

CITY OF DUNDEE
CITY COUNCIL MEETING
Fire Hall Community Room

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The Mission of City Government is to provide essential, quality public services in support of the livability, safety and viability of the Dundee community.

JULY 19, 2016 7 - 9 PM.

Times printed are estimates. Actual time may vary.

1. Open Regular City Council Meeting
2. Pledge of Allegiance
3. Amendments to the Agenda, if any
4. Collaboration Workshop: Board of Yamhill County Commissioners & Dundee City Council
5. Public Comment: Each speaker will be allowed up to 5 minutes to speak after being recognized by the Mayor. Out of courtesy for the speaker, please refrain from talking.
6. Consent Agenda: The following items are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member (or a citizen through a Council member) so requests, in which case the item will be removed from the Consent Agenda and considered separately. If any item involves a potential conflict of interest, Council members should so note before adoption of the Consent Agenda.
 - 6.1 City Council Minutes, July 5, 2016 Pages 1-10
Action Required: Motion to Accept the Consent Agenda
7. Old Business:
 - 7.1 Resolution No. 2016-18, Sewer Repair Contracts Pages 11-26
Action Required
 - 7.2 WWTP MBR Maintenance Quotes Pages 27-32
Action Required
 - 7.3 Keeping of Poultry/Turkeys in Dundee Pages 33-34
Discussion
 - 7.4 Ordinance No. 549-2016, Aircraft Landings Nuisance Pages 35-38
Action Required
 - 7.5 Resolution No. 2016-19, 2017 SCA Grant Program Pages 39-42
Action Required
 - 7.6 LOC Legislative Issues Survey Pages 43-62
Action Required
8. New Business:
 - 8.1 Ordinance No. 550-2016, Recreational Marijuana Tax Pages 63-72
Action Required
 - 8.2 Resolution No. 2016-20, Marijuana Tax Measure Pages 73-86
Action Required
9. Council Concerns & Committee Reports

10. Mayor's Report
11. City Administrator Report
12. Public Comment: Each speaker will be allowed up to 5 minutes to speak after being recognized by the Mayor. Out of courtesy for the speaker, please refrain from talking.
13. Adjourn

Pending Business:

1. Public Works
 - 1.1 Highway 99W Sidewalk/Streetscape
 - 1.2 Inflow & Infiltration Program
 - 1.3 Charles Street Storm System
 - 1.4 Dogwood SCA Project
 - 1.5 2016 Street Overlay Program
 - 1.6 Locust Street Waterline Replacement
2. Planning/Land Use
 - 2.1 Dundee Riverside Master Plan – Future Actions
 - 2.2 Exterior Lighting – Code Update/Street Light Standards
3. City Council
 - 3.1 Update SDC Methodologies
 - 3.2 LID 2013-01 Final Assessment Ordinance
 - 3.3 Urban Renewal Plan
4. Parks & Trails
 - 4.1 Viewmont Greenway Park Improvement
 - 4.2 Harvey Creek Trail Property Rehabilitation
 - 4.3 WWTP Nature Park Grant Application
5. Next Available Ordinance & Resolution No's.
 - 5.1 Ordinance No. 551-2016
 - 5.2 Resolution No. 2016-21

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the Assistant City Recorder at City Hall (503) 538-3922.

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City of Dundee
City Council Meeting Minutes
July 5, 2016

Call to Order

Mayor Russ called the meeting to order at 7:00 P.M.

Council and Staff Attendance

Present: Mayor David Russ, Councilors Jeanette Adlong, Storr Nelson, Kristen Svicarovich, Doug Pugsley, and Ted Crawford. Absent: Councilor Tim Weaver. Staff members: Rob Daykin, City Administrator; Shelby Rihala, City Attorney; and Melissa Lemen, Administrative Assistant.

Public Attendance

Michael Humm, Kennedy/Jenks Consultants; Tom Burns, Chalice Farms; David Haugeberg, Parkway Commission; David Rath, Tour Devine By Heli; Matt Parker, Precision Helicopter; Richard & Nancy Ponzi, Dundee Bistro; Kim Buckholtz; Linda L. Stone.

Agenda Changes

None.

Public Comment

Linda L. Stock, 661 SE Maple Street, approached the Council with concerns regarding the potential helicopter nuisance ordinance. Ms. Stock explained that she finds the helicopters very disruptive during the weekends as they fly directly over her house every 15-30 minutes. She doesn't feel this should be allowed due to the fact that we don't have an airport in Dundee. She also noted that she saw a recent news story pertaining to helicopter wine tours in the area. Mayor Russ advised that an ordinance will be reviewed this evening pertaining to the helicopter issue.

Kim Buckholtz, 561 SE Maple Street, approached the Council with concerns regarding the new coffee stand business near the Arco gas station, Bombshell Bikini coffee stand. Ms. Buckholtz expressed concerns regarding the business name and her opinion that she doesn't feel it to be "family friendly" or represent Dundee in a positive way. Mayor Russ reviewed the fact that this is an established coffee business which has a new owner and business name. Ms. Buckholtz expressed concerns that they are selling coffee while wearing bikinis, and inquired about the process of approval for their business. Mayor Russ responded that there is not a specific ordinance in place regarding her concern about their dress, and advised that this is allowable as long as they are in compliance with state and federal laws pertaining to the matter. C. Crawford indicated that he is aware of similar situations in Forest Grove and Salem recently, and inquired of City Attorney Rihala regarding the matter. C.A. Rihala advised she is unaware of how this issue has been handled in other cities, but stressed concerns regarding the likelihood of it being a free speech/freedom of expression issue. She indicated that she will check further into the issue and report back. Mrs. Buckholtz expressed further concerns regarding a person holding a spinning sign that the business utilizes, and City Administrator Daykin responded that there is no prohibition regarding that manner of sign display.

Tom Burns, representing Chalice Farms, 2323 SW Park Place, #704, Portland, approached the Council and indicated that the business is facing a problem due to the 10% tax imposed by Dundee on marijuana sales. Mr. Burns explained that due to multiple factors including sales, competition amongst their competitors in McMinnville, and the way that the federal government

treats marijuana that they are in danger of not being able to stay in business if the tax remains 10%. He indicated that this is not something they want to have happen, and notes that the City Council also wouldn't be in favor of this happening as they contribute a portion of the general fund revenue. Mr. Burns explained that he is aware that effective July 1, 2016 the City of Newberg will also implement a 10% tax on marijuana sales. He indicated that they will wait and see how this affects their business, but pointed out that potential customers who stop in often times leave to shop better prices in McMinnville, and are making their purchases there. Mr. Burns referred to the passing of House Bill No. 3400 last year, specifically Section 34-A, and reviewed this with the Council. Mr. Burns acknowledged that the City of Dundee passed the 10% marijuana tax ordinance prior to this bill, which he indicated allows local governments to impose a 3% tax on the sale of marijuana. He expressed further concerns in this regard and notes that this potentially could put the City at risk should a court decide that a tax was imposed improperly. Mr. Burns suggested that the City could potentially be asked to return those funds, although he indicated they would not ask for them to be returned as Chalice Farms first came to the City and accepted the terms proposed at that time. He encouraged the Council to re-examine the 10% tax, and to look at the authority vested in themselves and the voters under Bill 3400 to impose just a 3% tax. Mr. Burns went on to advise that this is something that would need to be put to the voters at the general election in November, and that time is of the essence in doing so to meet the appropriate deadlines. Mr. Burns stated that he is asking the Council to repeal the 10% tax and impose a 3% tax immediately, with a further request to establish that as a permanent tax through a vote of the people in November. He advised that he's available to discuss his concerns when appropriate.

