



Malynda Wenzl, Mayor

Timothy A. Rippe, Council President
Donna Gustafson, Councilor
Michael Marshall, Councilor

Karen Martinez, Councilor
Elena Uhing, Councilor
Mariana Valenzuela, Councilor

[TVCTV Livestream](#)

[Zoom Webinar](#) Meeting ID: 850 7572 2488 Passcode: 97116

Americans with Disabilities Act (ADA) Notice: The City is committed to providing equal access to public meetings. Requests for accommodation can be submitted to the City Recorder at least 48 hours before the meeting at: mwoods@forestgrove-or.gov or 503-992-3235

CITY COUNCIL WORK SESSIONS

No public comment will be taken. The Council will take no formal action.

5:30 Downtown Improvements

Staff: Bryan Pohl, Community Development Director

6:00 Forest Grove Senior and Community Center

Staff: Paul Downey, Assistant City Manager/Finance Director

CITY COUNCIL MEETING

A. 7:00 Call to Order

1. Roll Call
2. Land Acknowledgement
3. Pledge of Allegiance
4. Proclamation: Banned Books Week
5. Proclamation: National Arts and Humanities Month

B. Public Comment: Time provided for anyone wishing to speak to City Council on an item not on the agenda or on the agenda but not scheduled for a public hearing. Comments are limited to 2 minutes unless additional time is granted by the Presiding Officer. The public comment period shall not exceed 30 minutes unless a majority of Councilors present vote to extend the time. Zoom attendees may use the "Raise Hand" option to be called on.

1. Written Public Comment

C. Consent Agenda: Items under the Consent Agenda are considered routine and will all be adopted with a single motion, without separate discussion. Councilors who wish to remove an item from the Consent Agenda may do so prior to the motion. Any item(s) removed will be discussed and acted upon following the approval of the remaining item(s).

1. Monthly Building Activity Report - August
2. Accept Resignations on the Economic Development Commission

D. Additions/Deletions

1. City Manager
2. Proposed by Councilors

E. Presentations: The Council will hold questions until the end of each presentation. A two-minute reminder will be given to the presenter to conclude remarks.

1. 7:15 **Public Arts Commission Annual Report**
Staff: Dana Eytzen and Emily Lux, Public Arts Commission Co-Chairs
2. 7:30 **Library Foundation**
Staff: Linda Saari, Library Foundation Vice President
3. 7:45 **Watershed Fire Response**
Staff: Dave Nemeyer, Fire Marshall; Jim Geering, Fire Chief

F. Public Hearings, Ordinances, and Resolutions

1. Public Hearing and First Reading
8:00 **ORDINANCE 2024-06 GRANTING A FRANCHISE FOR FATBEAM, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, TO CONDUCT A TELECOMMUNICATIONS BUSINESS AND GRANTING A RIGHT TO USE PUBLIC RIGHTS OF WAY WITHIN THE CITY**
Staff: Paul Downey, Assistant City Manager/Finance Director
2. Public Hearing
8:10 **RESOLUTION 2024-39 ADOPTING FINDINGS TO SUPPORT AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS FOR THE PUBLIC WORKS ADMINISTRATION BUILDING REMODEL AND EXPANSION, DECLARING SUCH EXEMPTION, AND AUTHORIZING A PROCESS TO AWARD A CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) CONTRACT**
Staff: Gregory Robertson, Public Works Director

G. 8:20 Council Communications:

1. Councilor Reports
 - a. Timothy A. Rippe (EDC, RWPC, TVHSC, Chamber of Commerce)
 - b. Donna Gustafson (PAC, JWC)
 - c. Michael Marshall (CFC, P&R, CCESC)
 - d. Karen Martinez (FGRFPD, SCC, WCCCA)
 - e. Elena Uhing (CCE, FGSCC)
 - f. Mariana Valenzuela (LC, CDBGPAB)
2. City Manager's Report
3. Mayor's Report (HLB, WCCC, R1ACT, MMC, WCC&MG, WCMG, MYAC)

H. 8:45 Adjournment

URBAN RENEWAL AGENCY WORK SESSION

No public comment will be taken. The Board will take no formal action.

8:45 URA Finance and Possible Debt Issuance

Staff: Paul Downey, Assistant City Manager/Finance Director



DOWNTOWN IMPROVEMENTS

Bryan Pohl | Community Development Director
Work Session 9|23|24

AGENDA

Tree Removal and Replanting

Sidewalk and Brick Repair

Tree Lighting

Waste Enclosure Replacement

Discussion

PURPOSE

3

- **Reach consensus on possible improvements in the Community Development Block Grant downtown enhancement area.**
- **Held Work Session on June 24, 2024. Reviewed Community Forestry Commission recommendations and reached consensus on:**
 - Downtown tree removal and replacement
 - Grate removal
 - Further investigate lighting options
 - Propose potential art locations
 - Propose potential trash receptable replacements

DOWNTOWN TREE REPLACEMENT

4



Downtown Street Trees

TYPE

- Severe - Clear and present danger or impacting large sections of the public right-of-way.
- Moderate - Some danger present, but could be mitigated. Will be bigger issue soon.

- Minor - No clear and present safety issues. However, issues are starting to form that could be major issues within next 5 to 10 years.
- Not identified for Action.
- Possible Art Location.
- Missing tree Replant.
- Trash Collection.

DOWNTOWN STREET TREE RATING

5

Trees Causing Sidewalk and/or brick uplift				
Tree Number	Notes			Action
23	Slight sidewalk uplift. Issue with water meter. Tree is damaged.			Remove tree & make repairs
24	Sidewalk and brick uplift			Make repairs & monitor
25	Sidewalk and brick uplift. Brick separation from sidewalk. Crack on adjacent panel.			Make repairs & monitor
26	Sidewalk and brick uplift. Brick separation from sidewalk.			Make repairs & monitor
30	Sidewalk and brick uplift			Remove & make repairs. Possible art location
31	Sidewalk and brick uplift			Make repairs & monitor
32	Sidewalk and brick uplift. Grinding of panels already done.			Remove tree, make repairs & replant
33	Sidewalk and brick uplift. Grinding of panels already done.			Remove tree, make repairs & replant
36	Sidewalk and brick uplift. Bricks rising above curb.			Repair bricks and monitor
37	Sidewalk uplift and separation between brick and sidewalk due to uplift.			Make repairs & monitor
95	Sidewalk and brick uplift			Remove tree, make repairs & replant
96	Sidewalk uplift			Make repairs & monitor
120	Sidewalk uplift above bricks			Make repairs & monitor
128	Sidewalk uplift			Remove and make repairs
127	Sidewalk uplift			Make repairs & monitor
147	Sidewalk uplift			Remove tree & make repairs. Possible art location
176	Sidewalk and brick uplift			Remove tree & make repairs. Possible art location
177	Sidewalk uplift			Make repairs & monitor
178	Sidewalk and brick uplift			Make repairs & monitor
182	Sidewalk and brick uplift			Remove tree & make repairs. Possible art location
183	Sidewalk uplift			Remove tree, make repairs & replant
186	Sidewalk uplift			Make repairs & monitor
187	Sidewalk uplift			Make repairs & monitor

TREE REMOVAL AND REPLACEMENT

6

Summary

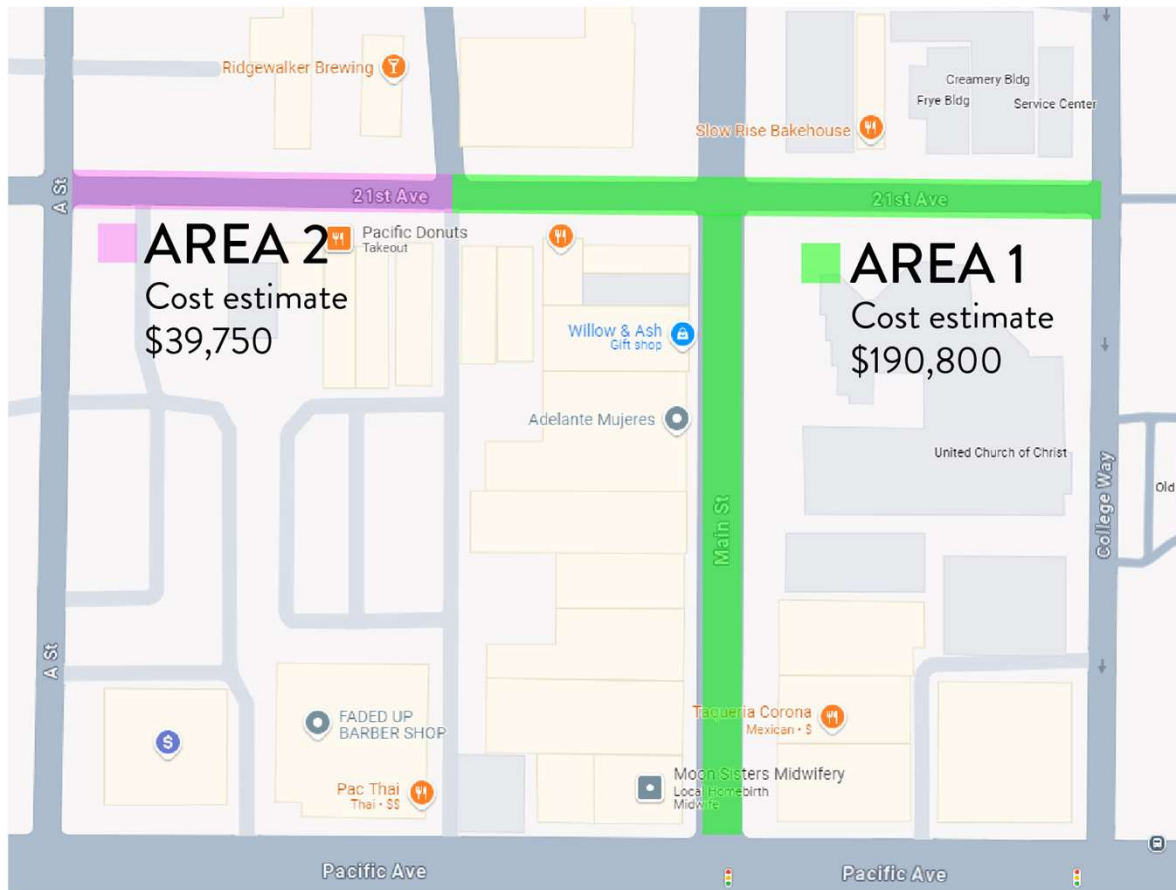
- Remove between 12-16 trees
- Replant 20-24 trees (some trees previously removed would be replaced)
- Use varieties that require less maintenance

Cost

- Approximate cost to remove and replace trees, including sidewalk and brick repairs and replacing decorative tree grates with pea gravel: \$138,000

LIGHTING OF STREET TREES

7



Area 1: Main and 21st from College to Alley estimated cost: \$190,800

Area 2: 21st Alley to A Street estimated cost: \$39,750

Other Options:

- 21st: College to Main: \$48,000
- Main: 21st to Pacific: \$111,300

REPLACEMENT OF WASTE ENCLOURE

8

A total of 20 waste receptacles were identified for replacement.

