



# CITY OF CANNON BEACH

## AGENDA

Meeting: City Council Work Session  
Date: Tuesday, April 9, 2024  
Time: 6:00 p.m.  
Location: Council Chambers, City Hall

### CALL TO ORDER AND APPROVAL OF AGENDA

### PUBLIC COMMENT

*The Presiding Officer will call for statements from citizens regarding issues relating to the City.  
The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.*

### DISCUSSIONS

- ( 1)    **Bond Resolution Process and Procedure**
- ( 2)    **Chamber of Commerce Quarterly Report**
- ( 3)    **Joint Discussion with the Tourism and Arts Commission**
- ( 4)    **Public Contracting Procurement Code Update**
- ( 5)    **Elected and Appointed Officials Code of Conduct**
- ( 6)    **Facility Capital Project Discussion**
- ( 7)    **Good of the Order**

### ADJOURNMENT

To join from your computer, tablet or smartphone

Join Zoom Meeting

<https://zoom.us/j/99261084699?pwd=TkpjbGcxS0pCOGlMOctSbSsxVWFmZz09>

Meeting ID: 992 6108 4699

Password: 365593

To join from your phone:

Phone: 1.669.900.6833

Meeting ID: 992 6108 4699

Password: 365593

**View Our Live Stream:** View our [Live Stream](#) on YouTube!

**Public Comment:** If you wish to provide public comment via Zoom for this meeting please use the raise your hand Zoom feature. Except for a public hearing agenda item, all Public to be Heard comments will be taken at the

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beginning of the meeting for both Agenda and Non-Agenda items. If you are requesting to speak during a public hearing agenda item, please indicate the specific agenda item number as your comments will be considered during the public hearing portion of the meeting when the public hearing item is considered by the Council. All written comments received by 3:00 pm the day before the meeting will be distributed to the City Council and the appropriate staff prior to the start of the meeting. These written comments will be included in the record copy of the meeting. Written comments received at the deadline will be forwarded to Council and included in the record but may not be read prior to the meeting or appear on the city's website.

*Please note that agenda items may not be considered in the exact order listed. For questions about the agenda, please contact the City of Cannon Beach at (503) 436.8052. The meeting is accessible to the disabled. If you need special accommodations to attend or participate in the meeting per the Americans with Disabilities Act (ADA), please contact the City Manager at (503) 436.8050. TTY (503) 436-8097. This information can be made in alternative format as needed for persons with disabilities.*

Posted: 2024.04.04



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### BOND RESOLUTION PROCESS AND PROCEDURES

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**Agenda Date:** April 9<sup>th</sup>, 2024

**Prepared by:** Bruce St.Denis, City Manager

## BACKGROUND

At the April 9<sup>th</sup> meeting our bond attorney, Courtney Dautz, will present a bond resolution that will authorize staff to proceed with a bond issue to fund the Police Station, City Hall and Cannon Beach Elementary School projects. She will explain the conditions related to the issue and answer any questions that you may have.

Financial Advisor Matt Donahue and City Attorney Ashley Driscoll will also be available to answer any questions.

The bond resolution is tentatively scheduled for a vote at the April 16<sup>th</sup> meeting.

## ANALYSIS/INFORMATION

Before the resolution can be adopted, the council will need to determine the amount of the bond being sought. This will be part of the discussion that will occur during agenda item #6

## RECOMMENDATION

That the council ask questions before moving forward with Bond Resolution which is the key step toward the completion of securing financing for the Police Station, City Hall and Cannon Beach Elementary School projects.

Approve moving forward with the Bond Resolution.



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### CHAMBER OF COMMERCE QUARTERLY REPORT

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**Agenda Date:** April 9, 2024

**Prepared by:** Bruce St.Denis, City Manager

## BACKGROUND

Cannon Beach Chamber of Commerce Director Jim Paino will present their quarterly report.

## List of Attachments

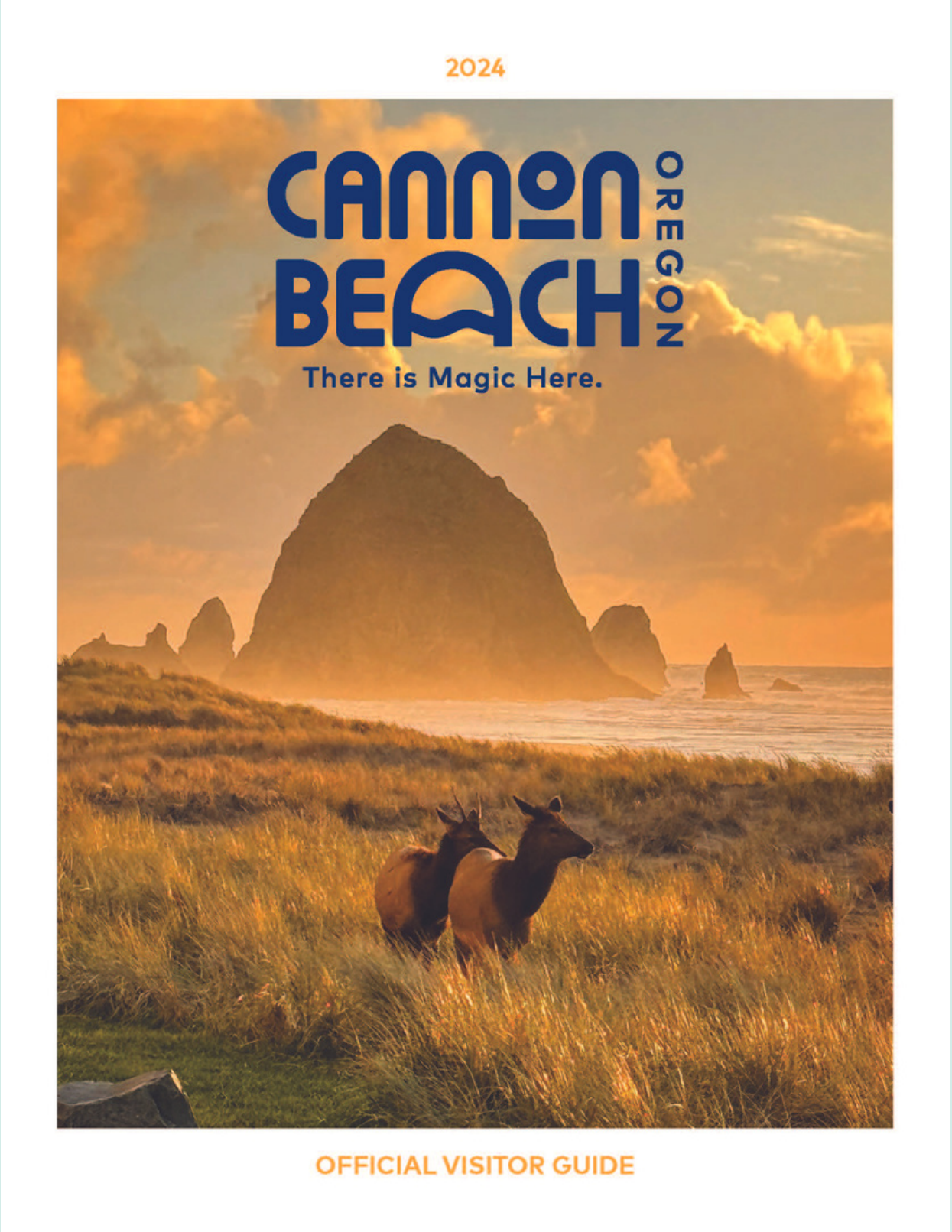
A DMO Presentation



# DMO Q3 REPORT

2024

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# History of the Destination Management Organization

## **2015**

The lodging community along with the Chamber of Commerce asked the City to implement a new 1% Transient Lodging Room Tax for the purpose of creating a marketing program for Cannon Beach.

## **2018**

The Chamber of Commerce and the City negotiated the new Destination Management Organization contract. This resulted in the Visitor Information Center being folded into the DMO work going forward. This saved the City over \$160,000 in annual payments from the General Fund for operations of the VIC.

## **2019**

The new DMO contract was signed. Restructuring of the organization and workload began as a result.

## **2020**

The COVID-19 pandemic shifted the work to providing information and responses along with working to verify all shared information. Financial uncertainty led to choices that reduced the programs to a minimum, only three staff members, along with a halt to marketing efforts other than social media and print.

## **2021**

Continued with Pandemic information efforts, but also, shifted to Pandemic recovery efforts and began to re-staff the organization and combined the workloads of Covid, Chamber, and the DMO work (including VIC).

## **2022**

Organized the foundational work for the future of the DMO program to be best positioned to restart the DMO efforts with purpose and direction.

## **2023**

Hired a new Marketing Manager to help bring the marketing effort back online with a stewardship and responsible visitation direction to enhance visitation to Cannon Beach.

## **2024**

Hired Clarity of Place to assist with a comprehensive strategy that fosters collaboration among residents, tourism stakeholders, and community leaders to prioritize destination stewardship and recommendations aimed at harmonizing the visitor experience with improving resident quality of life in Cannon Beach.



# Social Media & Website Year to Date

Platform	Reach YTD	Engagement YTD	Net New Followers YTD
Facebook	325.5k	54.5k	737
Instagram	81.8k	13.4k	878
Website	302k (Page Views)	1.3 M	N/A



# Social Media Top Performances

on Beach offers a truly  
perience.

MERCE

d States, Oregon

See all photos

**Experience Cannon Beach** is in Cannon Beach.  
Published by Instagram · January 14 ·

Our cozy coastal cottage town frozen over.

@brownmandrake

#IceStorm #CannonBeachOnce #CannonBeachWinter #WinterSeason #WinterFeels #PacificNorthwest #ThroughLocalEyes #OregonCoastStorm

See insights and ads

Boost post

1K 111 comments 129 shares

Like Comment Share

View more comments

Reach: 70K  
Engagement: 14k

**WEEKEND GETAWAY ITINERARY FOR  
CANNON BEACH**

wanderingbackpack and experiencecannonbeach  
Art Music · February

wanderingbackpack Just a few of my favorite things to do when visiting Cannon Beach. ✨ If you've never been, this is your sign to plan a weekend getaway! #cannonbeach #travel #oregoncoast #getaway 7w

momoflora We were there in Cannon Beach for two nights this past weekend. Love it there! 7w 1 like Reply

museumofdk have you ever seen the bunnies there when I went there summer of 2021 there were these hybrid Easter bunnies, running all over there. A local said that people would dump their Easter bunnies, and that they bred with the local bunnies. They were cute, but invasive, and I always wonder if anyone else ever saw them. 7w 6 likes Reply

mary\_there13 My families favorite place!! 7w 1 like Reply

litaofthepack\_ Cannon beach is the best! Thanks for sharing this 7w 4 likes Reply

n.sisson Was just there recently!! Love it!! 7w 1 like Reply

J.J.\_Journeys This looks perfect for me and Jess 7w 1 like Reply

searchland Looks like great place to visit 7w 3 likes Reply

homesweetkatie I never visit the coast in the winter but think I should 7w 1 like Reply

Liked by gotbeautyboss and 13,158 others

February 6

Add a comment... Post

Reach: 542K  
Engagement: 13.5k  
\*Collaboration Post

**Happy 165th Birthday,  
Oregon**

experiencecannonbeach  
the\_goodfilms · Original audio

experiencecannonbeach Happy 165th Birthday, Oregon 🎂

#OregonBirthday #February14 #ValentinesDay #CelebratingOregonsBirthday #HappyBirthdayOregon

Edited · 6w

vankyway Love that state. Happy birthday 🥰🥰🥰 3w Reply

neahkahniesmokehouse Happy birthday from your Wheeler neighbor 🍷 4w 1 like Reply

terribayley 4w Reply

dianek56 Wish the video didn't go so fast 4w Reply

neshashaw I'll see you soon!! 🍷🍷🍷🍷🍷🍷 5w Reply

suslasm Traumhaft 5w Reply See translation

gizumslap Bruh the polln here is crazy i couldn't imagine how bad it was when Luis and Clark came here 🤔 5w Reply

grammielet! We have a beautiful state! 6w Reply

julesrubiwillson @ermakgray @claragray.design 6w Reply

jenmonhanpilates That makes no sense 6w Reply

ramonacmoore7133 well done 🍷 6w Reply

lesliehalseth Hip hip hooray 🍷 OREGON 6w 1 like Reply

View insights

Boost reel

Liked by brucescandykitchen and 3,482 others

February 14

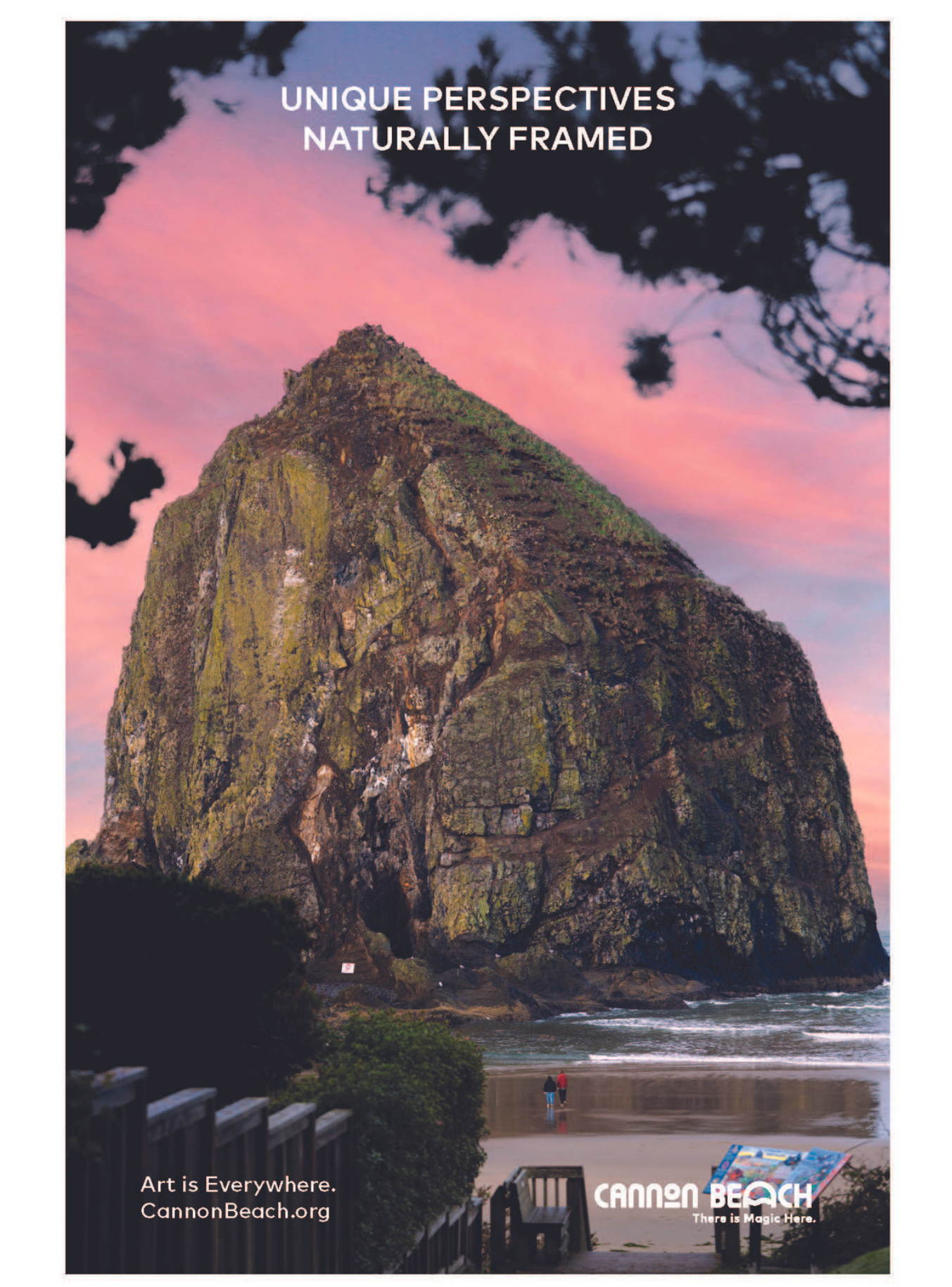
Add a comment... Post

Reach: 69.1K  
Engagement: 13.5k





# Advertisements





# Visitor Center Stats 2023 to Current



## Visitor Information Center Statistics

Month	Year	Walk-Ins	Info Calls	Lodging Calls	Magazines Mailed	Reloc. & Misc Inquiries	Email Magazine Requests	Boxes Picked up at VIC	Boxes Shipped from VIC
January	2024	261	706	706	102	1	164	1	0
February	2024	423	353	152	6	1	300	1.25	0
March	2024	714	426	286	507	1	297	73	102
Fiscal 3rd Qtr		1,398	1,485	1,144	615	3	761	75.25	102
April	2024								
May	2024								
June	2024								
Fiscal 4th Qtr		0	0	0	0	0	0	0	0
July	2024								
August	2024								
September	2024								
Fiscal 1st Qtr		0	0	0	0	0	0	0	0
October	2024								
November	2024								
December	2024								
Fiscal 2nd Qtr		0	0	0	0	0	0	0	0
2023/2024 Fiscal YTD		10,117	6,003	3,429	1,362	9	1,401	123	109
Calendar 2024 YTD		1,398	1,485	1,144	615	3	761	75	102



## Visitor Information Center Statistics

Month	Year	Walk-Ins	Info Calls	Lodging Calls	Magazines Mailed	Reloc. & Misc Inquiries	Email Magazine Requests	Boxes Picked up at VIC	Boxes Shipped from VIC
January	2023	417	443	191	45	0	169	3	0
February	2023	370	558	239	10	0	160	3	0
March	2023	668	561	241	167	1	160	30	100
Fiscal 3rd Qtr		1,455	1,562	671	222	1	489	36	100
April	2023	1,074	764	509	360	1	183	10	0
May	2023	1,266	731	396	175	2	168	24	0
June	2023	1,783	967	415	156	2	152	15	0
Fiscal 4th Qtr		4,123	2,462	1,320	691	5	503	49	0
July	2023	1,097	663	442	33	1	146	8	1
August	2023	1,990	794	530	364	0	151	10	0
September	2023	1,977	608	260	81	1	78	13	2
Fiscal 1st Qtr		6,161	2,065	1,232	478	2	375	31	3
October	2023	1,519	607	260	66	1	64	11	2
November	2023	721	1,280	550	130	2	130	6	2
December	2023	318	566	243	73	1	71	0	0
Fiscal 2nd Qtr		2,558	2,453	1,053	269	4	265	17	4
Calendar 2023 Totals		14,297	8,542	4,276	1,660	12	1,632	133	107

# DMO Budget - Overall

4:09 PM  
03/29/24  
Cash Basis

## Cannon Beach Chamber of Commerce Profit & Loss

July 2023 through June 2024

Jul '22 - Jun 23		Jul '23 - Jun 24	Budget
	Ordinary Income/Expense		
	Income		
518,476.83	4080 · City DMO Contract	451,852.68	577,500.00
	40812 · DMO Carry Forward Income	0.00	150,000.00
518,476.83	Total Income	451,852.68	727,500.00
518,476.83	Gross Profit	451,852.68	727,500.00
	Expense		
219,915.76	Total 6020 · Payroll Expense	246,713.08	342,572.00
165.00	Total 6125 · Bank Service Charges	3,041.96	3,250.00
	6139 · US Bank Credit Card Interest Pd	0.00	100.00
6,566.06	6175 · Equipment Rental	3,782.12	12,180.00
	Total 6185 · Insurance	0.00	1,200.00
0.00	Total 6200 · Landscaping	1,912.50	2,750.00
193,208.49	Total 6240 · Marketing	234,489.55	300,000.00
0.00	6253 · Constant Contact Mrkting	465.00	1,200.00
3,823.54	Total 6255 · Postage and Delivery	2,010.23	2,500.00
18,853.60	Total 6275 · Professional Fees	9,248.37	16,370.00
0.00	Total 6305 · Repairs and Maintenance	5,104.85	9,200.00
3,280.92	Total 6340 · Telephone	4,393.51	6,680.00
1,846.41	Total 6355 · Travel, Meetings, & Education	5,215.73	6,975.00
2,992.40	Total 6400 · Supplies	2,273.46	4,725.00
450,652.18	Total Expense	518,650.36	709,702.00
67,824.65	Net Ordinary Income	-66,797.68	17,798.00
67,824.65	Net Income	-66,797.68	17,798.00



# DMO Budget - Marketing

3:54 PM 03/29/24 Cash Basis		Cannon Beach Chamber of Commerce TDF Profit & Loss July 2023 through June 2024 Marketing ✓	
Jul '22 - Jun 23		Jul '23 - Jun 24	Annual Budget
	Ordinary Income/Expense		
	Income		
340,895.58	4080 · City DMO Contract	288,676.16	340,725.00
	4081 · TDF Income		
0.00	40812 · DMO Carry Forward Income	0.00	150,000.00
0.00	Total 4081 · TDF Income	0.00	150,000.00
340,895.58	Total Income	288,676.16	490,725.00
340,895.58	Gross Profit	288,676.16	490,725.00
	Expense		
98,844.29	Total 6020 · Payroll Expense	124,574.52	163,218.00
165.00	Total 6125 · Bank Service Charges	1,791.27	1,750.00
0.00	Total 6185 · Insurance	0.00	600.00
	6240 · Marketing		
	6246 · TDF Adv & Marketing		
29,524.24	62461 · Partnerships	24,359.93	40,500.00
58,100.00	62462 · Digital	68,100.00	69,100.00
2,400.00	62463 · Earned Media	1,560.88	6,000.00
38,963.45	62464 · Paid Media	59,772.15	94,585.00
43,964.00	62465 · Marketing Services	48,633.49	60,750.00
20,256.80	62466 · Other	14,063.10	29,065.00
193,208.49	6246 · TDF Adv & Marketing - Other	18,000.00	
	Total 6246 · TDF Adv & Marketing	234,489.55	300,000.00
193,208.49	Total 6240 · Marketing	234,489.55	300,000.00
0.00	6253 · Constant Contact Mrkting	310.00	1,200.00
9,604.30	Total 6275 · Professional Fees	4,811.70	8,715.00
0.00	Total 6305 · Repairs and Maintenance	123.99	125.00
1,375.24	Total 6340 · Telephone	1,821.42	2,720.00
1,817.36	Total 6355 · Travel, Meetings, & Education	3,871.50	5,400.00
161.89	Total 6400 · Supplies	0.00	1,300.00
305,176.57	Total Expense	371,793.95	486,428.00
35,719.01	Net Ordinary Income	-83,117.79	4,297.00
35,719.01	Net Income	-83,117.79	4,297.00



# DMO Budget - Visitor Information Center

2:47 PM  
03/29/24  
Cash Basis

Cannon Beach Chamber of Commerce  
Visitor Profit & Loss  
February 2024  
Visitor Information Center

Jul '22 - Jun 23		Jul '23 - Jun 24	Annual Budget
	Ordinary Income/Expense		
	Income		
177,581.25	4080 · City DMO Contract	163,176.52	236,775.00
0.00	4081 · TDF Income	0.00	0.00
177,581.25	Total Income	163,176.52	236,775.00
177,581.25	Gross Profit	163,176.52	236,775.00
	Expense		
121,071.47	Total 6020 · Payroll Expense	122,138.56	179,354.00
0.00	Total 6125 · Bank Service Charges	1,250.69	1,500.00
0.00	6139 · US Bank Credit Card Interest Pd	0.00	100.00
0.00	6165 · Dues and Subscriptions		
6,566.06	6175 · Equipment Rental	3,782.12	10,780.00
0.00	Total 6200 · Landscaping	1,912.50	2,750.00
0.00	6253 · Constant Contact Mrketing	155.00	
3,823.54	Total 6255 · Postage and Delivery	2,010.23	2,500.00
9,249.30	Total 6275 · Professional Fees	4,436.67	6,655.00
0.00	Total 6305 · Repairs and Maintenance	4,980.86	9,075.00
1,905.68	Total 6340 · Telephone	2,572.09	3,960.00
29.05	Total 6355 · Travel, Meetings, & Education	1,344.23	1,575.00
2,830.51	Total 6400 · Supplies	2,273.46	3,425.00
145,475.61	Total Expense	146,856.41	221,674.00
32,105.64	Net Ordinary Income	16,320.11	15,101.00
32,105.64	Net Income	16,320.11	15,101.00



# Clarity fo Place - Join us at the upcoming meetings!



Dear Cannon Beach Community members,

The Cannon Beach Chamber of Commerce is embarking on a destination stewardship initiative to ensure that our community can effectively balance the needs of businesses with the impacts of visitors to help preserve the quality of life of residents.

