

AGENDA
CITY COUNCIL - CITY OF ONTARIO, OREGON
April 18, 2011, 7:00 p.m., M.T.

1) Call to order

Roll Call: Norm Crume _____ Jackson Fox _____ Charlotte Fugate _____ Dan Jones _____
David Sullivan _____ Ron Verini _____ Mayor Joe Dominick _____

2) Pledge of Allegiance

This Agenda was posted on Wednesday, April 13, 2011, and a study session was held on Thursday, April 14, 2011. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) Motion to adopt the entire agenda

4) Consent Agenda: Motion Action Approving Consent Agenda Items

- A) Approval of Minutes of Regular Meeting of 04/04/2011 1-7
- B) Proclamation: National Public Safety Telecommunicators Week 8
- C) Liquor License Application: New Outlet - Vegas County (Full On-Premises Sales) 9
- D) Approval of the Bills

5) Public Comments: Citizens may address the Council on items not on the Agenda. Council may not be able to provide an immediate answer or response, but will direct staff to follow up within three days on any question raised. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

6) New Business

- A) Septage Receiving Facility Equipment Award 10-26
- B) ODOT Intergovernmental Agreement #27208: 2012-2013 Pedestrian and Bicycle Program for Enhanced Pedestrian Crossings (\$207,680) 27-39

7) Topics for Discussion (Thursday):

- A) Proposed Yard Debris Collection Program: Scott Wilson, Ontario Sanitary Service
- B) Review OMC 10A-57-130: Illuminated and Flashing Signals
- C) Council Rules and Procedures
- D) Oregon Public Meetings Law & Employee Residency Requirements: City Attorney

8) Correspondence, Comments and Ex-Officio Reports

9) Adjourn

MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT, PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE

The City of Ontario does not discriminate in providing access to its programs, services and activities on the basis of race, color, religion, ancestry, national origin, political affiliation, sex, age, marital status, physical or mental disability, or any other inappropriate reason prohibited by law or policy of the state or federal government. Should a person need special accommodations or interpretation services, contact the City at 889-7684 at least one working day prior to the need for services and every reasonable effort to accommodate the need will be made. T.D.D. available by calling 889-7266.

COUNCIL MEETING MINUTES

April 4, 2011

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, April 4, 2011, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan, and Ron Verini.

Members of staff present were Henry Lawrence, Tori Barnett, Larry Sullivan, Mark Alexander, Alan Daniels, and camera operator Delaney Kee. The meeting was recorded on tape, and the tapes are available at City Hall.

Dan Jones led everyone in the Pledge of Allegiance.

AGENDA

Ron Verini moved, seconded by Charlotte Fugate, to adopt the Agenda as presented. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones- yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CONSENT AGENDA

Councilor Crume asked that the bills be voted on separately. Council consensus to move the bills to a stand alone action item.

Norm Crume moved, seconded by David Sullivan, to approve Consent Agenda Item A: Approval of Minutes of Regular Meeting of 03/21/2011; Item B: Ordinance #2656-2011 – Repealing OMC 3-10-1 (Final Reading); and Item C: Resolution #2011-108: Accept/Expend FEMA Assistance to Firefighters Grant for 30 Sets of Firefighter Turnouts; Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Councilor Crume and Mayor Dominick recused themselves from voting on the bills, as their businesses had payments pending.

Jackson Fox moved, seconded by Dan Jones, to accept the bills as presented. Roll call vote: Crume-abstain; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-abstain. Motion carried 5/0/0/2.

NEW BUSINESS

Resolution #2011-107: Modify Grant Fund Budget for FAA Grant #3-41-0044-010

Alan Daniels, Airport Manager, stated the City's various FAA grants were approved for use as part of the City's 20% Connect Oregon II Grant, leaving the City with a General Fund obligation of \$45,346 for the entire project. Resolution 2011-107 created the budget necessary to capture the FAA Project #3-41-0044-010 that the Council accepted during they telephonic meeting of March 15, 2011. This was the final FAA Grant for this project and represented the final piece of the budget changes for the overall project.

In February, 2009, the Council accepted FAA Grant Project #3-41-0044-008 for \$124,168 thru Resolution #2009-104; in November, 2009, the Council approved the Connect Oregon 3 Application, and they also approved the ODOT ConnectOregon Agreement #24941 dated July 8, 2009, which allowed the City to begin the project prior to accepting the ConnectOregon Grant; in September, 2010, the Council accepted FAA Grant Project #3-41-0044-009

for \$168,913 thru Resolution 2010-141; in October, 2010, the Council accepted ConnectOregon 3 Grant for \$3,566,377 thru Resolutions 2010-148 & 149; and in March 2011, the Council accepted the FAA Grant for Project #3-41-0044-010 for \$553,168.

The overall airport project funding was as follows:

	Grant Funds	General Fund Match	Project Total
FAA Project #3-41-0044-008	\$ 124,168.00	\$ 6,550.00	\$ 130,718.00
FAA Project #3-41-0044-009	\$ 168,913.00	\$ 8,890.00	\$ 177,803.00
FAA Project #3-41-0044-010	\$ 553,168.00	\$ 29,114.00	\$ 582,282.00
Connect Oregon II – ODOT (80% Grant)	\$3,566,377.00	\$ 792.00	\$3,567,169.00
	\$4,412,626.00	\$ 45,346.00	\$4,457,972.00

Resolution 2011-107 would create the final budget piece for the overall project by identifying FAA Project #3-41-0044-010 revenues, and allocating the final General Fund grant match amounts.

The \$553,168 in FAA Project #3-41-0044-010 grant revenue was proposed to be budgeted within the City's Grant Fund with the required matching funds being reallocated from General Fund Contingency to a General Fund transfer to the Grant Fund. The grant was slightly less than requested; however staff was informed it represented all of the available FAA funds. Accordingly, the additional grant match of \$792 needed to complete the overall project was incorporated into Resolution 2011-107. City staff would manage the grant project and those costs were not reimbursable thru this grant project.

One change was that at the transportation meeting last Monday, it was brought up that there were some rural airport money that had not been used, so he contacted the administrator of the program and said while he realized that 99% of the project was already being paid, if there were funds that were not going to be used, he would like to use them, as \$45,000 out of a \$53,000 budget was a big hit. He was told that they couldn't use two sides of the ConnectOregon budget on the same project, but there might be a solution to that. His contact said he would contact the FAA, and the result of that was that he was contacted and told that Ontario would be relieved of the obligation of a match on the project.

Norm Crume moved, seconded by David Sullivan, that the Mayor and Council adopt Resolution No. 2011-107, A RESOLUTION ACKNOWLEDGING RECEIPT OF FAA GRANT PROJECT #3-41-0044-010 FOR THE ONTARIO MUNICIPAL AIRPORT, AND FURTHER APPROVING A REALLOCATION OF GENERAL FUND EXPENDITURES, AND APPROVING REVENUE AND EXPENSE BUDGETS WITHIN THE GRANT FUND. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

FAA Project Bid Award: Valley Paving

Alan Daniels, Airport Manager, stated during the winter of 2007 the City of Ontario applied for ConnectOregon II funds for the runway rehabilitation and apron rehabilitation/expansion project for the Ontario Municipal Airport. While waiting to be moved into a funded position on the ConnectOregon 2 project, the City reapplied for the same project under the ConnectOregon 3 funding cycle.

The overall airport improvement project budget was approximately \$4,457,972, and was made up of three separate FAA Grants and one ODOT ConnectOregon II Grant, all of which had been awarded, accepted, and budgets put in place within the City's Grant Fund to complete the project. The City's required cash match had also been appropriated, and amounted to \$45,346.

In February 2009, the Council accepted FAA Grant Project #3-41-0044-008 for \$124,168 thru Resolution #2009-104; in November 2009, the Council approved the ConnectOregon 3 application, and also approved ODOT ConnectOregon Agreement #24941 dated July 8, 2009, which allowed the City to begin the project prior to accepting the ConnectOregon Grant; in September, 2010, the Council accepted FAA Grant Project #3-41-0044-009 for \$168,913 thru Resolution 2010-141; in October 2010, the Council accepted a ConnectOregon 3 Grant for \$3,566,377 thru Resolutions 2010-148 & 149; and in March 2011, the Council accepted the FAA Grant for Project #3-41-0044-010 for \$553,168.