Purpose

- Improve downtown aesthetics
- Increase capacity
- Enhance collection efficiency

Product

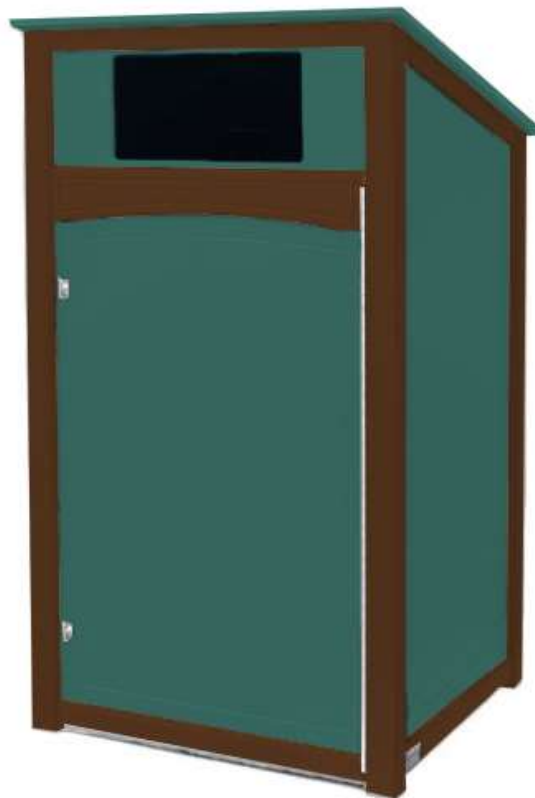
- 48-gallon roll-cart compatible waste enclosure; front load, rounded top, green panels/brown frame, “WASTE” below opening, Forest Grove oak leaves on side.

Cost

- 25 cans delivered = \$42,077

PROPOSED WASTE ENCLOSURE DESIGN

9



- 48 Gallon Capacity
- Roll Cart Compatible
- Dimensions: 33”w X 32”d X 44” h
- Colors as Shown
- Curved Top (not shown) Discourages Placement of Items
- Easy to Clean
- Increases Capacity
- Enhances Collection Efficiency
- Customizable

POTENTIAL FUNDING SOURCES

10

- Transient Lodging Tax Capital Reserves
- Urban Renewal Agency
- Street Light Fund
- Street Tree Fund
- Street Fund (for sidewalk repairs only)

NEXT STEPS

11

- | | |
|---|------------------|
| • Reach consensus on potential improvements | September |
| • Outreach to business owners | October-November |
| • Identify and approve budget | December-January |
| • Bid and construct project | February-April |

SUMMARY

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Example

• Tree replacement and removal, including repairs	\$138,000
• Lighting of street trees on 21 st and Main	\$190,800
• Remove and replace trash receptacles	<u>\$42,077</u>

Total:	\$370,877
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DISCUSSION ITEMS

13

- Is there a consensus on tree removal and replacement?
- What option, if any, does the Council prefer regarding lighting? If revenues are not sufficient for the preferred option, what section is most important?
- Is there a consensus on waste enclosures?
- Is there a consensus on timeline?

Senior and Community Center

Work Session

September 23, 2024

Paul Downey,
Assistant City Manager



RECAP

- The Forest Grove Senior and Community Center (FGSCC), a 501(c)(3) charitable non-profit, gave notice to the City they are exiting the Operation Agreement with the City effective November 15, 2024. This date was extended to December 31, 2024, at their September 16th Board meeting.
- A City Council Work Session was held August 26th, 2024, to discuss two options for the Senior and Community Center: 1) a Request for Proposal (RFP) for a non-profit to operate and manage and 2) the City to operate and manage.

RECAP

- A consensus was reached to further discuss soliciting a non-profit, through an RFP process, to operate and manage the Senior and Community Center.
- The purpose of this Work Session is to cover the RFP process and discuss the main elements. It is important to complete this review tonight to remain on schedule.
- Staff normally selects the successful applicant, however, due to exclusive use and Council approval of the Operation Agreement, staff recommends Council be more involved in this RFP.

RECAP

- FGSCC was established in 1972 and has been under an Operating Agreement with the City to exclusively offer services since 1992.
- The City owns the property and facility and has made significant capital improvements over the past decade including a roof, kitchen, windows, flooring, restrooms, parking lot seal, and HVAC.

RECAP

- The current Operation Agreement stipulates:
 - The FGSCC has exclusive use of the facility and retains all rent and lease revenue to sustain operations
 - The term is perpetual but can be terminated by either party upon 60 days written notice
 - The FGSCC is responsible for all day-to-day maintenance and operational expenses, including staff, janitorial, landscaping, and bookkeeping
 - The City pays City utility expenses and is responsible for exterior maintenance of the facility and parking lot
 - Requires appointment of a City Council liaison to attend FGSCC board meetings

RECAP

- The annual FGSCC budget is approximately \$240,000:
 - 50% is raised through fundraising
 - 30% through bingo
 - 20% through rentals
- The bingo license cannot be transferred.
- The FGSCC has indicated they have approximately \$300,000 in reserves. It is at the FGSCC Board's discretion how to spend it.
- The City budgets approximately \$35,000 per year for utilities and exterior maintenance of the facility.

RECAP

Current services include:

- Health and Wellness: i.e., exercise, medical equipment, CPR, Red Cross and foot care
- Socialization: i.e., clubs, guilds, groups and bingo
- Rentals: Journeys, Ride Connection, garden, Meals on Wheels, church services, and Rotary
- Fundraisers: Cruis'n in the Grove, Luau, Trunk or Treat, Tree lighting

RFP PROCESS

The main elements of an RFP consist of:

- Purpose and Schedule: This describes the overall project purpose, point of contact, and schedule.
- Scope of Services: This outlines the general scope of services to be performed including who, what, when, where, and how.
- Proposal and Proposer Requirements: This outlines the minimum criteria to be able to submit a proposal, i.e., licenses, experience, and number of projects.
- Proposal Selection and Evaluation Process: This outlines interviews, scoring committee(s), and the scoring criterion.

PURPOSE

- Under the current Operation Agreement, the primary purpose of the Senior and Community Center is to provide “...services to older citizens of the community” and “...all citizens of Forest Grove may use or lease the facility with approval of the Operator’s Board of Directors.”
- Senior services must remain a component of the programs offered commensurate with the property’s donated purpose.
- What would Council like the primary purpose of the facility to be? For example, should it be exclusive for seniors? Or alternatively, should it be for all ages and members of the community, including seniors?

SCHEDULE

- An RFP takes between 9-12 weeks and consists of:
 - Promulgating 1 week
 - Advertising 4-6 weeks
 - Review and Certify 1 week
 - Interviews 1 week
 - Notice of Intent/Protest Period 1-2 weeks
 - Award 1 week
- Councilors are encouraged to tour the facility with the FGSCC prior to interviews.

SCHEDULE

- Because this entails an Operation Agreement with exclusive use, staff recommends the following process:
 - Staff promulgate draft RFP based on 9/23 work session
 - Advertise October 1-November 1
 - Staff certifies and scores all applicants
 - Council interviews up to the top 3 applicants and reaches consensus on a single provider at 11/12 work session
 - Notice of Intent to Award/Protest Period issued 11/13
 - Council resolution approving Operation Agreement 11/25
 - Transition period between providers 11/26-12/31

SCOPE OF SERVICES

Staff is looking for Council direction on the following:

- **Exclusivity:** whether to retain this provision which allows the non-profit to generate rental revenue.
- **Maintenance:** whether to retain the requirement that the non-profit is responsible for all day-to-day maintenance and the City is responsible for capital improvements.
- **Open Hours:** whether to include a requirement the facility is open for a certain number of hours per week. Currently there is no requirement in the Operation Agreement. The facility is currently open 35 hours per week.

SCOPE OF SERVICES

- Website: whether the operator be required to create and maintain a separate and dedicated webpage for the Senior and Community Center, as is presently done.
- Existing leases: whether the operator honor the existing leases until expiration (2025) and whether to retain the requirement that the City provide written consent.
- Term: the current term is perpetual. Noting it will be a new operator, does the City want a fixed term, i.e., a two-year term with an option to extend 1 year, subject to Council approval. Further, should the operator be required to present to City Council every six months in the initial 2-year term.

SCOPE OF SERVICES

- Staff: should the operator be required to have at least one staff member on site during all public open hours.
- Programs: what type of programming is required to be provided, for example:
 - Health and Wellness, e.g., exercise, fitness, personal care
 - Socialization, e.g., clubs, activities, games, events
 - Personal Growth, e.g., travel, education, financial planning
- Finances: whether the non-profit be required to pay city utility expenses. Currently the city pays these expenses which amount to approximately \$20,000/year.