The chamber will host input sessions to build a collective understanding of how our area can work to better manage tourism and develop strategies to guide our destination stewardship efforts to sustain business development and enhance resident quality of life.

**Please attend one of the input sessions held at  
Chamber Community Hall, 207 N Spruce.**

Your thoughts and opinion matter and will go a long way in helping build this stewardship commitment and plan for Cannon Beach's future.  
We appreciate your participation and support.

## Wednesday April 17th

- Cannon Beach Businesses – Arts, non-profit, & Retail meet from 8:30 – 10:00 am
- Lodging Operators meet from 11:30 am– 1:00pm
- Municipal & Public sector meet from 2:30 – 4:00pm
- Resident Town Hall meeting from 5:30 – 6:30pm

## Thursday April 18th

- Resident Town Hall meeting from 8:00 – 9:00am
- Lodging Operators meet from 10:00- 11:30am
- Cannon Beach Businesses - Restaurants meet from 2:00 – 3:30 pm

Questions to be addressed:

- What value does tourism provide for Cannon Beach?
- What are the specific areas where tourism creates strains on the quality of life of our residents?
- How should the Cannon Beach Chamber work with local government, businesses, and residents to address areas of strain?
- How would you prioritize the strains that need to be addressed?
- What should be the top outcome from this effort?
- How will we determine if the effort has delivered success?

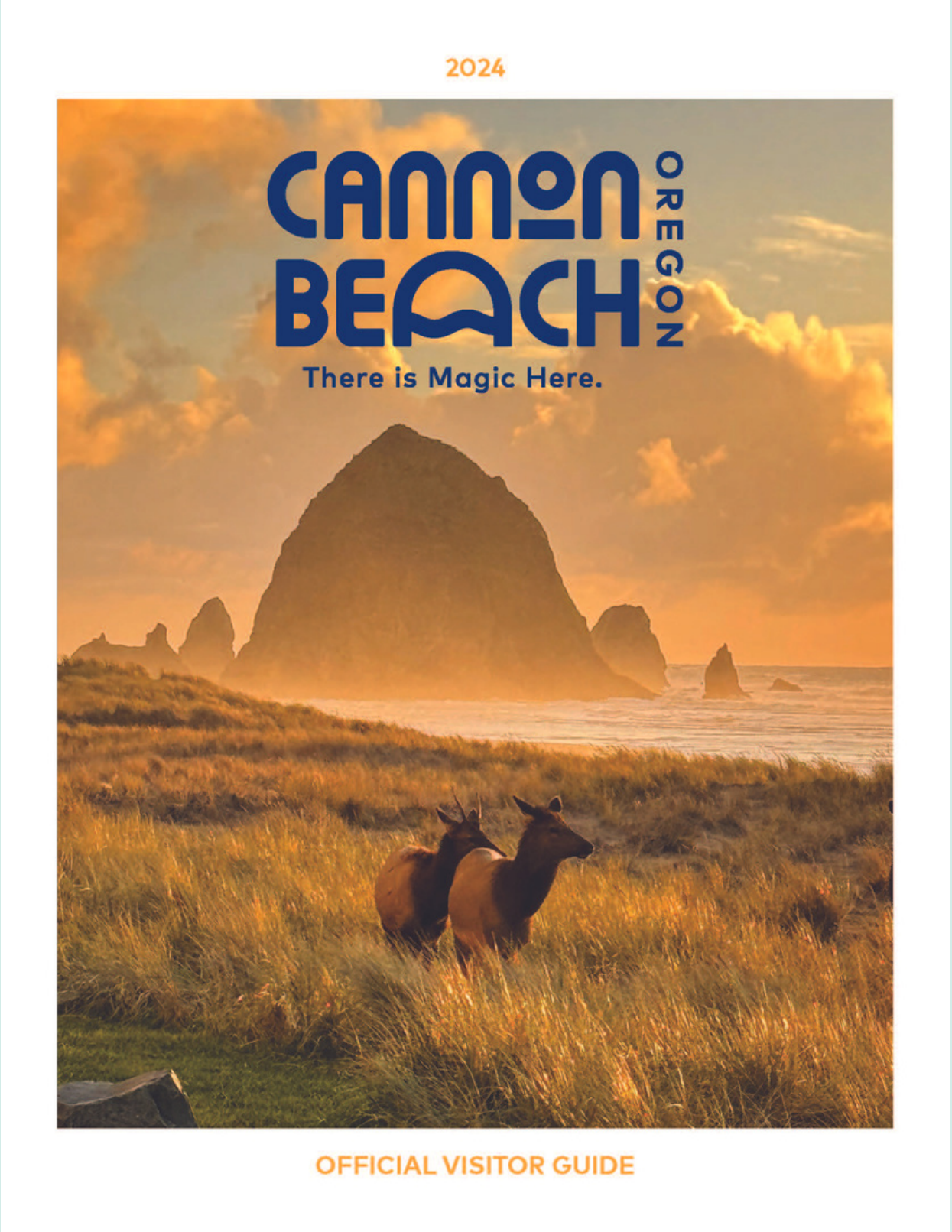
Questions? Email: [chamber@cannonbeach.org](mailto:chamber@cannonbeach.org) or call 503.436.2623







THANK YOU





# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### TOURISM AND ARTS COMMISSION JOINT DISCUSSION

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**Agenda Date:** April 9, 2024

**Prepared by:** Bruce St. Denis, City Manager

## BACKGROUND

Council requested a joint meeting with the Tourism and Arts Commission (TAC). This is an opportunity for both entities to discuss the process and use of the Tourism and Arts Funds (TAF).

## ANALYSIS/INFORMATION

The attachments include the FY 2024-25 Tourism and Arts Fund (TAF) application package. Included in the package are Ordinances 10-06 and 15-01, ORS 320.350, and the TAC guidelines. Also attached is municipal code Chapter 2.32 Tourism and Arts Commission. These are the items TAC follows when making TAF recommendations.

## RECOMMENDATION

### List of Attachments

- A Tourism and Arts Application Packet
- B Municipal Code Chapter 2.32 Tourism and Arts Commission

# APPLICATION FOR TOURISM & ARTS FUNDING

FY 2024-2025

DUE: JUNE 7, 2024



[CI.CANNON-BEACH.OR.US](https://ci.cannon-beach.or.us)

## Who can apply?

Non-profit organizations and businesses with a project or event that promotes local tourism attractions and has a strong potential to create overnight stays for commercial lodging properties in Cannon Beach are eligible to apply.

The City of Cannon Beach invites funding requests from businesses and organizations that produce tourism projects, programs or events designed to increase overnight visits to the area, especially in the shoulder and winter months.

This Off-Season Tourism Marketing Grant is funded by the lodging tax collected by the City of Cannon Beach. It is an opportunity for tourism-related businesses and nonprofits to implement a new or revised marketing effort, conduct a marketing campaign, work collaboratively with other tourism-related businesses, or launch a new event.

# FIRST STEPS & TIMELINE

The funds you are requesting have rules, legal restrictions, as well as a desired purpose attached to them, you should make sure you have an understanding of what these are.

Please read the following attachments:

- TAC Guidelines
- ORS 320.350
- Ordinances 10-06 and 15-01

Now that you have read and understand the TAC Guidelines and Ordinance you should review the following forms that explain what you will be required to do in regards to your request for funds for your event or project:

- Tourism and Arts Fund (TAF) Application criteria, evaluation criteria, and checklist
- TAF Award Agreement
- TAF evaluation forms that you will turn in to us once your project has happened. A fillable version is available on our website.

- **The Tourism and Arts Commission (TAC) will review applications for funding after the closing date of June 7, 2024 and will make recommendations to the City Council. A final determination will be made within 75 days of the application closing date. Applicants will be notified by email of the Tourism and Arts Commission's recommendation, after the recommendation has been approved by the City Council. Applicants will be required to sign the TAF Award Agreement prior to any funds being distributed, preferably within 14 days of their notification of award. The award check for the 1st Quarter funding will be disbursed on or about November 15th and then every 3 months after that.**
- **A Mid-Term evaluation will be due from each TAF recipient by March 15, 2024. A Final Evaluation will be due within 30 days of either the completion of the event/activity/project/program, or the end of the City's fiscal year (June 30, 2024). Future ineligibility will result if evaluation forms are not received in timely manner.**
- **Applicant interviews will be held Thursday, June 13, 2024, from 1:00 pm – 5:00 pm.**

# SUBMITTING

A fillable application is available in this packet and on the city's website, click [here](#). All information must be submitted on 8 ½" x 11" paper, single sided. No staples, and No colored documents please: these pages will not be copied in color. Applications may be submitted via email. Applications submitted by email must be in one attachment. Applications will be considered time-stamped and received by the City when they are received in the email inbox listed above. It is the applicant's responsibility to ensure that their submittal is received prior to the stated submission deadline. Applications must be received at Cannon Beach City Hall by 5:00 p.m., June 7, 2024. Applicant interviews will be held Thursday, June 13 from 1:00 pm – 5:00 pm.

## **Completed applications should be sent to:**

**Cannon Beach Tourism and Arts Commission,**

**Attention: City Recorder**

**P.O. Box 368**

**Cannon Beach, OR 97110**

**[recorder@ci.cannon-beach.or.us](mailto:recorder@ci.cannon-beach.or.us)**

**(applications submitted by email must be in one PDF attachment)**

Please note: the City requires a  
Special Event Permit Application  
for the following:

- Event with more than 50 people expected on either private or public property
- Event to be held on City Property
- Event to be held on Private Property, but may impact City
- Event will impact public facilities or resources



# CRITERIA

**The following criteria will be used by the Tourism and Arts Commission (TAC) to evaluate applications for TAF awards:**

1. Applicants must be a qualified tax-exempt organization.
2. Priority will be given for events within Cannon Beach during the shoulder and winter tourist season. Advertising or marketing of tourism related facilities, events, and projects (as defined in ORS 320.350 and Ordinance 10-06) included as part of the TAF application for award shall be for facilities located within the City limits of Cannon Beach. Funds for events or projects within 5 miles of the City limits of Cannon Beach may be considered.
3. All event promotional materials must specifically recognize the City of Cannon Beach's Tourism and Arts Commission (TAC) and the Tourism and Arts Fund (TAF).
4. Applications must be complete and received by the deadline advertised.
5. Applicant agrees to provide the City with an evaluation of the program/event/project within 30 days of completion of the program/event/project, or the end of the fiscal year, whichever occurs first. Evaluation must include a description of the events and services, audience, number of participants, and a final financial statement showing line-item income and expenses for the project, with supporting documentation attached. Empirical evidence of "heads in beds" or tourists that traveled more than 50 miles.
6. Applicant understands that a Mid-Term Evaluation is required to be submitted by March 15, 2025.
7. Applicant understands that a TAF Award Agreement must be signed by the Applicant prior to receipt of any TAF award disbursements.
8. The TAC reserves the right to recommend to the City Council reimbursement from any organization who has received TAF awards and misrepresented their application or has not utilized the award funds in a manner consistent with their application.
9. Former TAF recipients who have not submitted a completed evaluation will not be considered for future TAF awards.
10. Applicant understands that a City Permitted Event Application may be required if any City property (park, street, sidewalk etc.) will be utilized for the event.

# CRITERIA CONTINUED

**The applicant will be further considered for funding and ranked based on the following criteria:**

1. Does the project comply with ORS 320.350 and Ordinance 10-06?
2. What is the economic impact on the City? Will it attract overnight tourists or bring tourists to the City from a distance of more than 50 miles?
3. Does the project enhance the arts or tourism in Cannon Beach?
4. Is the project feasible?
5. Does the program/event take place during the shoulder or winter tourist season?
6. What resources are available to the applicant and what is the total budget for the project?

Questions? Contact Jennifer Barrett at  
recorder@ci.cannon-beach.or.us  
or 503-436-8052

# APPLICAITON FOR FUNDING

Event Contact Name \_\_\_\_\_

Event Contact Email \_\_\_\_\_

Event Contact Phone \_\_\_\_\_

Nonprofit Organization Name \_\_\_\_\_

Nonprofit Tax ID #: \_\_\_\_\_

Nonprofit Address \_\_\_\_\_

Nonprofit Telephone \_\_\_\_\_

Website (if applicable) \_\_\_\_\_

Name of Event \_\_\_\_\_

Date of Event \_\_\_\_\_

Duration of Event \_\_\_\_\_

Amount of funding you are requesting \$ \_\_\_\_\_

Amount of funding from TAC you were given last year \$ \_\_\_\_\_

I acknowledged all COVID-19 restrictions in place at the time of the event must be met. \_\_\_\_\_

Would you be interested in using the former Cannon Beach Elementary School site for your event in the future? \_\_\_\_\_

# APPLICAITON FOR FUNDING

1. What is the nature and purpose of your event? (Please limit to 1 page or less)
2. Is this a new event or has it happened before? With or Without TAC funds?
3. How many room nights, (nightly stays at hotels, houses, RV) is your goal for this event?
4. If this is a repeat event how many room nights did the event generate the previous year?
5. Do you have a collaboration plan with the Chamber of Commerce or another non-profit or your own volunteers to do an accurate and credible survey of hospitality venues when your event is over, in order to determine how many overnight stays from people living more than 50 miles away your event generated?

# APPLICAITON FOR FUNDING

6. What is the total budget for your event? Please attach a detailed budget to this application.
7. What is the percentage of your budget you are asking for from TAC?
8. If the funding requested is not for an event, how will it be used?
9. Are you seeking other sources of funding?
10. What is your marketing plan?
11. What is the organizational structure of your people for this event? (do you have a board of directors, volunteers) and what are their responsibilities? In other words, do you have a well thought out plan of action to accomplish your event?

# APPLICATION FOR FUNDING

12. Please describe how this event will enhance the arts and attract tourists to Cannon Beach.

13. Do you plan to do this event every year and if so, when do you feel it would no longer need TAC Funding and be self-sufficient if ever?

Make sure your event is in compliance with the requirements of ORS 320.350

## Acknowledgment

I understand that, should TAF funding be awarded to me by the City of Cannon Beach, I will be expected to sign a TAF Award Agreement and complete a summary report and evaluation (form provided by the City) within thirty (30) days of completion of the project/event/program, or the end of the fiscal year, whichever occurs first. Further, I understand that I will be expected to provide a Mid-Term Evaluation by March 15, 2025.

By signing this application, I certify that the facts, figures, and representations made in this application are true and correct, that I am an authorized representative of the organization listed on this application, and that this application is made with the authorization and approval of the organization's Board of Directors.

---

Signature

---

Date

---

Print Name and Title

# CHECKLIST & RECEIPT

## Application Checklist and Receipt for TAF Funding Request

Please acknowledge receipt of the following documents by initialing each item.

- \_\_\_\_\_ Receipt of Ordinance 10-06
- \_\_\_\_\_ Receipt of Ordinance 15-01
- \_\_\_\_\_ Receipt of ORS 320.350
- \_\_\_\_\_ Receipt of Tourism and Arts Commission (TAC) 2013 Guidelines
- \_\_\_\_\_ Receipt of Tourism and Arts Funding (TAF) Award Agreement
- \_\_\_\_\_ Receipt of City Permitted Event Application
- \_\_\_\_\_ Receipt of W-9 form

Please initial to verify that the following items have been included in the TAF application submittal.

- \_\_\_\_\_ Completed application form, signed by an authorized representative of the organization
- \_\_\_\_\_ Copy of Board of Directors list
- \_\_\_\_\_ A line-item budget for proposed program/project
- \_\_\_\_\_ A copy of line-item organizational budget for the current fiscal year
- \_\_\_\_\_ A financial statement for the most recent fiscal year
- \_\_\_\_\_ Evaluation for last TAF award received, if applicable
- \_\_\_\_\_ W-9 for City of Cannon Beach Finance Department (if applying for the first time)
- \_\_\_\_\_ Special Event Permit Application if applicable
- \_\_\_\_\_ Initialed copy of this Application Checklist and Receipt

All information is on white 8 ½" x 11" sized paper, single sided, and black ink only.

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING THE	)	ORDINANCE NO. 10-06
MUNICIPAL CODE, CHAPTER 3, TO	)	
INCREASE THE AMOUNT OF THE	)	
TRANSIENT LODGING TAX FROM SIX	)	
PERCENT (6%) TO SEVEN PERCENT (7%);	)	
THE LOCAL TRANSIENT ROOM (LODGING)	)	
TAX IN ACCORDANCE WITH OREGON	)	
REVISED STATUTES 320.300 TO 320.350	)	

WHEREAS the Cannon Beach Municipal Code Chapter 3.12 creates and implements a local transient room (lodging) tax in accordance with Oregon Revised Statutes 320.300 to 320.350;

WHEREAS the Cannon Beach City Council desires to increase the amount of the transient lodging tax from six percent (6%) to seven percent (7%);

WHEREAS the Oregon Revised Statutes Chapter 320 specifies that no less than 70% of the 1% increase must be dedicated to tourism and tourism related facilities and that no more than 30% of the increase may be dedicated to fund City services;

WHEREAS the City Council desires that the intended purpose of 70% of the 1% increase is to develop and support events and attractions that enhance tourism, in accordance with ORS 320.300 and 320.350, specifically tourists staying overnight in or traveling distances greater than 50 miles to Cannon Beach, and with additional emphasis given to tourism tied to the arts community of Cannon Beach;

WHEREAS 70% of the 1% increase would be collected and maintained in a fund entitled the "Tourism and Arts Fund";

WHEREAS a City Committee, the "Cannon Beach Tourism and Arts Commission", is created to develop grant guidelines and procedures to distribute and account for the monies in the "Tourism and Arts Fund" and that these procedures and any subsequent changes to the procedures be presented for approval to the City Council before implementation of such procedures;

WHEREAS the intent is to distribute monies in the Tourism and Arts Fund on a quarterly basis with the first distribution to be made to the recipients during November of each year with ensuing distributions during February, May and August;

WHEREAS the recipients of the Tourism and Arts Fund understand that the level of funding may fluctuate on a quarterly basis due to the fact that the amount of money in the Fund is entirely dependent upon the amount of tax revenue collected on a quarterly basis from the Lodging Tax;

WHEREAS it is the expectation of the Council that all recipients of the monies from the Tourism and Arts Fund exemplify accountability and transparency in all matters related to the application of these funds, further it is imperative that the recipients demonstrate to the Tourism and Arts Commission that they are in compliance with the State statute (ORS Chapter 320), City Ordinance and local rules related to the use of these funds;

WHEREAS the Tourism and Arts Commission shall present for approval to the City Council their recommendations as to grant recipients and amounts of such grants from the Tourism and Art Fund before final awards and distributions are made;



WHEREAS the Council recognizes the need for the recipients of these funds to rely upon funding from year to year; therefore, applicants may apply for multi-year grants contingent upon the Tourism and Arts Commission's annual review of the recipient's application and use of the funding to ensure compliance with the State statute (ORS Chapter 320), City Ordinance and local rules related to the use of the funds; and

WHEREAS the Cannon Beach Tourism and Arts Commission shall be comprised of a total of five (5) voting members. Each member shall have experience in one or more of the following areas: public relations, marketing, advertising, tourism, lodging, promotions, events promotion and/or publicity.

NOW, THEREFORE, the City of Cannon Beach does ordain as follows:

Section 1. Amend the Municipal Code, 3.12.020 Tax imposed, to read as follows:

A. As of July 1, 2010 a transient shall pay a tax in the amount of seven percent for the privilege of occupancy in a hotel in the city. The tax constitutes a debt owed by the transient to the city and the debt is extinguished only when the tax is remitted by the operator to the city. The transient shall pay the tax to the operator at the time rent is paid. The operator shall enter the tax into the record when rent is collected if the operator keeps records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, rent is paid or charged for occupancy shall exclude the sale of goods, services or commodities. (Ord. 91-8 § 1: Ord. 86-5 § 1: Ord. 83-21 §2)

B. Such tax increase shall not apply to reservations for lodging in the City of Cannon Beach made prior to the passage of this Ordinance. Reservations made prior to the passage of the Ordinance by the City Council are exempt from the 1% lodging tax increase; however, such tax increase shall apply to all reservations made after the date of passage of the Ordinance.

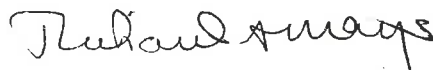
C. Pursuant to ORS 320.350, 70% of the net proceeds from the additional 1% of the transient lodging tax shall be used for the purposes described in ORS 320.350 (5)(a) or (c) which states that such funds shall be used for tourism promotion or tourism related facilities. Pursuant to ORS 320.350 (5)(A)(6), 30% of the net proceeds from the increased lodging tax may be used by the City for funding City services.

