used in this rule:

- (a) **"Amendment"** means a Written modification to the terms and conditions of a Public Improvement Contract, other than by Changes to the Work, within the general scope of the original Procurement that requires mutual agreement between the Contracting Agency and the Contractor.
- (b) **"Changes to the Work"** means a mutually agreed upon change order, or a construction change directive or other Written order issued by the Contracting Agency or its authorized representatives to the Contractor requiring a change in the Work within the general scope of a Public Improvement Contract and issued under its changes provisions in administering the Contract and, if applicable, adjusting the Contract Price or contract time for the changed work.

(2) **Changes Provisions.** Changes to the Work are anticipated in construction and, accordingly, Contracting Agencies shall include changes provisions in all Public Improvement Contracts that detail the scope of the changes clause, provide pricing mechanisms, authorize the Contracting Agency or its authorized representatives to issue Changes to the Work and provide a procedure for addressing Contractor claims for additional time or compensation. When Changes to the Work are agreed to or issued consistent with the Contract's changes provisions they are not considered to be new Procurements and an exemption from competitive bidding is not required for their issuance by Contracting Agencies.

(3) **Change Order Authority.** Contracting Agencies may establish internal limitations and delegations for authorizing Changes to the Work, including dollar limitations. Dollar limitations on Changes to the Work are not set by these Rules, but such changes are limited by the above definition of that term.

(4) **Contract Amendments.** Contract Amendments within the general scope of the original Procurement are not considered to be new Procurements and an exemption from competitive bidding is not required in order to add components or phases of Work reasonably related to the work described in the Solicitation Document. Amendments to a Public Improvement Contract may be made only when:

- (a) They are within the general scope of the original Procurement;
- (b) The field of competition and Contractor selection would not likely have been affected by the Contract modification. Factors to be considered in making that determination include similarities in Work, project site, relative dollar values, differences in risk allocation and whether the original Procurement was accomplished through Competitive Bidding, Competitive Proposals, competitive quotes, sole source or Emergency contract;
- (c) In the case of a Contract obtained under an Alternative Contracting Method, any additional Work was specified or reasonably implied within the findings supporting the competitive bidding exemption; and
- (d) The Amendment is made consistent with applicable legal requirements.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065 & ORS 279C.400(1)

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **9. d**

Council Hearing Date: June 11, 2012

Department: Administration
& Finance

Contact/Title: Jodi Fritts, CA
Email: jfritts@goldbeachoregon.gov

**TITLE: Resolution R1112-36 adopting supplemental budget for
FY 11-12**

SUMMARY AND BACKGROUND:

As mention during the public hearing portion, a supplemental budget is needed to move appropriations between line items.

FINANCIAL IMPACT:

Overall, no impact as the supplemental items are not appropriating addition funds

DOCUMENTS ATTACHED:

- Resolution R1112-36, a resolution adopting a supplemental budget, making and transferring appropriations

REQUESTED MOTION/ACTION:

A motion to adopt/reject R1112-36

Sample Motion: I move that the Council adopt resolution R1112-36: a resolution adopting a supplemental budget and making and transferring appropriations.

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council

RESOLUTION R1112-36

A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET, MAKING AND TRANSFERRING APPROPRIATIONS

WHEREAS, changes have occurred throughout fiscal year 2011-2012 that necessitate transferring appropriations within the adopted budget; and

WHEREAS, notice was given of the supplemental budget hearing as required by Oregon Budget Law by publishing in the local newspaper and on the City's website; and

WHEREAS, the proposed supplemental budget has been available for review at City Hall as required by Oregon Budget Law.

NOW, THEREFORE, BE IT RESOLVED that the City of Gold Beach City Council hereby adopts the supplemental budget appropriations for fiscal year 2011-2012 attached as EXHIBIT A.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 11th DAY OF JUNE 2012.

SIGNED BY:

James H. Wernicke, Mayor

ATTEST:

Candy Cronberger, City Recorder

EXHIBIT A

FISCAL YEAR 2011-2012 SUPPLEMENTAL BUDGET AND APPROPRIATIONS

NOTICE OF SUPPLEMENTAL BUDGET HEARING

A public hearing on a proposed supplemental budget for The City of Gold Beach for the fiscal year July 1, 2011, to June 30, 2012, will be held at Gold Beach City Council Chambers on June 11, 2012, at 6:30PM.