Design work for the project was completed and approved by the granting agencies, and construction bids were advertised in four schedules with an engineer's project construction estimate of \$3,885,377.60. Forty-six sets of plans were sent out to interested parties, and six sealed bids were received and opened publicly at 10:00 AM, Thursday, March 10, 2011 and were summarized as follows:

Contractor	Location	Bid
Valley Paving and Asphalt, Inc.	Cottonwood, Idaho	\$ 3,046,455.16
W.F. Construction and Sales	Meridian, Idaho	\$ 3,298,182.00
Idaho Sand and Gravel, Co.	Nampa, Idaho	\$ 3,347,790.94
Kerr Contractors, Inc.	Woodburn, Oregon	\$ 3,495,310.22
Knife River	Boise, Idaho	\$ 3,971,802.55
Kodiak Pacific Construction	Tualatin, Oregon	\$ 3,973,973.00

The overall airport improvement project funding was:

	Grant Funds	General Fund	
		Match	Project Total
FAA Project #3-41-0044-008	\$ 124,168.00	\$ 6,550.00	\$ 130,718.00
FAA Project #3-41-0044-009	\$ 168,913.00	\$ 8,890.00	\$ 177,803.00
FAA Project #3-41-0044-010	\$ 553,168.00	\$ 29,114.00	\$ 582,282.00
Connect Oregon II – ODOT (80% Grant)	\$3,566,377.00	\$ 792.00	\$3,567,169.00
	\$4,412,626.00	\$ 45,346.00	\$4,457,972.00

Thus far the project budget had committed \$554,611 in design, engineering, construction bidding, and construction management contract amounts, leaving \$3,903,361 in project budget funds available for construction. The lowest responsive bid of \$3,046,455.16 was submitted by Valley Paving and Asphalt, Inc., was lower than the Engineer's estimate and was within the overall project budget. Any requested change orders would be set for "not to exceed" the grant amount.

Ron Verini moved, seconded by Charlotte Fugate, that the Council award the airport improvement project construction bid to Valley Paving and Asphalt, Inc., and authorize the City Manager to enter into a construction contract with Valley Paving and Asphalt, Inc., for Bid Schedules A thru D in the amount of \$3,046,455.16. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Kimley-Horn Contract Addendum

Alan Daniels, Airport Manager, stated this contract was an addendum to the existing contract with Kimley-Horn to authorize them to provide engineering services through the construction phase and overall completion of the airport improvement grant project. The original contract with Kimley-Horn was for \$60,030, and was then increased for each FAA Grant Project #008 and #009 and was proposed to be increased for the ConnectOregon II Project as follows:

Kimley-Horn Contract			
	Grant Funds	General Fund Match	Engineering Total
FAA Project #3-41-0044-008	\$ 124,168.00	\$ 6,550.00	\$ 130,718.00
FAA Project #3-41-0044-009	\$ 168,913.00	\$ 8,890.00	\$ 177,803.00
FAA Project #3-41-0044-010	\$ -	\$ -	\$ -
Connect Oregon II - ODOT	\$ 245,298.00	\$ 792.00	\$ 246,090.00
	\$ 538,379.00	\$ 16,232.00	\$ 554,611.00

This was proposed to be the final addendum for this project for engineering work for the airport improvement project that included overlaying the runway, taxiway, ramp and adding new ramp area. The full cost of the overall airport improvement project was projected to be \$4,457,972.

In February, 2009, the Council accepted FAA Grant Project #3-41-0044-008 for \$124,168 thru Resolution #2009-104; in July, 2009, Council approved the contract with Kimley-Horn for \$60,030 for Project Design Start-up, and the Council also approved the contract with USKH for an independent review of the Kimley-Horn pricing; in March 2010, the Council approved a contract increase with Kimley-Horn from \$60,030 to \$124,168 for additional project design work paid; in September 2010, Council Accepted FAA Grant Project #3-41-0044-009 for \$168,913 thru Resolution 2010-141, and approved an Addendum with Kimley-Horn for additional \$184,303; and in March 2011, the Council accepted FAA Grant 3-41-0044-010 in the amount of \$553,168.

The contract Addendum was proposed to be paid out of the ConnectOregon II Project budget for final plans and engineering documents. The budget for the ConnectOregon II Project was established by Council Resolution No. 2010-149 in October 2010; however, the final project grant was only recently received from the FAA and the City could now proceed with the construction phase of the project.

David Sullivan moved, seconded by Dan Jones, that the City Council authorize the City Manager to enter into a contract addendum with Kimley-Horn for an additional \$246,090 to complete engineering work for the Ontario Airport Improvement Project as funded by the Connect Oregon II Grant. Roll call vote: Crume-yes; Fox- yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Fox questioned taking action on an item at a Thursday work session. It appeared like it was a backroom deal.

Larry Sullivan, City Attorney, stated a backroom deal outside of public view. The Thursday work session was noticed and open to the public, qualifying it as a public meeting; therefore, action could take place on issues.

Councilor Fox asked if that was proper; did the Council feel okay with conducting meetings that way?

Mayor Dominick stated it was very rare when things were acted on in the work session. Most were done because of time constraints or money issues. The particular issue Councilor Fox was asking about was simply authorizing staff to move forward with advertising a public hearing. The Council was not overstepping and trying to keep things out of the public purview.

Councilor Fox asked if the item which they took action on Thursday was time sensitive, that it had to be acted on Thursday?

Mayor Dominick stated it probably had not been time sensitive.

Councilor Verini stated he liked the flexibility of being able to take action when necessary.

Councilor Jones stated his agreement with Councilor Fox. The Thursday meetings were to discuss issues, and while sometimes those meeting were long and intense, it allowed them to do a better job when taking action on Monday.

Councilor Fugate stated the Thursday work sessions were designed for meeting generally did not go that way.

Councilor Fox just didn't get the reasoning behind voting on an issue at a work session that was not time sensitive.

Mayor Dominick stated he understood Councilor Fox's point, but the Council did have the legal right to handle certain issues that way.

Councilor Fox asked the City Manager if he believed the action was so time sensitive that it had to have a vote on Thursday?

Henry Lawrence stated they had discussed the issue for over two hours, and his impression was that the Council wanted to make a decision following the debate.

Councilor Fox stated voting on Thursday did not give him ample time to think about how he wanted to vote. He didn't understand jockeying the issues around, and taking action.

Mr. Sullivan stated it was a policy matter that the Council could adopt in their Rules and Procedures that in the future, when an agenda item had been published as a discussion item, that's how it would be handled, except in an emergency situation.

Councilor Crume stated his opinion on what had happened on Thursday was that they were at an impasse in the discussion, and a majority of the Council was searching for a way to finish it. When Councilor Jones came up with the idea of putting a ribbon curb on the road, everyone jumped on it.

Councilor Fox stated maybe they were rushed.

Councilor Crume didn't feel that way. They had discussed it quite extensively, and it looked like a way to settle it.

Councilor Fox had a bad feeling, or a bad taste in his mouth, about the \$28,000 that the tax payers in Ontario would have to pay.

Councilor Crume stated he didn't think anyone was happy about it.

Councilor Fox stated they broke Ontario law and did not follow Attorney Sullivan's advice. The ordinance read "shall".

Mayor Dominick stated the only action was to instruct staff to set a public hearing.

Councilor Fox stated that left out Mr. Sullivan's advice.

Mayor Dominick stated no final decision was made, other than to hold another public hearing.

Councilor Fox stated he would address the issue when they updated the Council Rules and Procedures Manual.