Mayor Russ pointed out that one obstacle facing the Chalice Farms business in Dundee is their inability to conduct business in a timely manner due to the fact they are only allowed to assist one customer at a time. Mayor Russ suggested that this issue may become more of a problem with increased business. Mr. Burns explained that they are hopeful that by the end of the year they will be granted an OLCC license, which will omit this rule. He further explained that the rule applies to them now due to the medical rules imposed by the Oregon Health Authority.

C. Pugsley suggested adding this as an agenda item for discussion at a future City Council meeting. Mayor Russ indicated that this will be added to a City Council agenda in the near future, and encouraged Mr. Burns to attend and partake in further discussion.

David Rath, Managing Director at Precision Helicopter in Newberg, indicated that he started the Tour Devine by Heli with about two dozen wineries. Mr. Rath expressed concerns over the ordinance being discussed at the meeting tonight which will disallow any helicopter or aircraft landing on property within the city, and suggested a process instead of engaging in discussions within the industry to work together to come up with a workable solution. He informed the Council that he has been conducting wine tours since 2003 in the Dundee area, with one of his first hop ride events even being for the Ponzi family in early 2000. He indicated they have received approximately four complaints regarding the helicopters which they have tried to respond to individually. Mr. Rath acknowledged the nuisance issue of the helicopters and is not opposed to finding a different landing site. Mayor Russ pointed out that Dundee is the heart of the wine industry and, while he really would not like to completely shut down helicopter operations in the City, he does feel it is necessary to do so at this time until the issue can be addressed more in-depth at a future time. Mr. Rath indicated that he has already begun the process of looking at different hubs at various wineries, and presented the idea of only landing in the City on a potential monthly basis or for special occasions only. The Council encouraged Mr. Rath to remain to at the meeting until Ordinance 548-2016 is discussed as per the agenda.

Consent Agenda

The motion was made and seconded to approve Consent Agenda item 5.1 City Council Minutes, June 21, 2016. The motion passed unanimously.

Old Business

Resolution No. 2016-17, Bypass Construction Savings

David Haugeberg, Chair, Yamhill County Parkway Committee, emphasized that although a lot of money has been put forth for Phase I of the bypass, Phase II is a very important component as well. ODOT has determined that there is going to be approximately 10.5 million dollars of savings from the first phase of the project; about 90% of this money is ODOT's money, while about 10% of it is from partnered local entities. Two weeks ago the Oregon Transportation Commission (OTC) met in Hood River and they voted to include Phase II in the State Transportation Improvement Program. Haugeberg further informed the Council that the OTC also allocated the 10.5 million dollar surplus from Phase I to go towards acquisition and work on the next phase; the OTC indicated that they would put their money towards this if the other contributors were willing to do the same, allowing Phase II to move forward. Haugeberg indicated that although much work has been done to get support for this project, it's been difficult to get it from outside of the immediate area. The Marion County Commissioners have recently become concerned with the fact that if Phase II isn't built there will be potential consequences of increased traffic going across northern Marion County, thus the Marion county Board of Commissioners voted unanimously to support the construction of Phase II of the bypass. The Mid-Willamette Valley Commission on Transportation recently voted to do the same, and they also urged ODOT to protect and acquire the needed right-of-way for Phase II now so that it wouldn't be lost. Haugeberg advised that while the OTC agreed to contribute their 9.5 million, it is now up to the local entities to adopt the resolutions to contribute the remaining 1 million of money to propel the project forward. Additionally, the federal government has named this as a high priority corridor, one of two in Oregon and one of seventy in the United States, which makes this project available for federal funding on a priority list. Haugeberg indicated that the Oregon legislature is discussing a big transportation bill and indicated that he, the mayors, and many others will continue to work hard to make sure that this next phase gets added into the state legislative process. Haugeberg also advised that the local entities have agreed to double their lobbying efforts, an important factor towards the funding for the next phase. Haugeberg reviewed the importance of the money being invested through this proposed Resolution, and the potential of it being an extraordinary investment for the community.

C. Nelson expressed concerns regarding the "fish hook" area of the bypass (i.e. bypass connection to Highway 99W south of Dundee), and questioned why efforts aren't being focused on this area. Haugeberg explained that the "fishhook" area has not been forgotten, but that the importance of protecting the right-of-way for the future of Phase II is of more importance at this time as we may not have the opportunity in the future. He acknowledged the importance of the "fish hook" issue and advised that the Parkway Committee and the citizens will not abandon this project, although it can be addressed at a later date. Haugeberg also pointed out that protecting the next phase has an enormous impact on the functionality of the first phase.

C. Svicarovich inquired about what is being done to reach out to our partners beyond Yamhill county and mid-Willamette Valley of Governments, etc., to make sure that we are going to be successful and not incur a repeat of the issues we had with Wilsonville Road. Haugeberg believes that ODOT learned a valuable lesson as a result of the Wilsonville Road project, and he informed the Council of his commitment to the Mayor that he will either personally or through the Parkway Committee be at the table for future conversations. Mayor Russ added that the OTC shares this same concern.

The motion was made and seconded to approve Resolution No. 2016-17, a resolution authorizing and approving amendments to the loan agreement, between the State of Oregon acting by and through its Department of Transportation (“ODOT”) and the City of Dundee, a municipal corporation of the State of Oregon (“Dundee”), dated July 1, 2013 (the “loan agreement”). **The motion** passed unanimously.

Urban Renewal Plan Proposal

C.A. Daykin reviewed the report dated June 28, 2016, regarding the Urban Renewal Plan Agreement. Daykin informed the Council that following the next City Council meeting the first scheduled Urban Renewal Agency meeting will take place. Several actions will need to take place at that meeting including adopting bylaws and adopting the process for the Advisory Committee. The consensus of the Council is to have a variety of Committee members as shown in the draft resolution provided by C.A. Daykin. C.A. Daykin suggested that the Council members consider who they would like nominate to the Urban Renewal Committee, and bring those nominations with them to the next Council meeting. The anticipated number and length of meetings for the Committee were reviewed. C.A. Daykin reviewed the process he has proposed for this Committee to work on a consensus-based approach rather than simple majority. He anticipates the first meeting being focused on goals and objectives, with not only the advisory committee but with the full Urban Renewal Agency as a special meeting. C.A. Daykin indicated he feels it is very important for the Advisory Committee to have a clear understanding of what’s important from the Urban Renewal Agency’s perspective. **The motion** was made and seconded to approve the agreement with the Mid-Willamette Valley Council of Governments for assistance with the development of an urban renewal plan. **The motion** passed unanimously.