The purpose of the hearing is to discuss the supplemental budget with interested persons. A copy of the supplemental budget document may be inspected or obtained on or after May 30, 2012 at the City of Gold Beach Administrative/Finance Office, between the hours of 8AM and 5PM. City Hall is located at 29592 Ellensburg Avenue, Gold Beach.

SUMMARY OF SUPPLEMENTAL BUDGET

FUND: GENERAL

Resource	Amount	GL #	GL #	Expenditure	Amount
1 Support Specialist	\$4,000	10-43-112	10-40-510	1 Capital Outlay Software	\$4,000
2 Admin Services Director	\$30,000	10-43-120	10-43-113	2 City Recorder	\$30,000
3 Support Specialist	\$5,000	10-43-112	10-43-295	3 Contract Services	\$10,000
3 Admin Services Director	\$5,000				
4 Patrol Officer	\$25,000	10-54-120	10-54-545	4 Capital Outlay PD Vehicle	\$36,000
4 Medical Insurance	\$11,000	10-54-133			
5 Resurface Tennis Courts	\$5,000	10-64-530	10-64-291	5 Contract Services Buff Park	\$5,000
6 Medical Insurance	\$6,100	10-43-133	10-40-220	6 Insurance & Bonding	\$6,100
7 Contingency	\$15,000	10-40-415	10-40-260	7 Legal Services	\$15,000
Revised Total Resources	\$106,100			Revised Total Requirements	\$106,100

Comments:

- 1 Reduce Support Specialist line item and increase Software Capital Outlay for purchase of fixed asset module of finance software
- 2 Reduce ASD line and increase City Recorder line due to personnel reorganization in Admin/Finance Office
- 3 Reduce ASD & Support Specialist lines and increase Contract Services for approved Urban Renewal Feasibility study
- 4 Reduce partially unfilled Patrol position and Medical Insurance for unanticipated vehicle purchase
- 5 Reduce tennis court resurface and increase Contract Services for improved park mtc contract
- 6 Reduce CM medical insurance and increase Insurance & Bonding due to higher actual P/L insurance costs
- 7 Reduce Contingency and increase Legal Services due to actual legal costs

FUND: BUILDING RESERVE FUND

Resource	Amount	GL #	GL #	Expenditure	Amount
1 Contingency	\$7,100	93-40-415	93-40-561	1 City Hall Expenditures	\$2,000
			93-40-570	1 Visitor Center Expenditures	\$5,100
Revised Total Resources	\$7,100			Revised Total Requirements	\$7,100

Comments:

- 1 Reduce Contingency and increase City Hall expenditures for security upgrades (reimbursable by grant) and Visitor Center expenditures for unanticipated building repairs (windows and heat pump)

FUND: WATER UTILITY AND WATER DEPOSIT RESERVE FUNDS

Resource	Amount	GL #	GL #	Expenditure	Amount
1 Transfer to Water Deposit Reserve	\$150,000	22-41-716	97-39-120	1 Transfer from Water Utility	\$150,000
Revised Total Resources	\$150,000			Revised Total Requirements	\$150,000

Comments:

- 1 Created Water Deposit Reserve Fund but did not make a transfer line to move the deposits to new fund

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **9. d**

Council Hearing Date: June 11, 2012

Department: Administration
& Finance

Contact/Title: Jodi Fritts, CA
Email: jfritts@goldbeachoregon.gov

TITLE: Resolution R1112-37 Street/Sewer Reserve Interfund Loan

SUMMARY AND BACKGROUND:

As discussed and approved at the Budget Hearings, the Street Division of the Public Works Department is in dire need of a new street sweeper. The Street fund does not have sufficient funds to purchase the sweeper outright. An interfund loan was discussed and approved by the Budget Committee.

ORS 294.468 permits interfund loans under certain conditions if the City adopts an ordinance or resolution approving the loan.

FINANCIAL IMPACT:

The City will save interest payments by loaning the money between funds

DOCUMENTS ATTACHED:

- Resolution R1112-37: a resolution authorizing an interfund loan between the street fund and the sewer reserve fund
- Copy of ORS 294.468: Loans from one fund to another

REQUESTED MOTION/ACTION:

A motion to adopt/reject R1112-37

Sample Motion: I move that the Council adopt resolution R1112-37: a resolution authorizing an interfund loan between the street fund and the sewer reserve fund.