ADOPTED by the Common Council of the City of Cannon Beach this 4th day of May, 2010, by the following roll call vote:

YEAS:	Councilors Steidel, Giasson, Cadwallader and Mayor Morgan
NAYS:	None
EXCUSED:	None

  
Mike Morgan, Mayor

Attest:

  
Richard A. Mays, City Manager

Approved as to Form:

  
Tamara Herdener, City Attorney

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING ) ORDINANCE NO. 15-01  
MUNICIPAL CODE, CHAPTER 2, TO AMEND )  
ORDINANCE 10-07: ESTABLISH A CITY )  
TOURISM AND ARTS COMMISSION, )  
ESTABLISHING RULES AND REGULATIONS )  
FOR ITS GOVERNANCE AND PRESCRIBING )  
THE POWERS AND DUTIES OF SAID TOURISM )  
AND ARTS COMMISSION )

The City of Cannon Beach does ordain as follows:

Chapter 2.32 Tourism and Arts Commission

Section 1. 2.32.010 Created.

Chapter 2.32 hereby creates a Tourism and Arts Commission herein after referred to as "Commission".

Section 2. 2.32.020 Powers and duties.

The powers and duties of the Commission shall include the following:

A. Develop rules and procedures regulating the distribution of the Tourism and Arts Fund which is comprised of 70% of the 1% lodging tax increase effective July 1, 2010, so that the distribution and application of this Fund are in accordance with Oregon Revised Statute 320 such that the funds must be dedicated to tourism and tourism related facilities. Such rules and procedures must be approved by the City Council and any future changes to such rules shall also receive City Council approval. The Commission shall ensure the proper implementation of such Statute and the directives of the Ordinance passed by the City Council when adopting the 1% lodging tax increase;

B. Monitor the distribution of the Tourism and Arts Fund (TAF) such that the proper amounts are distributed to the recipients on a quarterly basis;

C. Monitor and examine with the intent to verify the organization's use of the grant funds in conformance with stated requirements on an annual basis or more frequently as the Commission deems appropriate.

D. Once the Commission has made the final decisions as to how the TAF will be allocated, this information shall be presented to the City Council for review and approval.

E. The decisions of the Commission are appealable to the City Council.

F. Perform other functions as directed by the Council.

Section 3. 2.32.030 Membership.

The Commission shall consist of seven (7) voting members.

Section 4. 2.32.040 Appointment—Term.

A. Members of the Commission shall be appointed by the City Council to serve four (4) year terms.

B. All vacancies occurring on the Commission shall be filled by approval of the Council for the unexpired term of the predecessor in office.

C. No Commission member shall serve more than eight consecutive years, but any person may be reappointed to the Commission after an interval of one year.

D. Each member shall have experience in one or more of the following areas: public relations, marketing, advertising, tourism, lodging, promotions, events promotion, art, and/or publicity.

E. Each member of the Commission shall conform to the requirements of the Municipal Code, Section 2.04.010, Requirements for Appointment, or, in the alternative, the member shall work, at least part-time, within the City of Cannon Beach.

Section 5. 2.32.050 Rules and regulations—Meetings.

A. A majority of the members of the Commission constitute a quorum. The Commission may make and alter rules and regulations for its governance consistent with the laws of the State of Oregon, the city charter and any applicable ordinances and with the approval of the City Council.

B. The Commission shall meet at such times and places as may be fixed by the Commission and provisions shall be made for recording the proceedings of the Commission.

Section 6. 2.32.060 Officer Election.  
At its first meeting each calendar year, the Commission shall elect a chair and a vice-chair.

Section 7. 2.32.070 Removal from office.

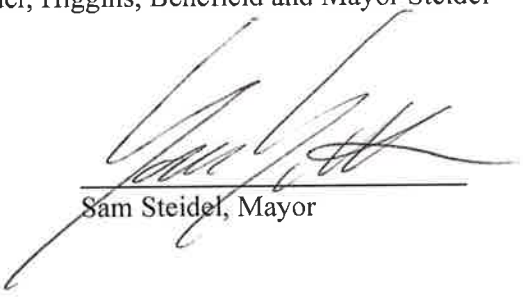
A member of the Commission may be removed by the city council, after a hearing, for misconduct or the nonperformance of duty. A member who is absent for three meetings in a calendar year, without an approved excuse, is presumed to be in nonperformance of duty and the council shall declare the position vacant unless it finds otherwise following a hearing.

Section 8. 2.32.080 Compensation.


Commission members shall receive no compensation but shall be reimbursed for authorized expenses.

ADOPTED by the Common Council of the City of Cannon Beach this 6th day of January, 2015,  
by the following roll call vote:

YEAS:	Councilors Cadwallader, Higgins, Benefield and Mayor Steidel
NAYS:	None
EXCUSED:	Councilor Vetter

  
Sam Steidel, Mayor

Attest:

  
Brant Kucera, City Manager

Approved as to Form:

  
Tamara Herdener, City Attorney

**320.350 Tax moratorium; exceptions; uses of revenues.** (1) A unit of local government that did not impose a local transient lodging tax on July 1, 2003, may not impose a local transient lodging tax on or after July 2, 2003, unless the imposition of the local transient lodging tax was approved on or before July 1, 2003.

(2) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not increase the rate of the local transient lodging tax on or after July 2, 2003, to a rate that is greater than the rate in effect on July 1, 2003, unless the increase was approved on or before July 1, 2003.

(3) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not decrease the percentage of total local transient lodging tax revenues that are actually expended to fund tourism promotion or tourism-related facilities on or after July 2, 2003. A unit of local government that agreed, on or before July 1, 2003, to increase the percentage of total local transient lodging tax revenues that are to be expended to fund tourism promotion or tourism-related facilities, must increase the percentage as agreed.

(4) Notwithstanding subsections (1) and (2) of this section, a unit of local government that is financing debt with local transient lodging tax revenues on November 26, 2003, must continue to finance the debt until the retirement of the debt, including any refinancing of that debt. If the tax is not otherwise permitted under subsection (1) or (2) of this section, at the time of the debt retirement:

(a) The local transient lodging tax revenue that financed the debt shall be used as provided in subsection (5) of this section; or

(b) The unit of local government shall thereafter eliminate the new tax or increase in tax otherwise described in subsection (1) or (2) of this section.

(5) Subsections (1) and (2) of this section do not apply to a new or increased local transient lodging tax if all of the net revenue from the new or increased tax, following reductions attributed to collection reimbursement charges, is used consistently with subsection (6) of this section to:

(a) Fund tourism promotion or tourism-related facilities;

(b) Fund city or county services; or

(c) Finance or refinance the debt of tourism-related facilities and pay reasonable administrative costs incurred in financing or refinancing that debt, provided that:

(A) The net revenue may be used for administrative costs only if the unit of local government provides a collection reimbursement charge; and

(B) Upon retirement of the debt, the unit of local government reduces the tax by the amount by which the tax was increased to finance or refinance the debt.

(6) At least 70 percent of net revenue from a new or increased local transient lodging tax shall be used for the purposes described in subsection (5)(a) or (c) of this section. No more than 30 percent of net revenue from a new or increased local transient lodging tax may be used for the purpose described in subsection (5)(b) of this section.

(7)(a)(A) A local transient lodging tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

(B) The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector's business.

(b) The tax shall be collected by the transient lodging tax collector that receives the consideration rendered for occupancy of the transient lodging. [2003 c.818 §11; 2013 c.610 §10]

**CITY OF CANNON BEACH (CITY)  
TOURISM AND ARTS COMMISSION (TAC)  
GUIDELINES FOR ADMINISTRATION OF TOURISM AND ARTS FUND (TAF)**

**I. PURPOSE:**

The purpose of the Tourism and Arts Commission is to see that expenditures from the TAF are used to attract tourists (per the definition of “tourist” in ORS 320.350) to the City through efforts directly related to marketing and enhancing the Arts in Cannon Beach. The TAF proceeds must be utilized in such a manner as to contribute to the development and improvement of the local economy through the enhancement, expansion, support and promotion of tourism and the arts.

**II. GENERAL GUIDELINES:**

- a) Priority will be given to grant applicants that demonstrate an effort to generate overnight tourists, tourists traveling more than 50 miles from their community of residence, and collaboration with various local businesses and/or non-profit organizations through strategic partnerships to leverage TAF resources being sought.
- b) Use of TAF resources may include but is not limited to: personnel, special events, signage, attractions, owner-occupied facility development, promotional materials and advertising which furthers tourism in the City, specifically overnight tourists and tourists traveling from more than 50 miles from their community of residence, directly benefiting the local economy, the arts and culture, and the image of the City.
- c) Funding for special events is limited to personnel, activities, events, program development or marketing strategies for ongoing events that can be directly related to generating overnight tourists or tourists traveling from more than 50 miles to Cannon Beach, or an annual event with introduction of new or expanded attractions or to sustain an already existing event that meets the above mentioned mission.

**III. TIMELINES:**

- a) Applications and grant guidelines will be available at City Hall by the first Wednesday in March of each year. The application closing date is the first Wednesday of May and completed applications must be postmarked or hand delivered to City Hall by that date. The review of applications by the TAC will begin after the closing date and awards will be made within 75 days of the closing date.
- b) At the discretion of the TAC, the annual process may include a second application cycle for new projects and programs if funding is available in an amount not to exceed 10% of the budgeted estimate.

**IV. DETERMINATION PROCEDURE AND APPLICATION**

- a) The TAC will determine the amounts distributed to each organization based on the application. A recipient organization must be a 501(c)3, 501(c)6 or other non profit entity. Proposed uses of TAF grant funds must comply with all current City ordinances and ORS 320.350.
- b) Each application must provide an analysis of the scope, duration, sustainability (if applicable to the project) and potential economic impact on the City. Annual events should demonstrate an effort to achieve future financial stability and sustainability.

- c) Each application must include a description of the project, the target market, the advertising and promotion plan and the evaluation process including how use of the funds is tied to generating tourists and promoting the Arts.
- d) Consideration will be given to projects and programs that are unique, collaborative in nature and consistent with the qualities of Cannon Beach.
- e) Applications will also be judged very carefully on how well the applicant can quantify the number of hotel rooms booked and how many tourists traveled more than 50 miles from their residence as a direct result of the event, in order to comply with the statute.
- f) Annual applications should also include the following: letter from the IRS granting tax-exempt status; board of directors list; detailed project budget depicting both revenues and expenses for each applicable year (if ensuing years contain different budget than the first year); organization's budget for current year; financial statement for most recently completed fiscal year; and a completed and signed application form.
- g) An organization may be denied a TAF award if previously awarded TAF projects have not complied with TAF procedures and guidelines including lack of filing a financial report and/or program evaluation.

## V. DISTRIBUTION SCHEDULE AND PROJECT EVALUATIONS

- a) Mid-term and final project evaluations will be required including financial and program information and results. The mid-term evaluation is due March 15 of the fiscal year in which the distributions are made. The final project evaluation is due within 30 days of either the completion of the event or end of the City's fiscal year, whichever occurs first.
- b) The TAF awards will be distributed on a quarterly basis with the first distribution made by November 15th of each City fiscal year and every 3 months thereafter.
- c) While it is the general goal of the TAC to make the annual awards equal to the total amount estimated to be deposited in the TAF, the TAC reserves the right to withhold excess funds. Monies collected in excess of the amount budgeted for grants will be held in reserve and may be used to 1) provide a fund surplus at the end of the fiscal year, 2) cover any future shortfall of the Transient Lodging Tax or 3) support such additional activities and programs recommended by the TAC.

## VI. PROJECT REQUIREMENTS

- a) Applicants must be a qualified tax exempt organization.
- b) Priority will be given for events within Cannon Beach during the shoulder and winter tourist season defined as September through June. Advertising or marketing of tourism related facilities, events, and projects (as defined in ORS 320.350) included as part of the TAF funding request shall be for facilities, events, and projects located within the City limits of Cannon Beach. Funds for events or projects within 5 miles of the City limits of Cannon Beach may be considered.
- c) All event promotional materials must specifically recognize the City of Cannon Beach's Tourism and Arts Commission (TAC) and Tourism and Arts Fund (TAF).

d) The TAC reserves the right to recommend to the City Council reimbursement from any organization who has received TAF funds and misrepresented their application or has not utilized the funds in a manner consistent with their application.

## VII. EVALUATION CRITERIA

The applicant will be further considered for funding and ranked based on the following criteria:

- a) Does the project comply with ORS 320.350 and local ordinances?
- b) What is the economic impact on the City? Will it attract overnight tourists or tourists traveling more than 50 miles from their community of residence?
- c) Does the project enhance the arts or tourism in Cannon Beach?
- d) Is the project feasible?
- e) What resources are available to the applicant and what is the total budget for the project?

All questions should be directed to: City Manager, P.O. Box 368, Cannon Beach, Oregon 97110.

# **City of Cannon Beach**

## **Tourism and Arts Funding (TAF) Award Agreement**

### **I. TAF Project Title:**

#### **TAF Recipient:**

Execution of this document by authorized city officials constitutes a legal agreement between the City of Cannon Beach (City) and \_\_\_\_\_(TAF Recipient or Recipient).

The TAF Award project is

The TAF Award description is

This Agreement incorporates by reference the TAF Recipient's application for a Tourism and Art Funding submitted to the City of Cannon Beach, through the Tourism and Arts Commission, dated , and attached hereto as Exhibit A.

The Cannon Beach City Council approved an award of \$ \_\_\_\_\_(TAF Funds) of the \$ requested.

The TAF Recipient's assurances are part of the consideration for all financial assistance given by the City. The City shall have the right to seek judicial enforcement of these assurances, which are binding on the Recipient, its successors, transferees, and assignees.

### **II. TAF Recipient Responsibilities.** The Recipient warrants and assures as follows:

1. That it is a recognized nonprofit tax exempt organization under IRS 501(c)3 or 501(c)6 with authority in its bylaws to undertake activities including the TAF project.
2. That it possesses legal authority to accept the financial award. A resolution, motion or similar action has been duly adopted by the recipient's governing body, authorizing the application and identifying an official (nonprofit chairperson) authorized to act in connection with the application.
3. That funds paid by the City shall be expended only for the TAF project set out above. The Recipient shall comply with the audit and reporting requirements established by the City's Tourism and Arts Commission.
4. That all records required by audit guidelines shall be kept for seven (7) years and be available to the City, the Secretary of State of the State of Oregon and their authorized agents or auditors upon request.
5. That Recipient shall comply with all applicable laws and regulations associated with the spending of such Tourism and Arts (TAF) Funds, including but not limited to ORS 320.300



to ORS 320.350, City of Cannon Beach City Council approved TAF Guidelines, and City of Cannon Beach Ordinance 10-06.

6. That all funds must be spent and the project finished by the date specified in the TAF Application. Any changes to the project completion dates, or extensions, must be submitted to the Tourism and Arts Commission through a formal, written request by the TAF Applicant to the Tourism and Arts Commission for authorization.
7. That Mid-Term Evaluations must be received by City no later than March 15<sup>th</sup>.
8. That Final Evaluations must be received by City within thirty (30) days after the project completion or thirty (30) days after the city fiscal year, whichever comes first, in order for the application to remain in compliance.
9. That Recipient shall submit progress reports and/or other documentation associated with the TAF award to the Tourism and Arts Commission as requested.
10. That any TAF Award funds not used on the project be immediately returned to the City upon project completion.
11. That if at any time after City remits funds under Section III, Recipient determines it is not able or willing to pursue or complete the TAF award project, without any notice required of City, Recipient shall immediately return to City all TAF Funds not yet expended along with an accounting of all expended and unexpended TAF Funds.
12. That all information submitted to City, including but not limited to Recipient's TAF application and evaluations, is public record and subject to disclosure as allowed by law under ORS Chapter 192.

**III. City Responsibilities.** The City warrants as follows:

1. After execution of this Agreement, the City will release to the Recipient on a quarterly basis the authorized percentage of the TAF Funds approved in the award.
2. The quarterly distributions will be made in the following months: November, February, May, and August.
3. The amount of Tourism and Arts funds to be used to pay said award is entirely dependent upon the amount of lodging tax the City collects each quarter. Thereby, if there is a significant decrease in lodging tax collected, the Recipient's TAF award will be decreased as a result.

#### IV. General Provisions

1. This Agreement may be terminated at any time by mutual consent of both parties.
2. The City may terminate this Agreement effective upon delivery of written notice to the Recipient if there is a change in federal, state or local laws, rules, regulations or guidelines rendering the TAF project ineligible for funding.
3. The City, by written notice to Recipient, may terminate the whole or any part of this Agreement if any of the following occurs:
  - a. Recipient defaults in the performance of any of its warranties or agreements contained herein or in the application; or
  - b. Any representation made by the Recipient in the application, budget, or any other documents or reports relied upon by the City in awarding the TAF award or as used to measure progress on the project and by the Recipient, are untrue in any material respect.
4. If this Agreement is terminated for any reason, Recipient shall immediately return to City all TAF Funds not yet expended along with an accounting of all expended and unexpended TAF Funds.
5. No failure on the part of the City to exercise any right, power, or privilege under this Agreement shall constitute a waiver, nor shall any single or partial exercise preclude any other or further exercise of any such right, power, or privilege under this Agreement.
6. All notices, requests, demands, and other communication to or upon the parties shall be in writing and shall be deemed to have been duly given or made when deposited in the US mail, addressed to the parties at the addresses below or such other address of which a party shall have notified in writing the other party.

If to the City:

City Manager  
City of Cannon Beach  
P.O. Box 368  
163 E. Gower  
Cannon Beach, OR 97110  
Phone (503) 436-8050  
Fax (503) 436-8041  
TTY (503) 436-8097

If to the Recipient:

Name:  
Address:  
PO Box  
  
Cannon Beach, OR 97110  
Phone (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

7. This Agreement may not be waived or altered without written consent of both parties.
8. The prevailing party in any dispute arising from the agreement shall be entitled to recover from the other reasonable attorney's fees and costs.

9. TAF Award recipient shall, to the extent permitted by the Oregon Constitution, and applicable statutes, save and hold harmless the City and its officers, employees and agents from all claims, suits, or actions of whatsoever nature resulting from or arising out to the activities of the Recipient or its subcontractors, agents, volunteers or employees in connection with this Agreement. This includes any claims pursuant to ORS 320.300 to ORS 320.350.
10. This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements or representations, oral or written, not specified herein regarding this agreement. Any waiver or consent, if made, shall be effective only in the specific instance and for the specific purpose given.
11. Recipient shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers' compensation insurance, health care payments, payments to employees and subcontractors, income tax withholding contained in ORS Chapters 279A and 279B, the provisions of which are hereby made a part of this Agreement.

Recipient, by execution of this Agreement, hereby acknowledges that the Recipient has read this agreement, understands it, and agrees to be bound by its terms and conditions.

City of Cannon Beach:

By: \_\_\_\_\_  
City Manager  
City of Cannon Beach, Oregon

Date: \_\_\_\_\_

TAF Award Recipient:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Email: \_\_\_\_\_



**CANNON BEACH COMMUNITY DEVELOPMENT**

163 E. GOWER ST.

PO Box 368

CANNON BEACH, OR 97110

**CITY OF CANNON BEACH  
SPECIAL EVENT PERMIT APPLICATION**

Please fill out this form completely. Please type or print.

Special Event Permit #: \_\_\_\_\_

**Applicant Name:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Event Organizer Name:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Special Event Information**

**Special Event Name:** \_\_\_\_\_

**Description of Event:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Number of expected participants:** \_\_\_\_\_ **Number of last year's participants:** \_\_\_\_\_

**Location/Event Address:** \_\_\_\_\_

**Map No.:** \_\_\_\_\_ **Tax Lot No.:** \_\_\_\_\_

**Date(s) of Event:** \_\_\_\_\_

**Time(s) of Event:** \_\_\_\_\_

**Type of Event**

- |  |   |
|--|---|
| <input type="checkbox"/> Concert/Performance | <input type="checkbox"/> Road or Bike Race/Walk |
| <input type="checkbox"/> Wedding/Reception   | <input type="checkbox"/> Parade/Procession      |
| <input type="checkbox"/> Festival/Fair       | <input type="checkbox"/> Street/Block Party     |
| <input type="checkbox"/> Car Show            | <input type="checkbox"/> Farmer/Street Market   |
| <input type="checkbox"/> Other _____         |   |

**Private Property Special Event Threshold**

- ☐ More than 50 people expected
- ☐ Event to be held completely on Private Property
- ☐ Complete pages 1-3 and submit

**Minor Special Event Threshold**

- ☐ More than 50, but less than 200 people expected
- ☐ Event to be held on City Property
- ☐ Event to be held on Private Property, but may impact City
- ☐ Complete pages 1-3 and submit

### **Major Special Event Threshold**

- ☐ More than 200 people or street closure
- ☐ Event will impact public facilities or resources
- ☐ Complete Major Event Checklist and submit with application

### **LIABILITY**

The applicant must be at least 21 years of age and must assume financial responsibility for payment of fees, set-up and clean up, and any damages to equipment and/or property which may be incurred. Abuse of facilities or violation of regulations shall result in subsequent denial of use of parks/facilities. Applicant must provide adequate supervision of scheduled event. The City of Cannon Beach is not responsible for the security of personal items of the applicant or attendees/guests of the event. The City of Cannon Beach reserves the right to deny use of facilities to the applicant. Parking allowed only in designated area, unless other arrangements have been made.

### **Conditions and Insurance**

- The permit holder shall be responsible for notifying all businesses and residents whose sole route for ingress and egress from their businesses or residences is affected by the street closures associated with the event.
- The permit holder shall make the necessary arrangements with the Public Works Department for barricades, cones and/or street signs and shall remove the barricades at the conclusion of the event and return barricades to Public Works.
- If using City property, the permit holder shall, at its expense, secure and keep in force for the duration of the event, general liability insurance in the amount of \$2 million per occurrence/ \$2 million aggregated and provide the City with a Certificate of Insurance naming the City as the Certificate Holder and an Additional Insured.
- The laws of the City of Cannon Beach and State of Oregon must be observed, including, but not limited to, safety, litter, noise, alcohol, fire hazards and conduct.
- The issuance of a City Event Permit does not obligate the City to provide municipal services, equipment or personnel thereof. Should the City provide municipal services, an estimate cost of the city-related services will be provided prior to the event. These costs may include expenses from Police Department and Public Works Department. By signing this permit, you agree to pay the City for any costs the City incurred due to your event.
- The City of Cannon Beach will be held harmless from any claim for damage that might arise by reason(s) of the issuance of this permit.
- This permit is valid for the above date(s) and time(s) only. A copy of the permit must be in the applicant's possession at the time of the event.
- The City of Cannon Beach Police Department may revoke or modify this permit if the applicant fails to comply with the conditions of this permit or in an emergency or hazardous situation.