Sewer Systems Repair Bids

Michael Humm, Kennedy/Jenks Consultant, reviewed the process for which they sought bids for the sewer system repairs. They did not receive any bids back, and are now making calls to both potential contractors and the contractors they were working with during the advertisement period to try and understand why that is the case. Humm explained the fact that general contractors are very busy right now during the height of construction season, and he also feels that the small size of the job may have affected the lack of bids as well. He indicated there was some interest from the trenchless repair contractors but they didn’t want to be the general contractor, or couldn’t be one, or couldn’t find a general contractor to sub to. Humm indicated they are now trying to pursue both ends of the problem, trying to find a general contractor to do the open cut work and also a trenchless contractor to do the trenchless work. He went on to mention that they have also been working with Frontier to urge them to repair their own work. Humm advised they were able to get the proposal from one of the trenchless contractors who submitted to a general contractor, C-More Pipe (the contractor who did the manhole repair project); the Council was provided with a copy of the proposal. Regarding a general contractor, Humm advised that it’s been difficult to gain interest. He advised that Frontier verbally confirmed that they could hire a general contractor to do two of the more time sensitive repairs. The repairs on Locust Street and the one on First Street are scheduled to be paved this summer, which makes them a priority. Humm indicated that they are working with the contractors to try and negotiate a price for the trenchless work, and still need to find a contractor to do or postpone the other repairs for possibly later in the summer but before the wet season. Humm advised that the cost for the City portion of the project was estimated at approximately \$70,000, plus some contingency. The trenchless components that have been identified for the City portion have been quoted at approximately \$30,000. Humm further explained that there is some exploratory work that needs to be done in order to determine what action will need to be taken. The C-More Pipe proposal includes the Frontier conduit conflicts, but it assumes the conduit would be cut and spliced to allow the trenchless method. However, Frontier does not want their conduits cut so some open cut work required, and he will try to define what the trenchless focus will be and what needs to be open cut. In either case,

Frontier will be responsible for the cost of repairs due to their conduits damaging the sewer mains. City Attorney Rihala advised that this will be an exception to the public procurement process. She explained that the state statute and rules allow that we can basically exempt classes or specific contracts from the rules for public contracting. She indicated that they will prepare findings for Council that lay out the process through unsuccessful results of the competitive process, and then indicate findings that this is an appropriate exclusion and that the City didn't do anything that would have otherwise discouraged competition in this. C.A. Rihala further explained that this will show that we have done our good faith efforts to try to get competition and we were unsuccessful in doing that. She indicated that Council action will be required on those findings to approve it. Humm reviewed the fact that it was publically advertised in the Daily Journal of Commerce, and they directly solicited four other contractors that were in this line of work. Humm indicated that he is proposing to vet the scope and those budget numbers over the next couple of days, and then will have a firm number that we can feel confident about. Humm indicated that the earliest date C-More Pipe is available is July 30th. C.A. Daykin advised that this allows enough time to bring back a total package with the quote that we receive to the next Council meeting.

WWTP MBR Maintenance Quotes

Michael Humm, Kennedy/Jenks Consultant, indicated that the permeability of the membrane bioreactor (MBR) plates in basin 2 has been declining, likely related to running them at high flux rates over extended periods. Humm explained that when they attempted to restore the permeability by doing a clean-in-place, it recovered (although not quite to the preexisting condition) but it declined very quickly afterwards. They have been working with Ovivo, the supplier, to understand what these symptoms may indicate and how it can be corrected. The good news is that based on the testing data that we've given them and the operation and water quality that are being produced, it is recoverable. Ovivo does think that we will get back to where we need to be and have provided a 3-step process. The first step is a drawdown test where the basin is first drained and then a top down inspection is done, including inspecting the diffuser. The diffuser is a critical component and sits underneath the cassettes; it provides the air and scours out the mixed liquid & solids out from in between the plates. There are a series of 400 plates that sit in a cartridge; they are very close together and the air from the diffuser scours it out. Upon inspection of the diffuser, the air bubble pattern coming out of the diffuser was good and it wasn't clogged, so they think that's a positive sign. The second step Ovivo proposes is a clean-in-place using an acid cleaning. This has not yet been completed. The third step indicated if that doesn't prove out would be a manual clean. Humm advised that this chemical clean is planned for mid-July, sometime in the next two weeks, but we're also preparing to have to do the manual cleaning as well. Humm noted that the manual clean basically consists of power washing the cassettes and the plates inside of them. Humm indicated that during the drawdown process what was seen was as it was being sprayed were bricks of sludge popping out from in between the plates. What that indicated was sludge dewatering. So, as opposed to it being very liquid in between the plates, it looked like it was actually dewatering the sludge and was becoming very compacted. Humm noted that while it's important to go through the second step of the process with the acid and to clean-in-place, he wants to be prepared to go ahead and do the manual clean if that doesn't prove out. Manual cleaning entails removing the cassettes from the tanks and taking the cover plate off, and then spraying off the insides of the plates. If the sludge sticks to the plates and we can't spray it off, then the plates would need to be removed. It is during that removal process that if it's really sticky it can be very difficult to remove the plates without causing damage. Humm expressed concern that once we start touching the membranes it could become a much larger operation. Two walkthroughs have been done at the plant with contractors, including one contractor who has installed an Ovivo plant and has performed this cleaning process. The plan would be for the City staff to do the actual cleaning, and then the contractor to come back probably two weeks later to put them back into place in the basins.

Mayor Russ inquired about the reason that we need a contractor for the project. Humm indicated that it is work in a confined basin which is not necessarily difficult work but is awkward. The cassettes are suspended in the air, one at 14 feet and one about six feet in the air. It's tight quarters and there is a crane involved in the operation, so being able to communicate with the crane attendant and the coordination piece for staff that don't have that experience would be an issue. Mayor Russ pointed out that we are a little early from the original projections of when we would have to reach this point of cleaning for the membranes. He questioned whether there was a misunderstanding about what we are dealing with, and expressed concern looking to the future if this would continue to be a short-term issue. Humm responded by explaining that the high flow issue is certainly the cause of running the MBR's at full tilt for longer durations than designed. Humm indicated that while we've been processing peak flows, there hasn't been a cessation of flows long enough to do the clean-in-place's that we should be doing. Humm further explained that when a clean-in-place is done, the basin is taken off-line. Humm pointed out that this is likely how we got to where we are now. Moving forward, Humm explained that we have put things in place now where those peak flows are better managed at the plant. He advised that this should help prevent us from getting back to where we are now, and indicated that he feels this has been a build-up over a long duration. C. Pugsley pointed out that we will need to purchase back-up plates. Humm informed the Council that there is not a lot of allowance in the budget for this. Humm further explained that we've come to understand the complexity of the process and the potential issues that can be costly. C. Pugsley inquired about whether unused plates are returnable and Humm responded that he is unsure but can check into it. One option might be to hold onto any extra plates should we want to move forward with this process on train 1 (we are presently addressing train 2) as the plates do not have a limited shelf life. Humm explained that when the membranes were installed initially it was all under Ovivo and they had brought in Kubota membranes and supplied those. Since that time, the two companies have divided and now both offer membranes. Humm indicated that he has also tried to work with Kubota to see what their replacement costs and recommendations would be. Kubota was notably more optimistic about the clean-in-place, while both companies have volunteered staff to assist on-site. C.A. Daykin informed the Council that Ovivo had suggested a 5% loss in terms of the plates through this process. Kubota's recommendation on this was to simply remove the side panels for cleaning. Humm pointed out that he's not sure how effective Kubota's hosing down approach would be. Ovivo suggested that each individual plate needs pulled out, which is where the potential lies for damaging the plates. Humm advised that in the videos they viewed, large bricks of sludge popped out at the top of the plates being washed. It appeared to be pretty effective with only the water and was not sticky. Whether or not it's as easy of a task for our situation remains to be seen. Mayor Russ inquired about whether there is enough space to allow a visual inspection to see how clean it gets without pulling the individual membranes out. Humm indicated that he is not sure if this would be the case, but suggested the idea of spot checking a few membranes after it appears they are clean. C. Svicarovich inquired about the process of cleaning and how it will be known whether or not we need to proceed with the next step in the cleaning process. Humm pointed out that the window of opportunity we have to perform the manual clean is going to close quickly because we need the membranes back installed before the high flow season. Humm advised that the permeability has been seen to drop off within a couple of weeks, and thus believes we'll have to make a pretty quick decision as to how effective it may have been. Humm pointed out that it is known where the membranes should recover to, and if they don't hit that metric it will be known. C.A. Daykin pointed out that at this time there are no solid cost estimates for pulling the membranes out of the basins, and advised that this information should be available by the next meeting. Humm indicated that they've walked the site twice and that he sent out the request for the quote last week. Humm further indicated that they solicited four contractors and they expect to have quotes back soon. C.A. Daykin noted that when Kubota viewed the video, they did not think the air pattern was as severely restricted as they've seen in much worse situations where they have had good success with the protocols that they're laying

out. C.A. Daykin also added that Kubota offered to deconstruct one of the membrane units, at no charge, if we wanted to analyze it to see if there are some sort of unique factors present.