- Mark Alexander stated the Police Board would meet on Wednesday to discuss gang issues; and he reminded everyone that Detective Castro, the gang officer from Hillsboro, would be in town on Thursday and Friday to speak in a public forum about gangs.
- Tori Barnett reminded everyone of the Statement of Economic Interest due of date of April 15. Each Councilor was required by law to complete one and submit it to the state.
- Henry Lawrence voiced his concerns over the Four Rivers Cultural Center, and the governance of the Center. The comments were his own, and his own opinion, and had nothing to do with the City Council. Three or four weeks ago, Launa DeGiusti attended a Council work session with an update, and at that time, he handed out copies of the Funding Agreement between the City of Ontario and the Center, to outline some requirements for distributing almost 20% of the Transient Occupancy Tax collected in the community. His comments were not made in a manner to grab those funds, because Four Rivers needed those funds to operate. The newspaper last week stated that the new Director of the Center resigned. She was there less than two years. He believed the Center was valuable to the community, and when he interviewed for the City Manager job, he was blown away that a community of this size could have such a facility, and have the ability to support the Center. Having a Center was a jewel. He was concerned about the community's ability to continue to support the Center. They were an independent organization with a Board of Directors, and he respected that, but the Center was supported by tax dollars. The City and the Council should be concerned. The Agreement between the two should be revisited and/or discussed with the Board. It averaged about \$10,000 per month in TOT as outlined in an ordinance and an Agreement. It was his understanding that Four Rivers was 15 years old, and they had been through maybe eight Directors. That was only two years per Director. That was a tenure worse than a City Manager's tenure. After today, he suspected he wouldn't be invited to their Christmas party; however, it was important that the Council look into it. They needed to be concerned about the health of the Center, now and in the future. When he looked at an organization that couldn't keep a Director more than two years, it caused questions about the governing of the organization, whether it was dysfunctional or maybe something else was wrong. He was not pointing the finger at anyone; it simply needed to be looked at. How was the tax money being spent? Was it being used to support the mission of the Center, for preservation of the Center as intended, or was it being used to subsidize other organizations? Was it being used to subsidize events held at the Center for private parties? He did not know, but believed those to be legitimate questions. \$10,000 a month was a lot of money, and could go towards other needed causes. He didn't know what they paid for utilities, but it was probably larger than what the City paid for theirs. Having said that, this issue needed to be on a future agenda. He also wanted to talk about how he thought Launa was treated. He was embarrassed, ashamed, and angry about it. He watched from the sidelines, and saw how she was treated with disrespect. She was shunned, undermined, tormented, and intimidated. She was new to the community, moving her entire household here, and it was embarrassing to see how the community treated her.

Councilor Fox asked what Mr. Lawrence wanted to have done.

Mr. Lawrence stated the Agreement needed to be looked at, and it needed to be complied with. One provision was that their Board meeting be held open to the public at least quarterly. He wasn't pointing at any one person, but a new Director every two years certainly needed to be looked at.

Councilor Fox stated he was not familiar with their Board and their meetings - were they closed?

Mr. Lawrence stated he believed so.

Councilor Fox confirmed the meetings were closed, but the City contributed \$10,000 per month to them?

Mr. Lawrence stated there was a City Councilor on the Board, Councilor Fugate, and it was his understanding that she was also the Interim Director. It was an issue the Council needed to be brought up to date. He didn't have an axe to grind, but to sit by and be silent, was wrong.

Mayor Dominic agreed the issue needed to be on an agenda. The Council needed to think about whether they wanted extra meetings, or longer regular meetings. That could be discussed as they progressed.

- Councilor Verini thanked the community for the support of the Josh Brennan Memorial Hall and the Josh Brennan scholarship fund at TVCC. He also thanked Councilor Fugate, Chief Alexander, and his police officers that attended the extremely important event, in their support of the armed forces, the veteran's, and their families.
- Councilor Crume reminded everyone to show up for the presentation by Detective Castro about gangs. Please attend Thursday for English or Friday for Spanish, to hear what Detective Castro had to say.
- Councilor Jones stated in regards to the budget they were in, on the sewage facility, it was passed in the budget but had not been started yet. Was it possible to get an update on that? Had some concerns and questions about the issue. Wanted it brought back to a study session for review.

Mr. Lawrence stated he would have Chuck Mickelson and Bob Walker attend a work session to provide some answers.

- Councilor Fugate stated they held their Fat Cat Community Yard Sale last week-end, and had raised almost \$4,000. The money was for spaying and neutering cats, and they had spayed or neutered 650 cats over the past 18 months.

Councilor Verini asked if the cat complaints had decreased.

Mayor Dominick stated he had noticed less cats around.

- Mayor Dominick reminded everyone of Serve Day this year, May 21st. One of their projects was to build a feline domicile. Anyone interested in serving could go online to serveday.info. Please join up to help in your community.

ADJOURN

Norm Crume moved, seconded by Ron Verini, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

PROCLAMATION

WHEREAS, Emergencies can occur at any time that require police, fire, or ambulance; and

WHEREAS, Professional telecommunicators perform a critical function when an emergency occurs requiring police, fire, or ambulance as well as those related to forestry and conservation operations, highway safety and maintenance activities; and

WHEREAS, Thousands of dedicated telecommunicators daily serve the citizens of the United States by answering their calls for police, fire and emergency medical services, and by dispatching the appropriate assistance as quickly as possible; and

WHEREAS, Professional telecommunicators are critical to our country's emergency response and homeland security services, dispatching law enforcement, firefighters, emergency medical services, and other emergency responders 24 hours a day, seven days a week; and

WHEREAS, Professional telecommunicators are not visible as are the men and women who arrive on the scene of emergencies, but provide the vital link to public safety services as part of the first responder team; and

WHEREAS, Professional telecommunicators exhibit compassion, understanding, and professionalism during the performance of their job throughout the year.

NOW, THEREFORE, I, Joe Dominick, Mayor of the City of Ontario, Oregon, do hereby proclaim the week of April 10-16, 2011, as

NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

in honor and recognition of our telecommunicators and the vital contributions they make to the safety and well-being of our citizens. Telecommunicators for the City of Ontario are Liz Amazon, Becky Carter, Michelle Mallea, Kathy Ross, Tauni Thode, Julie Walker, and Melody Wier.



Dated this 18th day of April 2011.

Joe Dominick, Mayor

CONSENT AGENDA
APRIL 18, 2011

TO: Mayor and City Council

FROM: Mark Alexander, Interim Police Chief

THROUGH: Henry Lawrence, City Manager

**SUBJECT: LIQUOR LICENSE APPLICATION – NEW OUTLET
Vegas County (Full On-Premises Sales)**

DATE: April 11, 2011

SUMMARY:

Vegas County LLC, owner of Vegas County has completed the “New Outlet” application process for “Full On-Premises Sales” liquor license privileges through the Oregon Liquor Control Commission for their new business located at 117 SE 2nd Street, Ontario, Oregon.

All necessary paperwork has been approved through OLCC office and is awaiting approval through the Ontario City Council.

BACKGROUND:

Criminal Record process was completed on Vegas County LLC owner/manager Stefan Schachtell. All records returned clear. The application forms have been filled out appropriately and required fees have been paid. All Permit requirements have been met.

Stefan Schachtell has purchased the business Saddles & Spurs. He is opening the business under the new name – Vegas County.

RECOMMENDATION:

I have completed a review of this application information in accordance with the City of Ontario’s ordinance regulating this license. I recommend that we approve the application for New Outlet / Full On-Premises Sales liquor licenses for Vegas County.

AGENDA REPORT

April 18, 2011

TO: Mayor and City Council

FROM: Bob Walker, Deputy Public Works Director

THROUGH: Henry Lawrence, City Manager

SUBJECT: SEPTAGE RECEIVING FACILITY EQUIPMENT AWARD

DATE: April 11, 2011

SUMMARY:

Attached is the following document:

- Franklin Miller bid for Septage Receiving Facility Equipment.
- December 16, 2010 Public Works Committee Information in Action
- December 7, 2010 Septage Receiving Rate Study.

The purpose of this agenda item is for approval from the City Council to authorize the City Manager to award the bid for the Septage Receiving Facility Equipment in the amount of \$149,900 to Franklin Miller.

PREVIOUS COUNCIL ACTION:

9-16-2010 At the September 16, 2010 Council Work Session, Deputy Public Works Director Bob Walker requested an additional \$65,000 to increase the budgeted amount for the Ontario Septage Receiving Facility from \$240,000 to \$305,000. Funding is to be provided from budgeted sewer projects which are complete and came in under budget. Request was approved.

BACKGROUND:

Currently, the septic disposal business owners in the area do not have adequate facilities to dispose of their wastewater. They presently use the Clay Peak Landfill in Payette, Idaho or the City of Caldwell Wastewater Treatment Plant in Caldwell, Idaho. There are several issues with the current disposal sites but the biggest one appears to be the inability to utilize these facilities on weekends, during holidays, or after hours. As a large percentage of their business is emergencies which happen on weekends or after hours, the inability to dump their loads creates problems for the septic business owners. The proposed City of Ontario Septage Receiving Facility would allow access by an electronic card reader system 24 hours per day, seven days per week. With this type of operation available, the septic business owners would make Ontario their prime disposal site.

In order to determine rates to be charged for use of the Ontario Septage Receiving Facility, we did a rate study of charges assessed by eight surrounding communities. As shown in the attached study, the average rate was \$0.083 per gallon. Based upon this, we are proposing to assess septic disposal business owners \$0.08 per gallon. This rate was approved by the Public Works Committee at their December 16, 2010 meeting. If only three of the nine septic businesses in the surrounding area utilized the Ontario Septage Receiving Facility and had an average disposal rate of 25 loads/month at \$0.08/gallon, then the monthly income to the City of Ontario would be approximately \$6,000 or \$72,000 per year. At this rate, it would require 4.24 years to pay back the investment. This is a conservative estimate as there are actually six septic businesses that would probably utilize the Ontario Facility.