### **WAIVER**

I, and/or the organization I represent understand that any violation of these agreements or City Code will result in forfeiture of event fee, immediate termination of event, and jeopardize future use of City of Cannon Beach's facilities. User agrees to indemnify, defend, and save and hold City of Cannon Beach, its affiliates and their respective directors, officers, and employees, and agents of the City of Cannon Beach harmless from and against any claims (including without limitation, third party claims for personal injury or real or personal property damage), actions, administrative proceedings, judgments, damages, punitive damages, penalties, fines, cost, liabilities, (including sums paid in settlement of claims), interest, or losses, including reasonable attorney's and paralegal's fees and expenses (including without limitation, any such fees and expenses incurred in enforcing this agreement or City Code, or collecting any sums due hereunder, costs, consultants' fees, together with all

other costs and expenses of any kind or nature that arise directly or indirectly from the use of the facilities by user.

As a condition of use of the City of Cannon Beach's facilities, the applicant agrees that it will not discriminate or permit discrimination at or in relation to applicant's event against any person on the basis of race, color, creed, national origin, age gender or disability.

**Applicant Signature** \_\_\_\_\_ **Title** \_\_\_\_\_

**Business License#** \_\_\_\_\_

**Application Fees:**

**Private Property Special Event Fee \$50**

**Minor Special Event Fee \$100**

**Major Special Event Fee \$200**

**Any use of City Facilities and Resources may add additional costs**

**All official City functions and any registered 501(c)3 or 501(c)6 non-profit are exempt from fees**

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act on his/her behalf. Please attach the name, address, phone number, and signature of any additional property owners.

-----

**PERMIT REVIEW** *(For Staff Use Only)*

The City Staff has reviewed this permit application and hereby recommends to the City Manager:

Department	Initials	Date Reviewed	Approval Status
Public Works			<input type="checkbox"/> Grant <input type="checkbox"/> Deny
Public Safety - Police			<input type="checkbox"/> Grant <input type="checkbox"/> Deny
Emergency Manager			<input type="checkbox"/> Grant <input type="checkbox"/> Deny
Public Safety - Fire			<input type="checkbox"/> Grant <input type="checkbox"/> Deny
Community Development			<input type="checkbox"/> Grant <input type="checkbox"/> Deny
Legal (Insurance Review) & Administrative			<input type="checkbox"/> Grant <input type="checkbox"/> Deny

**Final Approval/Denial by City Manager or designee (circle)**

City Manager: \_\_\_\_\_ Date: \_\_\_\_\_

## Major Special Event Application Checklist

Name of Event \_\_\_\_\_

Responsible Person 'onsite' Day of Event \_\_\_\_\_

Cell Number Day of Event \_\_\_\_\_

Professional Organizer or Event Planner Hired by You to Produce this Event – Name/Company \_\_\_\_\_

Professional Organizer Address \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

Name of Sponsoring Organization (if applicable) \_\_\_\_\_

Sponsoring Organization's Address \_\_\_\_\_

Sponsoring Organization's Tax ID Number \_\_\_\_\_

Hours of Event \_\_\_\_\_ to \_\_\_\_\_

Set Up/Assembly Date & Time: \_\_\_\_\_ to \_\_\_\_\_

Phone Number/Website for Public Information \_\_\_\_\_

Describe the Event's Community and/or Cultural Benefit:

\_\_\_\_\_  
\_\_\_\_\_

Will you be serving/selling food at your Event? ☐ Yes ☐ No If yes, how many vendors? \_\_\_\_\_

Will you be serving/selling alcohol at your Event? ☐ Yes ☐ No If yes, how many vendors? \_\_\_\_\_

Will you be selling merchandise at your Event? ☐ Yes ☐ No If yes, how many vendors? \_\_\_\_\_

Will you be erecting tents over 100 square feet (10' x 10')? ☐ Yes ☐ No If yes, please identify locations on Site Plan

Will your Event require road or parking area closures? ☐ Yes ☐ No If yes, please provide a route plan with your Site Plan and complete a Street Closure Request Form

Will there be sound amplification? ☐ Yes ☐ No If yes, please provide locations of all amplifiers on Site Plan

Will you require electricity or generators? ☐ Yes ☐ No If yes, please provide locations of all sources on Site Plan

To ensure proper review of your event, it is required that you attach a site plan. Based on your event site plan and components, the Fire Department may require an inspection of your venue at your cost before or during the event.

## Event Details

### Security/Safety

Are you requesting City Police services? ☐ Yes ☐ No

Will you be providing security personnel? ☐ Yes ☐ No

Please describe your procedures for crowd control and internal security:

---

### Volunteers

How many volunteers are working the event? \_\_\_\_\_

*If this is a Run/Walk/Bike event, or requires street closures, please refer to the Traffic Control Plan*

What will the volunteers wear to identify themselves as volunteers? Please provide a picture if possible.

---

## Consent and Liability

I, THE UNDERSIGNED, ACKNOWLEDGE AND UNDERSTAND THAT I AM RESPONSIBLE TO COMPLY WITH THE INFORMATION, RESTRICTIONS AND CONDITIONS OF THE PERMIT WHEN ISSUED. I HEREBY ACKNOWLEDGE RESPONSIBILITY FOR PENALTIES ASSOCIATED WITH NON-COMPLIANCE WITH THE PERMIT CONDITONS. WHETHER OR NOT I AM PRESENT AT THE TIME OF THE VIOLATION \_\_\_\_\_ (INITIALS)

I hereby certify the foregoing statements to be true and correct, and agree to defend, indemnify and hold harmless the City of Cannon Beach, its City Council, officers, agents, employees and volunteers from and against any and all loss, claims, damages, liability, such claim or suit arising from or in any manner connected to the requested activity. I also agree, if approved, to comply with all permit conditions, and understand that failure to comply with any condition, or any violation of law, may result in the immediate cancellation of the event, revocation of the permit, forfeiture of deposit, denial of future events, criminal prosecution and/or administrative citation(s), and/or finds.

Print your Name \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Please submit your completed form and all additional required materials to:

**City of Cannon Beach City Manager's Office**

**ATTN: City Manager Administrative Assistant**

163 E. Gower St.

PO Box 368

Cannon Beach, OR 97110

Phone (503)



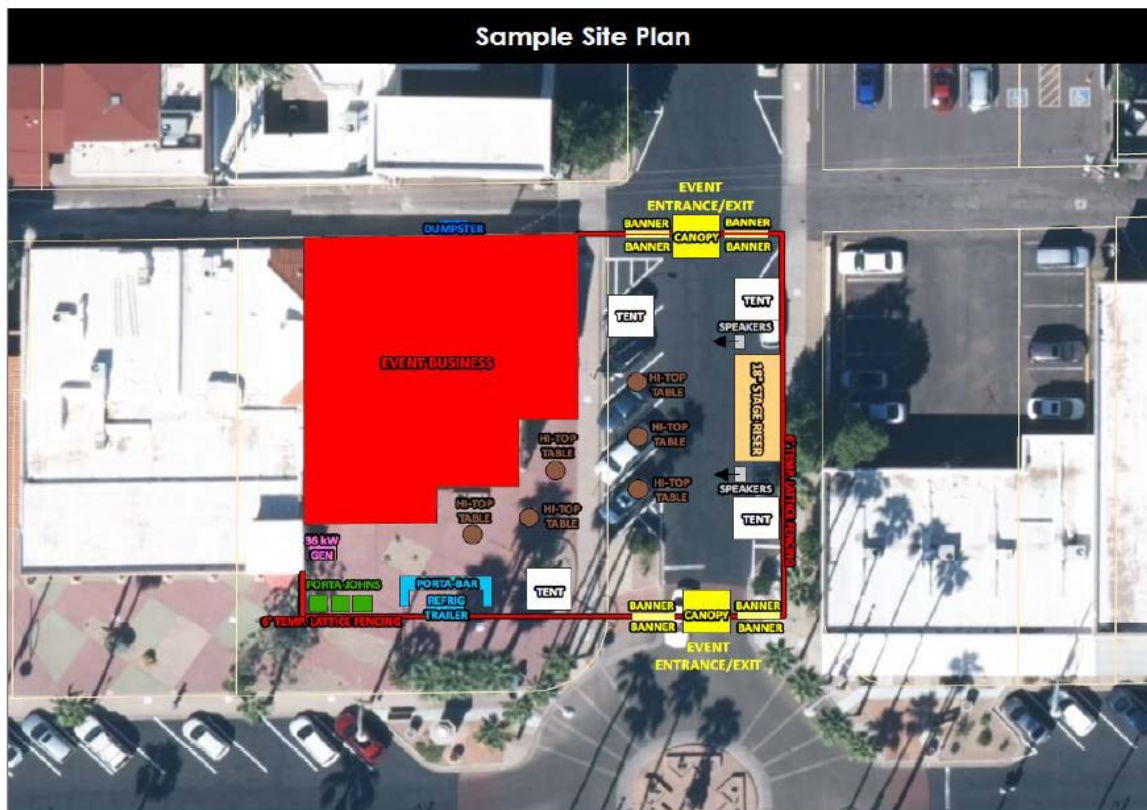
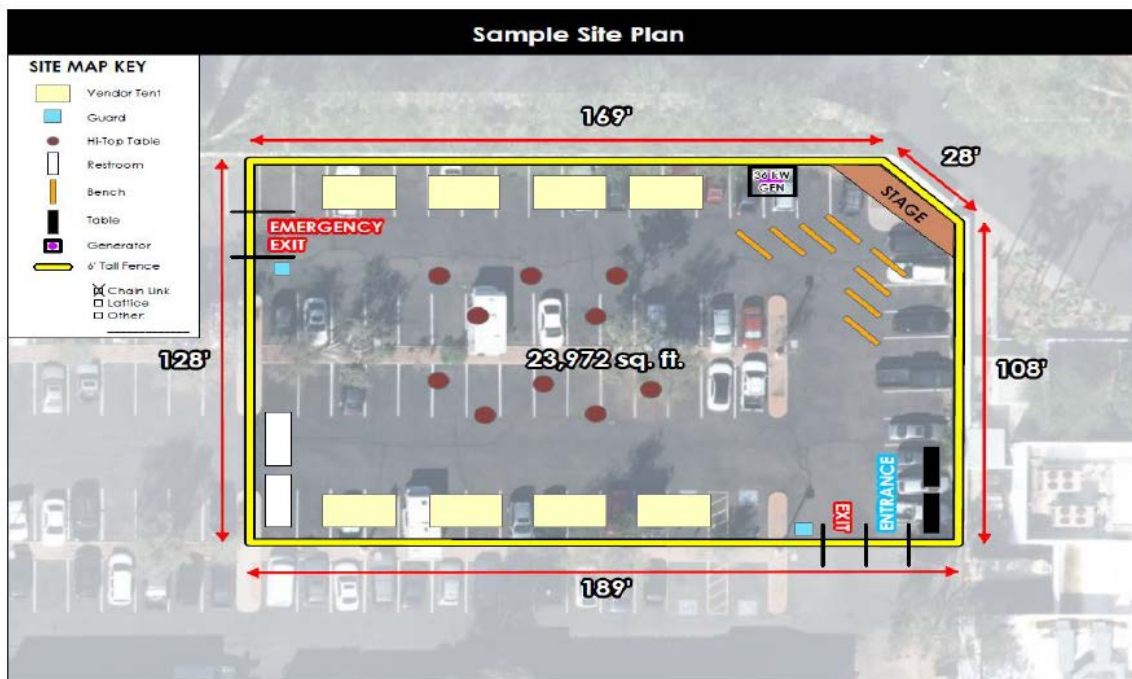
## Site Plan

**INSTRUCTIONS:** A detailed narrative is required. A map may also be submitted, but will not serve as a substitute to the written narrative. Hand drawn maps will not be accepted for required plans. Cannon Beach maps are available at [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us) Other electronic mapping tools include Google Maps, PowerPoint files etc. If you need support in developing your plan, you can contact the city to schedule an appointment.

Attach a Site Plan with the following items clearly shown if applicable:

- ☐ An outline of the entire event venue, including the names of all streets or areas that are part of the venue
- ☐ Location of all canopies, tents, and other temporary structures
- ☐ Location and description of any amplified sound system, sound checks (time and date), musical entertainment (number of performers, type of music)
- ☐ Location of and detailed description of any food vendors (FV), cooking area configurations, cooking methods (gas grills, propane etc.)
- ☐ Location and description of any beverage vendors both non-alcoholic (NAB), alcoholic beverages/wine and beer gardens (AB) along with number of serving stations at each location
- ☐ Location of any retail merchants/vendor booths (V)
- ☐ Location of any large tents (over 100 sq. feet)
- ☐ Location of any portable toilets (PT)
- ☐ Location of any hand washing sinks (HWS)
- ☐ Location of any generators, source of electricity, and details of any requirements (E)
- ☐ Location of any public entrances and exits
- ☐ Identification of all event components that meet accessibility standards (ADA)
- ☐ Location of fencing, barriers and/or barricades
- ☐ Location of any required fire lanes (FL)
- ☐ Location of any First Aid stations (+)
- ☐ Location of any fire extinguishers (FE)
- ☐ Other related components not listed above (e.g. special equipment etc.)
- ☐ Location of existing restroom and hand-washing City facilities, please include service schedule if required
- ☐ Location of any garbage cans, dumpsters and recycling collection
- ☐ If there will be food preparation, include provisions for disposing of cooking waste
- ☐ Post-event clean up, recycling plans and garbage disposal

## Site Plan Example



## Traffic Control Plan

To ensure proper review of your event, it is required that you attach a traffic control plan. Events that involve full/partial closure or blockage of City streets (parades, street closures and athletic events) to control traffic flow must also complete an Event Street and Sidewalk Use.

**INSTRUCTIONS:** A detailed narrative is required. A map may also be submitted, but will not serve as a substitute to the written narrative. Hand drawn maps will not be accepted for required plans. Cannon Beach maps are available at [www.ci.cannon-beach.or.us](http://www.ci.cannon-beach.or.us). Other electronic mapping tools include Google Maps, PowerPoint files etc.

Attach a Traffic Control/Athletic Plan with the following items clearly shown if applicable:

- ☐ Set-up/tear down times
- ☐ Staging, loading and assembly areas (all). Please use a Site Plan to show staging area details.
- ☐ All parking and shuttles
- ☐ Certified Flaggers/Course Marshals/Police and volunteer locations
- ☐ How the course(s) will be marked
- ☐ Location of fire lane (FL)
- ☐ Location of First Aid and/or medical personnel (+)
- ☐ Traffic flow. Description of how traffic will be directed
- ☐ Procedures for crowd control

A Special Events Applicant Details

B Private Property Event

C Major Special Event Application

D Site Plan Checklist & Plan

E Traffic Control Checklist & Plan

F Event Safety & Services Request

G Consent & Liability Form

H Fees & Signature Block

# Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only <b>one</b> of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <b>Note.</b> For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional) <b>CITY OF CANNON BEACH</b> <b>PO BOX 368</b> <b>CANNON BEACH, OR 97110</b>
	6 City, state, and ZIP code	
7 List account number(s) here (optional)		

<b>Part I Taxpayer Identification Number (TIN)</b>																																														
Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.																																														
<b>Note.</b> If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.																																														
<table border="1"><tr><td colspan="9">Social security number</td></tr><tr><td></td><td></td><td></td><td></td><td>-</td><td></td><td></td><td></td><td></td></tr><tr><td colspan="9">or</td></tr><tr><td colspan="9">Employer identification number</td></tr><tr><td></td><td></td><td></td><td></td><td>-</td><td></td><td></td><td></td><td></td></tr></table>		Social security number													-					or									Employer identification number													-				
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<b>Part II Certification</b>	
Under penalties of perjury, I certify that:	
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and	
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and	
3. I am a U.S. citizen or other U.S. person (defined below); and	
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.	
<b>Certification instructions.</b> You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.	
<b>Sign Here</b>	Signature of U.S. person ▶  Date ▶

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

## What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

**a. Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note. ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

**b. Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

**c. Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

**d. Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

**e. Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.



**Line 2**

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

**Line 3**

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

**Limited Liability Company (LLC).** If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

**Line 4, Exemptions**

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

**Exempt payee code.**

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note.** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup>  The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor <sup>4</sup>
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

**\*Note.** Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



# CITY OF CANNON BEACH

## Tourism and Arts Fund Recipient Evaluation

Choose an item.

☐ Mid Term

☐ Final

All TAF recipients are required to complete an evaluation of the TAF-funded program/project to the City **within 30 days of completion of the program/project, or the end of the fiscal year, whichever occurs first.** For ongoing program/projects, evaluations should be received prior to the submittal of a new TAF award request. Please type or print. Use additional 8 ½" x 11" sheets as necessary.

**Program/Project Title** Click or tap here to enter text.

**Evaluator Name/Position** Click or tap here to enter text.

**Date** Click or tap to enter a date.

### 1. Project/Program Summary

- a. Briefly describe your program/project as it was delivered. Empirical evidence of “heads in beds” or visitors that traveled more than 50 miles is mandatory. Include definitive numbers of participants, audiences served, types of activities and events, etc. Include specifically, details on how the program/event/project furthered tourism and the arts in Cannon Beach.

Click or tap here to enter text.

### 2. Program/Project Evaluation

- a. Describe whether the program/project was successful and met the original program/event/project goals. Include supporting documentation.

Click or tap here to enter text.

- b. Describe what could be done differently in the future to improve the program/event/project.

Click or tap here to enter text.



### 3. Budget

- a. Briefly describe how the program/project did or did not meet its financial projections.
- b. Include a copy of the final program/project income and expenses, clearly showing the TAF award, **on a line-item basis**, with this evaluation.

Click or tap here to enter text.

SAMPLE

## Title 2. Administration and Personnel

### Chapter 2.32. TOURISM AND ARTS COMMISSION

#### § 2.32.010. Created.

Chapter **2.32** hereby creates a tourism and arts commission hereinafter referred to as "commission."  
(Ord. 10-7 § 1; Ord. 15-1 § 1)

#### § 2.32.020. Powers and duties.

The powers and duties of the commission shall include the following:

- A. Develop rules and procedures regulating the distribution of the tourism and arts fund which is comprised of seventy percent of the one percent lodging tax increase effective July 1, 2010, so that the distribution and application of this fund are in accordance with Oregon Revised Statute 320 such that the funds must be dedicated to tourism and tourism related facilities. Such rules and procedures must be approved by the city council and any future changes to such rules shall also receive city council approval. The commission shall ensure the proper implementation of such statute and the directives of the ordinance passed by the city council when adopting the one percent lodging tax increase.
  - B. Monitor the distribution of the tourism and arts fund (TAF) such that the proper amounts are distributed to the recipients on a quarterly basis.
  - C. Monitor and examine with the intent to verify the organization's use of the grant funds in conformance with stated requirements on an annual basis or more frequently as the commission deems appropriate.
  - D. Once the commission has made the final decisions as to how the TAF will be allocated, this information shall be presented to the city council for review and approval.
  - E. The decisions of the commission are appealable to the city council.
  - F. Perform other functions as directed by the council.
- (Ord. 10-7 § 2; Ord. 15-1 § 2)

#### § 2.32.030. Membership.

The commission shall consist of seven voting members.  
(Ord. 10-7 § 3; Ord. 15-1 § 3)

#### § 2.32.040. Appointment—Term.

- A. Members of the commission shall be appointed by the city council to serve four-year terms.

- B. All vacancies occurring on the commission shall be filled by approval of the council for the unexpired term of the predecessor in office.
  - C. No commission member shall serve more than eight consecutive years, but any person may be reappointed to the commission after an interval of one year.
  - D. Each member shall have experience in one or more of the following areas: public relations, marketing, advertising, tourism, lodging, promotions, events promotion, art, and/or publicity.
  - E. Each member of the commission shall conform to the requirements of the municipal code, Section **2.04.010**, Requirements for appointment, or, in the alternative, the member shall work, at least part-time, within the city of Cannon Beach.
- (Ord. 10-7 § 4; Ord. 15-4 § 4)

## § 2.32.050. Rules and regulations—Meetings.

- A. A majority of the members of the commission constitute a quorum. The commission may make and alter rules and regulations for its governance consistent with the laws of the State of Oregon, the city Charter and any applicable ordinances and with the approval of the city council.
  - B. The commission shall meet at such times and places as may be fixed by the commission and provisions shall be made for recording the proceedings of the commission.
- (Ord. 10-7 § 5; Ord. 15-1 § 5)

## § 2.32.060. Officer election.

At its first meeting each calendar year, the commission shall elect a chair and a vice-chair.

(Ord. 10-7 § 6; Ord. 15-1 § 6)

## § 2.32.070. Removal from office.

A member of the commission may be removed by the city council, after a hearing, for misconduct or the nonperformance of duty. A member who is absent for two meetings in a calendar year, without an approved excuse, is presumed to be in nonperformance of duty and the council shall declare the position vacant.

(Ord. 10-7 § 7; Ord. 15-1 § 7; Ord. 23-04 § 1)

## § 2.32.080. Compensation.

Commission members shall receive no compensation but shall be reimbursed for authorized expenses.

(Ord. 10-7 § 8; Ord. 15-1 § 8)



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### PUBLIC CONTRACTING PROCUREMENT CODE UPDATE

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**Agenda Date:** April 9, 2024

**Prepared by:** Karen La Bonte, Public Works Director

## BACKGROUND

Last year, the Oregon legislature increased certain public contracting procurement thresholds for the state of Oregon. These changes caused the procurement thresholds in the current Cannon Beach Municipal Code chapter 2.08 to be lower than the new thresholds adopted by the legislature. In addition, while reviewing the CBMC Chapter 2.08 in this context, staff and legal counsel noticed several other elements of the rules that should be similarly updated or clarified.

## ANALYSIS/INFORMATION

The current CBMC 2.08 has not been updated since 2013, and therefore the City legal counsel recommends certain changes in order to bring it in line with current state dollar thresholds and other public contracting requirements.

As a reminder, the city is allowed to award small procurements directly, and can award immediate procurements using an informal process.