Public Comment

Richard Ponzi, Dundee Bistro, indicates he has been operating the Bistro for 17 years, and he has tried to generate an interest with the community to come to his restaurant. He also indicated that his business has expanded over the years to the point where he's had to expand the parking area to accommodate customers. The patio area has also been expanded for outdoor seating. He shared with the Council regarding a time when dust and debris from a helicopter landing accumulated on his patio area and affected the diners at his restaurant. He acknowledged that the problem is more than the dust and the debris, but is also the nuisance from the loud noise and the danger of landing in such a congested area. Mr. Ponzi went on to suggest that the problem not only affects the diners and those parking in the area, but also those walking in the area or on the trail behind their property that is used. While he indicates that he is not opposed to the helicopters, he acknowledged how this issue also affects his tenants and the neighbors as well.

Ordinance No. 548-2016, Helicopter Landing Nuisance

Mayor Russ reviewed the proposed ordinance in detail, and indicated that he also shares similar concerns. City Administrator Daykin pointed out that although there is a provision in our zoning code already for airports and heliports to be located in an industrial zone, individual helipads are not addressed. C.A. Daykin advised that while the ordinance could still be adopted, we could also begin a second process of directing the Planning Commission to investigate the possibility of whether or not a helipad is appropriate. C.A. Daykin advised that if turns out that something is adopted that allows for that change in the zoning, then the nuisance can be modified to recognize that type of use. Mayor Russ supported the idea of encouraging the Planning Commission to check into the matter, but for now also supports the implementation of Ordinance 548-2016. C. Nelson inquired about whether there are other cities in which Precision Helicopter is allowed to land. David Rath, Precision Helicopter, responded by informing the Council that Cornelius is the only other city in the region that he is aware of that has a similar ordinance to the proposed. He also explained that this ordinance would affect their ability to participate in an upcoming proposed fundraiser at the Dundee school carnival. Rath proposed an idea similar to that of other cities they sometimes go into whereby they are required to seek fire department approval, including use of a checklist system, and at times fire department presence during the helicopter event. Conversation ensued regarding the details of this idea. Rath also suggested the idea of having special planned events/flights that are scheduled in advance as an option. Mr. Rath also indicated that they have been considering other possible landing site options and will continue to do so. He expressed concerns regarding the passage of this ordinance as written and suggested finding other solutions now instead. Mayor Russ expressed concerns regarding charity events, and supported the Life Flight helicopter presence at the fire station pancake breakfast. C. Svicarovich suggested the possibility of utilizing a permit process for special events. C.A. Daykin advised that an application process in advance of an event could be an option, with City Council approval at their discretion; though this process could not be completed tonight and would need to be addressed at a subsequent meeting. C. Crawford inquired about what steps are involved in becoming a registered heliport. Mr. Rath advised that, although he is not knowledgeable about what all of the steps are, he is aware of the need for approval from the state and federal aviation administration. He advised that he is aware of being able to land at a potential heliport for up to 90 days until the application is reviewed and approved. Conversation further ensued with Mr. Rath and the Council regarding the details of the application process. C.A. Daykin explained that the City doesn't have standards in place for airports and heliports (which typically accommodate multiple helicopters, and is usually a permanent facility) in an industrial zone. C.A. Daykin pointed out that we don't have standards in place for a helipad for an accessory use for another use, such as a hospital, business, etc.; those standards would need to

be established if there is interest. C.A. Daykin explained that if the proposed ordinance is passed, it could be modified by amendment. C.A. Daykin went on to explain that this ordinance is a nuisance regulation, while the other issue is a land use regulation issue which would need to be initiated by motion of Council. City Attorney Rihala indicated she would like additional time to look at the context of the code, etc. further, as opposed to working on the process of adding the language to the nuisance regulation at this time. Discussion ensued with the Council on the ordinance at-hand, as well as how this pertains to heliports and helipads in the City. C. Crawford inquired about clarification of the options if this ordinance passes, which C.A. Daykin addressed. C. Pugsley expressed his present concerns regarding pets and pedestrians in relation to the helicopters landing as they do now. He felt strongly that at this time for reasons of safety that this ordinance should be passed. Mayor Russ further expressed his concerns regarding the safety and serenity of the residents of Dundee now, with having the option of making appropriate amendments/adjustments in the future. C. Adlong pointed out the vision that was adopted states that noise levels and light levels are in harmony with the environment. She informed the Council that she feels the ordinance should be adopted now, and at a later date looking very carefully at a limited number of allowable events in the future. Matt Parker, Precision Helicopter, pointed out the importance of the jobs created by this industry and the amount of tourism dollars spent as a result of clientele brought to the City via helicopter and associated with the industry. Richard Ponzi reiterated the fact that while he is not opposed to the helicopters, his concerns lie in the safety and noise, as well as the nuisance of how it affects the neighborhood. He also acknowledged the importance of helicopters to the wine industry and suggested further regulation to address this issue. C. Crawford further pointed out that the helicopter industry won't be permanently shut down with this ordinance; we will plan to open it up to limited permitting in the future through the proper process. Mayor Russ indicated that staff will be advised to draw up an amendment, which he welcomed input from the helicopter industry on, regarding regulated conditional use. Mr. Parker inquired about the use of small hobby-type quad rotor type planes as well as those used for real estate photography and notes them to be defined as aircraft by the FAA. C. Pugsley responded that they would fall under this ordinance. **The motion** was made and seconded to approve Ordinance No. 548-2016, an ordinance relating to nuisances affecting public health and safety and amending Chapter 8.16 of the Dundee Municipal Code. **The motion** passed unanimously.

Mayor Russ suggested that we should look towards modifying this ordinance in the future, possibly towards a Council approval permitting system of sorts, at the advice of legal counsel. Mayor Russ indicated and Council consensus was that the information is beyond the scope of this meeting at this point for the council to make further decisions regarding this matter. **A motion** was made and seconded to have the Planning Commission look into land use process for helicopter landings in Dundee. **The motion** passed unanimously.