PROPOSER REQUIREMENTS

Would like Council feedback on the following potential requirements:

- Must be a non-profit certified by the state and federal government to offer the aforementioned services.
- Must be able to demonstrate financial sustainability, projected expenses and how they will be funded.
- Must demonstrate experience offering programs or specifically propose how they would offer the aforementioned programs.
Does the Council want to require a certain amount of experience offering the aforementioned programs as a requisite to apply?

SCORING CRITERION

Seeking Council feedback on the following criterion and point values:

- Qualifications and experience administering health and wellness, social, and personal growth programs. 30
- Program types, approach, and qualifications and experience of staff. 20
- Ability to financially sustain operations including ability to administer rentals, manage a facility, fundraise, obtain grants, and offer fee-based programming. 20
- Demonstrated ability to partner with other organizations and businesses to administer programs. 10
- Transition Plan to work with FGSCC regarding assets, maintenance, and programs. 10
- Proposal quality and completeness. 10

PROCLAMATION

BANNED BOOKS WEEK

September 22 – September 28, 2024

"

WHEREAS, the freedom to read is essential to our democracy, and is protected by our Constitution; and

WHEREAS, some persons work to remove or limit access to reading materials, to label views as controversial, to distribute lists of books or authors considered objectionable, and to purge libraries of materials reflecting the diversity and history of our society; and

WHEREAS, Americans favor free enterprise in ideas and expression and can exercise critical judgment, recognize propaganda and misinformation, make their own decisions about what they read and believe, and exercise the responsibilities that accompany this freedom; and

WHEREAS, intellectual freedom is essential to the preservation of a free society and a creative culture, and conformity limits the range and variety of inquiry and expression on which our democracy and culture depend; and

WHEREAS, the American Library Association's Banned Books Week is observed each year as a reminder to Americans not to take their freedom for granted; and

WHEREAS, Banned Books Week celebrates the freedom to choose and to express one's opinion, even if that opinion might be considered unorthodox or unpopular, and stresses the importance of ensuring the availability of different viewpoints to all who wish to read them.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FOREST GROVE DOES HEREBY PROCLAIM SEPTEMBER 22 TO SEPTEMBER 28, 2024, AS:

Banned Books Week

In Forest Grove, Oregon, and calls upon the people to join their fellow citizens across the United States in recognizing and participating in this special observance.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Forest Grove, Oregon, to be affixed this 23rd day of September, 2024.

Malynda H. Wenzl, Mayor, City of Forest Grove

PROCLAMACIÓN

SEMANA DE LOS LIBROS PROHIBIDOS

Del 22 al 28 de septiembre de 2024

CONSIDERANDO QUE, la libertad de leer es esencial para nuestra democracia, y está protegida por nuestra Constitución; y

CONSIDERANDO QUE, algunas personas trabajan para eliminar o limitar el acceso a materiales de lectura, etiquetar puntos de vista como controversiales, distribuir listas de libros o autores considerados objetables y purgar bibliotecas de materiales que reflejan la diversidad y la historia de nuestra sociedad; y

CONSIDERANDO QUE, los estadounidenses favorecen la libre iniciativa en materia de ideas y expresión y pueden ejercer un juicio crítico, reconocer la propaganda y la desinformación, tomar sus propias decisiones sobre lo que leen y creen, y ejercer las responsabilidades que acompañan a esta libertad; y

CONSIDERANDO QUE, la libertad intelectual es esencial para la preservación de una sociedad libre y una cultura creativa, y que la conformidad limita el alcance y la variedad de investigaciones y expresiones de las que dependen nuestra democracia y nuestra cultura; y

CONSIDERANDO QUE, la Semana de los Libros Prohibidos de la Asociación de Bibliotecas de Estados Unidos se celebra cada año como un recordatorio a los estadounidenses de que no deben dar por sentada su libertad; y

CONSIDERANDO QUE, la Semana de los Libros Prohibido celebra la libertad de elegir y de expresar la propia opinión incluso si esa opinión puede considerarse poco ortodoxa o impopular y enfatiza la importancia de garantizar la disponibilidad de esos puntos de vista diversos a todos los que deseen leerlos.

AHORA, POR LO TANTO, EL CONCEJO MUNICIPAL DE LA CIUDAD DE FOREST GROVE POR LA PRESENTE PROCLAMA LOS DÍAS DEL 22 AL 28 DE SEPTIEMBRE DE 2024, COMO:

Semana de los Libros Prohibidos

En Forest Grove, Oregon, y hace un llamado a la gente a unirse a sus conciudadanos de todo Estados Unidos para reconocer y participar en esta celebración especial.



EN TESTIMONIO DE LO CUAL, He suscrito la presente y he hecho que el sello de la Ciudad de Forest Grove, Oregon, se emplace en este día 23 de septiembre de 2024.

Malynda H. Wenzl, Alcaldesa, Ciudad de Forest Grove

PROCLAMATION

National Arts and Humanities Month

WHEREAS, the arts and humanities embody much of the accumulated wisdom, intellect, and imagination of humankind; and

WHEREAS, arts and humanities represent the freedom of expression that empowers Americans to speak and think independently and creatively; and

WHEREAS, arts and humanities play a crucial role in promoting individual wellbeing, connecting cultures, highlighting inequities, and making communities healthier and stronger; and

WHEREAS, the month of October has been recognized as National Arts and Humanities Month by thousands of arts and cultural organizations, communities, and states across the country, as well as by the White House and Congress for more than two decades; and

WHEREAS, National Arts and Humanities Month focuses on equitable access to the arts, encourages participation in the arts, allows governments and businesses to show their support of the arts, and raises public awareness about the positive impact of the arts and humanities in our communities and lives.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FOREST GROVE DOES HEREBY PROCLAIM OCTOBER 2024, AS:

National Arts and Humanities Month

In Forest Grove, Oregon, and calls upon the people to join their fellow citizens across the United States in recognizing and participating in this special observance.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Forest Grove, Oregon, to be affixed this 23rd day of September, 2024.

Malynda H. Wenzl, Mayor, City of Forest Grove

PROCLAMACIÓN

Mes Nacional de las Artes y las Humanidades

CONSIDERANDO QUE, las artes y las humanidades encarnan gran parte de la sabiduría, el intelecto y la imaginación acumulados de la humanidad; y

CONSIDERANDO QUE, las artes y las humanidades representan la libertad de expresión que permite a los estadounidenses hablar y pensar de manera independiente y creativa; y

CONSIDERANDO QUE, las artes y las humanidades desempeñan un papel crucial en la promoción del bienestar individual, la conexión de culturas, la puesta de relieve de las desigualdades y la creación de comunidades más saludables y fuertes; y

CONSIDERANDO QUE, el mes de octubre ha sido reconocido como el Mes Nacional de las Artes y las Humanidades por miles de organizaciones artísticas y culturales, comunidades y estados de todo el país, así como por la Casa Blanca y el Congreso durante más de dos décadas; y

CONSIDERANDO QUE, el Mes Nacional de las Artes y las Humanidades se centra en el acceso equitativo a las artes, fomenta la participación en las artes, permite a los gobiernos y las empresas mostrar su apoyo a las artes y aumenta la conciencia pública sobre el impacto positivo de las artes y las humanidades en nuestras comunidades y vidas.

AHORA, POR LO TANTO, EL CONCEJO MUNICIPAL DE LA CIUDAD DE FOREST GROVE POR LA PRESENTE PROCLAMA A OCTUBRE DE 2024 COMO:

Mes Nacional de las Artes y las Humanidades

En Forest Grove, Oregon, y hace un llamado a las personas para que se unan a sus conciudadanos en todo Estados Unidos para reconocer y participar en esta celebración especial.



EN TESTIMONIO DE LO CUAL, He suscrito la presente y he hecho que el sello de la Ciudad de Forest Grove, Oregon, se emplace en este día 23 de septiembre de 2024.

Malynda H. Wenzl, Alcaldesa, City of Forest Grove

Mariah Woods

From: dfeik33@comcast.net
Sent: Monday, September 16, 2024 5:07 AM
To: 'Lindsay Trapp'
Cc: 'Leah Feldon'; Ali.Mirzakhali@deq.oregon.gov; Michael.Orman@deq.oregon.gov; board@wc-can.org; 'Mike Rogoway'; 'Kevin moss'; Nicholas LaMora; City Councilors; Ken Dobson; Diane Taniguchi-Dennis Taniguchi-Dennis
Subject: Data Centers, EQC, Sept 27, 2024 public Comment by Dale Feik - written and oral
Attachments: Noise Hungry Data Centers Are Catching Communities by Surprise N York Time Opinion Sept 15 2024.docx; Crane Data Center Petition (2).pdf; SignaturesOpposingCraneDataCenterProject.pdf

Caution: This message came from outside our organization. Please take care when clicking links or opening attachments. When in doubt, contact your IT Department.

To: Environmental Quality Commissioners via Lindsay Trapp (Please forward this email to the four Commissioners - Matt Donegan, Chair, and Commissioners, Amy Schlusser, Mark Webb, Karen Moynahan; and DEQ Director Leah Feldon

To: Washington County Board of Commissioner's Chair Kathryn Harrington and Commissioners

To: Forest Grove City Mayor Malynda Wenzl and City Councilors

To: Diane Taniguchi-Dennis, Clean Water Services Chief Executive Officer

Re: Data Centers in Oregon, specifically Crane Data Center in Forest Grove

Please read and act to prevent Data Centers in Oregon and specifically Crane Data Center in Forest Grove from becoming the nightmare that is described in the Sept. 15, 2024, New York Guest essay by Sean Cooper. In the attachment titled 'Noisy, Hungry Data Centers Are Catching Communities by Surprise',

Cooper states:

"The revolution in artificial intelligence that promised us breakthroughs in medical research and corporate productivity seems to be running a little behind. But already A.I. has become something of a nightmare for the Americans who happen to live near one of the more than [5,000](#) data centers that power it and keep the cloud above our digital world running...