FINANCIAL IMPLICATIONS:

Revised cost estimates for this project are \$147,000 for site work and equipment installation plus the \$149,900 for the equipment included in the Franklin Miller bid. The resulting total of \$296,900 is below the \$305,000 budget.

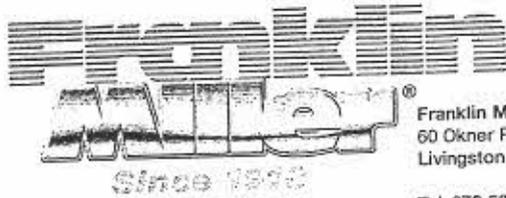
As indicated above, at a rate of \$0.08/gallon, this project will have a payback in less than five years.

RECOMMENDATION:

Staff recommends awarding the bid for the Septage Receiving Facility Equipment to Franklin Miller.

PROPOSED MOTION:

I move the City Council authorize the City Manager to award the bid for the Septage Receiving Equipment to Franklin Miller for \$149,900.



Franklin Miller Inc.
60 Okner Parkway
Livingston, NJ 07039 USA

Tel: 973.535.9200
Fax: 973.535.6269
info@franklinmiller.com

Quote No: 20797

January 12, 2011

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Org ID: ZZ9539

Attention: **Bob Walker**

Ontario City Public Works
444 Sw 4Th St.
Ontario, OR 97914 USA
Phone: 541-881-3231

email: bob.walker@ontariooregon.org

Your Local Representative:

William H. Reilly & Co.
Attn: Bill Reilly Jr.
Tel: 503-223-6197
email: billjr@whreilly.com

Salesperson:

Thomas Zangoglia, Salesman
tomz@franklinmiller.com

Dear Bob ,

We are pleased to quote on the following:

Qty	Units	Total
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Ref: Mat: SEPTAGE Max: 700 GPM

1

SPIRALIFT® SR30 Septage Receiving Station as follows:

SPIRALIFT Model SR30 Septage Receiving and Screening including:

- Tank Enclosure, T304SS construction
- 4" inlet flange constructed of heavy stainless steel
- Hinged Access cover with interlock

Spiral Screen including:

- Stainless Steel tank housing
- Alloy Steel Shaftless Auger and Stainless outer fighting in Screen area
- 27" Dia. Stainless Steel perforated screen basket.
- Heavy-duty Nylon segmented bolt-on screen brushes attached to Auger.
- Shaft-mounted Gear Reducer and 2HP TEFC 3/60/230/460 Motor

Spray Wash Manifold: for sprays in

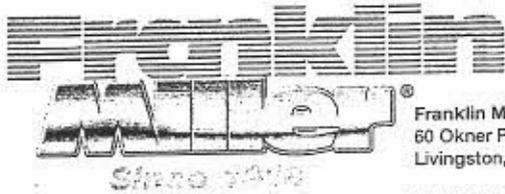
- screen front and rear
- Rotary Nozzle for tank cleanup
- Includes solenoid valve

Automatic Plug Valve: 4"

- Iron Construction,
- Automatic actuator,
- Epoxy Coated.

Ultra-Sonic Level Sensor:

- Mounted in SR tank for activating system upon high level detection.



Franklin Miller Inc.
60 Okner Parkway
Livingston, NJ 07039 USA

Tel: 973.535.9200
Fax: 973.535.6269
info@franklinmiller.com

Quote No: 20797

January 12, 2011

Page 2 of 4

Qty Units

Total

TASKMASTER® Model TM851204TT, grinder with tramp-trap housing including:

- "Cutter Cartridge" technology, 7 Tooth Cam Cutters,
- T.C. Mech. Seals,
- 5HP TEFC 3/60/230/460 motor
- Cleanout valve
- 4" inlet and outlet flanges
- Interconnecting piped to screen unit

1 EA

S270-SRH Septage Receiving Controller

- Provides control and integration of all system components
- Card Reader - for Hauler authentication
- Receipt Printer
- HMI Interface
- Nema 4X Stainless Steel Enclosure
- PLC Controlled
- IEC Starters, & Long Lasting LED Indicators
- Includes System Flow Meter and Integration

1 EA

Startup and Training services by Franklin Miller service technician

1 EA

Extended Warranty-three (3) years from date of startup within the limits of our standard warranty.

Lump Sum: \$149,900.00

Grand Total: \$149,900.00

Prices are Valid Until Monday, July 11, 2011
Fob: Livingston, NJ Payment Terms: Net 30 days.

Freight charges will be added to invoice at time of shipment.
ALL CREDIT TERMS SUBJECT TO APPROVAL.
delivery 16-18 weeks after receipt of final submittals.

Thank you for this opportunity to be of service.

III. BID FORM

Having carefully examined the Invitation to Bid, including general information and project specifications, and all conditions affecting the work, the undersigned proposes to provide all materials, labor, equipment, services and fees required for the provision and installation of the Septage Receiving Facility at the Ontario Wastewater Treatment Plant.

The undersigned, having examined the Contract Documents contained herein, as prepared by the City of Ontario, as well as the premises and conditions affecting the work, hereby proposes and agrees to perform, within the time stipulated, the Work, including all its component parts, and everything required to be performed, and to provide and furnish all labor, material, tools, expendable equipment, transportation, required Permits, and all other services required to perform the Work in a complete, substantial, and workmanlike manner, ready for use, as required by and in strict accordance with the Contract Documents, for the total sum of:

Cost listed in numerals: \$ 149,900.00

Cost spelled out in words: one hundred forty nine thousand nine hundred dollars.

Delivery Schedule: 126 days after date of Notice to Proceed

Thomas Zangolia
Signature of Authorized Representative

Jan 3, 2011
Date

Thomas Zangolia
Printed Name of Authorized Representative

Regional Sales Manager
Title

Franklin Miller Inc.
Company Name

973-535-9200
Telephone

REFERENCES

Years in business: 57

Please list at least five (5) customer references:

COMPANY	ADDRESS	CONTACT	PHONE #
<u>Oxward, MS</u>	<u>Highway 7 So.</u>	<u>Randy McCluskey</u>	<u>662-232-2396</u>
<u>Hernado County</u>	<u>Spring Hill FL.</u>	<u>Landis Legg</u>	<u>352-754-4490</u>
<u>Yountville waip</u>	<u>Yountville CA.</u>	<u>Dow Moore</u>	<u>707-944-2988</u>
<u>St. Paul AB</u>	<u>PO BOX 1490</u>	<u>Robert Decharnie</u>	<u>780-645-2210</u>
<u>Bastrop Tx.</u>	<u>PO Box 427</u>	<u>Rick Eckhart</u>	<u>512-321-2124</u>
_____	_____	_____	_____

The undersigned agrees to perform all work as listed in the Contract Specifications sections, for the price(s) stated; and that all articles supplied under any resultant contract will conform to the specifications herein,

The undersigned agrees to be bound by all applicable laws and regulations, the accompanying specifications and by City policies and regulations.

The undersigned, by submitting a bid, represents that:

- A) The Bidder has read and understands the specifications.
- B) Failure to comply with the specifications or any terms of the Invitation to Bid may disqualify the Bidder as being non-responsive.

The undersigned certifies that the bid has been arrived at independently and has been submitted without any collusion designed to limit competition.

The undersigned certifies that all addenda to the specifications has been received and duly considered and that all costs associated with all addenda have been included in this bid:

Addenda: No. N/A through No. _____ inclusive.

We therefore submit this bid to furnish services at the price(s) indicated herein in fulfillment of the attached requirements and specifications of the City.

Bidder (Company Name): Franklin Miller Inc.

Address: 60 OKNER Parkway.
LIVINGSTON NJ 07039

Telephone Number: 973-535-9200 Fax Number: 973-535-6269

By: [Signature] Date: Jan 3, 2011
(Signature of Authorized Official. If partnership, signature of one partner.)

Typed Name/Title: Thomas Zangaglia Regional Sales Manager

If corporation, attest: [Signature]
(Corporate officer)

Corporation Partnership Individual

Federal Tax Identification Number (TIN): 22-1116850

BID CERTIFICATIONS

Non-discrimination Clause

The Contractor agrees not to discriminate against any client, employee or applicant for employment or for services, because of race, color, religion, sex, national origin, handicap or age with regard to, but not limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any contractor who is in violation of this clause shall be barred from receiving awards of any purchase order from the City, unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such acts is unlikely.