Attached to this staff report are the draft changes being proposed by legal counsel. Below is a general summary of the proposed amendments:

- Remove the City's local contracting rules from the CBMC and instead adopt them as a rule, via resolution.
- Establish a spending authority threshold over which public contracts must be approved by City Council
- Clarify a procurement process, as permitted by state law, for personal services and construction-related personal services.
- Consolidate and clarify the procurement and exemption process for public improvements, goods, and services.
- Clarify electronic advertising requirements and concession agreements.
- Remove unnecessary or duplicative sections from the rules, and otherwise add clarifying and grammatically correct language.

## **RECOMMENDATION**

Staff is requesting a discussion with and direction from Council on the changes they would support making based on this proposed draft. Final changes will be brought back in a future meeting for your official vote.

### **List of Attachments**

- A Proposed Public Contracting Rules
- B Proposed Public Contracting Rules, redlined against Cannon Beach Municipal Code Chapter 2.08

**Attachment A**  
**Cannon Beach Local Contracting Rules**  
**("Rules")**

**Section 1 - Policy.**

A. Purpose. These Rules are adopted by the city council as the governing body and local contract review board of the City of Cannon Beach for the purpose of establishing the rules and procedures for public contracts procured and entered into by the City. It is the policy of the City in adopting these Rules to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

1. Promoting impartial and open competition;
2. When the solicitation is in writing, using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
3. Taking full advantage of procurement methods that suit the contracting needs of the City.

B. Interpretation of Public Contracting Rules. Except as specifically provided in these Rules, the City shall award, administer, and govern public contracts according to ORS Chapters 279A, 279B, and 279C (the "Public Contracting Code") and the Attorney General's Model Public Contract Rules ("Model Rules"), as they now exist and may be amended in the future. In furtherance of the purpose of the objectives set forth in subsection A, it is the City's intent that these Rules be interpreted to authorize the full use of all contracting powers and authorities described in the Public Contracting Code. The Model Rules shall apply to the contracts of the City to the extent they do not conflict with these Rules. In the event of a conflict between any provisions of these Rules and the Public Contracting Code, the provisions of the Public Contracting Code shall prevail. In the event of a conflict between any provisions of these Rules and the Model Rules, the provisions of these Rules shall prevail unless the Public Contracting Code requires otherwise.

**Section 2 - Contract Review Board.**

The City Council is designated as the local contract review board of the City and has all of the rights, powers and authority necessary to carry out the provisions of these Rules, the Public Contracting Code and the Model Rules, except as otherwise provided herein.

**Section 3 - Contracting Authority and Responsibilities.**

A. The City Manager is designated as the contracting agent for the City. The City Manager may delegate the authority granted under this subsection to department

heads of the City as the City Manager deems appropriate to conduct city business. For purposes of these Rules, "city manager" collectively refers to the City Manager of the City of Cannon Beach and his or her delegee.

B. Subject to these Rules, the City Manager is authorized to adopt forms, computer software, procedures, and administrative policies and procedures for all City purchases. All contracting by departments must be done in accordance with the procedures and policies adopted by the City Manager or the city council, as the case may be.

C. Purchases of goods from city employees require authorization of the City Manager.

D. Each department must operate within its budget, or seek supplemental budget authority from City Council.

E. Departments shall communicate purchase requirements and plan sufficiently in advance so that orders can be placed in economical quantities.

F. Contracts shall be negotiated on the most favorable terms in accordance with these Rules, other adopted ordinances, state laws, policies and procedures.

G. All contracts and subsequent amendments estimated to cost more than \$100,000 must be approved by City Council. All public contracts and subsequent amendments estimated to cost \$100,000 or less in may be entered into by the City Manager without Council approval.

#### **Section 4 - Federal Law.**

Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Public Contracting Code, the Model Rules, or these Rules, or otherwise require additional conditions in public contracts not authorized on a state or local level.

#### **Section 5 - Personal Services (Other than Construction-Related Personal Services).**

A. Definition. "Personal services" means services requiring professional or special training or certification, independent judgment, skill and experience, including, but not limited to, attorneys; accountants; auditors; computer programmers; artists; designers; performers; and consultants. The City Council or the City Manager, as the case may be depending on the value of the contract, has discretion to determine whether a particular type of contract or service is a personal services contract. For the purpose of these Rules, personal services do not include Construction-Related Personal Services.

B. Large Procurements. When the estimated payment to the contractor for personal services is above \$250,000, the City shall seek competitive sealed proposals in accordance with OAR 137-047-0260.

C. Intermediate Procurements. The following informal selection procedure may be used when the estimated payment to the personal service contractor is equal to or less than \$250,000 and above \$25,000. The City Manager will contact a minimum of three (3) prospective contractors qualified to offer the personal services sought. The City Manager will request an estimated fee, and make the selection consistent with the City's best interests. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

D. Small Procurements. The City Manager may enter personal service contracts when the estimated payment is less than \$25,000 in any manner the City Manager finds practical or convenient, including direct selection or award. However, the City Manager must make reasonable efforts to choose the most qualified contractor to meet the City's needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.

E. Notwithstanding anything to the contrary in these Rules, the following personal services contracts may be directly appointed.

1. Personal Services Contracts for Continuation of Work. The City Manager may enter into a personal services contract or contract amendment directly with the contractor if the work described in the contract consists of work that has been substantially described, planned, or otherwise previously studied or rendered in an earlier contract with the contractor that was awarded in accordance with these Rules and the new contract is a continuation of that work, provided that such continuation does not reflect an artificial divide or fragmentation of the procurement.
2. Legal Services. Personal services contracts for legal services may be entered into directly by the city manager.

## **Section 6 - Contracts for Construction-Related Personal Services.**

A. Purpose. This Section implements ORS 279C.100 to 279C.125. The City will rely on these Rules, not the Model Rules, for a contract with an architect, engineer, photogrammetrist, land surveyor, as each is defined in ORS 279C.100, and (in very narrow instances) a transportation planner (collectively referred to herein as "Construction-Related Personal Services").

B. Applicability. This Section applies only to a Construction-Related Personal Service contract that meets the following criteria:

1. The estimated payment to the contractor exceeds \$100,000; and



2. The contract is for a personal service that is *legally required* to be provided or performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor. For example: hiring an architect to design a building or hiring an engineer to design a wastewater system. Because the law requires licensed professionals to design buildings and infrastructure, the City may rely on this subsection to hire someone to perform those services. However, if the City is hiring an architect or engineer to perform project management services (for example), it may solicit and award such services under Section 5 of these Rules. See definition of “Related Services” below.
3. If either (1) or (2) above is not satisfied (i.e. the contract is for a personal service that is legally required to be provided by a licensed architect, etc. *but* is estimated to not exceed \$100,000; *or* the contract will require an engineer, etc. to perform a Related Service) then the City may rely on Section 5 of these rules to solicit and award the contract.

C. Mixed contracts. Some contracts will contain a mixture of services covered by this Section (i.e. services that only the particular consultant may legally perform) and Related Services. Whether the City uses this Section or Section 5 to solicit and award a mixed contract will depend upon the predominate purpose of the contract. The City will determine the predominate purpose based upon either the amount of money it estimates it will spend for covered services versus Related Services or the amount of time it estimates that the consultant will spend working on covered services versus Related Services. If covered services predominate, the City will solicit the contract under this Section. If Related Services predominate, the City will solicit the contract under Section 5.

D. Small Procurements. For clarity’s sake, the City Manager may enter Construction-Related Personal Service contracts when the estimated value is less than \$100,000 in any manner the City Manager or their designee finds practical or convenient, including direct selection or award. However, the City Manager or designee must make reasonable efforts to choose the most qualified contractor to meet the City’s needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.

E. Definitions. The following definitions apply to this Section:

1. “Transportation Planning Services” only includes project-specific transportation planning required for compliance with the National Environmental Policy Act, 42 USC 4321 et seq. and no other types of transportation planning services. By way of example only, Transportation Planning Services do not include transportation planning for corridor plans, transportation system plans, interchange area management plans, refinement plans and other transportation

plans not associated with an individual Project required to comply with the National Environmental Policy Act, 42 USC 4321 et. seq.

2. “Related Services” means personal services, other than architectural, engineering, photogrammetric, mapping, transportation planning or land surveying services, that are related to planning, designing, engineering or overseeing public improvement projects or components of public improvements, including, but not limited to, landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services, and owner’s representation services or land-use planning services. In other words, personal services that are *not required by law* to be performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor.

F. Intermediate Procurements. The following informal selection procedure may be used when the estimated payment to the consultant for Construction-Related Personal Services is equal to or less than \$250,000 and above \$100,000. The City Manager will contact a minimum of three (3) prospective consultants qualified to offer the services sought. The City Manager will request an estimated fee, and make the selection consistent with the City’s best interests, to the most qualified consultant. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

G. Large Procurements.

1. When the estimated cost of the contract for Construction-Related Personal Services is greater \$250,000, a contract shall be awarded following a qualifications based selection procedure focusing on the consultant’s qualifications for the type of professional service required, taking into account the candidate’s specialized experience, capabilities and technical competence; resources; record of past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration; ownership status and employment practices regarding minority, women and emerging small businesses or historically underutilized businesses; availability to the project locale; familiarity with the project locale; and proposed project management techniques.
2. Unless the City follows the process set forth in subsection (3) of this subsection, the City may not solicit or use pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead, to determine

consultant compensation until after the City has selected a qualified professional for award.

3. Notwithstanding subsection (2) of this subsection, the City may request pricing policies or pricing proposals from prospective consultants, including an estimate of the number of hours that will be needed to perform the work described in the solicitation, and a schedule of hourly rates, if the City:
  - a. States in the following in its solicitation document:
    - i. That the City will screen and select prospective consultants as provided in ORS 279C.110(5);
    - ii. How the City will rank proposals from prospective consultants, with a specific focus on:
      - (1) Which factors the City will consider in evaluating proposals, including pricing policies, proposals or other pricing information, if the City will use pricing policies, proposals or other pricing information in the evaluation; and
      - (2) The relative weight the City will give each factor, disclosing at a minimum the number of available points for each factor, the percentage each factor comprises in the total evaluation score and any other weighting criteria the City intends to use;
      - (3) An estimate of the cost of professional services the City requires for the procurement; and
      - (4) A scope of work that is sufficiently detailed to enable a prospective consultant to prepare a responsive proposal.
  - b. Evaluates each prospective consultant on the basis of the prospective consultant's qualifications to perform the professional services the City requires for the procurement;
  - c. Announces the evaluation scores and rank for each prospective consultant after completing the evaluation described in paragraph (ii) of this subsection. The City may determine that as many as three of the top-ranked prospective consultants are qualified to perform the professional services the City requires for the procurement and may request a pricing proposal for the scope of work stated in paragraph (i)(d) of this subsection from each of the top-ranked consultants. The pricing proposal must consist of:
    - i. A schedule of hourly rates that the prospective consultant will charge for the work of each individual or each labor classification that will perform the professional services the

City requires for the procurement, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and

- ii. A reasonable estimate of hours that the prospective consultant will require to perform the professional services the City requires for the procurement.
  - d. Permits a prospective consultant identified as qualified under paragraph (c) of this subsection to withdraw from consideration for the procurement if the prospective consultant does not wish to provide a price proposal.
  - e. Completes the evaluation and selects a consultant from among the top-ranked prospective consultants that have not withdrawn as provided under paragraph (d) of this subsection, giving not more than 15 percent of the weight in the evaluation to each prospective consultant's price proposal.
4. If the City and the professional are unable to negotiate a reasonable and fair amount of compensation, as determined solely by the City, the City shall, either orally or in writing, formally terminate negotiations with the selected candidate and may then negotiate with the next most qualified candidate. The negotiation process may continue in this manner through successive candidates until an agreement is reached or the contracting agency terminates the consultant contracting process.

## **Section 7 - Small Procurements for Goods and Services, and Public Improvements.**

A. Public contracts for goods, services, or public improvements with an estimated value under \$25,000 may be awarded by the City Manager in any manner deemed convenient, including by direct award. The City Manager shall make a reasonable effort to obtain competitive quotes in order to ensure the best value for the City.

B. Amendments to public contracts under this Section may not cause the contract price to exceed thirty-one thousand, two hundred and fifty dollars (\$31,250).

C. A procurement may not be artificially divided or fragmented to avoid the requirements of this Section.

## **Section 8 - Intermediate Procurements for Goods and Services, and Public Improvements.**

A. Public contracts for goods or services with an estimated value between \$25,000 and \$250,000, or for public improvement services with an estimated value between \$25,000 and \$100,000, may be awarded by the City Manager by contacting a minimum of three (3) prospective contractors qualified to offer the goods or services or

public improvement services sought. The City Manager will request an estimated fee, and make the selection consistent with the City's best interests. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

B. Amendments to public contracts under this Section may not cause the contract price to exceed three hundred and twelve thousand, five hundred dollars (\$312,500).

C. A procurement may not be artificially divided or fragmented to avoid the requirements of this Section.

### **Section 9 - City Public Improvements.**

The City may undertake a public improvement using its own equipment and personnel if doing so will result in the least cost to the City or public. If the City decides to undertake a public improvement estimated to cost more than one hundred twenty-five thousand dollars (\$125,000) using its own personnel and equipment, the city shall prepare adequate plans and specifications and the estimated unit cost of each classification of work, and maintain an accurate accounting in accordance with ORS 279C.305.

### **Section 10 - Special Procurements, Sole Source, and Exemptions.**

A. City Council may exempt from competitive bidding certain contracts or classes of contracts for procurement of goods, services, or personal services (other than Construction-Related Personal Services), according to the procedures described in ORS 279B.085. Protest of exemptions must be made in accordance with Section 15.

B. City Council may award a contract for goods, services, or personal services (other than Construction-Related Personal Services) from a single source if the goods, services, or personal services (other than Construction-Related Personal Services) are available from only one company, or the prospective company has special skills uniquely required for the provision of the goods or the performance of the services or personal services (other than Construction-Related Personal Services). The City must make written findings to demonstrate why the proposed company is the only company who can provide the goods or perform the services or personal services (other than Construction-Related Personal Services) desired, in general compliance with ORS 279B.075.

C. City Council may exempt certain contracts or classes of contracts for public improvements or Construction-Related Personal Services from competitive bidding according to the procedures described in ORS 279C.335. When exempting a public improvement from competitive bidding, the Local Contract Review Board may authorize the contract to be awarded using a Request for Proposal process for public improvements, according to the processes described in OAR 137-049-0640 through 137-049-0690. Protest of exemptions approved under this subsection must be made in accordance with Section 15.

D. The City has exempted the following classes of contracts from these public contracting requirements, subject to the following conditions:

1. Purchases of goods or services through federal programs pursuant to ORS 279A.180, in accordance with the following rules.
  - a. The procurement must be made in accordance with procedures established by the Federal GSA for procurements by local governments and under purchase orders approved by the city council.
  - b. The price of the goods or services must be less than the price at which the goods or services are available under state or local cooperative purchasing programs available to the city.
2. Contracts for the purchase or commissioning of works of art.
3. Subject to the terms of these Rules, contracts that are being renewed in accordance with their terms are not considered new contracts. However, for public contracts predominantly for services, one extension not exceeding the original term of the contract or annual renewals is permitted if provided in the contract.

## **Section 11 - Emergency Contracts.**

A. "Emergency" shall be defined as follows: "Circumstances that (a) could not have reasonably been foreseen; (b) create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare or safety; and (c) require prompt execution of a contract to remedy the condition."

B. The Mayor or the City Manager shall have authority to determine when emergency conditions exist sufficient to warrant an emergency contract. Such authorized individual shall document the nature of the emergency and describe the method used for the selection of the particular contractor.

C. Emergency contracts may be awarded as follows:

1. Goods and Services, and Personal Services (other than Construction-Related Personal Services). Emergency contracts for procurement of goods and services and personal services may be awarded pursuant to ORS 279B.080.
2. Construction-Related Personal Services. Pursuant to ORS 279C.110(9), the City may directly appoint a Construction-Related Personal Service contract in an emergency

3. Public Improvements. The City hereby adopts OAR 137-049-0150 as its contracting rules for awarding a public improvement contract under emergency conditions.

## **Section 12 - Brand Name Specifications.**

A. Consultation Permitted. The City may consult with technical experts, suppliers, prospective contractors and representative of the industries with which the City will contract. The City shall take reasonable measures to ensure that no person, or no business with which the person is associated, who prepares or assists in the preparation of solicitation documents, specifications, plans or scope of work (collectively, "documents"), realizes a material competitive advantage that arises from the City's use of those documents.

B. Use of Brand Name or Equal Specification.

1. A "brand name or equal" specification may be used when it is advantageous to the City, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the City. The City's determination of what constitutes a product that is equal or superior to the product specified is final. Unless otherwise specified, the use of a brand name shall mean "brand name or equal."
2. A "brand name" specification may be used requiring a contractor to provide a specific brand when the City Manager makes the following findings:
  - a. The use of a brand name specification is unlikely to encourage favoritism in the awarding of a public contract or substantially diminish competition for public contracts; or
  - b. The use of a brand name specification would result in a substantial cost savings to the city; or
  - c. There is only one manufacturer or seller of the product of the quality, performance or functionality required; or. Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

## **Section 13 - Local Preference Allowed in Evaluation of Bids or Proposals**

When possible, the City Manager may provide a specified percentage preference of not more than ten percent for goods fabricated or processed entirely in Oregon or services performed entirely in Oregon in any applicable solicitation documents. When a

preference is provided under this Section, and more than one offeror qualifies for the preference, the City Manager may give a further preference to a qualifying offeror that resides in or is headquartered in Oregon. The City Manager may establish a preference percentage of ten percent or higher if the City Manager makes a written determination that good cause exists to establish the higher percentage, explains the reasons, and provides evidence of good cause. The preferences described in this Section cannot be applied to a contract for emergency work, minor alterations, ordinary repairs or maintenance of public improvements, or other construction contracts.

#### **Section 14 - Notice of Intent to Award and Protests.**

A. At least seven days prior to the award of a public contract solicited under any invitation to bid or request for proposals, the City will post or provide to each bidder or proposer notice of the City's intent to award a contract. If stated in the solicitation document, the City may post this notice electronically or through non-electronic means and require the bidder or proposer to determine the status of the City's intent. As an alternative, the City may provide written notice to each bidder or proposer of the City's intent to award a contract. This written notice may be provided electronically or through non-electronic means. The City may give less than seven days' notice of its intent to award a contract if the City determines in writing that seven days is impracticable.

B. This Section does not apply to any contracts or classes of contracts exempted from formal solicitation requirements.

C. A protest of the City's intent to award a contract may only be filed in accordance with OAR 137-047-0740, OAR 137-048-0240, or OAR 137-049-0450, as applicable. Protests to the City's intent to award a personal service contract under subsection A may only be filed in accordance with OAR 137-047-0740.

#### **Section 15 - Protests of Exemptions.**

A. Any person may file a protest of the approval of an exemption if they believe the approval was in violation of these Rules or the Public Contracting Code.

B. A protest must meet the following criteria:

1. It must be filed in writing with the City Manager not more than five days after approval.
2. It must state the exemption that is the subject of the protest, the reason why the approval was contrary to these Rules or state law, and the relief sought.

C. The City Council shall review and approve or disapprove of the protest within thirty days after the City Manager receives it. The City Manager shall notify the protester of the City Council's decision within five days after the City Council makes its decision.



D. Exhausting all protest options at a local level is a condition precedent to filing an associated action on a state level.

## **Section 16 - Surplus Property.**

A. "Surplus Property" is defined as any personal property under the ownership or control of the City that has been determined by the appropriate authority as being of no further, or minimal use or value to the City.

B. The City Manager shall select the method of disposal which maximizes the value the city will realize from disposal of the Surplus Property. Surplus Property shall be disposed of as follows:

1. Sold to the highest qualified buyer meeting the sale terms when the value of each item so offered is less than two thousand dollars and the sale has been advertised in at least two public places and on the City's website not less than one week prior to the sale;
2. Traded in on the purchase of replacement equipment or supplies;
3. Sold at public auction advertised at least once in a newspaper of general circulation in the Cannon Beach area not less than one week prior to the auction. The published notice shall specify the time, place and terms upon which the personal property shall be offered and a general description of the personal property to be sold;
4. Sold at a fixed price retail sale if doing so will result in substantially greater net revenue to the City;
5. Contracted for use, operation or maintenance by one or more private or public entities. Prior to approval of such a contract, the City Manager shall determine that the contract will promote the economic development of the City.
6. By donation to any organization operating within or providing a service to residents of the City which is recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
7. Surplus Property that has a value of less than five hundred dollars, or for which the costs of sale are likely to exceed sale proceeds, may be disposed of by any means determined to be cost-effective, including by recycling and third-party public auction and, as the last option, by disposal as waste.

C. All Surplus Property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind. All bids submitted are irrevocable until the sale is over. For auction of items valued at over ten thousand dollars, the City Manager may require a bid bond.

D. Sales of Surplus Property may be conducted electronically.

E. An item (or individual set) of specialized and personal use Surplus Property, other than police officer's handguns, with a current value of less than one hundred dollars may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the City Manager.

F. Upon honorable retirement from service with the City, a police officer may purchase the handgun that he or she was using at the time of retirement. The purchase price shall be fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser. An officer electing to exercise this option shall notify the City at least thirty days prior to the expected retirement date and request an appraisal of the handgun. Upon receipt of the appraisal fee from the officer, the City shall arrange for the appraisal. A copy of the completed appraisal shall be provided to the officer, who will have up to thirty days from the date of retirement to purchase the handgun at the appraised fair market value.

G. City employees are not restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but are not permitted to offer to purchase the property to be sold to the first qualifying bidder until at least three days after notice of the sale is first publicly advertised.

## **Section 17 - Electronic Advertising.**

A. Pursuant to ORS 279C.360 and ORS 279B.055, electronic advertisement of all public contracts in lieu of newspaper publication is authorized when it is cost-effective to do so. The City Manager shall have the authority to determine when electronic publication is appropriate, and consistent with the City's public contracting policies and these Rules.

B. Notwithstanding the foregoing, any advertisement for a public improvement contract with an estimated cost over \$125,000 must be published at least once in a trade newspaper of general statewide circulation, such as the Daily Journal of Commerce.

## **Section 18 - Concession Agreements.**

A. A "concession agreement" is a contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from a site within a building or upon land owned by the City, and under which the concessionaire makes payments to the City based, in whole or in part, on the concessionaire's sales revenues. The term "concession agreement" does not include an

agreement which is merely a flat-fee or per-foot rental, lease, license, permit, or other arrangement for the use of public property.

B. Concession agreements are not required to be competitively bid. However, when it is in the City's best interests to do so, the City may obtain competitive proposals for concession agreements using the procedures described in ORS 279B.060.