New Business

2017 SCA Grant Program

C.A. Daykin advised the Council that we are not eligible to apply for the 2017 SCA Grant Program unless the pending grant for Dogwood Drive improvements is certified complete by September 1, 2016. It is not known at this time whether or not we will achieve that date. If the date is met, however, staff recommends preparing an application to the 2017 SCA grant program for the construction of a constrained collector, per the Dundee TSP, on Alder Street to match up with the street improvement that will be required for the development of the 3 acre parcel next to Seventh Street. C. Crawford inquired about the proposed work to be done on Alder Street which City Administrator Daykin explained the constrained collector street in detail. C.A. Daykin further indicated that discussions have ensued with potential developers of the 3 acre site further up the hill as well. C. Crawford inquired about the stage of the 3 acre parcel. C.A. Daykin informed that no applications have yet been received, and that there was a pre-application

meeting and some conversation ensued with the City Engineer about the street requirements. A resolution for Council will be brought back to the next meeting:

LOC Legislative Issues Survey

City Administrator Daykin reviewed the Council League of Oregon Cities (LOC) legislative priorities ballot on page 30 of the meeting agenda packet. He indicated that a collective decision would need to be made regarding the top 4 priorities. He advised that a decision could be made tonight or it could be discussed and decided upon at the next meeting. C.A. Daykin informed that the ballot needs to be submitted to the LOC by July 22nd. The consensus of the Council was that more time would be needed to review the information.

Council Concerns and Committee Reports

None.

Mayor's Report

None.

City Administrator's Report

C.A. Daykin informed the Council that the Yamhill County Commissioners will attend a Town Hall meeting at 6:00 P.M. prior to the July 19 city council meeting. He advised that they will join the city council meeting at 7:00 P.M. and have a joint workshop. The Commissioners would like to listen to the City Council in regards to what their concerns & priorities are, and look for opportunities where they can help or collaborate on different issues.

C. Crawford inquired as to when ODOT will be attending another Council meeting. C.A. Daykin advised that Kelly Amador is scheduled to attend the August 2, 2016 meeting. She is slated to bring bids and quotes on components to the bridge aesthetics, and will plan to have Council look at the samples and help guide that decision. C. Crawford indicated that he will not be at that meeting and will contact her directly.

C. Crawford inquired about whether an OLCC permit was obtained by Dog Zin Heat tasting room. C.A. Daykin doesn't recall offhand whether or not this has taken place. Mayor Russ expressed concerns regarding the painting on the side of their building with regard to the City sign ordinance. C.A. Daykin responded that these items will need addressed to make sure they are not in violation.

Public Comment

None.

Executive Session

The City Council entered Executive Session at 8:55 P.M. in accordance with ORS 192.660 (2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. Executive Session ended at 9:14 P.M. and the Council did not reconvene.

David Russ, Mayor

Attest:

Rob Daykin, City Administrator/Recorder

RESOLUTION NO. 2016 - 18

A RESOLUTION APPROVING CONTRACTS WITH C-MORE PIPE SERVICES CO. AND BLACK ROCK UNDERGROUND LLC FOR SEWER REPAIR

WHEREAS, the City of Dundee is in need of a contractor to repair the defective sections of sewer mains via open cut and trenchless methods; and

WHEREAS, pursuant to Dundee Municipal Code 3.12.020.B, the City conducted a formal Qualification-based Request for Proposal for the needed services in June 2016 and directly solicited Landis & Landis Construction, C-More Pipe, Finaliner, Iron Horse, James Fowler, Innovatives SC, Pipeline Inspection, Michels, and James Fowler to do the work; and

WHEREAS, the City received no responsible or viable responses to the formal process; and

WHEREAS, issuing a second formal process and the schedule it entails could have a significantly negative impact on the City's ability to perform the necessary sewer repair work within its weather window and prior to the commencement of a street paving project; and

WHEREAS, the city administrator has determined that an informal selection process will not interfere with competition among prospective contractors, reduce the quality of services, or increase the costs; and

WHEREAS, the City and C-More Pipe Services Co. have reached a proposed scope of work and estimated dollar amount for a proposed contract for the trenchless repair work; and

WHEREAS, the City and Black Rock Underground LLC have reached a proposed scope of work and estimated dollar amount for a proposed contract for the open cut repair work.

NOW, THEREFORE, THE CITY OF DUNDEE RESOLVES AS FOLLOWS:

SECTION 1. The Dundee City Council awards a contract to C-More Pipe Services in an amount not to exceed \$18,085 for trenchless sewer repair work.

SECTION 2. The Dundee City Council awards a contract to Black Rock Underground LLC in an amount not to exceed \$13,020 for open cut sewer repair work.

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This resolution was PASSED and ADOPTED this ____ day of _____, 2016, and takes effect upon passage.

DAVID RUSS, MAYOR

ATTEST:

ROB DAYKIN, CITY ADMINISTRATOR/RECORDER

Kennedy/Jenks Consultants

Engineers & Scientists

421 SW Sixth Ave., Suite 1000
Portland, Oregon 97204
Phone: 503-423-4000
Fax: 503-295-4901

14 July 2016

Mr. Rob Daykin
City Administrator
City of Dundee
620 SW 5th Street
P.O. Box 220
Dundee, OR 97115

Subject: Engineer's Recommendation of Award
Sewer Repair Project
K/J 1291017*15

Dear Mr. Daykin:

The City of Dundee (City) advertised the Dundee Sewer Repair Project in the Daily Journal of Commerce (DJC) on 17 June 2016 and anticipated opening bids at 2:00 PM on 28 June 2016. The Project included repairs of sanitary sewer pipe defects identified through the closed circuit television (CCTV) work completed earlier this year. The repairs included fourteen mainline defects and five defects where a franchise utility bored through the City's sewer lines.

Three contractors were on the plan holder's list and Kennedy/Jenks Consultants (Kennedy/Jenks) solicited six additional contractors; however, no bids were received at the bid opening. Kennedy/Jenks followed up with the contractors on why they did not submit bids. The main reason appears to be that they were busy with other projects and could not meet the schedule that was specified in the contract documents.

Since the bid opening, Kennedy/Jenks has divided the work into trenchless and open cut construction in order to better identify contractors that are suitable for the scope and are capable of meeting the schedule. The trenchless scope of work includes nine sewer line defects and three bid alternate sewer line defects. The bid alternates were identified as private sewer laterals with defects at the City sewer main. The open cut scope of work includes two sewer line defects and five sewer line defects associated with damage due to franchise utility bores. The trenchless scope of work was provided to C-More Pipe Co. and the open cut scope of work was provided to Black Rock Underground LLC. Quotes were requested from both contractors for their respective scope of work and schedule requirements were also addressed. The trenchless work must be complete before the rainy season starts and two of the open cut repairs must be made by 2 August 2016 in order to be completed prior to a scheduled street paving project.

Summaries of both quotes are shown below.

Mr. Rob Daykin
 City of Dundee
 14 July 2016
 Page 2

TRENCHLESS SCOPE OF WORK: C-MORE PIPE (Base Bid)

ITEM #	DEFECT	LOCATION	QUANTITY	UNIT	REPAIR METHOD	AMOUNT
1	Defect A-1b	7th	1	LS	8"x24" CIPP Patch	\$1,625.00
2	Defect A-2a	Linden	1	LS	8"x24" CIPP Patch	\$1,625.00
3	Defect A-2b	Linden	1	LS	8"x24" CIPP Patch	\$1,625.00
4	Defect A-2c	Linden	1	LS	Cut Roots & Clean	\$625.00
5	Defect A-2d	Linden	1	LS	8"x24" CIPP Patch	\$1,625.00
6	Defect A-2e/f	Linden	1	LS	8"x24" CIPP Patch/Cut Roots & Clean	\$1,875.00
7	Defect A-3a	Maple	1	LS	8"x24" CIPP Patch	\$1,625.00
8	Defect A-5a	Cedar	1	LS	8"x72" CIPP Patch	\$2,625.00
9	Defect A-7a	Elm	1	LS	8"x72" CIPP Patch/Cut Roots & Clean	\$2,875.00
TOTAL						\$16,125.00