Agreed by: David Schuppe

Firm Name: FRANKLIN MILLER, INC

Address: 60 OKNER PARKWAY
LIVINGSTON, NJ 07039

Resident Certificate

Please Check One:

Resident Vendor: Vendor has paid unemployment taxes and income taxes in this state during the last twelve calendar months immediately preceding the submission of this proposal.

Or

Non-resident Vendor: Vendor does not qualify under requirement stated above.
(Please specify your state of residence: NEW JERSEY)

Officer's signature: David Schuppe

Type or print officer's name: DAVID SCHUPPE

DEVIATIONS FROM SPECIFICATION

The Taskmaster TM8512 grinder does not use individual cutters and spacers. It employs the Franklin Miller patented cutter cartridge which is a single block of hardened 4140 alloy steel, precision machined with six cutters and spacers.

The cutter cartridge reduces the number of parts; is markedly stronger which increases unit strength; no stack retightening is required; eliminates individual cutters and spacers. Replacement is much easier when required and eliminates the possibility of stack collapse.



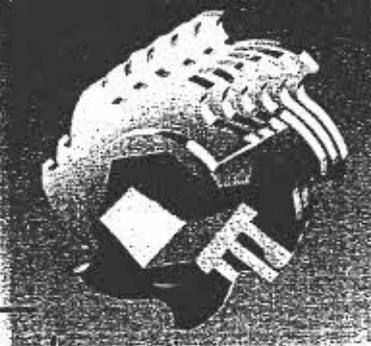
Eight Reasons **TASKMASTER® GRINDERS** Are the World's Best...

If you're tired of grinder maintenance and thought grinders were all built the same, here's important information.

There is one grinder that is so reliable and effective, it is truly superior --the **TASKMASTER**. Here's eight reasons this unit is the world's best.

Cutter Cartridge Technology

TASKMASTER Cutter Cartridges replace 12 cutter and spacer disks with one-piece monolithic elements. This results in markedly increased unit strength, reliability and a drastic reduction in individual cutter parts.



4 Higher Precision

The cutters are more precise and also sharper because they are fully machined and precision ground.

2
**With 1/6th
the Parts,
Maintenance
is Far Easier.**

**Higher Strength
Design**

4
**5
A New Era
of Reliability**

6
**No
Re-tightening
Required-Ever!**

7 Superior Seal Technology

This is the industry's most durable seal design featuring: a labyrinth seal, rugged tungsten carbide mechanical seal faces, hardened stainless steel seal glands and no machine housing wear parts.



8
**25% Stronger
Bearings**

**Call Toll Free:
1-800-932-0599**

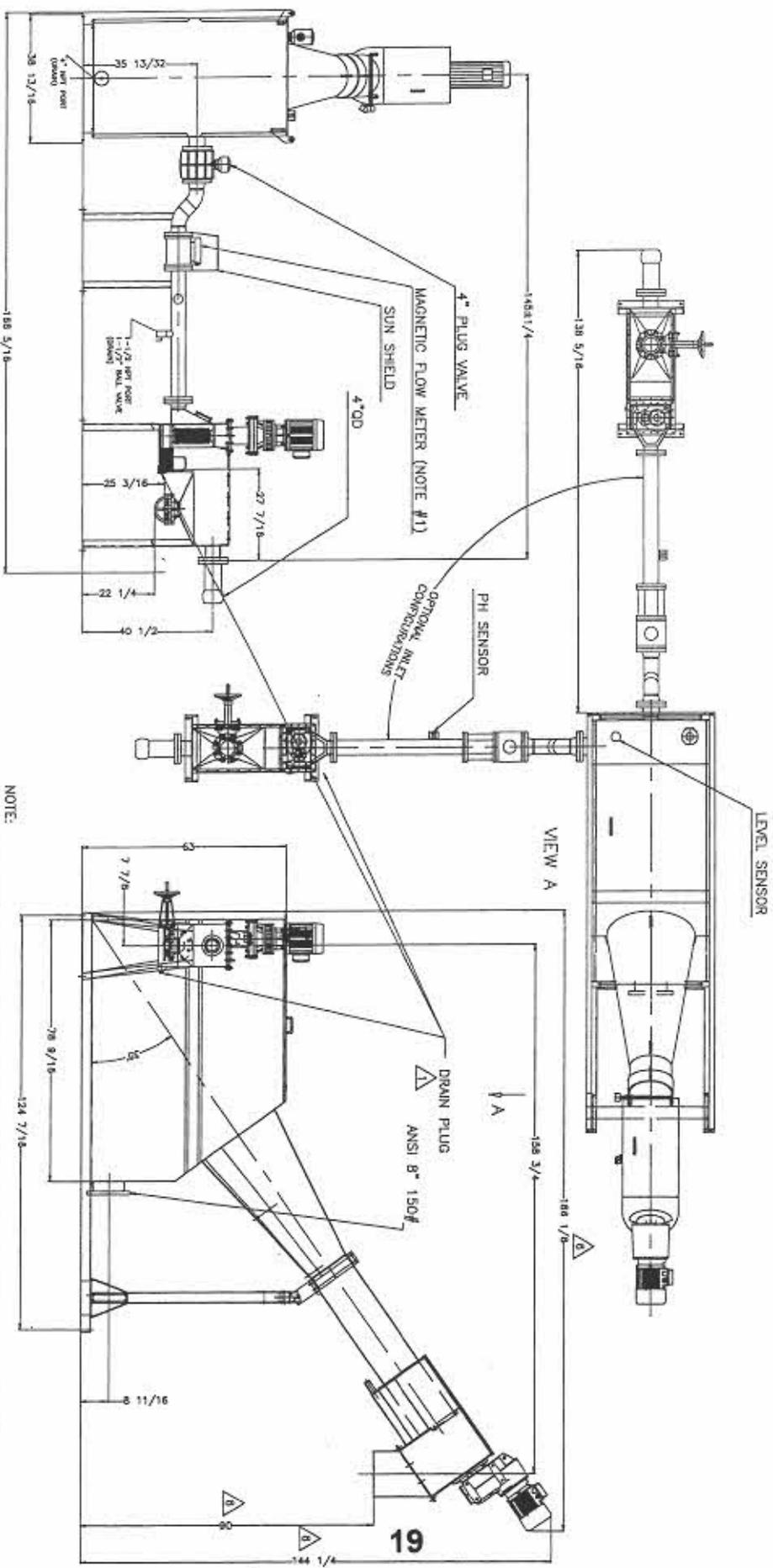


**Make Your Next Grinder a
TASKMASTER!**

see the difference.....

Franklin
www.franklinmiller.com

REV NO.	DESCRIPTION	DWN	DATE



NOTE:
1. Grounding of the flow meter required (wire 5.5mm sq area min. & 100 ohms max.)

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TR. P/N	STD	MATERIAL	WEIGHT	SCALE	DWN	DATE	CHK	DATE	DWG NO.	REV
THIRD ANGLE PROJECTION				1:1	BN	08/21/08			SR30011	0

Emblem Letter Inc.
60 DKNER PARKWAY, LIVINGSTON, N.J. 07039
SPIRALIFT SR30, T1, SEPTAGE RECEIVING SYSTEM



City of Ontario
Office of the Public Works Director
444 SW 4th Street
Ontario, OR 97914
Voice (541) 881-3231
Fax (541) 889-7121
chuck.mickelson@ontariooregon.org

December 13, 2010

Public Works Committee

Committee Members:

Bob Moore and Bernie Babcock have indicated an interest to serve on the Public Works Committee. The normal protocol is for the PWC to recommend to the Mayor the appointment of these individuals to the PWC. I have invited each of them to attend the Thursday meeting.

The second item on the agenda relates to setting rates for a septage receiving facility at the Ontario wastewater treatment plant. The City is in the process of taking bids for the equipment to be installed via a construction contract to be bid in January or February. Currently, the nearest septage receiving facility is at the Clay Peak landfill or Caldwell. This project has a budget of \$305,000. Septage haulers are expected to pay for the capital costs over a period of 5 (five) years.

The next item relates to a question on a SDC charge for a private airport hangar. Staff needs clarification as to the intent of the PWC.