Across the country, from Indiana to Oregon, companies such as Amazon, Meta and [Microsoft](#) are building data centers on sites that can stretch over 1,000 acres, ringed with guard towers and razor wire fences....

People who live near one Northern Virginia center have complained that the mechanical whirl of the fleet of industrial fans needed to cool the sensitive computer equipment inside can sound like a leaf blower that never turns off. Cooling the heavy equipment also diverts great volumes of water even in places where it's scarce. And some of the costs of powering the centers are shouldered by utility customers, in the form of [hundreds of dollars](#) a year added to household energy bills.

Residents rarely learn how data centers may affect their lives until it's too late....

The tactics companies have deployed in recent years to build their massive data center networks are downright mercenary, and regulators now need to step in to make sure the communities most affected by these industrial projects can learn about and evaluate them for themselves.

At the moment, without those measures in place, residents and environmental groups have to go up against the tech firms largely on their own just to obtain basic details about the water, energy and noise impacts.

Google and its big tech rivals are trying to get out in front of blowback from local constituents, and are investing in community engagement or tapping [public relations spin shops](#). They [argue that disclosing](#) how much water and electricity their data centers require will put them at a competitive disadvantage. And they promise their data centers will eventually be [“water positive”](#) and use [only renewable energy](#). It will be years until the cooling technology and green-energy infrastructure is in place to make those promises a reality.

Protecting communities and the environment from the malignant impact of data center projects won’t spell the end of the A.I. industry. Though new rules could take a bite out of potential profits for big tech companies, ensuring the transparency of data center development as it proliferates is all but essential for the A.I. revolution to become a reality.

Sincerely,

Dale Feik
Chair, Washington County Citizen Action Network (WC CAN) -
<http://www.wc-can.org/>
Resident of Forest Grove since 1966
Cell: [REDACTED]
dfeik33@comcast.net

Cc: Leah Feldon, DEQ Director
Ali Mirzakhali, DEQ Air Administrator
Michael Orman, DEQ Air Manager
Washington County Board of Commissioners via Kevin Moss, clerk
Diane Taniguchi-Dennis, Clean Water Services Chief Executive Officer
Mariah Woods, Clerk/Recorder, City of Forest Grove
Mike Rogoway, The Oregonian Reporter who has written extensive stories about Data Centers
Nicholas LaMora, a Pamplin Papers reporter
Ken Dobson, Land-use attorney
Washington County Citizen Action Network, WC CAN,, Board of Directors

Bcc: No Forest Grove Data Center leaders - Darci Hanning, Brian Hurley, John & Taylor Elwess

Please open the attachments titled:

1. Crane Data Center petition that describes why to oppose Crane's Land-Use Application without signatures; and
2. signatures opposing Crane Data center.

From: noreply@civicplus.com <noreply@civicplus.com>
Sent: Wednesday, September 4, 2024 12:14 PM
To: info <info@forestgrove-or.gov>
Subject: Online Form Submittal: Contact Us!

Caution: This message came from outside our organization. Please take care when clicking links or opening attachments. When in doubt, contact your IT Department.

Contact Us!

First Name:	Katie
Last Name:	Countryman
Would you like a response?	No
Question, Concern, or Comment:	Dear Mayor and Councilors - I have concerns regarding the possibility of data centers coming to Forest Grove. Please consider the following in your decision to allow data centers to be built here (or not). Have any concessions been made to bring these companies here? If so, what are they? Is there currently enough electricity and water to meet the needs of data centers? If not, where would additional electricity and water come from, and how would that affect current residential rates? Would data centers be required to produce some of their own electricity (solar panels of other)? Do these projects align

with the city's vision for sustainability? Is there a climate impact? My understanding is that, post construction, data centers employ very few workers, so the economic advantage to the area could be very small. How will these centers affect our rural character? I am obviously using a computer to send these comments, so yes, I understand that data centers are necessary, but the needs of the citizens of Forest Grove to have a livable community in all respects is my first concern. Thank you for your consideration. Katie Countryman

Email not displaying correctly? [View it in your browser.](#)



Monthly Building Activity Report

August-24

2023-2024

	Period:	August-23	Period:	August-24
Category	# of Permits	Value	# of Permits	Value
Man. Home Setup				
Res 1 & 2 Family New	7	\$ 2,257,822.00	22	\$ 8,283,622.14
SFR Addition & Alt/Repair	9	\$ 204,618.00	4	\$ 67,701.60
MultiFamily New				
Multi Family Alterations/Repair/Additions	3	\$ 54,339.00		
Group Care Facility Alt/Repair	1	\$ 85,000.00		
Commercial New	1	\$ 98,000.00		
Commerical Addition				
Commercial Alt/Repair			4	\$ 2,223,210.00
Industrial New				
Industrial Addition				
Industrial Alt/Repair	1	\$ 176,371.00		
Gov/Pub/Inst (new/add)			3	\$ 542,483.00
Signs	1	\$ 868.00	2	\$ 514.70
Grading	1			
Demolitions	2		1	\$ 275.00
Total	26	\$2,877,018	36	\$11,117,806

Fiscal Year-to-Date

2023-2024		2024-2025	
Permits	Value	Permits	Value
58	\$20,612,080	71	\$24,796,997



A place where families and businesses thrive.

CITY RECORDER USE ONLY:

AGENDA ITEM #: _____

MEETING DATE: _____

FINAL ACTION: _____

CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

PROJECT TEAM: *Mariah Woods, City Recorder*

MEETING DATE: *September 23, 2024*

SUBJECT TITLE: *Accept Boards/Commissions Resignations
Economic Development Commission*

ACTION REQUESTED:

☐	Ordinance	☐	Order	☐	Resolution	☐	Motion	☒	X	Informational
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X all that apply

ISSUE STATEMENT

Accept Resignations on the Economic Development Commission (Jim Langstraat – Higher Education, Appointed 4/19, Term Expiring 12/31/26) (Mara Rico – Latino Community, Appointed 3/22, Term Expiring 12/31/25)

STAFF RECOMMENDATION

Staff recommends City Council accept the above-noted resignation and deem seats vacant.

FOREST GROVE

Public Arts Commission





2022 ACCOMPLISHMENTS MURAL FESTIVAL







MEET THE ARTIST DINNERS



MINI-GRANTS & SPONSORSHIPS



Valley Art presents
Forest Grove's 34th Annual
CHALK ART FESTIVAL

CHALK ART

Date: Saturday, September 21st
Time: 8am to 4pm
Location: Valley Art Gallery 2022 Main Street
Forest Grove, OR
Cost: \$15 for one square (includes chalk)

All ages and skill levels welcome
Funded by donations, the Public Arts Commission,
sponsors, and participants.
Proceeds fund valley art education scholarships and
future events