COPY OF REPORT AND ATTACHMENTS SENT TO:
Council

RESOLUTION R1112-37

A RESOLUTION AUTHORIZING AN INTERFUND LOAN BETWEEN THE STREET FUND AND THE SEWER RESERVE FUND

WHEREAS, the Street Division of the Public Works Department is in need of a new street sweeper; and

WHEREAS, the purchase of the street sweeper was discussed at the FY 2012-2013 Budget Committee meetings and approved by the Budget Committee; and

WHEREAS, the Street Fund does not have sufficient liquid assets to purchase the vehicle outright; and

WHEREAS, ORS 294.468 permits interfund loans contingent upon adopting a ordinance or resolution to authorize the loan; and

WHEREAS, the Sewer Reserve Fund has sufficient liquid assets to loan to the Street Fund.

NOW, THEREFORE, BE IT RESOLVED that the City of Gold Beach City Council hereby authorizes an interfund loan between the Sewer Reserve Fund and the Street Fund in the amount of \$150,000 to be paid back in five (5) annual installments with an interest rate of 1%. The first payment will be due in FY 2013-2014. A loan amortization schedule is attached as EXHIBIT A.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 11th DAY OF JUNE 2012.

SIGNED BY:

James H. Wernicke, Mayor

ATTEST:

Candy Cronberger, City Recorder

Loan Amortization Schedule

EXHIBIT A RESOLUTION R1112-37

Enter values	
Loan amount	\$ 150,000.00
Annual interest rate	1.00 %
Loan period in years	5
Number of payments per year	1
Start date of loan	7/1/2013
Optional extra payments	\$ -

Loan summary	
Scheduled payment	\$ 30,905.97
Scheduled number of payments	5
Actual number of payments	5
Total early payments	\$ -
Total interest	\$ 4,529.85

Lender name:

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Extra Payment	Total Payment	Principal	Interest	Ending Balance	Cumulative Interest
1	7/1/2014	\$ 150,000.00	\$ 30,905.97	\$ -	\$ 30,905.97	\$ 29,405.97	\$ 1,500.00	\$ 120,594.03	\$ 1,500.00
2	7/1/2015	120,594.03	30,905.97	-	30,905.97	29,700.03	1,205.94	90,894.00	2,705.94
3	7/1/2016	90,894.00	30,905.97	-	30,905.97	29,997.03	908.94	60,896.97	3,614.88
4	7/1/2017	60,896.97	30,905.97	-	30,905.97	30,297.00	608.97	30,599.97	4,223.85
5	7/1/2018	30,599.97	30,905.97	-	30,599.97	30,293.97	306.00	0.00	4,529.85

294.468 Loans from one fund to another; commingling cash balances of funds. (1) It shall be lawful to loan money from any fund to any other fund of the municipal corporation whenever the loan is authorized by official resolution or ordinance of the governing body. The loans shall be made in compliance with the applicable requirements and limitations of this section. Loans made under this section shall not be made from:

(a) Debt service reserve funds created to provide additional security for outstanding bonds or other borrowing obligations that the municipal corporation has covenanted with the holders of such bonds or other borrowing obligations to maintain at certain specified levels. However, nothing in this paragraph is intended or shall be construed to prohibit loans from any such debt service reserve fund to the extent that the aggregate outstanding amount of the loans does not exceed the amount by which the amount in such debt service reserve fund exceeds the amount the municipal corporation has covenanted to maintain in the reserve fund with the holders of the related bonds or other borrowing obligations;

(b) Debt service funds created to account for moneys needed to make annual debt service payments on outstanding bonds or other borrowing obligations; or

(c) Moneys credited to any fund when, under applicable constitutional provisions, the moneys are restricted to specific uses unless the purpose for which the loan is to be made is a use allowed under such constitutional provisions.

(2) The resolution or ordinance authorizing any interfund loan permitted under this section shall:

(a) State the fund from which the loan is to be made, the fund to which the loan is to be made, the purpose for which the loan is to be made and the principal amount of the loan.

(b) If the interfund loan is a capital loan, set forth a schedule under which the principal amount of the loan, together with interest thereon at the rate provided for in paragraph (c)(B) of this subsection, is to be budgeted and repaid to the lending fund. The schedule shall provide for the repayment in full of the loan over a term not to exceed 10 years from the date the loan is made.