TRENCHLESS SCOPE OF WORK: C-MORE PIPE (Bid Alternates)

ITEM #	DEFECT	LOCATION	QUANTITY	UNIT	REPAIR METHOD	AMOUNT
1	Defect A1-c	7th	1	LS	Cut Tap & Lateral Grout	\$720.00
2	Defect A1-d	7th	1	LS	Cut Tap & Lateral Grout	\$720.00
3	Defect A-6a	Charles	1	LS	Lateral Grout	\$520.00
TOTAL						\$1,960.00

OPEN CUT SCOPE OF WORK: BLACK ROCK CONSTRUCTION

ITEM #	DEFECT	LOCATION	QUANTITY	UNIT	REPAIR METHOD	AMOUNT
1	Defect A-1a	7th	1	LS	Remove & Replace	\$6,488.00
2	Defect A-4a	Cedar	1	LS	Remove & Replace	\$6,532.00
TOTAL						\$13,020.00

Note:

Black Rock Construction will contract directly with the franchise utility and/or their third party for the five repairs associated with the franchise utility bores. The locations are: 1st, Charles, Locust and Elm. The repairs at 1st and Locust must be complete by 2 August 2016.

Mr. Rob Daykin
City of Dundee
14 July 2016
Page 3

Recommendation:

After reviewing both proposals, Kennedy/Jenks recommends the City proceed with the following contracts:

- Trenchless repairs to nine defects with C-More Pipe Co. for \$16,125.00. Work is currently scheduled to start in early October 2016 and is expected to take approximately two weeks to complete.
- Open cut repairs at two locations with Black Rock Underground LLC for \$13,020.00. Work is scheduled to begin 25 July 2015 and be complete by 29 July 2016.

In addition to these two contracts, we'd like City Council to provide direction on the three trenchless bid alternates and whether to include these in the C-More Pipe contract for an additional \$1,960.

If you'd like any additional information or have questions, please contact me at your convenience if you would like to discuss further.

Very Truly Yours,
KENNEDY/JENKS CONSULTANTS


Michael Humm, P.E.

Enclosures

cc: Alan Mustin, City of Dundee
Preston Van Meter, Kennedy/Jenks

DOCUMENT NUMBER 00300

BID FORM
(To be submitted with Bid)

The Owner is: City of Dundee, Oregon

Project Identification: City of Dundee Sewer Repair Project

This Bid is submitted to: City of Dundee
620 SW 5th
Dundee, Oregon 97115

The Owner's Representative is: Rob Daykin
620 SW 5th
Dundee, Oregon 97115
(503) 538-3922

The Owner's Construction Manager is: Chuck Simpson
620 SW 5th
Dundee, Oregon 97115
(503) 538-6700 x 3

The Engineer is: Kennedy/Jenks Consultants
421 S.W. 6th Avenue, Suite 1000
Portland, Oregon 97204
Phone: (503) 423-4000
Fax: (503) 295-4901

ARTICLE 1

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the Owner in the form included in the Contract Documents to perform and furnish all work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid, and in accordance with the other terms and conditions of the Contract Documents.

ARTICLE 2

Bidder accepts all of the terms and conditions of the INVITATION TO BID and INSTRUCTIONS TO BIDDERS, including without limitation those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for the time period stated in the INVITATION TO BID. Bidder will sign and submit the AGREEMENT with the Bonds and other documents required by the Bidding Requirements within the time period stated in the INVITATION TO BID.

ARTICLE 3

In submitting this Bid, Bidder represents, as more fully set forth in the AGREEMENT, that:

- 3.1 Bidder has examined copies of all the Bidding Documents.
- 3.2 Bidder has examined copies of the following Addenda (receipt of which is hereby acknowledged):

<u>Date</u>	<u>Number</u>
_____	_____
_____	_____
_____	_____
_____	_____

- 3.3 Bidder has familiarized itself with the nature and extent of the Contract Documents, work, site locality, and all local conditions, laws, and regulations that in any manner may affect cost, progress, performance, or furnishing of the work.
- 3.4 Bidder has studied carefully all reports and drawings of subsurface conditions and drawings of physical conditions, which are identified in INFORMATION AVAILABLE TO BIDDERS, Document Number 00200.

Bidder has read and accepts the provisions in GENERAL CONDITIONS, paragraphs 3.3 through 3.5, which limit the extent to which the Contractor may rely on information provided by the Owner or the Engineer with regard to: a) subsurface soil conditions; b) existing concealed or underground utilities and underground facilities; and c) existing structures and facilities.

- 3.5 Bidder has read and accepts the provisions in GENERAL CONDITIONS, paragraphs 3.6 and 3.8, identifying the Contractor's responsibility for: a) using care in making excavations and in doing demolition; b) damage to existing utilities and underground facilities and for loss of use thereof; and c) the protection of workers and others from known and unknown or concealed hazards.
- 3.6 Bidder has read and accepts the provisions in GENERAL CONDITIONS, paragraph 3.7 which identifies the limited conditions under which the Contractor may be entitled to a change in Contract Time or Price due to differing or unknown conditions.
- 3.7 Bidder has visited the site and has reviewed the Bidding Documents and the INFORMATION AVAILABLE TO BIDDERS, and it has made any other investigations, explorations, or tests and has obtained any other data it considers necessary for preparation of its Bid.

Bidder has correlated the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the Contract Documents and Bidder has read and understands provisions in the GENERAL CONDITIONS relevant to differing and unknown conditions.

- 3.8 Bidder has given Engineer written notice of all conflicts, errors, or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Bidder.

- 3.9 Bidder has read, studied, and understands the entire set of Bidding Documents, including the Construction Drawings, Specifications, and GENERAL CONDITIONS and finds them fit and sufficient for the purpose of preparing its Bid and constructing the work required.
- 3.10 Bidder represents that its Bid is based on providing all of the material, labor, equipment, and services necessary to complete the work in full compliance with the Contract Documents without exception.
- 3.11 Bidder's quoted changes in price for Alternates shall remain in effect for 60 days after executing the Agreement and may be accepted by the Owner at the Owner's sole option.

ARTICLE 4

- (a) **DECLARATION OF LICENSE STATUS.** In accordance with Oregon State Law, the Bidder declares that it possesses a valid State of Oregon Construction Contractors Board License at the time of submitting this Bid. Bidder shall state its license numbers and expiration dates on its Bid Form.
- (b) **EXCAVATION, TRENCHING, AND SHORING.** The Bidder's attention is directed to Oregon Administrative Rules, Chapter 437, Subdivision P. These regulations relate to all excavation work and contain specific requirements to provide for the protection of all employees during all excavation work in connection with all construction work relating thereto, such as trenches, underpinning, shoring and bracing, and in connection with the construction of footings, foundations, retaining walls, and other construction work below ground level.
- (c) **PREVAILING WAGE RATES.** The undersigned agrees that, if awarded the Contract, the undersigned and all of its subcontractors shall adhere to all provisions of the following:
 - a. Prevailing Wage Rates for Public Contracts in Oregon, in accordance with ORS 279. The current version of Oregon Bureau of Labor and Industries (BOLI) Prevailing Wage Rates are available on the Oregon Bureau of Labor and Industries website at: www.oregon.gov/BOLI/WHD/PWR/index.shtml. A hard copy of the prevailing wage rate determination may be obtained by calling BOLI at: 971-673-0761.