FOREST GROVE OREGON
A place where families and businesses thrive

Valley Art Gallery
Public Arts Commission



MISHKI CARVINGS DONATION



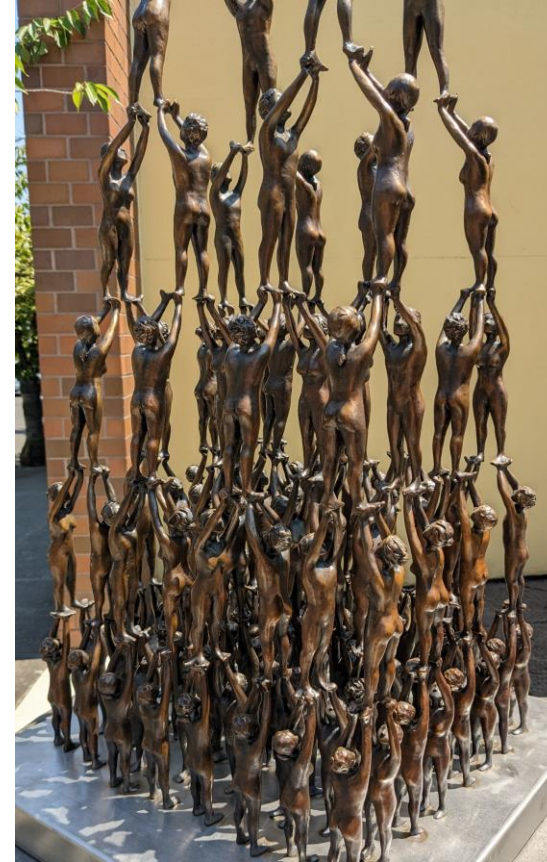


FALL INTO ART

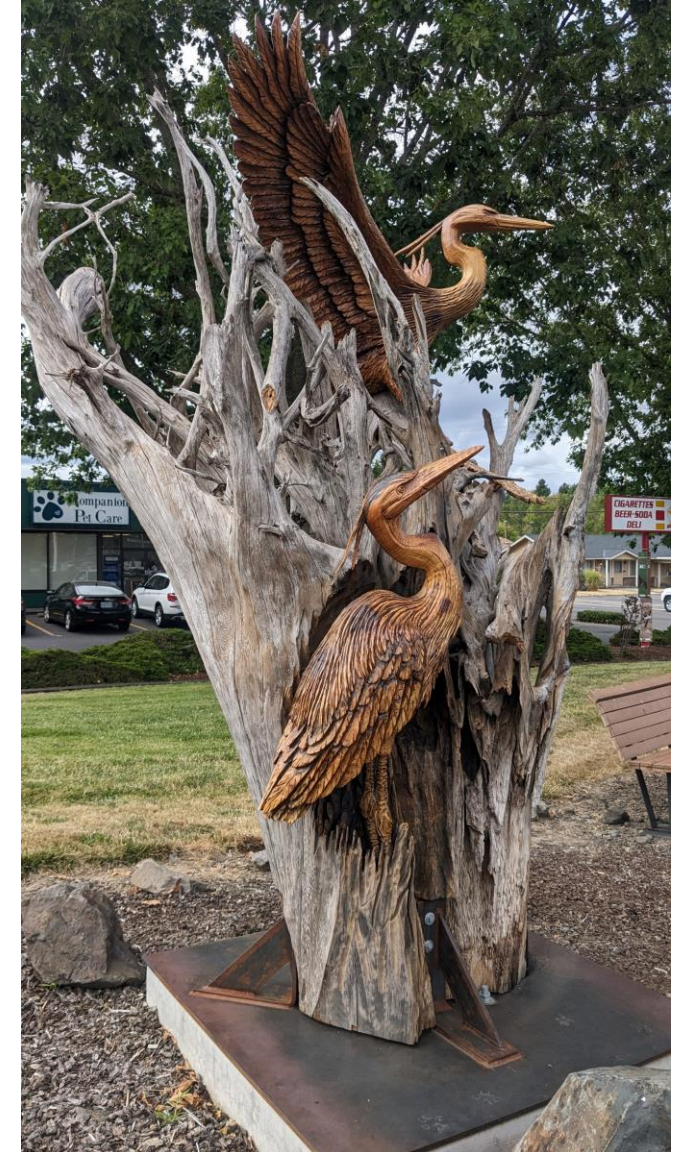
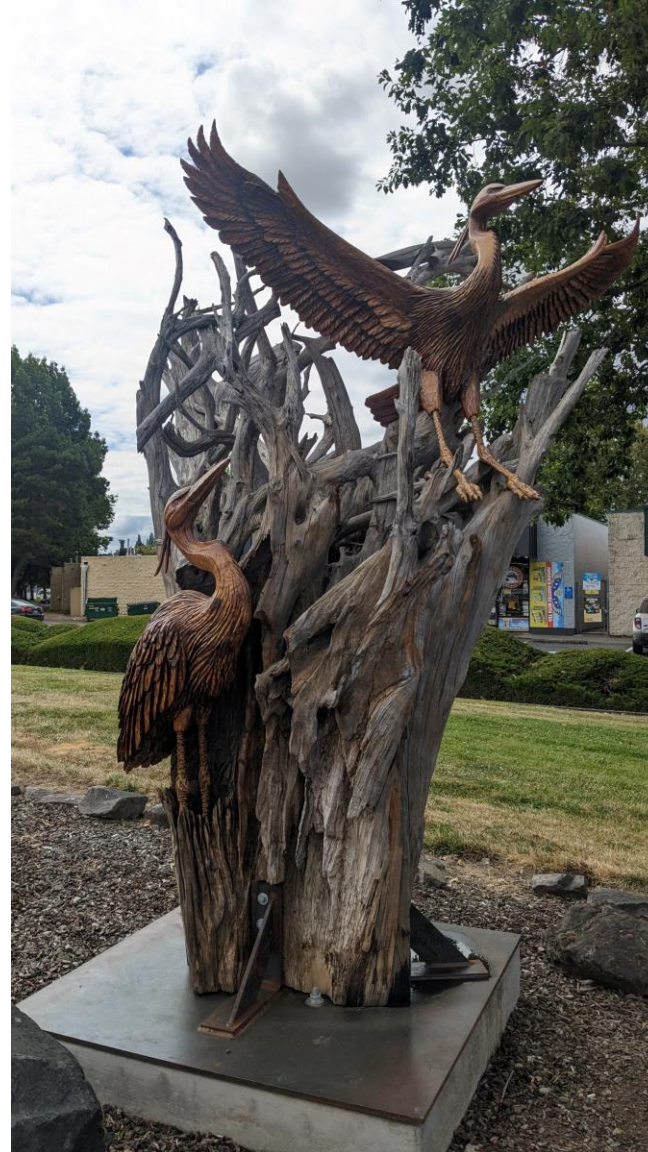
ARTIST MARKET



SEVEN GENERATIONS BY CAT TWEEDIE



GUARDIANS OF THE GROVE BY JOSHUA BLEWETT



FESTIVAL OF THE ARTS



	A Farmer's Touch	Green Heron Book Arts (in front)	Market Stage	Valley Art (in front)	Grove Brothers Printing	Forest Grove City Library	Festival of the Arts Market Booth	Artists
4:00 PM	Free Mail for Handmade Paper	Paper Making	Bluegrass & Americana Music	Art via Lady (in front)	Landscape Prints of Handmade Paper	Writing & Fine Photography	Paint & Go Rhythm Instrument	
4:15 PM	3:30-4:30pm	3:30-4:30pm	4:00-4:30pm	4:00-7:00pm	4:00-7:00pm	4:00-7:00pm	4:00-8:00pm	
4:30 PM	By A Farmer's Touch	By Green Heron Book Arts	By Heather's Story	By Valley Art Association	By Grove Bros. Printing	By Writers in the Grove	By Forest Grove Public Arts Commission	By All Together Now
4:45 PM				(in gallery) Papermaking with KFC Papermill				
5:00 PM				Market Performance	Integrative Polytechnic Rock Band			Print & Letter Image Drop-In
5:15 PM				By Castle Road	By Patch House (back dock)			By Artspire
5:30 PM			Barbershop Chorus Performance					
5:45 PM			By Tualuma Valley Harmony Network					
6:00 PM								
6:15 PM								
6:30 PM								
6:45 PM								
7:00 PM								
7:15 PM								
7:30 PM								
7:45 PM								
8:00 PM								

Scan here for the most up-to-date information!

Schedule

*THEATRE * LITERARY ARTS *
MUSIC * DANCE * FILM
FINE ARTS * CRAFTS *

WEDNESDAY, AUGUST 7, 2024
4:00 - 8:00 PM

Forest Grove Festival of the Arts: August

Presented by Forest Grove Public Arts Commission & Adolescent Farmers Market

SPONSORING VENUE	ADDRESS
A Farmer's Touch	1900 21st Ave.
Festival of the Arts Market Booth	Main St.
Forest Grove City Library	2114 Pacific Ave.
Forest Grove Dance Arts	1818 18th Ave.
Grove Bros. Printing	2032 Pacific Ave.
Green Heron Book Arts	1808 21st Ave. (booth in front)
Market Stage	West entrance to UCC on Main Street
Old Train Station Museum	1808 18th Ave.
Valley Art Association	2022 Main St. (booth in front)
Waltz Brewing	1900 A St.



FEATURED

Forest Grove Festival of the Arts to finish first season in downtown

Nick LaMora
Jul 29, 2024

Kids participated in an instrument "petting zoo" during the Forest Grove Festival of Arts Wednesday, July 3.
Courtesy Photo: Forest Grove Public Arts Commission

The 2024 Forest Grove Festival of the Arts is wrapping up its inaugural season in downtown with a night of performances, exhibits and participation.

UPCOMING PROJECTS

LINCOLN PARK MURAL



QUESTIONS?



City of Forest Grove Watershed Wildfires

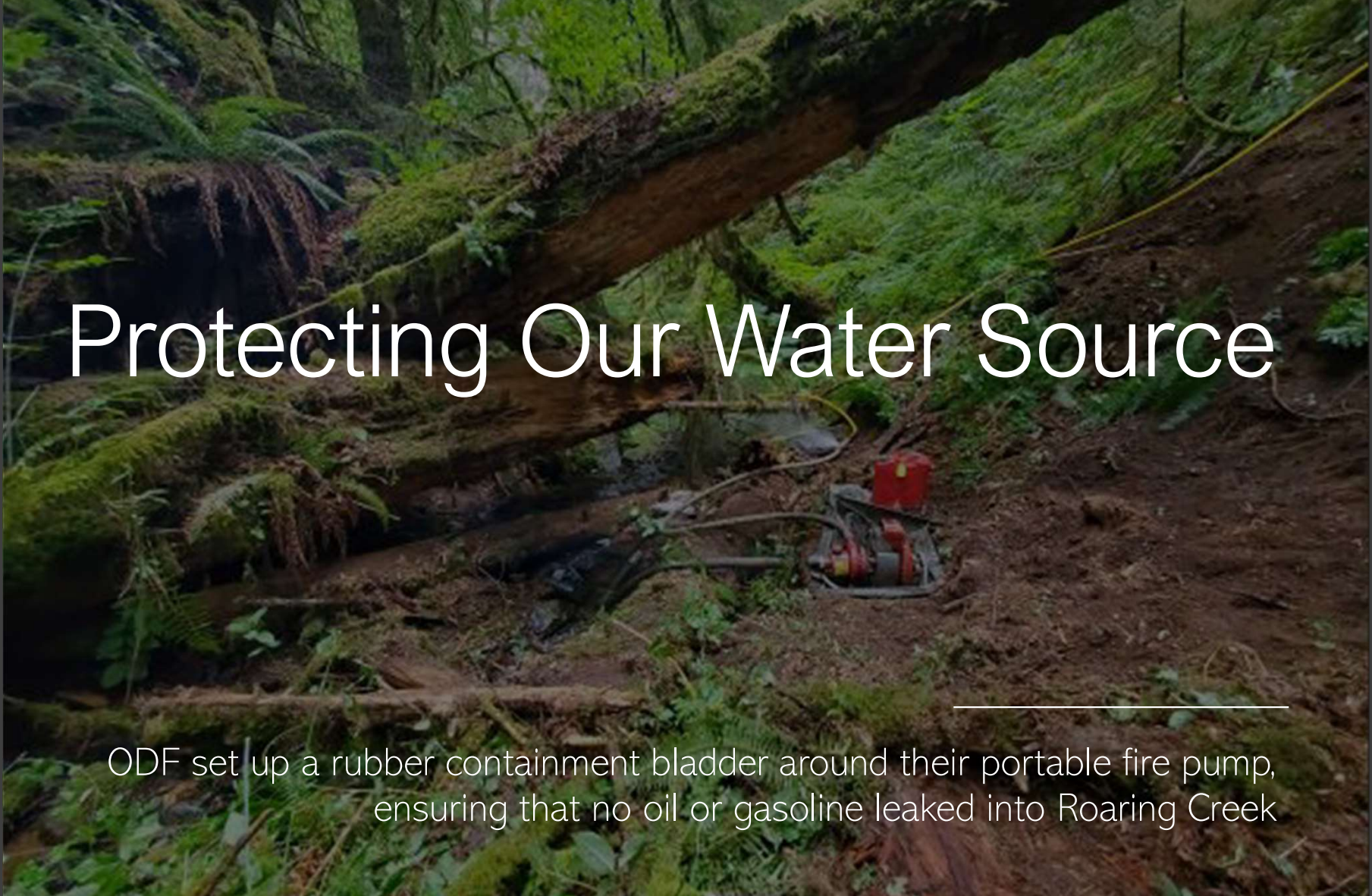
August 17, 2024





Summary

- On the morning of August 17, 2024, a series of strong thunderstorms moved across northwest Oregon, producing dozens of lightning strikes on the eastern slopes of the Coast Mountain Range.
- A smoke column rising from inside of the watershed was first visible at around noon.
- Oregon Department of Forestry (ODF) dispatched an engine, as well as a ten-person hand crew from the Oregon Department of Corrections to investigate and contain the fire.
- A drone pilot, brush rig, and two chief officers from Forest Grove Fire & Rescue also responded.
- A second smoke column became visible once crews entered the watershed. Additional ODF and Corrections firefighters responded, as well as Stimson Lumber crews.
- Two fires, each approximately 1/8 acre were located and lined before more powerful storms arrived that afternoon, and crews backed off due to lightning safety rules.