**~~2.08.010~~ Exhibit A****Cannon Beach Local Contracting Rules**  
**("Rules")****Section 1 - Policy.**

A. Purpose. ~~This chapter is~~ These Rules are adopted by the city council as the governing body and local contract review board of the City of Cannon Beach for the purpose of establishing the rules and procedures for public contracts procured and entered into by the City. It is the policy of the City in adopting ~~this chapter~~ these Rules to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

1. Promoting impartial and open competition;
2. When the solicitation is in writing, using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
3. Taking full advantage of procurement methods that suit the contracting needs of the City.

B. Interpretation of Public Contracting Rules. Except as specifically provided in ~~this chapter,~~ these Rules, ~~the City shall award, administer, and govern~~ public contracts ~~shall be awarded, administered and governed~~ according to ORS Chapters 279A, 279B, and 279C (the "Public Contracting Code") and the Attorney General's Model Public Contract Rules ("Model Rules"), as they now exist and may be amended in the future. In furtherance of the purpose of the objectives set forth in subsection A, it is the City's intent that ~~this chapter~~ these Rules be interpreted to authorize the full use of all contracting powers and authorities described in ~~ORS Chapters 279A, 279B and 279C,~~ the Public Contracting Code. The Model Rules ~~adopted by the Attorney General under ORS 279A.065~~ shall apply to the contracts of the City to the extent they do not conflict with ~~this chapter and the contracting rules and regulations adopted by the city,~~ these Rules. In the event of a conflict between any provisions of ~~this chapter~~ these Rules and the Public Contracting Code, the provisions of the Public Contracting Code shall prevail. In the event of a conflict between any provisions of ~~this chapter~~ these Rules and the Model Rules, the provisions of ~~this chapter~~ these Rules shall prevail unless the Public Contracting Code requires otherwise. (~~Ord. 13-2 § 1~~)

**Section ~~2.08.020~~ - Contract Review Board.**

The City Council is designated as the local contract review board of the City and has all of the rights, powers and authority necessary to carry out the provisions of these Rules, the Public Contracting Code and the Model Rules. ~~The city council is designated as~~

~~the city's contracting agency for purposes of contracting powers and duties assigned to the city as a contracting agency under the Public Contracting Code, except as otherwise provided in this chapter. (Ord. 13-2 § 1)~~ herein.

### **2.08.030** Section 3 - Contracting Authority and Responsibilities.

A. The City Manager is designated as the contracting ~~agency~~ agent for the City. The City Manager may delegate the authority granted under this subsection to department heads of the City as the City Manager deems appropriate to conduct city business. For purposes of these Rules, "city manager" collectively refers to the City Manager of the City of Cannon Beach and his or her delegee.

B. Subject to these Rules, the City Manager is authorized to adopt forms, computer software, procedures, and administrative policies and procedures for all City purchases. All contracting by departments must be done in accordance with the procedures and policies adopted by the City Manager or the city council, as the case may be.

C. Purchases of goods from city employees require authorization of the City Manager.

D. Each department must operate within its budget, or seek supplemental budget authority from City Council.

E. Departments shall communicate purchase requirements and plan sufficiently in advance so that orders can be placed in economical quantities.

F. ~~—Purchases and~~ Contracts shall be negotiated on the most favorable terms in accordance with ~~this chapter~~ these Rules, other adopted ordinances, state laws, policies and procedures.

### **2.08.040** ~~Application of chapter.~~

~~—This chapter does not apply~~ G. All contracts and subsequent amendments estimated to the following cost more than \$100,000 must be approved by City Council. All public contracts or classes of contracts:

~~—A. Between Governments. Contracts between the city and a public body as that term is defined~~ subsequent amendments estimated to cost \$100,000 or less in ORS 279A.010(1)(y) or between the city and an agency of the federal government.

~~—B. Grants. The application for or the making or receiving of grants. However, this chapter does apply to the expenditure of grant funds or hiring of grant writers.~~

~~—C. Legal Witnesses and Consultants. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the city is or may become interested. These contracts may be procured directly by the city attorney. Contracts valued at over twenty-five thousand dollars are subject to approval of the city council.~~

~~—D. Real Property. Acquisitions or dispositions of real property or interests in real property.~~

~~—E. Finance. Contracts, agreements or other documents be entered into, issued or established in connection with:~~

~~—1. The incurring of debt by the City, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited Manager without Council approval.~~

~~—2. The making of program loans and similar extensions or advances of funds, aid or assistance by the city to a public or private person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law other than for the construction of public works or public improvements.~~

~~—3. The investment of funds by the city council as authorized by law.~~

~~—4. Banking, money management or other predominantly financial transactions of the city that, by their character, cannot practically be established under the competitive contractor selection procedures, based upon the findings of the city council. However, this chapter does not apply to the hiring of bond counsel and auditor services. Bond counsel and auditor services must be obtained under Section.~~

~~—F. Exempt Under State Laws. Any other public contracting specifically exempted from the Oregon Public Contracting Code. (Ord. 13-2 § 1)~~

## **~~2.08.050 Federal law.~~**

### **~~Section 4 - Federal Law.~~**

Except as otherwise expressly provided in ORS 279C.800 to 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal

statutes or regulations conflict with any provision of the ~~Oregon~~ Public Contracting Code, the Model Rules, or these ~~regulations~~Rules, or otherwise require additional conditions in public contracts not authorized ~~by the Oregon Public Contracting Code~~on a state or ~~these regulations~~. (Ord. 13-2 § 1)local level.

## **2.08.060 Definitions.**

~~—As used in this chapter, the following words or phrases have the following meanings. All words and phrases not defined in this section have the meanings ascribed to them in the Public Contracting Code or the Model Rules:~~

~~—“Electronic procurement system” means a remotely accessible electronic information system for conducting procurements electronically that may be established by the city manager in accordance with the Model Rules (OAR 137-047-0330; 137-049-0310).~~

~~—“Emergency” means circumstances that could not have been reasonably foreseen; and create a risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.~~

~~—“Informal quote” means procedure pursuant to which written or verbal offers are gathered by correspondence, telephone or personal contact stating the quantity and quality of goods or services to be acquired. The offers must be solicited in writing when this chapter requires a written solicitation. In soliciting informal quotes, the city manager shall seek quotes from a sufficiently large number of potential offerors to insure sufficient competition to meet the best needs of the city. An award based on less than three quotes may be made, provided the city manager makes a written record of the effort to obtain quotes. The contract must be awarded to the offeror who will best serve the interests of the city, taking into account price as well as considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose and contractor responsibility under the applicable provisions of the Public Contracting Code. A written solicitation is required for contracts with an estimated value of fifty thousand dollars or more.~~

~~—“Ordinary repairs and maintenance necessary to preserve a public improvement” means repairs and maintenance that typically do not prolong the lifespan of a public improvement nor increase its value beyond what was originally constructed.~~

~~—“Sole source procurement” means a contract for goods or services, or a class of goods or services, available from only one source, as determined by the city~~

~~manager and approved by the city council if the contract is over fifty thousand dollars.~~

~~—“Solicitation” means a request by the city for contractors to submit offers. When a written solicitation is required, the request must be in writing.~~

~~—“Works of art” means all forms of original creations of visual art, including, but not limited to:~~

~~—1. Painting. All media, including both portable and permanently affixed or integrated works such as murals;~~

~~—2. Sculpture. In the round, bas-relief, high relief, mobile, fountain, kinetic, electronic, etc., in any material or combination of materials;~~

~~—3. Miscellaneous Art. Prints, clay, drawings, stained glass, mosaics, photography, fiber and textiles, wood, metal, plastics and other materials or combination of materials, calligraphy, and mixed media, any combination of forms of media, including collage. (Ord. 13-2 § 1)~~

~~—“Personal services contract” means a contract to retain the services of an independent contractor. The contract shall be predominantly for~~**Section 5 - Personal Services (Other than Construction-Related Personal Services).**

A. Definition. “Personal services” means services requiring professional or special training or certification, independent judgment, skill and experience, including, but not limited to, attorneys; accountants; auditors; computer programmers; artists; designers; performers; and consultants. The City Council or the City Manager, as the case may be depending on the value of the contract, has discretion to determine whether a particular type of contract or service is a personal services contract. For the purpose of these Rules, personal services do not include Construction-Related Personal Services.

B. Large Procurements. When the estimated payment to the contractor for personal services is above \$250,000, the City shall seek competitive sealed proposals in accordance with OAR 137-047-0260.

C. Intermediate Procurements. The following informal selection procedure may be used when the estimated payment to the personal service contractor is equal to or less than \$250,000 and above \$25,000. The City Manager will contact a minimum of three (3) prospective contractors qualified to offer the personal services sought. The City Manager will request an estimated fee, and make the selection consistent with the City’s best interests. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.



D. Small Procurements. The City Manager may enter personal service contracts when the estimated payment is less than \$25,000 in any manner the City Manager finds practical or convenient, including direct selection or award. However, the City Manager must make reasonable efforts to choose the most qualified contractor to meet the City's needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.

E. Notwithstanding anything to the contrary in these Rules, the following personal services contracts may be directly appointed.

1. Personal Services Contracts for Continuation of Work. A~~The City Manager may enter into a personal services contract~~or contract amendment directly with the contractor if the work described in the contract consists of work that has been substantially described, planned, or otherwise previously studied or rendered in an earlier contract with the contractor that was awarded in accordance with ~~this chapter~~these Rules and the new contract is a continuation of that work, provided that such continuation does not reflect an artificial divide or fragmentation of the procurement.
2. Legal Services. Personal services contracts for legal services may be entered into directly by the city ~~attorney, upon approval of the city manager. The city manager shall obtain prior approval from the city council for any contract for legal services where the expected fee will exceed twenty-five thousand dollars~~manager.

## **Section 6 - Contracts ~~in~~ for Construction-Related Personal Services.**

A. Purpose. This Section implements ORS 279C.100 to 279C.125. The City will rely on these Rules, not the Model Rules, for a contract with an architect, engineer, photogrammetrist, land surveyor, as each is defined in ORS 279C.100, and (in very narrow instances) a transportation planner (collectively referred to herein as "Construction-Related Personal Services").

B. Applicability. This Section applies only to a Construction-Related Personal Service contract that meets the following criteria:

1. The estimated payment to the contractor exceeds \$100,000; and
2. The contract is for a personal service that is *legally required* to be provided or performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor. For example: hiring an architect to design a building or hiring an engineer to design a wastewater system. Because the law requires licensed professionals to design buildings and infrastructure, the City may rely on this subsection to hire someone to perform those services. However, if the City is hiring an architect or engineer to perform project management

services (for example), it may solicit and award such services under Section 5 of these Rules. See definition of “Related Services” below.

3. If either (1) or (2) above is not satisfied (i.e. the contract is for a personal service that is legally required to be provided by a licensed architect, etc. *but* is estimated to not exceed \$100,000; *or* the contract will require an engineer, etc. to perform a Related Service) then the City may rely on Section 5 of these rules to solicit and award the contract.

C. Mixed contracts. Some contracts will contain a mixture of services covered by this Section (i.e. services that only the particular consultant may legally perform) and Related Services. Whether the City uses this Section or Section 5 to solicit and award a mixed contract will depend upon the predominate purpose of the contract. The City will determine the predominate purpose based upon either the amount of ~~one hundred thousand dollars or~~ money it estimates it will spend for covered services versus Related Services or the amount of time it estimates that the consultant will spend working on covered services versus Related Services. If covered services predominate, the City will solicit the contract under this Section. If Related Services predominate, the City will solicit the contract under Section 5.

D. Small Procurements. For clarity’s sake, the City Manager may enter Construction-Related Personal Service contracts when the estimated value is ~~less for~~ than \$100,000 in any manner the City Manager or their designee finds practical or convenient, including direct selection or award. However, the City Manager or designee must make reasonable efforts to choose the most qualified contractor to meet the City’s needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.

E. Definitions. The following definitions apply to this Section:

1. “Transportation Planning Services” only includes project-specific transportation planning required for compliance with the National Environmental Policy Act, 42 USC 4321 et seq. and no other types of transportation planning services. By way of example only, Transportation Planning Services do not include transportation planning for corridor plans, transportation system plans, interchange area management plans, refinement plans and other transportation plans not associated with an individual Project required to comply with the National Environmental Policy Act, 42 USC 4321 et. seq.
2. “Related Services” means personal services, other than architectural, engineering, ~~land surveying,~~ photogrammetric, mapping, ~~certain~~ transportation planning or land surveying services, ~~and that are related services, all as specified in ORS 279C.100, are also considered personal services contracts for purposes of this chapter and may be procured under Section of this chapter~~ to planning, designing, engineering or overseeing public improvement projects or components

of public improvements, including, but not limited to, landscape architectural services, facilities planning services, energy planning services, space planning services, hazardous substances or hazardous waste or toxic substances testing services, cost estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services, and owner's representation services or land-use planning services. In other words, personal services that are *not required by law* to be performed by an architect, engineer, photogrammetrist, transportation planner or land surveyor.

**2.08.070**F. Intermediate Procurements. The following informal selection procedure may be used when the estimated payment to the consultant for Construction-Related Personal Services is equal to or less than \$250,000 and above \$100,000. The City Manager will contact a minimum of three (3) prospective consultants qualified to offer the services sought. The City Manager will request an estimated fee, and make the selection consistent with the City's best interests, to the most qualified consultant. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

G. Large Procurements.

1. When the estimated cost of the contract for Construction-Related Personal Services is greater \$250,000, a contract shall be awarded following a qualifications based selection procedure focusing on the consultant's qualifications for the type of professional service required, taking into account the candidate's specialized experience, capabilities and technical competence; resources; record of past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration; ownership status and employment practices regarding minority, women and emerging small businesses or historically underutilized businesses; availability to the project locale; familiarity with the project locale; and proposed project management techniques.
2. Unless the City follows the process set forth in subsection (3) of this subsection, the City may not solicit or use pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead, to determine consultant compensation until after the City has selected a qualified professional for award.
3. Notwithstanding subsection (2) of this subsection, the City may request pricing policies or pricing proposals from prospective consultants, including an estimate of the number of hours that will be needed to perform the work described in the solicitation, and a schedule of hourly rates, if the City:

- a. States in the following in its solicitation document:
  - i. That the City will screen and select prospective consultants as provided in ORS 279C.110(5);
  - ii. How the City will rank proposals from prospective consultants, with a specific focus on:
    - (1) Which factors the City will consider in evaluating proposals, including pricing policies, proposals or other pricing information, if the City will use pricing policies, proposals or other pricing information in the evaluation; and
    - (2) The relative weight the City will give each factor, disclosing at a minimum the number of available points for each factor, the percentage each factor comprises in the total evaluation score and any other weighting criteria the City intends to use;
    - (3) An estimate of the cost of professional services the City requires for the procurement; and
    - (4) A scope of work that is sufficiently detailed to enable a prospective consultant to prepare a responsive proposal.
- b. Evaluates each prospective consultant on the basis of the prospective consultant's qualifications to perform the professional services the City requires for the procurement;
- c. Announces the evaluation scores and rank for each prospective consultant after completing the evaluation described in paragraph (ii) of this subsection. The City may determine that as many as three of the top-ranked prospective consultants are qualified to perform the professional services the City requires for the procurement and may request a pricing proposal for the scope of work stated in paragraph (i)(d) of this subsection from each of the top-ranked consultants. The pricing proposal must consist of:
  - i. A schedule of hourly rates that the prospective consultant will charge for the work of each individual or each labor classification that will perform the professional services the City requires for the procurement, in the form of an offer that is irrevocable for not less than 90 days after the date of the proposal; and
  - ii. A reasonable estimate of hours that the prospective consultant will require to perform the professional services the City requires for the procurement.

- d. Permits a prospective consultant identified as qualified under paragraph (c) of this subsection to withdraw from consideration for the procurement if the prospective consultant does not wish to provide a price proposal.
    - e. Completes the evaluation and selects a consultant from among the top-ranked prospective consultants that have not withdrawn as provided under paragraph (d) of this subsection, giving not more than 15 percent of the weight in the evaluation to each prospective consultant's price proposal.
  - 4. If the City and the professional are unable to negotiate a reasonable and fair amount of compensation, as determined solely by the City, the City shall, either orally or in writing, formally terminate negotiations with the selected candidate and may then negotiate with the next most qualified candidate. The negotiation process may continue in this manner through successive candidates until an agreement is reached or the contracting agency terminates the consultant contracting process.

#### **Section 7 - Small Procurements for Goods and Services, and Public Improvements.**

A. Public contracts for goods ~~and~~ services:

, or public improvements with an estimated value under \$25,000 may be awarded by the City Manager or designee in any manner deemed convenient, including by direct award. The City Manager shall make a reasonable effort to obtain competitive quotes in order to ensure the best value for the City.

B. Amendments to public contracts under this Section may not cause the contract price to exceed ~~unless the amendment(s) is for the purchase of additional~~ thirty-one thousand, two hundred and fifty dollars (\$31,250).

C. A procurement may not be artificially divided or fragmented to avoid the requirements of this Section.

#### **Section 8 - Intermediate Procurements for Goods and Services, and Public Improvements.**

A. Public contracts for goods or services ~~for which the contract was awarded Public Contracts Valued at More Than Ten Thousand Dollars but One Hundred Fifty Thousand Dollars or Less. A public contract for an amount which is valued at more than ten thousand dollars, but one hundred fifty thousand dollars or less~~ with an estimated value between \$25,000 and \$250,000, or for public improvement services with an estimated value between \$25,000 and \$100,000, may be awarded by the City Manager ~~based on informal quotes.~~ by contacting a minimum of three (3) prospective contractors qualified to offer the goods or services or public improvement services sought. The City Manager will request an estimated fee, and

make the selection consistent with the City's best interests. If three (3) quotes are not received, the City Manager will make a written record of efforts to obtain the quotes.

B. Amendments to public contracts under this Section may not cause the contract price to ~~exceed~~ ~~If the contract is valued at fifty~~ exceed three hundred and twelve thousand, five hundred dollars (\$312,500).

C. A procurement may not be artificially divided or ~~more, the city manager shall notify council~~ fragmented to avoid the requirements of the ~~contract award~~ ~~The~~ this Section.

### Section 9 - City Public Improvements.

The City may undertake ~~to construct~~ a public improvement using its own equipment and personnel if doing so will result in the least cost to the City or public. ~~For purposes of this section, resurfacing of roads at a depth of two or more inches and at an estimated cost of more than one hundred twenty-five thousand dollars is a public improvement.~~ If the City decides to ~~construct~~ undertake a public improvement estimated to cost more than one hundred twenty-five thousand dollars (\$125,000) using its own personnel and equipment, the city shall prepare adequate plans and specifications and the estimated unit cost of each classification of work, and maintain an accurate accounting in accordance with ORS 279C.305 ~~Advertising is not required; if the solicitation is not advertised, the city manager must seek quotes from all contractors who have expressed an interest in the city's public contracts~~ 305.

~~—This section applies to public~~ Section 10 - Special Procurements, Sole Source, and Exemptions.

A. City Council may exempt from competitive bidding certain contracts ~~that~~ or classes of contracts for procurement of goods, services, or personal services (other than Construction-Related Personal Services), according to the procedures described in ORS 279B.085. Protest of exemptions must be made in accordance with Section 15.

B. City Council may award a contract for goods, services, or personal services (other than Construction-Related Personal Services) from a single source if the goods, services, or personal services (other than Construction-Related Personal Services) are ~~not~~ available from only one company, or the prospective company has special skills uniquely required for the provision of the goods or the performance of the services or personal services (other than Construction-Related Personal Services). The City must make written findings to demonstrate why the proposed company is the only company who can provide the goods or perform the services or personal services (other than Construction-Related Personal Services) desired, in general compliance with ORS 279B.075.