(c) If the interfund loan is a capital loan, provide that the loan shall bear interest at an annual rate equal to:

(A) The rate of return on moneys invested in the local government investment pool under ORS 294.805 to 294.895, as reported under ORS 294.875, immediately prior to the adoption of the ordinance or resolution authorizing the loan; or

(B) Such other rate as the governing body may determine.

(d) If the interfund loan is an operating loan, provide that the money loaned shall be budgeted and repaid to the fund from which the money was borrowed by the end of the ensuing year or ensuing budget period.

(3) The payment of any operating loans not repaid in the year or budget period in which the operating loan was made shall be budgeted as a requirement in the ensuing year or ensuing budget period.

(4) It shall be lawful to commingle cash balances of funds so long as all such fund moneys are segregated in the budget and accounting records.

(5) As used in this section:

(a) "Capital loan" means any interfund loan, or portion thereof, made for the purpose of financing the design, acquisition, construction, installation or improvement of real or personal property and not for the purpose of paying operating expenses.

(b) "Operating loan" means any interfund loan, or portion thereof, that is not a capital loan, including any interfund loan, or portion thereof, made for the purpose of paying operating expenses. [Formerly 294.460]

MISC ITEMS

**GOLD BEACH CITY COUNCIL
AGENDA REPORT**



Agenda Item No. **10. a**

Council Hearing Date: June 11, 2012

Department: Public Works

Contact/Title: Jodi Fritts, CA

Email: jfritts@goldbeachoregon.gov

TITLE: Discussion of FOG enforcement

SUMMARY AND BACKGROUND:

FOG stands for Fat, Oil and Grease. Commercial and Industrial sewer users are required to have what is referred to as a Grease Trap on their drains in order to prevent FOG from entering the sewer system and causing harm.

The City first study this problem in 2007 and in 2009 discuss with the various restaurants and commercial kitchens in town the need to come into compliance with DEQ requirements for discharge to our wastewater system. The City did not aggressively pursue enforcement due the needed improvements to our wastewater system at that time. However, the new plant will be going online in approximately 12 months and we need to start the process of compliance.

Attached is the Industrial User Report prepared in 2007 by Dyer Partnership. The report briefly explains the issue. There are several issues related to compliance which we should discuss and then plan for compliance.

FINANCIAL IMPACT:

Potential adverse impacts to infrastructure and possible LID like funding for users

DOCUMENTS ATTACHED:

- 2007 Industrial User Report
- Model FOG policy from CIS (having Lauren review)

REQUESTED MOTION/ACTION:

Direction on how to proceed with compliance enforcement

COPY OF REPORT AND ATTACHMENTS SENT TO:

Council & Public Works

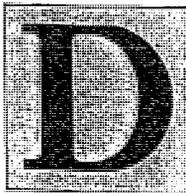
City of Gold Beach
Curry County, Oregon

Industrial User
Report



June 2007

Project No. 119.00



The Dyer Partnership
Engineers & Planners, Inc.

1330 Teakwood Avenue
Coos Bay, Oregon 97420
(541) 269-0732 Fax (541) 269-2044
www.dyerpart.com

City of Gold Beach

Industrial User Report

Existing Wastewater Facilities

The existing wastewater facilities in the City of Gold Beach consist of two major components: wastewater conveyance system and wastewater treatment plant (WWTP). The original conveyance system was constructed in 1950, with major upgrades in 1964 and 1995. The original WWTP was built in 1950 with major upgrades in 1973 and 1994. A description of these facilities is provided below.

Wastewater Conveyance System

The existing conveyance system consists of about twelve miles of sewer pipelines, 261 manholes, and six pump stations. The pipelines consist of a mixture of conventional, pressure and variable grade sewer lines ranging from 4-inch in diameter to 15-inch diameter. The pump stations range from packaged pump stations serving neighborhoods in the south of Gold Beach to wetwell-drywell stations serving the northwest section of the City. Several private pump stations serve single sites, such as local motels, parks, and campgrounds, and are not included as part of the public system. The total service area for the sanitary collection system is approximately 1,400 acres.

The collection system has historically had problems with gravel and grease accumulations creating restricted flow. Recent rehabilitation work is expected to reduce the amount of gravel in the system, leaving grease as the major problem in the collection system. Rags and debris from the Curry County Jail create isolated problems with line restrictions.