A photograph of a forest stream with a fallen log and a portable fire pump. The scene is lush with green moss and ferns. A large, moss-covered log lies across the stream. In the foreground, a portable fire pump with a red tank and black hoses is set up on the bank. A yellow hose runs along the bank. The text "Protecting Our Water Source" is overlaid in white.

Protecting Our Water Source

ODF set up a rubber containment bladder around their portable fire pump, ensuring that no oil or gasoline leaked into Roaring Creek



Hand crews from the Oregon Department of Corrections South Fork Forestry Camp attack the fire (above). One of the lightning strike trees (at right).



Each fire was quickly lined, and rains helped with containment. ODF and Corrections continued operations in the following days, while follow up patrols ensured the fires remained within lines. At no time were any water sources or infrastructure threatened.





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CITY COUNCIL STAFF REPORT

CITY RECORDER USE ONLY:

AGENDA ITEM #: _____

FINAL ACTION: _____

TO: City Council

FROM: Jesse VanderZanden, City Manager

MEETING DATE: September 23, 2024

PROJECT TEAM: Paul Downey, Assistant City Manager/Finance Director

SUBJECT TITLE: Ordinance Granting a Franchise to Fatbeam, LLC to Conduct a Telecommunication Business

ACTION REQUESTED: ☒ Ordinance ☐ Order ☐ Resolution ☐ Motion ☐ Informational

X all that apply

ISSUE STATEMENT

Fatbeam, LLC is requesting a franchise to operate a telecommunications business within the City limits. The City Attorney and City Staff have prepared a franchise agreement based on prior telecommunications franchises approved by the City for Council consideration.

BACKGROUND

Fatbeam is requesting a franchise from the City as it plans to build a fiber optic network to serve the Forest Grove School District and its schools. Construction of this network will begin if this franchise is granted. Fatbeam may also eventually offer service to other business that are along its fiber optic network. Fatbeam has negotiated pole use agreements with the Light and Power Department to rent space on its poles to attach the fiber optic cable which will be signed if this franchise is granted.

The proposed franchise agreement will be a non-exclusive franchise meaning that other companies can provide the same services. The length of the franchise is proposed to be five years or until the City establishes a right-of-way ordinance, whichever comes first. This franchise does not grant Fatbeam the authority to provide cable services which would have to be negotiated separately with the Metropolitan Area Communications Commission. The franchise agreement lists what Fatbeam's obligations are with respect to operating with the right-of way such as temporarily or permanently relocating their cable in the right-of-way at their cost when needed.

Fatbeam requested significant changes to the definition of franchise revenue and how that revenue would be determined. Fatbeam's proposed language would have restricted the franchise revenue that would be collected. Staff rejected Fatbeam's proposed language changes. The

proposed franchise fee language in this franchise ordinance is consistent with the language in other similar franchises granted by the City.

FISCAL IMPACT

The franchise fee will be an annual fee of five percent (5%) of its gross revenues earned, less bad debts, from the operation of the facilities and/or provision of telecommunications services within the City. Staff does not know how much franchise revenue will be generated from this franchise. The Light and Power Department will also receive revenue from Fatbeam from pole attachment rental fees for Fatbeam's use of City light poles.

STAFF RECOMMENDATION

Staff recommends that the City Council approve the attached ordinance.

ATTACHMENT(s)

Ordinance 2024-06 Granting a Franchise to Fatbeam LLC

ORDINANCE NO. 2024-06

ORDINANCE GRANTING A FRANCHISE FOR FATBEAM, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, TO CONDUCT A TELECOMMUNICATIONS BUSINESS AND GRANTING A RIGHT TO USE PUBLIC RIGHTS OF WAY WITHIN THE CITY

THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. The City of Forest Grove ("City") hereby grants a franchise to Fatbeam, LLC, a Washington Limited Liability Company ("Fatbeam"), its successors and assigns, the non-exclusive privilege to conduct a telecommunications business within the City and to place, erect, lay, maintain and operate in, upon, under and over public rights of way within the City poles, wires, cables, fiber optics, conduit and other appliances and conductors (collectively, "facilities") for telecommunication purposes, including the provision of telecommunications, private line, and internet access services (collectively, "telecommunications services"). Such facilities may be strung upon poles above ground or may be laid underground in pipes and conduits or otherwise protected. Whenever possible for new development, underground facilities will use a common trench located by the Forest Grove Light & Power Department. This Ordinance does not grant Fatbeam authority to use its facilities to provide cable services or any non-telecommunications services, nor does it authorize Fatbeam to install wireless antenna, facilities or equipment of any kind within the rights of way. This ordinance is subject to, and Fatbeam agrees to comply with, applicable state, federal and City laws, rules, regulations, ordinances, resolutions or orders now in effect or adopted after this ordinance takes effect, and to any attachment agreement required by the Forest Grove Light & Power Department.

Section 2. Subject to the provisions of this ordinance, Fatbeam is granted authority to make all needed and necessary excavations in any public right of way. All excavation and construction work must comply with City Ordinances, resolutions, rules and orders now in effect or that take effect during the term of this franchise. Upon request by Fatbeam, City will enter discussions with Fatbeam to consider acceptable solutions to issues identified by Fatbeam regarding proposed changes to City Ordinances, resolutions, rules or orders whenever such discussions are practicable. Fatbeam does not waive its right to challenge the legality, validity or enforceability of any changes to City Ordinances, resolutions, rules or orders adopted after this Ordinance takes effect. This Ordinance does not require Fatbeam to comply with future Ordinances, resolutions, rules or orders that conflict with any specific provision of this Ordinance or that apply only to Fatbeam.

Section 3. Whenever Fatbeam disturbs any public right of way for the purpose of excavation or construction, it must restore as soon as practicable the public right of way to at least as good a condition as existed prior to excavation or construction, as directed

by the City. If Fatbeam fails to restore the public right of way, or fails to restore it as directed by the City, within a reasonable time after receipt of written notice from City, then City will make such restoration and Fatbeam must reimburse City for the costs of such restoration.

Section 4. This Ordinance does not limit the authority of the City to sewer, grade, pave, repair, alter or improve any public right of way in or upon which Fatbeam may place facilities. To the extent possible all such City work or improvements will be done in a manner that does not obstruct or prevent the free use of Fatbeam's facilities. The City shall have the right to cause Fatbeam to temporarily or permanently move or remove any facilities located in the public right of way whenever the City determines the relocation or removal thereof is in the public interest, and the expense thereof shall be paid by Fatbeam.

Section 5. Whenever it becomes necessary to temporarily rearrange, remove, lower or raise Fatbeam facilities for the passage of buildings, machinery or other objects, Fatbeam will temporarily rearrange, remove, lower or raise its facilities as required. The person moving any such buildings, machinery or other objects must pay the entire actual cost to Fatbeam of changing, altering, moving, removing or replacing its facilities so as to permit such passage. The person must deposit in advance with Fatbeam a sum equal to the cost as estimated by Fatbeam and must pay all damages and claims of any kind, direct or consequential, caused directly or indirectly by the changing, altering, moving, removing or replacing of facilities, except damages or claims resulting from the sole negligence of Fatbeam. Fatbeam will be given not less than 96 hours written notice by the person desiring to move a building or other object. This notice must state the route of movement of such building or other objects over and along the public rights of way and must be approved by the City. Such moving must be done as quickly as possible without unnecessary delay to limit expense and inconvenience to Fatbeam. In cases where it becomes necessary to temporarily rearrange, remove, lower or raise Fatbeam facilities for the passage of buildings, machinery or other objects because of a City project or undertaking, Fatbeam will temporarily rearrange, remove, lower or raise its facilities as required by the City at its own expense. If Fatbeam fails to temporarily rearrange, remove, lower or raise Fatbeam facilities for the passage of buildings, machinery or other objects within a reasonable time after receipt of written notice from City, then City may undertake such temporarily rearrangement, removal, lowering or raising of Fatbeam facilities to allow for the passage of buildings, machinery or other objects and Fatbeam must reimburse City for all its costs related to undertaking such work.

Section 6. Fatbeam must pay to the City an annual franchise fee of five percent (5%) of its gross revenues earned, less bad debts, from the operation of the facilities and/or provision of telecommunications services within the City. The franchise fee shall be payable semi-annually on or before March 15 for the six-month period ending December 31, and September 15 for the six-month period ending June 30, and the first and last payments must be for that fractional part of the calendar year during which this franchise is in effect. The City may change the compensation rate by Ordinance

consistent with applicable state and federal law, but no more frequently than annually. City shall have the right, upon thirty (30) days' prior written notice and during normal business hours, to conduct or cause to be conducted an audit of gross revenues as defined herein for the purpose of ascertaining whether Fatbeam's franchise fee payments have met the requirements of this franchise. Fatbeam shall pay any underpayment due to the City following audit within thirty (30) days after written notice to Fatbeam.