C. City Council may exempt certain contracts or classes of contracts for public improvements or ~~contracts for personal services. This section applies to contracts~~



~~for any purchase or lease of goods or services, or emergency work, minor alterations or ordinary repair or maintenance necessary~~Construction-Related Personal Services from competitive bidding according to preserve the procedures described in ORS 279C.335. When exempting a public improvement. ~~A public contract shall not be artificially divided or fragmented to qualify for a different award procedure than that provided by this section.~~

~~—A. Procurement Methods. The city manager shall procure public contracts for goods and services using the following methods. Nothing in this section prohibits the city manager from conducting a procurement under subsections (A)(1) and (2) using the procedures in subsection (A)(3). This subsection does not apply to the types of contracts listed in subsection C.~~

~~—1. Public Contracts Valued at Ten Thousand Dollars or Less. A public contract for an amount which is valued at ten thousand dollars or less may be awarded by the city manager in any manner deemed convenient, including by direct award. Amendments to public contracts under this section may not cause the contract price to exceed eleven thousand dollars, unless the amendment(s) is for the purchase of additional goods or services for which the contract was awarded. Advertising is not required; if the solicitation is not advertised, the city manager must seek quotes from or contact all contractors who have expressed an interest in the city's public contracts.~~

~~—2. Public Contracts Valued at More Than Ten Thousand Dollars but One Hundred Fifty Thousand Dollars or Less. A public contract for an amount which is valued at more than ten thousand dollars, but one hundred fifty thousand dollars or less, may be awarded by from competitive bidding, the city manager based on informal quotes. Amendments to public contracts under this section Local Contract Review Board may not cause authorize the contract price to exceed an amount that is twenty-five percent over the original contract price. Advertising is not required; if the solicitation is not advertised, the city manager must seek quotes from all contractors who have expressed an interest in the city's public contracts. If the contract is valued at fifty thousand dollars or more, the city manager shall notify council of the contract award.~~

~~—3. Public Contracts Valued at More Than One Hundred Fifty Thousand Dollars. A public contract for an amount which is valued at more than one hundred fifty thousand dollars shall be awarded by the city council based on competitive sealed bidding or competitive sealed proposals pursuant to the Public Contracting Code (ORS 279B.055 or 279B.060). If the contract is valued at one hundred fifty thousand dollars or more, the city manager must obtain council approval before awarding the contract.~~

~~—B. Amendments. Subject to the limits in subsection A, amendments to public contracts shall comply with the Public Contracting Code.~~

~~—D. Responsibility Determination. A responsibility determination in accordance with ORS 279B.110 is required for all public contracts valued at fifty thousand dollars or more or if procured under subsection (A)(3).~~

~~—E. Notice of Solicitation Documents. Notice of solicitation documents may be published on the city's electronic procurement system, if established by the city manager, in lieu of publication in a newspaper of general circulation.~~

~~—F. On-Call Contracts. The city manager may establish a pool of contractors who are on-call to provide minor alterations, ordinary repair and maintenance of~~  
to be awarded using a Request for Proposal process for ~~public improvements at specified unit prices. The pool and unit pricing must be established using the informal quote, or competitive sealed proposal or bid process, depending on the estimated total value of the contracts to be awarded to qualifying contractors.~~  
~~(Ord. 18-4 § 1; Ord. 13-2 § 1)~~

## **2.08.080 Public improvement contracts.**

~~—A public improvement contract is defined by the Public Contracting Code as a contract for construction, reconstruction or major renovation on real property by or for the city. It does not include contracts for emergency work on a public improvement, minor alterations, ordinary repair and maintenance of public improvements, contracts for projects for which no funds of the city are directly or indirectly used except for participation that is incidental or related primarily to project design or inspection, and does not include any other construction contract that is not defined as a public improvement contract under the Public Contracting Code. A public improvement contract shall not be artificially divided to qualify for a different award procedure than that provided by this section.~~

~~—A. Procurement Methods. The city manager shall procure public improvement contracts using the following methods. Nothing in this section prohibits the city manager from conducting a procurement under subsections (A)(1) and (2) using the procedures in subsection (A)(3). This subsection does not apply to the types of contracts listed in subsection C.~~

~~—1. Public Improvement Contracts Valued at Less Than Ten Thousand Dollars. Public improvement contracts valued at less than ten thousand dollars may be awarded by the city manager in any manner deemed convenient, including by direct award. Advertising is not required. If the solicitation is not~~



~~advertised, the city manager must seek quotes from or contact all contractors who have expressed an interest in the city's public improvement contracts.~~

~~—2. Public Improvement Contracts Valued at Ten Thousand Dollars or More and One Hundred Thousand Dollars or Less. Public improvement contracts valued at ten thousand dollars or more and one hundred thousand dollars or less may be awarded by the city manager based on informal quotes using the procedures in the Model Rules for competitive quotes/intermediate procurements. Advertising is not required for contracts with an estimated value of less than fifty thousand dollars; however, advertising in accordance with ORS 279C.360 is required for those contracts valued at fifty thousand dollars or more. A written solicitation is required for contracts with an estimated value of fifty thousand dollars or more. The city manager must notify council of the contract with an estimated value of fifty thousand dollars or more.~~

~~—3. Public Improvement Contracts Valued at More Than One Hundred Thousand Dollars. Except as provided in this section, all public improvement contracts valued at an amount over one hundred thousand dollars shall be awarded by the council based on competitive sealed bids pursuant to ORS Chapter 279C. If the contract is valued at one hundred thousand dollars or more, the city manager must obtain council approval before awarding the contract.~~

~~—B. Amendments. Amendments to public improvement contracts shall comply with ORS Chapter 279C.~~

~~—C. Exemptions. In addition to the exemptions provided in ORS 279C.335(1)(a) and (f), the following contracts are exempt from competitive bidding:~~

~~—1. Emergency Public Improvement Contracts. Emergency public improvement contracts are not defined as public improvement contracts and are procured in accordance with Section (C)(2) if the city manager determines that an emergency exists and that conditions require the prompt execution of a contract. The emergency declaration may state that the contract is exempt from the performance and payment bond requirements pursuant to ORS 279C.380(4). Notwithstanding anything to the contrary in this section, the contract may be modified or changed by amendment to address the conditions described in the declaration of emergency to describe additional work necessary and appropriate related to the emergency circumstances.~~

~~—2. Other Exemptions. By resolution, the city council may exempt from competitive bidding a public improvement contract or class of public improvement contracts not otherwise exempt under this section pursuant to ORS 279C.335.~~

~~When an exemption allows for award of the contract, according to the processes described in OAR 137-049-0640 through competitive proposals, the provisions of ORS 279C.400 to 279C.410 shall apply~~

~~—D. Responsibility Determination. A responsibility determination pursuant to ORS 279C.375(3) is required for all public improvement contracts valued at fifty thousand dollars or more, or if procured under subsection (A)(3).~~

~~—E. Bonds. The provisions of this subsection apply to emergency public improvement contracts unless exempted under subsection (C)(1), and to public contracts for minor alterations or ordinary repair or maintenance necessary to preserve a public improvement procured under Section.~~

~~—1. Offer Security. The purpose of offer security is to guarantee acceptance of the contract award by the contractor to whom a contract is awarded. An offer submitted in response to a solicitation for a public improvement contract valued at fifty thousand dollars or more must include offer security in the amount of five percent of the total offer amount. The security must be in the form of either a surety bond, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008, or cashier's or certified check. The city manager may require offer security on any public improvement contract valued at less than fifty thousand dollars. Offer security is forfeited if the contractor to whom the contract is awarded fails to execute the contract promptly and properly after the city has awarded the contract, unless the city manager determines forfeiture is not in the city's best interest. Offer security submitted with all unsuccessful offers shall be returned or released after the contract has been executed and evidence of all required insurance and security provided, or after all offers have been rejected.~~

~~—2. Performance and Payment Security. The purpose of performance security is to guarantee full and faithful performance of the contract. The purpose of payment security is to guarantee the contractor's payment to all labor and material suppliers under the contract. The contractor to whom the contract is awarded shall provide performance and payment security on all public improvement contracts valued at fifty thousand dollars or more. The security must be in the form provided in ORS 279C.380. The city manager may require performance and/or payment security on any public improvement contract valued at less than fifty thousand dollars.~~

~~—F. Notice of Solicitation Documents. Notice of solicitation documents may be published on the city's electronic procurement system, if established by the city manager, in lieu of publication in a newspaper of general circulation.~~

~~—H. Negotiations. If all responsive offers on a public improvement contract exceed the budget for the project, the city manager may, prior to contract award, negotiate for a price within the budget under the following procedures:~~

~~—1. Negotiations shall start with the lowest responsive, responsible offeror. If negotiations are not successful, then the city manager may negotiate with the second lowest responsive, responsible offeror, and so on.~~

~~—2. Negotiations may include value engineering and other options to attempt to bring the project cost within the budgeted amount.~~

~~—3. A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original solicitation documents.~~

~~—4. The records of an offeror used in contract negotiations under this section are not subject to public inspection until after the negotiated contract has been awarded or the negotiation process has been terminated. (Ord. 18-4 § 1; Ord. 13-2 § 1) Protest of exemptions must be made in accordance with Section 137-049-0690. Protest of exemptions approved under this subsection must be made in accordance with Section 15.~~

D. The City has exempted the following classes of contracts from these public contracting requirements, subject to the following conditions:

1. Purchases of goods or services through federal programs pursuant to ORS 279A.180, in accordance with the following rules.

i.a. The procurement must be made in accordance with procedures established by the Federal GSA for procurements by local governments and under purchase orders approved by the city council.

ii.b. The price of the goods or services must be less than the price at which the goods or services are available under state or local cooperative purchasing programs available to the city.

2. Contracts for the purchase or commissioning of works of art.

3. Subject to the terms of these Rules, contracts that are being renewed in accordance with their terms are not considered new contracts. However, for public contracts predominantly for services, one extension not exceeding the original term of the contract or annual renewals is permitted if provided in the contract.

## ~~The city manager~~ Section 11 - Emergency Contracts.

A. "Emergency" shall be defined as follows: "Circumstances that (a) could not have reasonably been foreseen; (b) create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare or safety; and (c) require prompt execution of a contract to remedy the condition."

B. The Mayor or the City Manager shall have authority to determine when emergency conditions exist sufficient to warrant an emergency contract. Such authorized individual shall document the nature of the emergency and describe the method used for the selection of the particular contractor~~—Prior approval of the city manager is required before the city may enter into an emergency procurement with an estimated value of more than [fifty thousand dollars]. Prior approval of the city council is required before the city may enter into an emergency procurement with an estimated value of more than one hundred fifty thousand dollars.~~

~~—d. The contracting agency, the city manager and the city council collectively, shall not declare the same emergency more than two times in any ninety-day period.~~

**2.08.090** C. Emergency contracts may be awarded as follows:

1. Goods and Services, and Personal Services (other than Construction-Related Personal Services). Emergency contracts for procurement of goods and services and personal services may be awarded pursuant to ORS 279B.080.
2. Construction-Related Personal Services. Pursuant to ORS 279C.110(9), the City may directly appoint a Construction-Related Personal Service contract in an emergency
3. Public Improvements. The City hereby adopts OAR 137-049-0150 as its contracting rules for awarding a public improvement contract under emergency conditions.

## Section 12 - Brand Name Specifications.

A. Consultation Permitted. The City may consult with technical experts, suppliers, prospective contractors and representative of the industries with which the City will contract. The City shall take reasonable measures to ensure that no person, or no business with which the person is associated, who prepares or assists in the preparation of solicitation documents, specifications, plans or scope of work (collectively, "documents"), realizes a material competitive advantage that arises from the City's use of those documents.

B. Use of Brand Name or Equal Specification.

1. A “brand name or equal” specification may be used when it is advantageous to the City, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the City. The City’s determination of what constitutes a product that is equal or superior to the product specified is final. Unless otherwise specified, the use of a brand name shall mean “brand name or equal.”
2. A “brand name” specification may be used requiring a contractor to provide a specific brand when the City Manager makes the following findings:
  - a. The use of a brand name specification is unlikely to encourage favoritism in the awarding of a public contract or substantially diminish competition for public contracts; or
  - b. The use of a brand name specification would result in a substantial cost savings to the city; or
  - c. There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
  - ~~d.~~ Efficient utilization of existing equipment or supplies requires the acquisition of compatible equipment or supplies.

~~—C. Protest of Brand Name Use. The use of a brand name specification is subject to protest and review only as provided in this section. (Ord. 13-2 § 1)~~

## **~~2.08.100 Personal services contracts.~~**

~~—This section applies to personal services contracts as defined in Section . These contracts include, but are not limited to, contracts for auditing, financial, legal, planning, and technical inspection/testing services.~~

~~—A. Procurement Methods. The city manager shall procure personal services contracts using the following methods. Except as provided in subsection (A)(1), a personal services contract must be procured by requesting and evaluating offers. Nothing in this section prohibits the city manager from conducting procurement under subsections (A)(1) and (2) using the procedure in subsection (A)(3).~~

~~—1. Personal Services Contracts Valued at Ten Thousand Dollars or Less. A personal services contract for an amount which is valued at ten thousand dollars or less may be awarded by the city manager in any manner deemed convenient, including by direct award.~~

~~—2. Personal Services Contracts Valued at More Than Ten Thousand Dollars but Less Than One Hundred Thousand Dollars. Personal services contracts involving an anticipated fee of ten thousand dollars or more but less than one hundred thousand dollars per fiscal year shall be awarded by the city manager following solicitation of offers for personal services by written invitation or advertisement in sufficient number to provide a choice for the city from among qualified service providers. The city manager shall include the selection criteria in subsection B and may determine additional selection criteria to be included in the written invitation or advertisement. The city manager shall have authority to negotiate and enter into the contract.~~

~~—3. Personal Services Contracts Valued at One Hundred Thousand Dollars or More. Personal services contracts involving an anticipated fee of one hundred thousand dollars or more per fiscal year shall be awarded by the city council following solicitation of offers based on the procedure and selection criteria adopted by the city council before offers are solicited.~~

~~—4. Emergencies, Amendments, Extensions and Renewals. For all other personal services contracts, including emergency personal services contracts, amendments to and annual renewals or extensions of existing personal services contracts, the city manager may enter into the contract without a solicitation of offers. A personal services contract shall not be artificially divided or fragmented to qualify for the award procedures provided by this subsection.~~

~~—B. Required Selection/Solicitation Criteria. The following criteria shall be considered in the evaluation and selection of a personal services contractor. The criteria are not listed in order of preference or importance. This section does not preclude the use of other additional criteria:~~

~~—1. Timeliness of delivery of services.~~

~~—2. Expertise of the contractor in the area of specialty called for.~~

~~—3. References from successfully completed projects managed by the contractor.~~

~~—4. Utilization of locally procured services or personnel.~~

~~—5. Other services provided by the contractor not specifically listed in the solicitation.~~

~~—6. Total cost to the city for delivery of services.~~



~~—7. Other criteria specially listed in the solicitation document on a case-by-case basis. (Ord. 18-4 § 1; Ord. 13-2 § 1)~~

## **~~2.08.110 Contract preferences.~~**

~~—A. Discretionary Local Preferences. If the solicitation is in writing~~ **Section 13 - Local Preference Allowed in Evaluation of Bids or Proposals**

When possible, the City Manager may provide a specified percentage preference of not more than ten percent for goods fabricated or processed entirely in Oregon or services performed entirely in Oregon; in any applicable solicitation documents. When a preference is provided under this ~~subsection~~ **Section**, and more than one offeror qualifies for the preference, the City Manager may give a further preference to a qualifying offeror that resides in or is headquartered in Oregon. The City Manager may establish a preference percentage of ten percent or higher if the ~~city~~ **Mity** Manager makes a written determination that good cause exists to establish the higher percentage, explains the reasons, and provides evidence of good cause. The preferences described in this ~~subsection~~ **Section** cannot be applied to a contract for emergency work, minor alterations, ordinary repairs or maintenance of public improvements, or other construction contracts.

~~—B. Mandatory Tie Breaker Preferences. If offers identical in price, fitness, availability and quality are identical, and the city desires to award the contract, the preferences provided in ORS 279A.120 must be applied prior to contract award.~~

~~—C. Mandatory Reciprocal Preferences. Reciprocal preferences must be given when evaluating bids, if applicable under ORS 279A.120.~~

~~—D. Mandatory Recycled Preferences. Preferences for recycled goods must be given when comparing goods, if applicable under ORS 279A.125. The city manager shall adopt standards to determine if goods are manufactured from recycled materials. (Ord. 13-2 § 1)~~

## **~~2.08.120 Offeror disqualification.~~**

~~—A. Grounds for Disqualification. The council or city manager, whoever is awarding a contract under this chapter, may disqualify any person as an offeror on a contract if:~~

~~—1. The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;~~

~~—2. The person does not have available equipment to perform the contract;~~

~~—3. The person does not have key personnel of sufficient experience to perform the contract; or~~

~~—4. The person has breached previous contractual obligations.~~

~~—B. Public Improvement Contracts Additional Provisions. The provisions of the Public Contracting Code regarding disqualification of persons shall apply in addition to this section with respect to public improvement contracts.~~

~~—C. Appeal. A person who has been disqualified as an offeror may appeal the disqualification to the city council in accordance with the procedures in Chapter 279C of the Public Contracting Code. (Ord. 13-2 § 1)~~

## **2.08.130** Section 14 - Notice of Intent to Award and Protests.

~~—For all contracts subject to this chapter and having a value of fifty thousand dollars or more, the city manager shall provide each offeror written notice of intent to award a contract at least seven days prior to award of the contract. This provision is in addition to any requirements to provide a notice of intent to award a contract in the Public Contracting Code. (Ord. 13-2 § 1)~~

## **2.08.140** ~~Protests of exemptions.~~

~~—A.A. At least seven days prior to the award of a public contract solicited under any invitation to bid or request for proposals, the City will post or provide to each bidder or proposer notice of the City's intent to award a contract. If stated in the solicitation document, the City may post this notice electronically or through non-electronic means and require the bidder or proposer to determine the status of the City's intent. As an alternative, the City may provide written notice to each bidder or proposer of the City's intent to award a contract. This written notice may be provided electronically or through non-electronic means. The City may give less than seven days' notice of its intent to award a contract if the City determines in writing that seven days is impracticable.~~

~~B. This Section does not apply to any contracts or classes of contracts exempted from formal solicitation requirements.~~

~~C. A protest of the City's intent to award a contract may only be filed in accordance with OAR 137-047-0740, OAR 137-048-0240, or OAR 137-049-0450, as applicable. Protests to the City's intent to award a personal service contract under subsection A may only be filed in accordance with OAR 137-047-0740.~~

## Section 15 - Protests of Exemptions.

A. Any person may file a protest of the approval of an exemption if they believe the approval was in violation of ~~this chapter or state law~~ these Rules or the Public Contracting Code.

B. A protest must meet the following criteria:

1. It must be filed in writing with the City Manager not more than five days after approval.
2. It must state the exemption that is the subject of the protest, the reason why the approval was contrary to ~~this chapter~~ these Rules or state law, and the relief sought.

C. The City Council shall review and approve or disapprove of the protest within thirty days after the City Manager receives it. The City Manager shall notify the protester of the City Council's decision within five days after the City Council makes its decision.  
~~(Ord. 13-2 § 1)~~

## ~~2.08.150 Protests of solicitations.~~

~~—A prospective offeror on a contract subject to this chapter valued at fifty thousand dollars or more may file a protest of the solicitation if they believe that the procurement process is contrary to law, or that the solicitation document is unnecessarily restrictive, is legally flawed or improperly specifies a brand name. If a prospective offeror fails to file the protest within ten days of the closing date, the offeror may not challenge the contract on grounds under this subsection in any future administrative or legal proceeding.~~

~~—A. A protest under this subsection must be filed in writing with the city manager and contain the information required by ORS 279B.405(4).~~

~~—B. If the protest is timely filed and meets the requirements of subsection A, the city manager shall consider the protest and issue a decision in writing within ten days after receipt. Otherwise, the city manager shall promptly notify the offeror that the protest fails to meet the requirements of this subsection and give the reasons for the failure.~~

~~—C. Before seeking judicial review, an offeror must file a protest with the city and exhaust all available administrative remedies. (Ord. 13-2 § 1)~~

## ~~2.08.160 Protests of contract award.~~

~~—A. An offeror may protest the award of a public contract or a notice of intent to award a public contract, whichever occurs first, if:~~

~~—1. The offeror is adversely affected because the offeror would be eligible to be awarded the public contract in the event that the protest were successful; and~~

~~—2. The reason for the protest is that:~~

~~—a. All lower offers or higher ranked offers are nonresponsive,~~

~~—b. The city manager has failed to conduct the evaluation of offers in accordance with the criteria or processes described in the solicitation materials,~~

~~—c. The city manager has abused its discretion in rejecting the offeror's offer as nonresponsive, or~~

~~—d. The city manager's evaluation of offers or the city manager's subsequent determination of award is otherwise in violation of ORS Chapter 279A, 279B, or 279C.~~

~~—B. The offeror shall submit the protest to the city manager in writing no more than seven days following the award or issuance of notice of intent to award, whichever occurs first. The protest shall specify the grounds for the protest to be considered by the city manager. Late protests will not be considered.~~

~~—C. The city manager shall respond in writing to a protest within ten days after receipt. After the city manager issues the response, the offeror may seek judicial review in the manner provided in ORS 279B.415. When judicial review is sought, the city may not proceed with contract execution unless the city council determines that there is a compelling government interest in proceeding or that the goods and services are urgently needed. If the city council makes such a determination, it shall set forth the reason for the determination in writing and immediately provide them to the protestor. (Ord. 13-2 § 1)~~

## **~~2.08.170 Disposition of personal property.~~**

~~—A. The city manager shall have the authority to determine when personal property owned by the city is surplus.~~

~~—B. D. Exhausting all protest options at a local level is a condition precedent to filing an associated action on a state level.~~

## **Section 16 - Surplus Property.**

A. "Surplus Property" is defined as any personal property under the ownership or control of the City that has been determined by the appropriate authority as being of no further, or minimal use or value to the City.

B. The City Manager shall select the method of disposal which maximizes the value the city will realize from disposal of the Surplus Property. Surplus ~~personal~~ Property shall be disposed of as follows:

1. Sold to the highest qualified buyer meeting the sale terms when the value of each item so offered is less than two thousand dollars and the sale has been advertised in at least two public places and on the City's website not less than one week prior to the sale;
2. Traded in on the purchase of replacement equipment or supplies;
3. Sold at public auction advertised at least once in a newspaper of general circulation in the Cannon Beach area not less than one week prior to the auction. The published notice shall specify the time, place and terms upon which the personal property shall be offered and a general description of the personal property to be sold;
4. Sold at a fixed price retail sale if doing so will result in substantially greater net revenue to the City;
5. Contracted for use, operation or maintenance by one or more private or public entities. Prior to approval of such a contract, the City Manager shall determine that the contract will promote the economic development of the City;
6. By donation to any organization operating within or providing a service to residents of the City which is recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
7. Surplus Property that has a value of less than five hundred dollars, or for which the costs of sale are likely to exceed sale proceeds, may be disposed of by any means determined to be cost-effective, including by recycling and third-party public auction and, as the last option, by disposal as waste.

C. All ~~personal~~ Surplus Property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind. All bids submitted are irrevocable until the sale is over. For auction of items valued at over ten thousand dollars, the City Manager may require a bid bond.

D. Sales of Surplus ~~personal~~ Property may be conducted electronically.

E. An item (or individual set) of specialized and personal use Surplus Property, other than police officer's handguns, with a current value of less than one hundred dollars may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the City Manager.

F. Upon honorable retirement from service with the City, a police officer may purchase the handgun that he or she was using at the time of retirement. The purchase price shall be fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser. An officer electing to exercise this option shall notify the City at least thirty days prior to the expected retirement date and request an appraisal of the handgun. Upon receipt of the appraisal fee from the officer, the City shall arrange for the appraisal. A copy of the completed appraisal shall be provided to the officer, who will have up to thirty days from the date of retirement to purchase the handgun at the appraised fair market value.

G. City employees are not restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but are not permitted to offer to purchase the property to be sold to the first qualifying bidder until at least three days after notice of the sale is first publicly advertised. ~~(Ord. 13-2 § 1)~~

### **Section 17 - Electronic Advertising.**

A. Pursuant to ORS 279C.360 and ORS 279B.055, electronic advertisement of all public contracts in lieu of newspaper publication is authorized when it is cost-effective to do so. The City Manager shall have the authority to determine when electronic publication is appropriate, and consistent with the City's public contracting policies and these Rules.

B. Notwithstanding the foregoing, any advertisement for a public improvement contract with an estimated cost over \$125,000 must be published at least once in a trade newspaper of general statewide circulation, such as the Daily Journal of Commerce.

### **Section 18 - Concession Agreements.**

A. A "concession agreement" is a contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from a site within a building or upon land owned by the City, and under which the concessionaire makes payments to the City based, in whole or in part, on the concessionaire's sales revenues. The term "concession agreement" does not include an agreement which is merely a flat-fee or per-foot rental, lease, license, permit, or other arrangement for the use of public property.

B. Concession agreements are not required to be competitively bid. However, when it is in the City's best interests to do so, the City may obtain competitive proposals for concession agreements using the procedures described in ORS 279B.060.







# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### ELECTED AND APPOINTED OFFICIALS CODE OF CONDUCT

---

**Agenda Date:** April 9, 2024

**Prepared by:** Bruce St. Denis, City Manager

## BACKGROUND

Council expressed the desire to have a code of conduct policy. The policy would apply to all Cannon Beach elected and appointed officials.

## ANALYSIS/INFORMATION

Attachment A is draft language for Council's review and input.

## RECOMMENDATION

Council to provide staff input and direction.

## List of Attachments

A Draft Elected and Appointed Officials Code of Conduct

City of Cannon Beach

Elected and Appointed Officials Code of Code

This policy applies to all Cannon Beach elected and appointed officials.

**Be respectful and professional while attending city meetings, representing the city, or otherwise acting in your role as a public official. This includes, but is not limited to:**

- Assuming good intentions of others.
- Encouraging and promote differing opinions. Public officials, staff, and community members all bring different perspectives.
- Disagreeing respectfully. If you disagree or have a criticism, address the topic/issue, do not target the person.
- Being respectful in how you address staff, mayor, councilors, community members and visitors.
- Acting professional and use professional language and demeanor
- If you have a concern about a staff member, addressing it to the City Manager privately outside of a public meeting.
- Not interrupting others and waiting until you are recognized by the presiding officer before speaking.

**Come to meetings prepared. This includes, but is not limited to:**

- Coming to meeting prepared to discuss the agenda items.
- Thoroughly reading the packet and endeavor to ask questions beforehand.
- Attending meetings in person whenever possible. If you are unable to attend in person, please communicate with the presiding officer for accommodations.

### **Conduct outside of meetings**

Conduct outside of meetings can impact a public official's effectiveness in their role or undermine the City's trust in their ability to make important policy decisions or recommendations. If an appointed official's outside conduct significantly impacts their role with the City, the City Council may consider such conduct misconduct under the Cannon Beach Municipal Code.

### **Enforcement**

If necessary, the City Council will consider violations of this code of conduct misconduct. Pursuant to the Cannon Beach Municipal Code, members of appointed boards and commissions may be removed from their positions (after a hearing) for misconduct.



# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### FACILITY CAPITAL PROJECT DISCUSSION

---

**Agenda Date:** April 9<sup>th</sup>, 2024

**Prepared by:** Bruce St.Denis, City Manager

## BACKGROUND

At the April 2<sup>nd</sup> meeting there were questions regarding the “drivers” for the increases in the CBE, City Hall and Police Station projects. Attached is documentation from the meetings on February 28<sup>th</sup> (City Hall and Police Department) and March 6 (CBE) where calculations from the Design Development (DD) phases of the project were presented.

In the cases of the Police Station and CBE estimates increased from the Schematic Design (SD) to Design Development (DD) phases while the City Hall budget projections had been reduced. The council directed staff to produce a document(s) where the “drivers” of the increases could be seen more clearly.

I need to apologize for using the wrong number when speaking extemporaneously regarding the increase in the Police Station between the Schematic and Design development phases. I said that the difference was \$1,032,829. That is actually the difference if you start with the initial estimate. The actual difference between SD and DD in the Police Station project is \$529,263.

I was not prepared to discuss the budget differences on April 2<sup>nd</sup> and also left out that the Police Station and City Hall budgets are still carrying \$1,095,532 in contingencies.

## ANALYSIS/INFORMATION

### **CBE**

I have attached two documents (exhibits A and B) regarding the differences between the cost differences between Schematic Design and Design Development that were presented on March 6<sup>th</sup>.

### **Police Station**

Attached is an email from Will Somme of Emerick that explains the budget drivers for the police station.

### **Establishing an amount for the upcoming bond issue**

The April 2<sup>nd</sup> agenda item that started the conversation regarding the drivers increasing the costs on CBE and the Police Station was about determining the amount of the upcoming bond issue.

That conversation still needs to happen so that information to be included in the Bond Resolution scheduled to be presented on April 16<sup>th</sup>.

The original agenda item is included as attachment D.

## **RECOMMENDATION**

1. Study the information regarding the cost driver's" for all 3 projects.
2. Provide directions regarding go/no go questions and determine funding mechanism (where appropriate) on the various project components outlined in attachment D.
3. Verify amount to be included in upcoming Bond Resolution

## **List of Attachments**

- A Cost comparison between CBE Schematics and Design Development (March 6<sup>th</sup>)
- B Cost increases and decreases for CBE between CD and DD (March 6<sup>th</sup>)
- C April 4<sup>th</sup> email from Will Somme regarding cost increases on Police Station project.
- D FACILITY CAPITAL PROJECTS BOND ISSUE Memo dated April 2<sup>nd</sup>



# PRELIMINARY BUDGET ESTIMATE

## DD COST ESTIMATE 02/27/24

### HARD COSTS

#### CONSTRUCTION COST

SELECTIVE DEMOLITION	\$599,860
BUILDING CONSTRUCTION	\$4,344,153
UTILITY UPGRADES	\$2,308,678
SITE DEVELOPMENT	\$1,803,562
LANDSCAPE	\$249,086
PRE-CONSTRUCTION & ARCHAEOLOGY	\$41,105
INFLATION (7 MONTHS)	\$325,687

CONSTRUCTION HARD COST SUBTOTAL \$9,672,131

CANOPY EXTENSION TO FOOD PANTRY \$163,007

### SOFT COSTS

#### PHASE I A/E DESIGN FEES (COMPLETE)

PHASE I DESIGN COSTS \$360,915

#### PHASE II A/E DESIGN FEES

	LOW	HIGH
ARCHITECTURAL SERVICES	\$500,575	
COE'S, CITY COUNCIL & TRIBAL	\$83,090	
STRUCTURAL ENGINEERING	\$100,200	
CIVIL ENGINEERING	\$67,000	
MECH/ELEC/PLUMBING	\$66,000	
LANDSCAPE DESIGN	\$21,090	
ENCLOSURE	\$51,815	
ACOUSTICS	\$25,300	
SUSTAINABILITY	\$19,470	
SITE STRUCTURES	\$22,500	
STATE PRESERVATION ALLOWANCE	\$5,000	\$10,000
REIMBURSABLES	\$26,660	
ADDITIONAL SD SERVICES	\$35,780	

DESIGN COSTS TOTAL \$1,024,480 \$1,029,480

#### JURISDICTIONAL/TESTING/FF&E

	LOW	HIGH
ARCHEOLOGY REPORT	\$66,300	
GEOTECH REPORT	\$12,500	\$20,000
PERMITTING FEES	\$118,226	\$145,000
CONSTRUCTION TESTING	\$14,000	\$23,000
FF&E (FURNISHINGS)	\$269,368	\$436,026

SOFT COST TOTAL \$480,394 \$690,326

#### TOTAL

LOW HIGH  
\$11,537,920 \$11,752,852

#### OWNER CONTINGENCY

LOW HIGH  
\$576,896 \$587,643

#### GRAND TOTAL

LOW HIGH  
\$12,114,816 \$12,340,495

# Attachment A

## SD COST ESTIMATE 02/15/23

### HARD COSTS

#### CONSTRUCTION COST

SELECTIVE DEMOLITION	\$587,545
BUILDING CONSTRUCTION	\$3,912,112
UTILITY UPGRADES	\$2,127,065
SITE DEVELOPMENT	\$1,882,530
LANDSCAPE	\$386,107
PRE-CONSTRUCTION	\$24,921
INFLATION (9 MONTHS)	\$429,538

CONSTRUCTION HARD COST SUBTOTAL \$9,349,818

### SOFT COSTS

#### PHASE I A/E DESIGN FEES (COMPLETE)

PHASE I DESIGN COSTS \$360,915

#### PHASE II A/E DESIGN FEES

	LOW	HIGH
ARCHITECTURAL SERVICES	\$500,575	
COE'S, CITY COUNCIL & TRIBAL	\$83,090	
STRUCTURAL ENGINEERING	\$100,200	
CIVIL ENGINEERING	\$67,000	
MECH/ELEC/PLUMBING	\$66,000	
LANDSCAPE DESIGN	\$21,090	
ENCLOSURE	\$51,815	
ACOUSTICS	\$25,300	
SUSTAINABILITY	\$19,470	
SITE STRUCTURES	\$22,500	
STATE PRESERVATION ALLOWANCE	\$5,000	\$10,000
REIMBURSABLES	\$26,660	

DESIGN COSTS TOTAL \$988,700 \$993,700

#### JURISDICTIONAL/TESTING/FF&E

	LOW	HIGH
ARCHEOLOGY REPORT	\$66,300	
GEOTECH REPORT	\$12,500	\$20,000
PERMITTING FEES	\$118,226	\$145,000
CONSTRUCTION TESTING	\$14,000	\$23,000
FF&E (FURNISHINGS)	\$269,368	\$436,026

SOFT COST TOTAL \$480,394 \$690,326

#### TOTAL

LOW HIGH  
\$11,179,827 \$11,394,759

#### OWNER CONTINGENCY

LOW HIGH  
\$558,990 \$569,740

#### GRAND TOTAL

LOW HIGH  
\$11,738,817 \$11,964,499

### VARIANCE

\$322,313

\$0

LOW HIGH  
\$35,780 \$35,780

\$0 \$0

\$358,093 \$358,093

\$17,906 \$17,903

\$375,999 \$375,996





# PROJECT DESIGN SCHEDULE

## DD PROJECT SCHEDULE 02/28/24

### DESIGN

SCHEMATIC DESIGN 07/15/22 - 06/13/23

DESIGN DEVELOPMENT 06/13/23 - 02/20/24

CONSTRUCTION DRAWINGS 02/20/24 - 06/27/24

PERMIT REVIEW AND GMP PROCESS 07/01/24 - 09/24/24

### CONSTRUCTION

CONSTRUCTION KICK-OFF 10/01/24

CONSTRUCTION END 09/02/25

## SD PROJECT SCHEDULE 03/13/23

### DESIGN

SCHEMATIC DESIGN 07/15/22 - 04/04/23

DESIGN DEVELOPMENT 04/05/23 - 11/07/23

CONSTRUCTION DRAWINGS 06/12/23 - 09/22/23

PERMIT REVIEW AND GMP PROCESS 09/26/23 - 01/05/24

### CONSTRUCTION

CONSTRUCTION KICK-OFF 02/21/24

CONSTRUCTION END 12/16/24



**Cannon Beach Elementary Rejuvenation**

Executive Summary of Changes between Schematic Design (2/15/2023) &amp; Design Development (2/27/2024)

<b>Schematic Design Construction Cost Estimate 1.0 (2/15/2023)</b>	<b>\$</b>	<b>9,349,818</b>
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**Scope Additions**

Expanded Underground Utilities & Paving Scope in Beaver St.	\$	118,839
Seismic & Structural Scope Drawing Clarifications	\$	382,034
Allowance for Gym Acoustical Wall/Ceiling Treatments	\$	119,517
Increase Electrical Service Size from Anticipated 800A to Designed 1200A	\$	61,294
Light Fixture Allowance Increase	\$	190,031
General Conditions for Extended Schedule Duration	\$	74,767
General Requirements for Extended Schedule Duration	\$	33,014
Archaeology Investigation Phase Support	\$	16,184
Inflation/Escalation until 10/2024	\$	325,687

Subtotal of Additions:	\$	1,321,366
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**Scope Reductions**

Reduce Landscape/Site Furnishings Scope	\$	(216,147)
Paint Gym Structure in lieu of Media Blasting	\$	(42,783)
Remove (1) of the (3) New Exterior Doors per Classroom & Material Changes	\$	(18,882)
Remove Operable Wall Partition & Structural Support	\$	(63,329)
Change Restroom Wall/Floor Tile to Polished Concrete	\$	(55,415)
Reduce Updated Interior Light Fixture Package Allowance by 25%	\$	(65,435)
Reduce Exterior Precast Concrete Cladding Panels by 50%	\$	(37,656)
Utilize Douglas Fir Columns in lieu of Cedar	\$	(23,903)
Change Addition Roof to TPO in lieu of Metal Roofing	\$	(17,437)
Mobile Generator Docking Station in lieu of Generator	\$	(135,908)
Gym & Classroom Equipment Reductions	\$	(47,397)
Miscellaneous Design & Material Refinement	\$	(111,752)

Subtotal of Reductions:	\$	(836,045)
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<b>Design Development Construction Cost Estimate 2.3 (2/27/24)</b>	<b>\$</b>	<b>9,672,131</b>
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Canopy Extension to Food Bank**	\$	163,007
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\*Above values are approximate breakout costs.

\*\*Canopy cost is related to food bank and will be funded from other sources.

**From:** [Bruce St. Denis](#)  
**To:** [Jennifer Barrett](#)  
**Subject:** FW: Drivers for cost escalation  
**Date:** Friday, April 5, 2024 12:43:02 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image005.png](#)

This is exhibit C.



**Bruce St. Denis**

*City Manager*

**City of Cannon Beach**

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**From:** Will Somme <[wills@emerick.com](mailto:wills@emerick.com)>  
**Sent:** Thursday, April 4, 2024 11:43 AM  
**To:** Bruce St. Denis <[stdenis@ci.cannon-beach.or.us](mailto:stdenis@ci.cannon-beach.or.us)>; Leslie Jones <[lesliej@cidainc.com](mailto:lesliej@cidainc.com)>  
**Cc:** Jennifer Barrett <[barrett@ci.cannon-beach.or.us](mailto:barrett@ci.cannon-beach.or.us)>; Rusty Barrett <[rbarrett@ci.cannon-beach.or.us](mailto:rbarrett@ci.cannon-beach.or.us)>; [jenniferb@cidainc.com](mailto:jenniferb@cidainc.com)  
**Subject:** RE: Drivers for cost escalation

Hey Bruce,

I watched the video from the council meeting on Tuesday and I think what was missed and what we presented to the Council in February is the amount of contingencies we have in the current budget that covers the bottom line overage as we work through construction documents and approach the bidding process. I am more than willing to walk the council through this again next week if you would like to help everyone get back on the same page, just let me know.

But for now, here is the items that caused the increase in the police DD estimate.

**CONSTRUCTION HARD COST INCREASE ITEMS FROM SCHEMATIC DESIGN TO DESIGN DEVELOPMENT**

1. The general requirements were updated to reflect the required staffing and supported items for each project based on a 15-month duration for City Hall and 12 months for Police as the prior estimate just had a place holder for each of \$700,000. This resulted in an increase of \$268,266 from the SD estimate to the DD for the PD.
2. Concrete went up \$185,028 to reflect the updated foundation system design.
3. Div. 7 went up to \$193,459 to cover the additional roof insulation panels and further detail on the exterior siding system.
4. Electrical went up \$110,000 to cover the refined electrical system
5. Temp Facility for PD staff was added to the estimate in the amount of \$40,250

**SOFT COST**

1. Deferred submittals permit & utilities fee estimates were added in the DD estimate in the amount of \$88,231 to the soft cost section.

TOTAL DD INCREASES: \$844,984  
TOTAL DD DECREASES: (\$234,225)  
VARIANCE: \$529,263

As noted above, the PD went up \$529,263 from SD to DD not \$1,032,829. The \$1,032,829 is the overall increase from the initial estimate, which did not include the soft cost as it was included in the City Hall initial estimate, so that is where you are seeing the savings from City Hall with those monies being moved from the City Hall estimate and the increase to PD. Also to note, between both City Hall and Police estimates, \$1,095,532 in Escalation, Design & Estimating Contingencies are still being carried. And the initial estimate was just based on square footage and each project has increased in size and of course additional details have been developed.

Below is a snapshot of current budget including the breakout of the contingencies.

4.4.24							
	<b>Construction</b>	<b>Design</b>	<b>Owner Costs</b>	<b>Contingencies</b>	<b>TOTAL</b>	<b>Approved Budget</b>	<b>Delta</b>
City Hall	\$ 10,898,064	\$ 1,477,698	\$ 1,363,845	\$ 1,555,667	\$ 15,295,274	\$ 15,906,033	\$ 610,759
Police	\$ 6,923,499	\$ 998,865	\$ 1,342,870	\$ 976,538	\$ 10,241,772	\$ 9,208,943	\$ (1,032,829)
<b>TOTAL</b>	<b>\$ 17,821,563</b>	<b>\$ 2,476,562</b>	<b>\$ 2,706,715</b>	<b>\$ 2,532,205</b>	<b>\$ 25,537,045</b>	<b>\$ 25,114,976</b>	<b>\$ (422,069)</b>
				Design & Estimating Contingency:	\$ 1,095,532		
				Owner Contingency:	\$ 517,455		
				Construction Contingency:	\$ 919,218		

If you would like me to put this in a formal manner for presentation purposes, please let me know.

#### WILL SOMME

Project Manager

Cell: 503.572.3187

[Directions to Emerick](#)



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**From:** Bruce St. Denis <[stdenis@ci.cannon-beach.or.us](mailto:stdenis@ci.cannon-beach.or.us)>

**Sent:** Wednesday, April 3, 2024 3:29 PM

**To:** Will Somme <[wills@emerick.com](mailto:wills@emerick.com)>; Ben Carlson <[BC@Bremik.com](mailto:BC@Bremik.com)>; David Brookings <[dbrookings@bremik.com](mailto:dbrookings@bremik.com)>; Dustin Johnson <[dustinj@cidainc.com](mailto:dustinj@cidainc.com)>; Leslie Jones <[lesliej@cidainc.com](mailto:lesliej@cidainc.com)>

**Cc:** Jennifer Barrett <[barrett@ci.cannon-beach.or.us](mailto:barrett@ci.cannon-beach.or.us)>; Rusty Barrett <[rbarrett@ci.cannon-beach.or.us](mailto:rbarrett@ci.cannon-beach.or.us)>; jenniferb@cidainc.com; Ron Logan <[logan@ci.cannon-beach.or.us](mailto:logan@ci.cannon-beach.or.us)>; Tim Collier <[collier@ci.cannon-beach.or.us](mailto:collier@ci.cannon-beach.or.us)>

**Subject:** Drivers for cost escalation

We had a discussion at last night's meeting and it did not go particularly well.

Even though the DD presentations had been brought to the council in late February they did not pick up on the revised cost estimates and the escalating differences.

Please provide me with background information regarding the drivers for the cost increases since we presented the budget numbers. It will be included in an agenda item for the April 9<sup>th</sup> meeting.

It can be in an email.

I would like to send my document out Friday afternoon so late Thursday can work.

Thanks.



**Bruce St. Denis**

City Manager

**City of Cannon Beach**

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# CANNON BEACH CITY COUNCIL

## STAFF REPORT

### FACILITY CAPITAL PROJECTS BOND ISSUE

---

**Agenda Date:** April 2<sup>nd</sup>, 2024

**Prepared by:** Bruce St.Denis, City Manager

## BACKGROUND

At the April 2<sup>nd</sup> meeting the council will discuss the project components listed below for consideration of voting on a Bond Resolution for the City Hall, Police Station and Cannon Beach Elementary (CBE) projects on April 9<sup>th</sup>. Part of that discussion will center on how much bond money will be requested. Both the Police Station and the CBE project have outstanding items for consideration that will affect the usability of the projects and potentially impact the project budgets.

## ANALYSIS/INFORMATION

### Police Station Cost Considerations

- **Relocation of Connex boxes (PD) - \$100,000**
  - This project is required to allow site work to commence.

There are several Connex boxes on the site that are in that location for Emergency Management purposes. Because of the grade changes on the site it has been determined they will need to be relocated during site work for the police station. Most have power and some form of climate control to protect the contents. These functions will need to be maintained through construction. Options include moving them to another location on the site permanently or temporarily during site work and returning them to a location close to from where they came.

The optimal option has not yet been decided.

#### **Options:**

- Project reductions
- General fund
- Bond funds

## Items below the line

“Items below the line” are those individual items that are desirable but not within the prescribed funding level for the project. Options are to delete the item, reprogram other project costs to pay for it, use general funds to pay for the item or increase bond proceeds to cover the cost.

- **Covered Parking for police vehicles.** - \$200,000

### **Options:**

- Don't include covered parking
- Project reductions
- General fund
- Bond funds

- **Demo/rebuild/relocate existing garage** - \$125,000

A garage was built for Emergency Management use at the South Wind site. Police requested that it be made available to them for evidence storage. Because of the grade changes on the site, it needs to be moved or demolished and rebuilt after the grading is complete. Funds are also needed to replace the storage capacity for Emergency Management.

### **Options:**

- Demo garage and don't replace
- Project reductions
- General fund
- Bond funds

## Cannon Beach Elementary School cost considerations

- **Hard costs spent for COE #4 to #7 (9 months) - \$304,951**

The project was budgeted for 3 **Community Opportunities for Engagement** (COE's). It was a robust public process, and it was decided to include several additional COE's around June of 2022. CIDA was paid \$304,951 between the time of COE 4 through 7. That is a real cost that was not captured in the Bremick estimate of \$12.3 million for the project. And real funds were expended from the initial CBE bond issue. The initial Bond issue was for \$4.3 million.

We may want to consider reimbursing the project budget for the \$304,951 paid to CIDA for the extra COE's. The reason this is worthy of consideration is that when it was an “out of scope item” that was over and above the anticipated contract amount. Because the \$304,951 was anticipated to be an expenditure the dollars available from the initial bond have been reduced by that amount. The result is that the subtraction of \$4.3 million from the \$12.3 million budget would leave the project short by \$304,951. Returning these funds to the budget could make a difference in consideration of being able to fund the movable wall in the classrooms or furnishing the kitchen.

### **Options:**

- Don't recover the funds for work done as part of COE #4 through #7
- Project reductions
- Tourism and lodging tax



- General fund
- Bond funds

- **Food bank building (After use by city hall project) - \$325,000**

We anticipate buying a portable to act as a temporary city hall during city hall construction. It would eventually be relocated to CBE to become the permanent food bank. Because of the final use as a food bank staff does not think it is appropriate to use project funds to purchase the facility and that this was always intended to be a General Fund purchase.

**Sources:**

- General Fund

- **Food bank Canopy\_\$163,000**

The interior courtyard of the CBE project currently has a canopy on the exterior of each of the buildings. While the food bank will make excellent use of the canopy staff feel that it should not be part of the CBE project cost. If approved it may be constructed with the rest of the project, but TLT funding is not appropriate for the canopy construction in from of the food bank.

**Sources:**

- General fund

## **RECOMMENDATION**

The council carefully considers each item for approval/disapproval and select what they feel if the appropriate option to deal with moving forward with the item or funding source.

## **List of Attachments**

None