Roundabouts continue to be discussed within the community. The most likely location is at the intersection of Highway 201 (Yturri Beltline) and the NW Washington. Staff has received many complaints about the safety of this intersection due to the lack of visibility with trucks going to and returning from the Love's truck stop. The alternative to a roundabout is a signalized intersection. In order to install a signal, it must meet a warrant and at this time, it does not have enough traffic to meet a signal warrant. There is currently no funding for a roundabout or a signal. In November, a deputy sheriff recommended that the Malheur County Traffic Safety Committee send a letter to the city opposing the construction of roundabouts due to safety concerns. The Traffic Safety Committee believes that more information is necessary before taking a position on this issue. We will show a video at the next PWC regarding roundabouts. There is also a roundabout in SE Nampa located at the intersection of Happy Valley Rd and Amity. I understand that it works very well for large trucks and semis. If you are interested in reviewing a paper written about the Nampa roundabout it can be found at http://www.teachamerica.com/rab08/RAB08_Papers/RAB08S7CFugal.pdf. There are some pictures and illustrations in this document.

Last, we will give you an update on all of the budgeted projects.

AGENDA REPORT
December 16, 2010

To: Public Works Committee

FROM: Bob Walker, Deputy Public Works Director

SUBJECT: SEPTAGE RECEIVING FACILITY RATES

DATE: December 14, 2010

SUMMARY:

Attached is the following document:

- Septage Receiving Facility Rate Study

The purpose of this agenda item is to obtain a recommendation from the Public Works Committee to the City Council to set the rates for utilization of the City of Ontario's Septage Receiving Facility.

PREVIOUS COUNCIL ACTION:

At the September 16, 2010 Council Work Session, the Council approved a request to increase the budgeted amount for the Ontario Septage Receiving Facility from \$240,000 to \$305,000. Funding is to be provided from budgeted sewer projects which are complete and came in under budget.

BACKGROUND:

Currently, the septic disposal business owners in the area do not have adequate facilities to dispose of their wastewater. They presently use the Clay Peak Landfill in Payette, Idaho or the City of Caldwell Wastewater Treatment Plant in Caldwell, Idaho. There are several issues with the current disposal sites but the biggest one appears to be the inability to utilize these facilities on weekends, during holidays, or after hours. As a large percentage of their business is emergencies, which happen on weekends or after hours, the inability to dump their loads creates problems for the septic business owners. The proposed City of Ontario Septage Receiving Facility would allow access by an electronic card reader system 24 hours per day, 7 days per week. With this type of operation available, the septic business owners would make Ontario their prime disposal site.

In order to determine rates to be charged for use of the Ontario Septage Receiving Facility, we did a rate study of charges assessed by eight surrounding communities. As shown in the attached study, the average rate was \$0.083 per gallon. Based upon this, we are proposing to assess septic disposal business owners \$0.08 per gallon. If only three of the nine septic businesses in the surrounding area utilized the Ontario Septage Receiving Facility and had an average disposal rate of 25 loads / month each at \$0.08 / gallon, then the monthly income to the City of Ontario would be approximately \$6,000 or \$72,000 per year. If a \$305,000 loan was obtained for the septage receiving facility at 4% interest, the loan repayment for 5-years would be approximately \$5,610/month or \$336,600 over the 5-years. Therefore, this project would have a payback in less than 5-years.

FINANCIAL IMPLICATIONS:

As indicated above, at a rate of \$0.08/gallon, this project will have a payback in less than 5-years.

RECOMMENDATION:

The Public Works Department requests that the Public Works Committee recommend the City Council approve the rate of \$0.08 per gallon for usage of the septage receiving facility.

PROPOSED MOTION:

I move the Public Works Committee recommend the City Council authorize setting the rate for usage of the Ontario Septage Receiving Facility at \$0.08 per gallon.

SEPTAGE RATE RECOMMENDATION

Mr. Bob Walker gave an overview and status of the Septage Receiving Facility CIP. This is basically a place for septic tank pumpers to dispose of the waste in their tanks. This has been ongoing for 2-3 years, it is an approved project in the budget, and at the present time we have the septage receiving facility equipment out for bid; that bid is due January 12, 2011. Once the equipment has been ordered, we will then send out an additional RFP to install the equipment. The handout we passed out is a septage proposal plan from two years ago from one of the local septage haulers explaining what their problems are and indicating what we could probably expect to receive as revenue. The problem the septic tank haulers have right now is they either go to Payette to dump or they have to drive all the way to Caldwell, which is a problem as this facility is only open 8-hours a day, five days a week. They are looking for a facility that can be utilized on a 24-hour 7-day a week basis. The Ontario septage facility will be operated with a card system that will allow the septage haulers to dump their waste on a 24-hour basis.

Staff will have to go to the City Council with proposed rates that will be charged for this facility. Staff did a rate study and came up with rates for eight different communities. The rates ranged from \$.17 cents to \$.04 cents per gallon, which is an average of \$.083 cents per gallon. Staff would like to recommend to the Council to set a rate at \$.08 per gallon, which would be approximately \$80 per 1,000 gallons. The advantage is that our facility would be available 24-7. The local haulers have said they would use this facility rather than have to go all the way to Caldwell. Also, there are some restrictions with the Payette facility because it is a land fill.

This facility will be primarily for homeowners living outside the City who are on septic tanks. Consequently, the city would be making money from people other than the residents of Ontario. The projected lifetime of the equipment is estimated to be about 10-12 years with the exception of replacing a motor or other parts. The discussion continued on the advantages of having this type of facility locally.

The motion was made by Mr. Frazier that the Public Works Committee recommend, to the City Council to authorize for the usage of the Ontario Septage Usage Facility at the rate of .08 cents per gallon, and was seconded by Mr. Cummings: Motion passed; Tom Frazier – yes; Dan Cummings – yes; Scott Wilson – yes; Riley Hill – yes; 4-0-1 (Mr. Mills – excused).

12/7/2010

SEPTAGE RECEIVING RATE STUDY

CONTACT	POPULATION (10,942 Ontario)	CITY	STATE	Pr Gallon	Pr 1,000 Gal.	Minimum
Website	1,483	JOHN DAY	OREGON	0.100	100.00	
Mail	2,554	MCCALL	IDAHO	0.0400	40.00	Full Load Minimum
Called & Website	7,677	PAYETTE (ClayPeak Landfill)	IDAHO	0.1250	125.00	(\$30 / ton - No Minimum)
Mail	9,439	BAKER	OREGON	0.1700	170.00	
08-587-2108	12,266	MOUNTAIN HOME	IDAHO	0.045	45.00	
Mail	39,889	CALDWELL	IDAHO	0.0594	59.40	
Website	81,241	NAMPA	IDAHO	0.0574	57.39	
08-382-3900	205,707	BOISE	IDAHO	0.0675	67.49	\$5. / \$10 after hours
41-372-3590	N/A	NYSSA	OREGON	No	N/A	N/A
08-414-1242	N/A	WEISER	IDAHO	No	N/A	N/A
				0.083	83.035	AVERAGE

1	Response	Phone	Name of Hauler	Dumping location	Rate		Gal/mo	Gal/Yr	Total
					\$	Gal			
1	Yes	642-2925	Treasure Valley Septic service	ClayPeak LandFill Nampa Wastewater Plant	\$ 0.08	Gal	14,000	168,000	\$ 13,440.00
			Contact: Todd Bergquist		\$	Gal	* This is an Est amount		
2	Yes	642-4877	ABC Septic Service	ClayPeak LandFill Nampa Wastewater Plant	\$ 0.08	Gal	25,000	300,000	\$ 12,000.00
			Contact: Steve Youngblood		\$	Gal	Est per mo		
3	Yes	642-4160	Bud's Septic Tank Service	ClayPeak LandFill Caldwell Wastewater Plant	\$ 0.08	Gal	30,000	360,000	\$ 28,800.00
			Contact:		\$	Gal	Est per mo		
4	Yes	889-6365	AAA Rooterman	ClayPeak LandFill	\$ 0.08	Gal	14,400	172,800	\$ 13,824.00
			Contact: David Smith		\$	Gal	Est per mo		
5	Yes	889-3456	Anytime Septic <i>Bria Davidson</i> Contact: Jim Eastwood	ClayPeak LandFill	\$ 0.08	Gal	14,580	174,960	\$ 13,996.80
			Contact: RotoRooter		\$	Gal	Est per mo		
6	Yes	889-2324	RotoRooter	ClayPeak LandFill Boise Sewage plant <small>Says would dump appx 3000 a day=</small>	\$ 0.08	Gal	60,000	720,000	\$ 57,600.00
			Contact: Butch Burnett		\$	Gal	90000		
									\$ 139,660.80