Section 7. The privileges and franchise granted will continue and be in full force for a period of 5 years from the date of enactment of this Ordinance or until the date a City Ordinance establishing regulation of the right-of-way (ROW) becomes effective, whichever comes first. If there is a change in applicable law that materially effects or alters the provisions of this franchise, the City and Fatbeam will enter good faith negotiations to agree to new provisions that implement the change in law in accordance with Federal and State law, and Oregon Public Utility Commission Rules and Regulations. This Ordinance does not grant a franchise unless it is accepted in writing by Fatbeam within 60 days after its enactment.

PRESENTED AND PASSED the first reading this 23rd day of September, 2024.

PASSED the second reading this 14th day of October, 2024.

Mariah S. Woods, City Recorder

APPROVED by the Mayor this 14th day of October, 2024.

Malynda H. Wenzl, Mayor



A place where families and businesses thrive.

CITY RECORDER USE ONLY:

AGENDA ITEM #: _____

MEETING DATE: _____

FINAL ACTION: _____

CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *September 23, 2024*

PROJECT TEAM: *Paul Downey*
Assistant City Manager/Finance Director

Gregory H Robertson, P.E., AICP, PMP
Director of Public Works

SUBJECT TITLE: **A RESOLUTION OF THE LOCAL CONTRACT REVIEW BOARD ADOPTING FINDINGS TO SUPPORT AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS FOR THE PUBLIC WORKS ADMINISTRATION BUILDING REMODEL AND EXPANSION, DECLARING SUCH EXEMPTION, AND AUTHORIZING A PROCESS TO AWARD A CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) CONTRACT**

ACTION REQUESTED:

☐	Ordinance	☐	Order	☒	Resolution	☐	Motion	☐	Informational
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X all that apply

ISSUE STATEMENT: City staff presented using the Construction Manager/General Contractor (CM/GC) contracting method to the Council at a work session on January 11, 2021, on the proposed Development Services Annex (DSA) and renovation of City Hall project and the City Council passed Resolution 2021-07 approving this method. Staff is proposing to use the same successful contract model for the Public Works Administration Building remodel and expansion project.

Staff has determined that hiring a contractor using the Construction Manager/General Contractor (CM/GC) contracting method is the best alternative to have the concerns addressed early in the design process and allow for a more reliable estimate for budgeting purposes. City staff has prepared a resolution for City Council, acting as the local Contract Review Board, to adopt findings supporting an exemption from competitive bidding requirements for the project, declare such an exemption, and authorize a process to award a CM/GC contract.

BACKGROUND: Historically, public construction projects are competitively bid and awarded to the responsible low bidder. The CM/GC contracting method is another method available to public agencies when the use of the CM/GC method is justified. This process involves the selection of a

CM/GC early in the design process so an agency can utilize the contractor's expertise early in the project to help address issues and potentially reduce the costs of the project. This type of contracting model is often used for more complex projects that require extensive design and value engineering, i.e., a building, versus less complex projects that require no design, i.e., road repaving.

ORS 279C.335(2) authorizes the Local Contract Review Board, which for the City of Forest Grove is the City Council, to exempt specific projects from the competitive public bidding requirements of ORS 279C.335(1) upon approval of certain findings of fact, and "where appropriate, direct(s) the use of alternative contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition." This resolution is a request to proceed with CM/GC services through a qualifications-based, competitive selection process.

The City will still use a competitive process to hire a CM/GC. Selection of a CM/GC firm for this project will utilize a Request for Proposal. The Request for Proposal will identify specific criteria, which will be utilized for the selection. The proposals from the CM/GC firms will include a competitive bid for their fee and general conditions for the project. The CM/GC will provide the City with a Guaranteed Maximum Price (GMP) and a full performance/payment bond for the work following detailed review of the design documents.

To ensure additional competitive processes, the selected CM/GC firm will be required to competitively bid or quote the remaining elements of the project. The CM/GC contract will have rules that must be followed when awarding subcontracts on the project. For example, the rules will require City approval for subcontractor contracts awarded to a firm other than the subcontractor with the lowest price. By having the CM/GC propose a fee & general conditions and then bidding the subcontract work, all of the costs of the project will be subject to competitive procurement.

ORS 297C.335(5) requires the City to hold a public hearing of the Local Contract Review Board to allow comments on the City's draft findings. Notice of this public hearing must be advertised in at least one trade newspaper of general statewide circulation not less than 14 days prior to the hearing. Notice of the public hearing was advertised in the Daily Journal of Commerce on September 6, 2024.

FISCAL IMPACT: The CM/GC method affords the City the opportunity to still competitively procure all elements of the project while helping to address constructability issues during design instead of finding out about those issues after the project has been bid. This provides the opportunity to reduce the potential for change orders which could increase the project costs. This project is included in the FY 24-25 budget in the amount of \$4 million.

STAFF RECOMMENDATION: Staff recommends that the City Council, acting in the capacity of the Local Contract Review Board, review and approve the findings of fact supporting a specific exemption from competitive bidding requirements for use of a Construction Management/General Contractor process for construction of the Public Works Administration Building remodel and expansion project.

ATTACHMENT:

- Resolution 2024-39

RESOLUTION NO. 2024-39

RESOLUTION OF THE LOCAL CONTRACT REVIEW BOARD ADOPTING FINDINGS TO SUPPORT AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS FOR THE PUBLIC WORKS ADMINISTRATION BUILDING REMODEL AND EXPANSION, DECLARING SUCH EXEMPTION, AND AUTHORIZING A PROCESS TO AWARD A CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) CONTRACT

RECITALS

WHEREAS, The Forest Grove City Council is the Local Contract Review Board for the City of Forest Grove; and

WHEREAS, ORS 279C.335(2) authorizes a Local Contract Review Board to exempt specific projects from the competitive bidding requirements of ORS Chapter 279C.335(1) upon approval of certain findings of fact, and “when appropriate, direct(s) the use of alternate contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition;” and

WHEREAS, Oregon Administrative Rule 137-049-0610 defines permissible alternative contracting methods, including Construction Manager/General Contractor (CM/GC) methods of contracting for public improvements; and

WHEREAS, The City’s Local Contract Review Board has determined that using the CM/GC form of contracting for project including a planned Public Works Administration Building Remodel and Expansion will be most beneficial to the City and its residents, based on the findings adopted herein; and

WHEREAS, Selection of a CM/GC firm for the Project will be made using a Request for Proposal that identifies specific selection criteria and requires a competitive bid in the form of a Guaranteed Maximum Price (GMP) for the Project, including the CM/GC’s fee for services. The CM/GC will also be required to provide full performance and payment bonds for the work following detailed review of the design documents; and

WHEREAS, ORS 297C.335(5) requires the City to hold a public hearing to allow comments on the Local Contract Review Board’s draft findings. Notice of this public hearing shall be advertised in at least one trade newspaper of general statewide circulation not less than 14 days prior to the hearing. Notice of the public hearing was advertised in the Daily Journal of Commerce on September 6, 2024; and

WHEREAS, The City Council, acting as the local Contract Review Board, hereby adopts the following Findings of Fact to support an exemption from competitive bidding to permit the award of a CM/GC contract for the Project:

1. The CM/GC process will provide the City of Forest Grove with the following advantages:

- Cost savings, as described below;
- Ability to work with contractor to sequence construction to keep the Public Works Department operational to extent feasible during construction;
- Reduction of schedule risk typically associated with multiple construction agreements;
- Opportunity to select a qualified CM/GC firm versus award project to any bondable low bidder;
- Accurate cost data for project decisions;
- Greatest assurance of successful schedule management; and
- Higher confidence in obtaining quality construction.

2. Project Description.

The City is currently in the preliminary design phase for the construction of the Public Works Administration Building remodel and expansion. The project consists principally of remodeling 2360 square feet of the existing Public Works Administration building and expanding it by a 4000 square-foot addition. Total estimated project costs including design, construction, furnishing and fixtures are projected to be \$3,500,000.

3. Responsibilities of the CM/GC Firm.

a) Design Phase.

The CM/GC firm will provide scheduling, bid packaging, cost estimating, and review design documents from the standpoint of value, long lead procurements, design feasibility and constructability, and negotiating a Guaranteed Maximum Price for the work prior to completion of the construction documents.

b) Bid Process.

All material procurement and work by subcontractors will be competitively bid. The CM/GC firm will coordinate the bid process for all work with full oversight and participation by City staff. The CM/GC firm will provide a recommendation to the City for each subcontract. Upon approval from the City, the CM/GC will execute a contract with the approved subcontractor.

c) Construction Phases.

The CM/GC firm will be responsible for completing the construction project, including scheduling of subcontractors, materials procurement and delivery. The CM/GC is responsible for completing the project on schedule, within budget, and at, or above, the quality defined in the specifications prepared by the design engineering firm.

4. Rationale for Using CM/GC Method.

a) No Diminished Competition or Encouragement of Favoritism.

Because a CM/GC will be selected through an open, competitive process among qualified contractors including formal proposals, successful experience criteria, interviews, and cost proposals, it is unlikely that the exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts.

Furthermore, because the work subcontracted by the CM/GC will be awarded to the lowest responsive bidder, this bid process will not result in favoritism in the awarding of public contracts.

b) Value Engineering.

The project renovates approximately 2,360 square feet of space in the existing administration building and contemplates an addition of 4000 square feet. The City needs to review construction options to determine the feasibility of phasing construction to assure minimal department operational disruption. A CM/GC will be able to provide the City with information during the design including the cost ramifications of phasing construction. If a traditional design/bid approach is used, information on phasing construction and the cost effects will not be available and the bid package will be more difficult to develop. Because the CM/GC method will allow for the phasing option to be fully developed, it will reduce overall project costs by reducing the cost to develop bid documents. Staff believes that the City will realize savings save in design and engineering costs using the CM/GC method versus the design/bid approach.