Wastewater Treatment Facilities

The City of Gold Beach built the original treatment plant and collection system in 1951. The original WWTP facility was upgraded from primary treatment only, to an activated sludge treatment facility in 1974, with the addition of a donut style plant. The new plant included a central secondary clarifier, surrounded by an aeration basin and digester. The facility was upgraded again in 1994 with the addition of effluent drain fields and filters. The existing effluent outfall to Riley Creek was converted into an emergency overflow for the WWTP. Effluent discharges are not

Table 1
Potential Industrial Accounts

Food Service		Other	
Category	No. Accounts	Category	No. Accounts
Restaurant	15	Service Station	2
In-store Deli	2	Auto Repair	2
Jail	1	Repair Services	3
Hospital	1	Medical/Dental	8
School Kitchen	2	Veterinary	3
Senior Center	1	Fabrication	2
Event Center	1	Misc.	2
Total Food Service	23	Total Other	22

Note: The Hospital is counted both in the food service accounts and in medical, although there is only one service account.

User Survey

Each Food Service account was given a survey to fill out detailing the seating capacity, whether they provided take out service, and the size and servicing frequency of their grease trap. Each Other account was surveyed by staff as to what wastes were discharged into the system and what pretreatment was used.

It was determined through the survey process that the 23 food service accounts, the hospital laboratory, and the two fabrication facilities were the only accounts that contributed materials in a quantity and of a type that could negatively impact the collection and treatment systems. The remaining accounts discharged domestic wastes only or a negligible amount of other materials.

The Food Service accounts discharge both a higher strength wastewater and significant amounts of grease. Of the 23 Food Service facilities, only seven have grease traps/interceptors.

Freeman Marine is a metal fabrication facility. The facility has a sedimentation tank to settle metal particles from the wastewater. A local sewage disposal company services the tank with the solids disposed of in a landfill. Rush Optical is a small optical device fabrication facility. At this time, the facility discharges mainly domestic waste and a small amount of cleaning solutions with no pretreatment. Expanded operations at this facility would require a reassessment of materials discharged.

The results of the survey are included in the attached spreadsheets.

Recommended Follow Up

The City wastewater ordinance currently prohibits discharges of materials that adversely affect the sewer collection or treatment systems.

Survey Results

Grease

Grease Traps: All food service facilities that do not have a grease trap will be sent a letter in July 2007 requiring them to install a properly sized grease trap. The letter will allow two years for existing facilities to complete the installation. City policy requires that all new food service facilities install grease traps prior to connecting to the sewer system. Existing grease traps are required to be serviced as needed to maintain protection of the sewer system.

Grease Disposal: The Wastewater Facilities Plan includes a recommendation to install a biodiesel converter at the wastewater plant. Grease collected from local restaurants and combined with petroleum products would be used to fuel a boiler for pasteurizing the sludge from the treatment plant. Food service facilities will be required to sign an agreement to dispose of the used grease through the City.

Documentation

All users that were identified in the survey as "Minor Industrial Users" will be sent a waste discharge permit form. (See attached sample) The form will be kept on file and the permit will expire every three years to provide an opportunity to track changes in discharges by the users.

disinfected. The existing plant was designed for an average daily flow of 0.28 MGD and a peak hourly flow of 0.86 MGD with a treatment capacity of 760 pounds per day of BOD. The actual year 2004 flows to the facility are estimated at an average daily flow of 0.29 MGD and a peak daily flow of 2.6 MGD.

The City of Gold Beach operates its wastewater treatment plant (WWTP) under the authority of a Water Pollution Control Facility (WPCF) Permit, No. 101622. A mutual agreement and order (MAO) was signed by The City and DEQ in August 2002 to address permit violations caused by influent levels above the design capacity of the WWTP.

Grease is the main problem for the treatment system, as it is in the collection system. Grease in the influent passes through the treatment process and floats in the clarifier and the digesters creating odor problems and coating equipment.

Wastewater Loads

The City of Gold Beach has a base population of about 1,800 full time residents. The area draws a large transient tourist population in the summer and fall that double the population to about 3,600. Approximately half of the sewer use is estimated to be from commercial users, with restaurants and the lodging industry making up the majority of the non-residential use. The remaining commercial uses are for retail, office, medical/dental, and support repair services such as automobile repair. There are only two manufacturing firms on the municipal system. None of the businesses connected to the wastewater system met the EPA significant industrial user definition for either flow or materials discharged.