ARTICLE 5

The work is presented in the following Bid Schedule. Owner shall award to the lowest responsive bidder based upon the total base bid amount. The Owner reserves the right to reduce the bid quantities.

If awarded the Contract, the Bidder shall complete the work for the Bid prices presented:

SCHEDULE A - BID SCHEDULE

ITEM #	DESCRIPTION	QUANTITY	UNIT	REPAIR METHOD	AMOUNT
1	Defect A-1b	1	LS	8" x 24" CIPP Patch	1625.00
2	Defect A-2a	1	LS	8" x 24" CIPP Patch	1625.00
3	Defect A-2b	1	LS	8" x 24" CIPP Patch	1625.00
4	Defect A-2c	1	LS	Cut Roots & Clean	625.00
5	Defect A-2d	1	LS	8" x 24" CIPP Patch	1625.00
6	Defect A-2e/f	1	LS	8" x 24" CIPP Patch / cut roots	1875.00
7	Defect A-3a	1	LS	8" x 24" CIPP Patch	1625.00
8	Defect A-5a	1	LS	8" x 72" CIPP Patch	2625.00
9	Defect A-7a	1	LS	8" x 72" CIPP Patch / cut ROOTS	2875.00

Total Base Bid:

sixteenthousand one hundred twentyfive dollars (words)

\$ 16,125.00 (figures)

Note: The Bids will be evaluated and the Project will be awarded to the lowest responsive bidder based on the Total Base Bid.

SCHEDULE A BID ALTERNATES

Schedule A Bidders shall provide pricing for the following Bid Alternate for Owner's consideration. Pricing for the Bid Alternate shall not be included in the Bidder's Base Bid Price. Selection of the Bid Alternate will be made by Owner after contract award as best serves the interest of Owner.

SCHEDULE A - BID ALTERNATES

ITEM #	DESCRIPTION	QUANTITY	UNIT	REPAIR METHOD	AMOUNT
1	Defect A1-c	1	LS	cut tap & lateral Grout	720.00
2	Defect A1-d	1	LS	cut tap & lateral Grout	720.00
3	Defect A-6a	1	LS	lateral Grout	520.00

SCHEDULE B - BID SCHEDULE

ITEM #	DESCRIPTION	QUANTITY	UNIT	AMOUNT
1	Defect B-1a	1	LS	
2	Defect B-2a	1	LS	
3	Defect B-3a	1	LS	
4	Defect B-4a	1	LS	
5	Defect B-4b	1	LS	
6	Defect A-1av	1	LS	
7	Defect A-4a	1	LS	

Total Base Bid:

Nineteen hundred sixty dollars (words)

\$ 1,960.00 (figures)

Note: The Bids will be evaluated and the Project will be awarded to the lowest responsive bidder based on the Total Base Bid.

If the Bidder submits proposals for furnishing substitute or Proposed Equivalent ("or equal") equipment or systems, the substitute proposed shall be equal in quality, construction, function, performance, and efficiency to the first item specified. Alternatives to the Bid items shall include the cost of all necessary modifications to foundations, structures, piping, and electrical service and controls to provide a complete, installed functioning unit equal to the first specified item in accordance with the General Conditions.

Selection of proposed "or equal" equipment or material will be at the sole option of the Owner, and will be made after award and execution of the contract and upon the basis of a written Change Order. In the event that "or equal" equipment is accepted by the Engineer and Owner, the Contract Price shall be increased or decreased by Change Order. Any schedule delays caused by selection of an "or equal" or substitute other than the Owner-selected item(s) in the Major Equipment Schedule will not constitute grounds for a contract adjustment.

ARTICLE 6

- 6.1 Bidder agrees that the work will be finally complete and ready for acceptance and final payment in accordance with Article 13 of the GENERAL CONDITIONS on or before the dates or within the number of calendar days indicated in the AGREEMENT.
- 6.2 Bidder accepts the provisions of the AGREEMENT as to liquidated damages in the event of failure to complete the work on time.
- 6.3 Bidder accepts the Indemnity Clause contained in the AGREEMENT.

ARTICLE 7

The following signed documents are attached to and made a condition of this BID FORM:

- (a) Required Bid Security in the form of _____ (Document Number 00410)
- (b) First-Tier Subcontractor List (Document Number 00440)
- (c) Noncollusion Affidavit (Document Number 00480)

ARTICLE 8

Written communications concerning this Bid shall be addressed to:

Mr. Rob Daykin
City Administrator and Owner's Representative
620 SW 5th
Dundee, Oregon 97115
(503) 538-3922

ARTICLE 9

The terms used in this Bid, which are defined in the GENERAL CONDITIONS of the Construction Contract included as part of the Contract Documents, have the meanings assigned to them in the GENERAL CONDITIONS.

Bidder declares that it does possess a contractor's license of the required classification, valid in the appropriate jurisdiction at the time of submitting this Bid.

Construction Contractors Board License Number: 127090

License Classification: Construction Specialty Contractor Level 2

License Expiration Date: Jan. 21, 2018

SUBMITTED on July, 2016.

If Bidder is:

An Individual

By: _____
(Individual's Name)

(Signature)

Doing business as: _____

Business Address: _____

Telephone No.: _____

Fax No: _____

(SEAL)

A Partnership

By: _____
(Firm Name)

(General Partner Name)

(Signature)

(Title)

Business Address: _____

Telephone No.: _____

Fax No: _____

A Corporation

By: C-More Pipe Services Co.
(Corporation's Name)

Oregon
(State of Incorporation)

By: Brenda McCoy-Manfredo
(Name of Person Authorized to Sign)

Brenda McCoy-Manfredo
(Signature)

VP Operations
(Title)

Attest Siola M. McCoy
(Secretary)

Business Address: PO Box 109

Redwood, OR 97371

Telephone No.: 503-623-1319

Fax No: same

Home Office Address (if different from above):

(SEAL)



(Corporate Seal)

A Joint Venture

By: _____
(Name)

(Signature)

Address: _____

Telephone No.: _____

By: _____
(Name)

(Signature)

Address: _____

Telephone No.: _____

Fax No: _____

Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture shall be in the manner indicated above.

END OF BID FORM

SCHEDULE A - BID SCHEDULE

ITEM #	DESCRIPTION	QUANTITY	UNIT	AMOUNT
1	Defect A-1b	1	LS	
2	Defect A-2a	1	LS	
3	Defect A-2b	1	LS	
4	Defect A-2c	1	LS	
5	Defect A-2d	1	LS	
6	Defect A-2e/f	1	LS	
7	Defect A-3a	1	LS	
8	Defect A-5a	1	LS	
9	Defect A-7a	1	LS	

Total Base Bid:

_____ (words)

€ _____ (figures)

Note: The Bids will be evaluated and the Project will be awarded to the lowest responsive bidder based on the Total Base Bid.

SCHEDULE A BID ALTERNATES

Schedule A Bidders shall provide pricing for the following Bid Alternate for Owner's consideration. Pricing for the Bid Alternate shall not be included in the Bidder's Base Bid Price. Selection of the Bid Alternate will be made by Owner after contract award as best serves the interest of Owner.