The CM/GC will have the opportunity to work with the design team to perform value engineering to try to find alternatives to lower the cost of the project and to find the lowest-cost approach to sequencing and completing the required improvements.

Furthermore, because the CM/GC firm will have adequate time to prepare bid packages, review and analyze bids received from subcontractors, subcontractors are more likely to be well-qualified subcontractors, which should result in better quality and cost savings.

c) Change Order Cost Control.

Use of the CM/GC method should control change order costs. The CM/GC firm's fixed fee includes both overhead and profit, which, when added to the actual cost of the change, should be less than the standard fee added to change orders on projects awarded under the low-bidder method. The City's prior experience with CM/GC projects is that CM/GC contracts provide for a lower fixed fee than in design/build contracts. Reduction of overhead and profit on changes should result in cost savings.

d) Reduced Construction Time.

Using the CM/GC method of contracting will reduce construction time by allowing the contractor to plan phasing during the design portion instead of after bids are opened, when a change order would be required after the contractor determines the effects of phasing the construction. Using the CM/GC method will provide greater scheduling flexibility and allow improvements to begin at an earlier date. Staff estimates the improvements can begin and be completed earlier using the CM/GC method versus design/bid due to the effects of being able to plan phasing of the construction at earlier date.

e) Qualified Management.

The City of Forest Grove Management Team is well equipped to manage the complexities of this CM/GC construction process. The City has used the CM/GC process on three previous construction projects. Key staff working on this Project in the following roles are: Paul Downey, Director of Administrative Services, in managing the RFP process, including change orders and Gregory H Robertson, P.E., AICP, PMP will assist Paul Downey in negotiating the contract and change orders. Greg will oversee construction.

f) Operational, Budget, and Financial Data.

The total estimated available budget for this Project is \$4,000,000 which is also the estimated total cost of the work. The lower design costs associated with a CM/GC contract will enable more funds to be spent on the actual construction.

Once completed, this project will make administrative operations smoother and will allow staff to function more efficiently.

g) Specialized Expertise Required.

Utilizing a CM/GC on this project will be better than using just City staff to complete the project. Having the expertise of the CM/GC during design will allow the CM/GC to address the technical and construction issues involved with this renovation project.

h) Public Benefits.

By using the CM/GC method, operational disruption during construction can potentially be minimized or avoided. This will result in cost savings to the rate payers as the City may not have to rent other space or modular buildings to house staff during construction.

i) Public Safety.

No significant public safety benefits are anticipated as a result of using the CM/GC contracting method.

j) Funding Sources.

This Project will be paid for out of funds the City already has accumulated. The lower design costs associated with a CM/GC contract will enable more funds to be spent on the actual construction.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. The City Council of the City of Forest Grove, acting as the City's Local Contract Review Board, hereby:

- a) Adopts the findings described herein to support an exemption from competitive bidding for the contract to construct the Project.
- b) Declares an exemption from competitive bidding for the contract to construct the Project.
- c) Authorizes and directs City staff to proceed with the process of soliciting for a CM/GC contract for the Project according to applicable statutes and rules for such solicitations.
- d) Directs the City Manager, and such persons as he may direct, to negotiate a CM/GC contract with the selected firm in a form approved by the City Attorney.

Section 2. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 23rd day of September, 2024.

Mariah S. Woods, City Recorder

APPROVED by the Mayor this 23rd day of September, 2024.

Malynda H. Wenzl, Mayor



URA FINANCE AND POSSIBLE DEBT ISSUANCE WORK SESSION

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Purpose

- To better understand the financial position of the URA and review the possible issuance of debt to facilitate development opportunities.
- If there is a consensus to issue debt, the URA Board and possibly the Council will have to approve it.

Background

- The URA is looking at larger projects in the near term but lacks the cash needed to move forward on the projects. Debt can be issued to borrow the cash needed.
- URA's are expected to and frequently use debt to purchase property and/or to assist in the development of property.
- Debt was incurred by the URA for the Jesse Quinn project. That debt has been paid off and property tax revenue has grown, so the URA is in position to issue more debt.

Background

- The current maximum indebtedness under the URA Plan is \$15 million of which approximately \$12.5 million remains.
- The expiration of the URA under the URA Plan is 2035. However, state law eliminated all URA 20-year expiration dates and pegged the expiration date to the end of debt repayment of the maximum indebtedness.
- The Board has full discretion to determine how much debt to issue and when the URA expires.

Debt Capacity

- Staff had the City's debt financial advisor estimate the amount of debt that could be issued using the URA's current net property tax revenue (property tax revenue after administrative expenses) with an allowance for future growth.
- Current net property tax revenue is \$714,000/year.
- There were two scenarios prepared: 1) Full Faith and Credit (FF&C); and 2) Urban Renewal Revenue (URR).

Debt Capacity

- Scenario 1: Full Faith and Credit debt means the City would issue the debt and pledge to pay the debt service if the URA does not have the funds to pay the debt service. This would require an IGA between the City and URA.
- Scenario 2: Urban Renewal Revenue debt means the URA would issue the debt, and the debt service is solely covered by URA tax increment revenues. The City has no obligation to pay the debt service in the event the URA cannot pay.

Debt Capacity

- Debt repayment was from now through 2034-2035 or a 10-year period, meaning the URA would have no debt past 2035.
- Amount borrowed was based on using all the URA net property tax revenue available for both scenarios.
- For FY 2024-25, the URA net property tax revenue available is \$714,000. Approximately \$320,000 has been budgeted in FY 24-25 to storefront and building improvement grant programs; however, this is annual and can be changed by the Board.
- The City will likely look at borrowing from a bank before issuing bonds. Process tends to be easier with a bank.

Scenario 1: Full Faith and Credit

- Scenario 1 — Full Faith and Credit debt:
 - Debt secured by City's full faith and credit pledge.
 - Used 3% and 4% annual growth in tax increment revenue.
 - Debt payments increase each year to match projected net operating revenue.
 - 3% estimate results in a debt issuance of \$6.41 million with net funds for projects of \$6.24 million, repayable by 2035. This results in an annual average debt payment of \$832,000/year.
 - 4% estimate results in a higher debt issuance of \$6.83 million with net funds for projects of \$6.65 million, repayable by 2035. This results in an annual average debt payment of \$890,000/year.

Scenario 1: Full Faith and Credit

- The City's Bond Counsel indicated there are limitations on FF&C financing agreements that would need to be included in any IGA. The limitations are on the next page.
- The limitations are: 1) the conditions to meet if the property is sold to a private party; 2) the City will not take any action related to a project designed to benefit a specific party; and 3) if the URA uses FF&C debt to make building improvement grants, the grants can probably only go to individuals and not to specific businesses.
- Staff is working with Bond Counsel to determine how much flexibility there is with the limitations.

FF&C Limitations

- **Covenants to Allow City to Comply with Article XI, Section 9 of the Oregon Constitution.**
- The City hereby covenants that so long as this Financing Agreement remains outstanding:
 - (1) The Project can only be sold to a private party if the sale meets the following conditions:
 - 1. the sale is for cash;
 - 2. at fair value; and
 - 3. the sale is in an amount sufficient, considering other legally available sources of revenues, to pay off all amounts due from the City under this Financing Agreement reasonably allocable to the portion of the Project being sold.
 - (2) If a sale is permitted under (1) above and all or a portion of the Project is sold to a private party, proceeds from the sale, and, if necessary, other legally available sources of revenues, need to be applied immediately to pay off all amounts due from the City under this Financing Agreement reasonably allocable to the portion of the Project being sold.
 - (3) The City will not take any action related to the Project designed to benefit a particular private party. This includes making improvements on the Project to benefit a particular developer or development. This covenant does not limit the City's ability to make changes to the Project to prepare the Project for development so long as those changes are general in nature, designed to facilitate development on the site and not designed to benefit or accommodate a particular project or developer.

Scenario 2: URA Debt

- Scenario 2 – Urban Renewal Revenue Debt:
 - Debt secured solely by URA tax increment revenue.
 - Debt structured to achieve level debt service (payments are the same each year throughout the debt term).
 - Debt service based on 1.5x coverage using FY 2024-25 budgeted net operating revenue. This means the lender requires the URA to have annual net property tax revenue of 150% of the debt service. For example, if debt service is \$10/year, the lender would require revenue of \$15/year.
 - Lender will likely require a Debt Service Reserve Fund of approximately \$360,000.

Scenario 2: URA Debt

- This scenario results in a debt issuance of \$3.60 million with net funds for projects of \$3.1 million, repayable by 2035. The annual debt service for this amount is \$474,000.
- The 1.5x debt service coverage is an estimate. If a lender will allow a lower debt service coverage, the URA would be able to borrow more.
- The Debt Service Reserve Fund is typically required by a lender to ensure that funds are available to pay the debt service.
- The interest rate on the URA debt may be approximately half a percent higher as there is less security than using FF&C.

Next Steps

- The URA needs to determine how much, if any, it wants to borrow which will help determine the type of financing to use.
- Using URR debt may give the URA more flexibility as the limitations of using FF&C financing are avoided.
- The decision on how much to borrow depends on how much of the annual net property tax revenue of \$714,000 the URA Board wants to commit to the annual debt service payments. Currently, approximately \$320,000/year is budgeted for storefront and building improvement grant programs, leaving approximately \$394,000/year to service debt payments. This amount will increase as net property tax revenues increase.

Next Steps

- Does the Board want to use debt to fund larger projects, i.e., to purchase and/or redevelop property?
- If yes, what type of debt — City or URA — does the Board prefer? Staff recommends using URA debt as it has fewer restrictions.
- If yes, what time period would the Board like to issue debt for, i.e., 5 or 10 years? Staff recommends not issuing debt past a 10-year repayment period.
- How much debt would the URA Board like to issue? Assuming using URR and a 10-year repayment period, the URA has the capacity to issue approximately \$3.5 to \$4 million in debt.