Nonresidential Connections

For this report, the baseline was a complete list of all non-residential sewer accounts. All accounts that were known to produce domestic wastes only, such as office, lodging without restaurants, and non-food retail, were removed from the list. The remaining accounts were divided into two categories, Food Service and Other. The Food Service category includes restaurants, in-store deli services, the jail, the hospital cafeteria, the senior center, and the school district main kitchen. The Other category includes medical, veterinary, fabrication, automotive, and repair services. A summary of the accounts is given below in Table 1.

CITY OF GOLD BEACH WASTEWATER
INDUSTRIAL USER SURVEY
JUNE, 6, 2007

Other Potential Industrial Users

ID #	EPA CODE	NAME	SERVICE ADDRESS	SIC Code	Business Type	Monthly Use Gallons	Waste Type
458	3	EY'S HI TECH AUTO-TOWING	29719 ELLENSBURG AVE.	7539-26	Auto Repair	26742	Domestic waste, no floor drain
44	3	JERRY'S ROGUE JET	29985 HARBOR WAY	4489-02	Boat Excursions	69142	Domestic waste
914	3	GOLD BEACH PLUMBING	29881 HARBOR WAY	1711-05	Plumbing Contractor	6875	Domestic waste
1321	3	GOLD BEACH GLASS	29824 AIRPORT WAY	5231-10	Glass Shop	4842	Domestic waste
284	3	PORT OF GOLD BEACH	29866 AIRPORT WAY	4581-06	Airport terminal	7450	Domestic waste
290	3	CURRY COUNTY ANIMAL SHELTER	29921 AIRPORT WAY	0752-03	Animal Shelter	15633	Domestic, some animal waste
776	3	SEAVIEW GLASS	29761 ELLENSBURG AVE.	5231-10	Glass Shop	825	Domestic waste
516	3	GOLD BEACH VETERINARY CLINIC	94211 THIRD ST.	0742-01	Veterinary Clinic	2025	Domestic, some animal waste
1397	3	BROOKINGS HARBOR FAMILY P C	94239 FOURTH ST.	8011-01	Medical Clinic	708	Domestic waste
938	3	DR DRUZDEL MD	94241 FOURTH ST.	8011-01	Medical Clinic	375	Domestic waste
645	3	EYE CENTER OF GOLD BEACH	94225 FOURTH ST.	8011-11	Eye Clinic	5717	Domestic waste
1239	3	TOWN & COUNTRY ANIMAL CLINIC	29641 ELLENSBURG AVE.	0742-01	Veterinary Clinic	367	Domestic/ dye used for lab testing
654	3	RON'S OIL CO #8	29597 ELLENSBURG AVE.	5541-01	Gasoline Service Station	8850	Domestic waste
659	2	D&J SHELL	29619 ELLENSBURG AVE.	5541-01	Gasoline Service Station	26325	Domestic, food reheating
952	2	FREEMAN MARINE EQUIPMENT	28336 HUNTER CREEK RD	1791-04	Marine Equip/Fabrication	45575	Pretreatment settling tank
373	2	DR RUSH OPTICAL	29692 ELLENSBURG AVE	3851-03	Optical Manufacture	28483	Cleaning chemicals from processing
322	3	CURRY COUNTY HEALTH DEPT	94235 MOORE STREET	8062-01	Public Health Clinic	13875	Domestic waste
791	3	DR. WESTFALL DMD	94223 FOURTH AVE	8021-01	Dentist	4125	Domestic waste
920	3	DR. LIEM DMD	29814 N ELLENSBURG AVE.	8021-01	Dentist	4208	Domestic waste
82	3	PRECISION PERFORMANCE	94180 SEVENTH AVE	7539-26	Auto Repair	1875	Domestic/no pit drains
899	2	NORTH BEND MEDICAL CENTER	94180 SECOND AVE.	8011-01	Medical Clinic w/ lab	6583	Medical Laboratory Chemicals
52	2	CURRY GENERAL HOSPITAL	94220 FOURTH ST.	8071-01	Hospital Laboratory	152667	Medical Laboratory Chemicals

EPA Code

- 1 Significant Industrial User
- 2 Minor Industrial User
- 3 Insignificant Industrial User