* Note: Septic hauler did not get back to me with an estimated amount that they may dump if there was a station in Ontario

	Name of Hauler	Rate	Gal/mo	Gal/Yr	Total
1	Treasure Valley Septic service Contact: Todd Bergquist	\$ 0.05 Gal	14,000	168,000	\$ 8,400.00
			* This is an Est amount		
2	ABC Septic Service Contact: Steve Youngblood	\$ 0.05 Gal	25,000	300,000	\$ 15,000.00
3	Bud's Septic Tank Service Contact:	\$ 0.05 Gal	30,000	360,000	\$ 18,000.00
4	AAA Rooterman Contact: David Smith	\$ 0.05 Gal	14,400	172,800	\$ 8,640.00
5	Anytime Septic Contact: Jim Eastwood	\$ 0.05 Gal	14,580	174,960	\$ 8,748.00
6	RotoRooter Contact: Butch Burnett	\$ 0.05 Gal	60,000	720,000	\$ 36,000.00
					\$ 94,788.00

	Name of Hauler	Rate	Gal/mo	Gal/Yr	Total
1	Treasure Valley Septic service Contact: Todd Bergquist	\$ 0.06 Gal	14,000	168,000	\$ 10,080.00
			* This is an Est amount		
2	ABC Septic Service Contact: Steve Youngblood	\$ 0.06 Gal	25,000	300,000	\$ 18,000.00
3	Bud's Septic Tank Service Contact:	\$ 0.06 Gal	30,000	360,000	\$ 21,600.00
4	AAA Rooterman Contact: David Smith	\$ 0.06 Gal	14,400	172,800	\$ 10,368.00
5	Anytime Septic Contact: Jim Eastwood	\$ 0.06 Gal	14,580	174,960	\$ 10,497.60
6	RotoRooter Contact: Butch Burnett	\$ 0.06 Gal	60,000	720,000	\$ 43,200.00
					\$ 113,745.60

	Name of Hauler	Rate	Gal/mo	Gal/Yr	Total
1	Treasure Valley Septic service Contact: Todd Bergquist	\$ 0.07 Gal	14,000	168,000	\$ 11,760.00
			* This is an Est amount		
2	ABC Septic Service Contact: Steve Youngblood	\$ 0.07 Gal	25,000	300,000	\$ 21,000.00
3	Bud's Septic Tank Service Contact:	\$ 0.07 Gal	30,000	360,000	\$ 25,200.00
4	AAA Rooterman Contact: David Smith	\$ 0.07 Gal	14,400	172,800	\$ 12,096.00
5	Anytime Septic Contact: Jim Eastwood	\$ 0.07 Gal	14,580	174,960	\$ 12,247.20
6	RotoRooter Contact: Butch Burnett	\$ 0.07 Gal	60,000	720,000	\$ 50,400.00
					\$ 132,703.20

* Note: Septic hauler did not get back to me with an estimated amount that they may dump if there was a station in Ontario

AGENDA REPORT
April 18, 2011

TO: Mayor and City Council

FROM: Dawn Eden, Engineering Tech.

THROUGH: Henry Lawrence, City Manager
Chuck Mickelson, Public Works Director

SUBJECT: APPROVAL OF INTERGOVERNMENTAL WALKWAY/BIKEWAY PROJECT AGREEMENT NO. 27208, 2012-2013 PEDESTRIAN AND BICYCLE PROGRAM GRANT FOR ENHANCED PEDESTRIAN CROSSINGS

DATE: April 6, 2011

SUMMARY:

Attached are the following documents:

- Oregon Dept. of Transportation Bicycle and Pedestrian Program Grant Award Letter
- Walkway/Bikeway Project Agreement No. 27208, 2012-2013 Pedestrian and Bicycle Program Grant for Enhanced Pedestrian Crossings

This agreement provides for funding Rapid Flash Beacons at three crosswalk locations. Funds are being provided by the State of Oregon in the amount of \$207,680 and the City shall provide a match in the amount of \$32,300 in the form of removal and replacement of sidewalk, ADA detectable warning ramps, curb and gutter, center lane medians and asphalt.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Last summer the Malheur County Traffic Safety Commission received a request to look into making crosswalks along Southwest 4th Avenue safer for pedestrians. The Ontario Police Department reported there have been two accidents involving pedestrians at SW 12th Street and SW 4th Avenue, in addition to numerous near misses at several other locations along SW 4th Avenue.

After meeting with the Ontario School District Transportation Department personnel, they agreed pedestrians needed help crossing SW 4th Avenue, in addition to one more location between Mallards Grocery Store and the Shady Elms trailer court on North Oregon Street.

After researching several pedestrian crossing systems, it was decided the Rapid Flashing Beacon was the easiest and most economical crossing system available. In July 2010, the City of Ontario applied for an Oregon Department of Transportation (ODOT) Pedestrian and Bicycle Program 2012-2013 Grant for three general areas: SW 4th Avenue and SW 12th Street, SW 4th Avenue and SW 7th Street, and Mallards Corner on North Oregon Street.

ALTERNATIVE:

The Council could choose to not approve this agreement and the project will not go forward, or the City could install Rapid Flashing Beacons at crosswalks as the Public Works budget allows.

FINANCIAL IMPLICATIONS:

This agreement authorizes up to \$207,680 of grant funds for the specialized pedestrian crossings. The City's share is \$32,300 either in kind or funded from the Bike Path/Pedestrian Reserve Fund.

If the project comes under budget, staff would like to put in a 4th crossing in the area of Southwest 4th Avenue and Southwest 24th Street. The Four Rivers Charter School recently requested a crossing near their school, beside the Boys and Girls Club, as children are trying to cross Southwest 4th Avenue from an apartment complex off Southwest 24th Street to the south.

RECOMMENDATION:

Staff recommends approval of Agreement No. 27208.

PROPOSED MOTION:

I move that the City Council approve **INTERGOVERNMENTAL WALKWAY/BIKEWAY PROJECT AGREEMENT NO. 27208, 2012-2013 PEDESTRIAN AND BICYCLE PROGRAM GRANT FOR ONTARIO ENHANCED PEDESTRIAN CROSSINGS BETWEEN THE CITY OF ONTARIO AND THE STATE OF OREGON ACTING BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION** and authorize the Mayor to sign the agreement on behalf of the City of Ontario.



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

Bicycle & Pedestrian Program

4040 Fairview Industrial Dr., MS#5

Salem, OR 97302-1142

Telephone (503) 986-3555

<http://www.oregon.gov/ODOT/HWY/BIKEP>

[ED/index.shtml](http://www.oregon.gov/ODOT/HWY/BIKEP/ED/index.shtml)

November 16, 2010

Dawn Eden
Engineering Tech
444 SW 4th Street
Ontario, OR 97914

Subject: ODOT Pedestrian and Bicycle Program 2012-2013 Grant Program Application

Project: Rapid Flashing Beacons (Southwest 4th St. and North Oregon St.)
State share: \$207,680.00
Your share: \$32,300.00

I am pleased to inform you that the Oregon Bicycle and Pedestrian Advisory Committee has approved your request for a bikeway/walkway grant, at the funding level shown above, with the following conditions: Median island required at all crossing locations

You will be sent an Intergovernmental Agreement for your signature; the IGA will have the following requirements:

1. The first half of the grant (\$207,680.00) will be available July 1, 2011; you must submit a written request for the first half. Design work may begin sooner but would not be considered an eligible grant expense.
2. A set of plans must be submitted to the Bicycle and Pedestrian Program Office for approval before any construction work begins. Projects located on ODOT owned right of way must obtain a permit for work on a state highway thru the ODOT local District office. All design elements are required to comply with the 1995 Oregon Bicycle and Pedestrian Plan.
3. Work should be completed by October 31, 2012 (a later date may be chosen by mutual agreement).
4. Final payment will be released upon completion of the project and inspection by the Bicycle and Pedestrian Program office or an ODOT representative.

Any work on the project started before the Inter-governmental Agreement (IGA) has been signed will be at your expense. We cannot pay for work completed prior to a fully executed IGA. This process should be completed by June 30, 2011.

This project will serve local bicyclists and pedestrians well. We look forward to working with you to implement it. Please call me if you have any questions.

Sincerely,

Sheila Lyons, PE
Bicycle and Pedestrian Program Manager

**WALKWAY/BIKEWAY PROJECT AGREEMENT
2012-2013 Pedestrian and Bicycle Program Grant
Ontario Enhanced Pedestrian Crossings**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and the CITY OF ONTARIO, acting by and through its elected officials, hereinafter referred to as "Agency," individually referred to as the "Party" and collectively referred to as the "Parties".