CITY OF GOLD BEACH WASTEWATER
INDUSTRIAL USER SURVEY
JUNE, 6, 2007

Food Service

ID #	EPA CODE	NAME	SERVICE ADDRESS	SIC Code	Business Type	Monthly Use Gallons	Seating Capacity	Take Out	Grease Trap Y/N	Grease Trap Size	Service Frequency Months
1182	2	GOLD BEACH BOOKS	29707 ELLENSBURG AVE.	5812-28	Coffee Shop	36042	26	Yes	Yes	20	1
886	2	SEA STAR BAR & GRILL	29745 ELLENSBURG AVE.	5813-01	Tavern/Restaurant	18158	50	Yes	Yes	20	3
83	2	PAUL BUNYANS	29805 ELLENSBURG AVE.	5812-08	Fast Food Restaurant	11150	49	Yes	No		
178	2	CROWS NEST TAVERN INC.	29850 ELLENSBURG AVE.	5813-01	Tavern/Restaurant	13825	50	Yes	No		
259	2	NORWESTER THE	29971 HARBOR WAY	5812-08	Seafood Restaurant	15208	70	Yes	No		
234	2	SENIOR CENTER	29841 AIRPORT WAY	8361-01	Senior Activity Center	9633	180	Yes	No		
1035	2	GRANTS PANCAKE & OMELETTE	29790 ELLENSBURG AVE.	5812-08	Restaurant	52750	150	Yes	Yes	750	3
318	2	WONGS CAFÉ	29775 ELLENSBURG AVE.	5812-08	Restaurant	10983	38	Yes	Yes	20	1.5
509	2	CURRY COUNTY	29821 COLVIN ST.	9221-04	Courthouse & Jail	169208	N/A	No	No		
718	2	MCKAYS MARKET	29656 ELLENSBURG AVE.	5411-05	Market & Deli	61417	N/A	Yes	Yes	20	1
1031	2	RILEY CREEK SCHOOL	94350 SIXTH ST.	8211-03	School Cafeteria	39458	261	No	No		
1168	2	DIANES PRESCHOOL	94215 SIXTH ST.	8351-02	Preschool	4942		No	No		
163	2	WEBSTERS DAIRY QUEEN	29565 ELLENSBURG AVE.	5812-08	Fast Food Restaurant	19525	50	Yes	No		
492	2	THE PANTHERS DEN LLC	29513 ELLENSBURG AVE.	5812-08	Pizza Parlor	21900	150	Yes	No		
910	2	SPINNER'S SEAFOOD STEAK CHOP	29430 ELLENSBURG AVE.	5812-08	Restaurant	41100	90	Yes	No		
52	2	GOLD BEACH HIGHSCHOOL	29516 ELLENSBURG AVE.	8211-03	School Cafeteria	107500	240	No	No		
687	2	RAY'S FOOD PLACE #8	29560 ELLENSBURG AVE.	5411-05	Market & Deli	27042	N/A	Yes	Yes	10	0.25
773	2	CURRY GENERAL HOSPITAL	94220 FOURTH ST.	8062-02	Hospital & Cafeteria	152667	40	Yes	No		
436	2	PLAYA DEL SO & LAUNDRAMAT	811 S ELLENSBURG AVE.	5812-08	Restaurant	25958	50	Yes	No		
778	2	SAVORY FOODS	94212 THIRD ST.	5812-08	Restaurant	9433	22	Yes	No		
512	2	PORT HOLE	29975 HARBOR WAY	5812-08	Restaurant	94750	90	Yes	Yes	20	6
	2	FAIRGROUNDS EVENT CENTER	29392 ELLENSBURG AVE	7999-23	Banquet Space	493833	300	No	No		
	2	BOOKWORM BOOK STORE	29401 ELLENSBURG AVE	5812-28	Coffee Shop	2192		No	No		

MODEL SANITARY SEWER FATS, OILS, AND GREASE (FOG) POLICY

This is a sample policy for guideline purposes only. Please consult your city attorney when developing your own policy.

1. Purpose

It is the policy of the City of _____ to comply with all applicable Oregon Department of Environmental Quality, and Federal Environmental Protection Agency requirements as they relate to the regulation of Fats, Oils, and Grease (FOG).

The City intends to provide effective and efficient maintenance to its sanitary sewer system by regulating the discharge of substances, liquids and solids, including fats, oils and greases and other materials of a sedimentary nature into its sewer system.

2. Applicability

This policy is applicable to all commercial establishments connected to the City sewer system that generate fat, oil, and grease, and dischargers that operate automatic and coin operated laundries, car washes, filling stations, commercial garages or a similar business having any type of washing facilities (including pressure washing and steam cleaning) or any other dischargers producing grit, sand, oils, lint, or other materials that have the potential of causing partial or complete obstruction of the building side sewer or other areas in the system.

3. Responsibilities of FOG generators

Establishments determined to be FOG generators shall install (or modify existing) grease interceptors, traps, or biological process that comply with City standards; provided that all commercial and/or retail operations, regardless of size, shall install, operate and maintain a grease interceptor. The owner of the system installed shall:

1. Discharge effluent containing no more than 100 mg/liter of polar FOG (animal or vegetable) and suspended solids non-polar sediments including sand, lint and grit in excess of 250 mg/liter;
2. Provide a suitable location for representative sampling of effluent accessible to City personnel, and be accessible for sampling, cleaning and inspection, and it must be maintained in continuously efficient operation.
3. If applicable, comply with sizing criteria of either the Uniform Plumbing Code or with the manufacturer's specifications.
4. Prepare a management plan for the City's review and approval which plan shall include:
 - a. identification of staff person in charge of the program;
 - b. identification of sources of fats, oils, grease, and other materials of a sedimentary nature;
 - c. an employee training manual with scheduled new employee training and continuous education program;

- d. description of disposal and recycling programs used;
 - e. a list of all required functions related to fats, oils, grease and sediments housekeeping practices;
 - f. visual signs or notices posted at specific sites for related tasks required;
 - g. contact names and phone numbers for emergencies on a 24-hour basis;
 - h. provision for documentation of actions by date, including training sign-off sheets, maintenance, cleaning, and incident reports; and
 - i. consent to City inspectors to enter the premises during business hours to inspect, observe, measure, sample, and test the establishment's wastewater discharge.
5. Complete a City Sewer Application form. Any applicant whose business or commercial use will generate fats, oils or grease, or dischargers of sand, silt or lint, shall comply with all sections of this policy before the connection will be approved.
 6. Commercial establishments receiving sewer service as of the effective date of the implementation of this policy shall have no more than 120 days to comply with this policy.

Commercial customers served by the sewer system that have not complied with some or all of the above-referenced requirements create additional maintenance, operation, repair, and replacement costs of the various parts of the sewer system. Therefore, commercial customers served by the City's sewer system that fail to comply with the FOG Management Program will be assessed a service rate surcharge in accordance with the following procedures:

1. Upon discovery of a failure to comply with the terms and conditions of the FOG Management Program, the (*Public Works Director, or City Manager*) or his/her designee shall notify the commercial establishment and the property owner (if different) in writing of the violation and give the commercial establishment thirty (30) days to comply.
2. If the commercial establishment fails to correct the violation within thirty (30) days, then the following monthly service rate surcharge(s) shall be assessed against the commercial customer receiving service from the City:
 - a. Failure to adopt a management plan – \$____
 - b. Failure to allow inspection – \$____
 - c. Failure to install required equipment or process – \$____
 - d. Failure to meet discharge standards – \$____
 - e. Failure to maintain records – \$____
3. The above-referenced service rate surcharges shall be subject to collection and enforcement as any other rates and charges of the City.
4. For each and every subsequent month that a commercial establishment is in violation of the FOG Management Program, the applicable service rate surcharge(s) shall double in amount until completion of the third month of violation. At that time, the City may terminate sewer service to the commercial customer until corrective action has been taken and the sewer service surcharges paid in full, or take such other actions as the City deems appropriate

to obtain compliance with the FOG Management Program and to collect the sewer service surcharges.

5. This policy and the enforcement provided for herein is not intended to and does not limit or replace the City's common law, statutory, or equitable bases for recovery of damages suffered from the discharge of fats, oils, grease or sediment into the sewer system.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made above shall be determined at the control manhole in accordance with the latest edition of "Standard Methods for the Examination of Water and Sewage."

4. Resources

EPA GUIDE FOR EVALUATING CAPACITY, MANAGEMENT, OPERATION, AND MAINTENANCE (CMOM) PROGRAMS AT SANITARY SEWER COLLECTION SYSTEMS, 2005, 126 pages,

http://www.epa.gov/npdes/pubs/cmom_guide_for_collection_systems.pdf

WASTEWATER COLLECTION SYSTEMS MANAGEMENT, WEF Manual of Practice No. 7, Sixth Edition, 2009, 242 pages

STANDARD METHODS FOR THE EXAMINATION OF WATER AND WASTEWATER, 21st Edition, A joint publication of the APHA, AWWA, and WEF.