RECITALS

1. North Oregon Street (Business Route US 30), SW 4th Avenue, SW 7th Street, SW 12th Street and NW 8th Street are part of the street system under jurisdiction and control of Agency.
2. By the authority granted in Oregon Revised Statute (ORS) 366.514, funds received from the State Highway Trust Fund are to be expended by the State and the various counties and cities for the establishment of footpaths and bicycle trails. For purposes of Article IX, Section 3(a), of the Oregon Constitution, the establishment and maintenance of such footpaths and bicycle trails are for highway, road, and street purposes when constructed within the public right of way.
3. By the authority granted in ORS 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
4. State established a Pedestrian and Bicycle Program fund in the Statewide Transportation Improvement Program (STIP) to meet the minimum requirement of one (1) percent of State Highway funds to be spent on Pedestrian and Bicycle facilities. The 2010-13 STIP programs \$24.58 million for the Pedestrian and Bicycle Program, allocated to three (3) programs: Grants, Sidewalk Improvement Programs and Quick Fixes.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, State and Agency agree to design and construct three crossing improvements, including concrete median islands, striped crosswalks and pedestrian activated flashing beacons, hereinafter referred to as "Project." The location of the

Project is approximately as shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof.

2. Agency has determined that the actual total cost of the Project is estimated to be \$239,980.00. State shall fund the Project in an amount not to exceed \$207,680.00. Agency shall provide a match in the amount of \$32,300.00 and shall be responsible for any portion of the Project which is not covered by State funding.
3. The work is to begin upon execution of this Agreement by all Parties and be completed no later than October 31, 2013. This Agreement shall terminate upon completion of construction and final payment, or five calendar years from date of final signature of this Agreement, whichever is sooner, unless extended by a fully executed amendment. Maintenance responsibilities shall survive any termination of this Agreement.

AGENCY OBLIGATIONS

1. Agency shall notify State when it is prepared to proceed with the development of Project to initiate State's initial fifty (50) percent deposit, as listed under State Obligations, Paragraph 2.
2. Agency shall conduct the necessary field surveys, prepare plans and contract documents, advertise for bid proposals, award all contracts, and supervise construction of the Project.
3. Agency shall submit a copy of the plans and specifications to State through the State's Pedestrian and Bicycle Program Manager for review and concurrence prior to advertising for a construction contract or prior to construction, if Agency forces will perform the construction work. Concurrence must be received from State prior to proceeding with the Project. The Project design, signing, and marking shall be in conformance with the current Oregon Bicycle and Pedestrian Plan and shall comply with the most current Americans with Disabilities (ADA) guidelines.
4. Agency shall, upon completion of Project, submit to State Pedestrian and Bicycle Program Manager an itemized statement of the final actual total cost of the Project.
5. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof; Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

6. Agency shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval.
7. If Agency enters into a construction contract for performance of work on the Project, then Agency will require its contractor to provide the following:
 - a. Contractor shall indemnify, defend and hold harmless State from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, sub-contractors, or agents under the resulting contract.
 - b. Contractor and Agency shall name State as a third party beneficiary of the resulting contract.
 - c. Commercial General Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the resulting contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to State. This insurance will include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage shall be written on an occurrence basis. If written in conjunction with Automobile Liability, the combined single limit per occurrence will not be less than \$1,000,000 for each job site or location. Each annual aggregate limit shall not be less than \$2,000,000.
 - d. Automobile Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the resulting contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence will not be less than \$1,000,000.
 - e. Additional Insured. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the resulting contract will include State and its divisions, officers and employees as Additional Insured but only with respect to the Contractor's activities to be performed under the resulting contract. Coverage will be primary and non-contributory with any other insurance and self-insurance.
 - f. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from

Contractor or its insurer(s) to State. Any failure to comply with reporting provisions of this clause will constitute a material breach of the resulting contract and will be grounds for immediate termination of the resulting contract and this Agreement.

8. Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor("Claims"). It is the specific intention of the Parties that the State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the contractor and subcontractor from and against any and all Claims.
9. Any such indemnification shall also provide that neither the Agency's contractor and subcontractor nor any attorney engaged by Agency's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.
10. Agency shall be responsible for all costs not covered by State funding. State funding is limited to \$207,680.00.
11. Agency shall be responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to, retirement system contributions, workers' compensation, unemployment taxes, and state and federal withholdings.
12. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.

13. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
14. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Agency shall ensure that each of its subcontractors complies with these requirements.
15. Agency shall, upon completion of Project, maintain the Project at its own cost and expense, and in a manner satisfactory to State.
16. Agency's Project Manager for this Project is Dawn Eden, Engineering Tech, 444 SW 4th Street, Ontario, OR 97914, 541-881-3237, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.
17. During project construction, Agency shall post signs that credit funding by a Grant from the Oregon Department of Transportation – Pedestrian and Bicycle Program.
18. Agency shall obtain pedestrian and bicycle traffic counts in the Project area prior to construction of Project and at a similar time of year after completion of Project construction. Agency shall provide State copies of count data.

STATE OBLIGATIONS

1. State's Pedestrian and Bicycle Program shall review and must concur in the plans prepared by Agency before the Project is advertised for a construction contract or before construction begins if Agency forces shall perform the work. State's Pedestrian and Bicycle Program office shall process all invoices submitted by Agency.
2. Upon receipt of notification that the Agency is prepared to proceed with the development of Project, State shall deposit with Agency the sum of \$103,840.00, such amount being equal to fifty (50) percent of the State's share of the estimated Project costs. Upon completion of Project, inspection and approval by State staff, and receipt from Agency of an itemized statement of the actual total cost of the Project, State shall deposit with Agency a final payment, the sum of \$103,840.00, such amount being equal to fifty (50) percent of the State's share of the estimated Project costs. When added to the initial deposit, the final deposit will equal the State's share of the originally estimated Project cost of \$239,980.00. Should final Project costs exceed the original estimate, extra costs shall be borne by Agency; the maximum amount of State reimbursement is \$207,680.00. If final Project costs are less than the original estimate, State shall deposit with Agency a final payment in an amount which, when

added to the initial deposit, would equal the State's proportionate share of the originally estimated costs, based on a percentage calculated using State share and local match.

3. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of current biennial budget.
4. State's Project Manager for this Project is Sheila Lyons, Pedestrian and Bicycle Program Manager, 4040 Fairview Industrial Drive SE MS # 5, Salem OR 97302, 503-986-3555, Sheila.A.Lyons@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both Parties.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within 10 days or such longer period as State may authorize.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination. If any funds are remaining from the advance deposit, they shall be refunded to State.

4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
5. With respect to a Third Party Claim for which the State is jointly liable with the Agency (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Agency in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if the State had sole liability in the proceeding.
6. With respect to a Third Party Claim for which the Agency is jointly liable with the State (or would be if joined in the Third Party Claim), the Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the Agency on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Agency on the one hand and of the State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

7. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
8. This Agreement may be executed in several counterparts [facsimile or otherwise] all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
9. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to enforce any provision of this Agreement shall not constitute a waiver by a Party of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The Oregon Transportation Commission on May 20, 2009 approved Delegation Order No. 3, which authorizes the Director and Deputy Director, Highways to approve and execute all agreements pertaining to OTC approved local grant program agreements for bicycle and pedestrian projects.

On July 7, 2005 the Director and Deputy Director, Highways approved Subdelegation Order No. 4, in which the Director and Deputy Director, Highways, delegates authority to the Technical Services Manager/Chief Engineer to approve and execute all agreements pertaining to OTC approved local grant program agreements for bicycle and pedestrian projects.

Signature Page to Follow

State / City of Ontario
Agreement No. 27208

CITY OF ONTARIO, by and through its
elected officials

By _____

Date _____

By _____

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
City Counsel

Date _____

Agency Contact:
Dawn Eden
Engineering Tech
444 SW 4th Street
Ontario, OR 97914
541-881-3237
dawn.eden@ontariooregon.org

State Contact:
Sheila Lyons, PE, ODOT Pedestrian &
Bicycle Program Manager
4040 Fairview Industrial Drive SE MS #5
Salem OR 97302
503-986-3555
Sheila.A.Lyons@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Technical Services Manager/Chief
Engineer

Date _____

APPROVAL RECOMMENDED

By _____
Pedestrian/Bicycle Program Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date: _____