SCHEDULE A - BID ALTERNATES

ITEM #	DESCRIPTION	QUANTITY	UNIT	AMOUNT
1	Defect A1-c	1	LS	
2	Defect A1-d	1	LS	
3	Defect A-6a	1	LS	

SCHEDULE B - BID SCHEDULE

ITEM #	DESCRIPTION	QUANTITY	UNIT	AMOUNT
1	Defect B-1a	1	LS	
2	Defect B-2a	1	LS	
3	Defect B-3a	1	LS	
4	Defect B-4a	1	LS	
5	Defect B-4b	1	LS	
6	Defect A-1a	1	LS	6488.00
7	Defect A-4a	1	LS	6532.00

Total Base Bid:

Thirteen Thousand Twenty and no/100 (words)

\$ 13,020.00 (figures)

Price does not include Testing CM

Note: The Bids will be evaluated and the Project will be awarded to the lowest responsive bidder based on the Total Base Bid.

If the Bidder submits proposals for furnishing substitute or Proposed Equivalent ("or equal") equipment or systems, the substitute proposed shall be equal in quality, construction, function, performance, and efficiency to the first item specified. Alternatives to the Bid items shall include the cost of all necessary modifications to foundations, structures, piping, and electrical service and controls to provide a complete, installed functioning unit equal to the first specified item in accordance with the General Conditions.

Selection of proposed "or equal" equipment or material will be at the sole option of the Owner, and will be made after award and execution of the contract and upon the basis of a written Change Order. In the event that "or equal" equipment is accepted by the Engineer and Owner, the Contract Price shall be increased or decreased by Change Order. Any schedule delays caused by selection of an "or equal" or substitute other than the Owner-selected item(s) in the Major Equipment Schedule will not constitute grounds for a contract adjustment.

ARTICLE 6

- 6.1 Bidder agrees that the work will be finally complete and ready for acceptance and final payment in accordance with Article 13 of the GENERAL CONDITIONS on or before the dates or within the number of calendar days indicated in the AGREEMENT.
- 6.2 Bidder accepts the provisions of the AGREEMENT as to liquidated damages in the event of failure to complete the work on time.
- 6.3 Bidder accepts the Indemnity Clause contained in the AGREEMENT.

ARTICLE 7

The following signed documents are attached to and made a condition of this BID FORM:

- (a) Required Bid Security in the form of _____ (Document Number 00410)
- (b) First-Tier Subcontractor List (Document Number 00440)
- (c) Noncollusion Affidavit (Document Number 00480)

Kennedy/Jenks Consultants

Engineers & Scientists

421 SW Sixth Ave., Suite 1000
Portland, Oregon 97204
503-295-4911
FAX: 503-295-4901

14 July 2016

Mr. Rob Daykin
City Administrator
City of Dundee
PO Box 220
620 SW 5th Street
Dundee, OR 97115

Subject: Engineers Recommendation of Award
WWTP Membrane Cleaning Support Services
City of Dundee, Oregon
K/J: 1291017*00/05/04

Dear Mr. Daykin:

The City of Dundee's (City) wastewater treatment plant membranes have been having issues with low permeability, reducing the capacity of the membrane bioreactor (MBR). Previously, the City has completed a chemical clean-in-place using Sodium Hypochlorite (bleach), but the results have not increased permeability and capacity as much as was hoped. As a result, the City is planning to remove membranes from one of the two membrane basins and manually clean each of the membrane plates individually.

This invasive process will be completed with support from a General Contractor to remove the submerged membrane units (SMUs) from the membrane basin so City staff can then complete the manual cleaning of each of the individual membrane plates.

Kennedy/Jenks has contacted four local General Contractors to provide bids for this assistance and has received quotes from two of the four Contractors as summarized in Table 1 below. Contractor bids are included in Attachment A.

Table 1: Summary of Membrane Cleaning Contractor Bids

Contractor	Date of Site Visit/Discussion	Quote Requested Date	Quote Received Date	Bid Amount
JR Merit	6/29/2016	6/29/2016	7/6/2016	\$17,830.00
McClure and Sons	6/28/2016	6/28/2016	7/7/2016	\$36,275.00
K&E Excavating	6/30/2016	6/30/2016	Did not quote	Did not quote
Northstar General Contractors	6/29/2016	6/29/2016	Did not quote	Did not quote

Mr. Rob Daykin
City of Dundee
Chemical and Manual Cleaning of MBR
14 July 2016
Page 2

The scope of the project for each of the quotes received is the removal and reinstallation of 10 SMUs, which represents one of the membrane basins at the City's Wastewater Treatment Plant (WWTP). The services requested included labor within the membrane basin to disconnect the cassettes, providing a 50-ton crane operation and reinstallation. Bids also include mobilization, safety equipment, initial guidance on the membrane plate extraction technique and coordination with City staff.

Based on the bids received, Kennedy/Jenks recommends the contract for Membrane Cleaning Support Services at the City's WWTP be awarded to JR Merit for a cost lump sum, not-to-exceed cost of \$17,830.

Prior to the manual membrane cleaning, Kennedy/Jenks also recommends the City complete another chemical cleaning with sodium hypochlorite in an effort to loosen solids attached to the membranes and the need for rigorous mechanical cleaning when the membranes are removed from the basins. This process will hopefully help reduce the number of membrane plates that need to be replaced during the manual cleaning process, thereby reducing the City's overall costs for the project.

Please contact me at your convenience if you would like to discuss the bids or the cleaning process further.

Very Truly Yours,
KENNEDY/JENKS CONSULTANTS



Michael Humm, P.E.

Enclosure: Attachment A – Contractor Membrane Cleaning Bids

Attachment A

Contractor Membrane Cleaning Bids

July 6, 2016

Kennedy/Jenks Consultants
421 SW 6TH Ave, suite 1000
Portland Or 97204

Reference: Dundee MBR cleaning

Attention: Nick Pisciotto,

JR Merit is pleased to provide our proposal, which includes all labor, materials and equipment needed to complete the above referenced project. This proposal is based on the information provided by Nick Pisciotto

	Description	Total
1	Dundee MBR cleaning.	\$ 17,830.00

CLARIFICATIONS:

- Confined Space equipment and Entry included.
- Removal of stabilizer pipes.
- Remove or cut PVC vent pipes and repair for reinstalling.
- Disconnect permeate SMU flanges (1 for each Cassette).
- Remove cassettes and stage in area per lay out drawing.
- Clean up our work area and Demob.
- Mob to install cleaned cassettes with same process.
- Includes equipment needed for removal and installation.

EXCLUSIONS:

- ✓ Special Inspections, Permits.
- ✓ Hazardous material removal.
- ✓ Cleaning of Basin and cassettes.
- ✓ Hardware.
- ✓ Replacement parts and or Equipment other than what is listed above.

We appreciate the opportunity to work with you on this proposal. If you have any questions, comments or need additional information, please don't hesitate to contact me at (360) 693-7474, (360) 772-5928 or email at herb.kruse@jrmerit.com

Sincerely,

Herb Kruse

Herb Kruse

From: [Rob Bechtloff](#)
To: [Nick Pisciotto](#)
Cc: [Jon Varriano](#)
Subject: Dundee MBR cleaning scope
Date: Thursday, July 07, 2016 10:53:51 AM
Attachments: [MBR Cleaning Scope.pdf](#)

Nick,

Our price to do the work is as follows: \$36,275.00

Clarifications:

1. Need a mutually agreeable contract
2. Builders risk insurance is not included – standard insurance is. If you want an adder for builders risk let me know.
3. Need to work out schedule at least 2 weeks in advance to schedule crane work.
4. It is assumed that the City will – do initial hose down/clean of membrane (we have some cleaning included). Any “bath tub” that is desired for cleaning is by the City. MSI has no money included for actual cleaning of the membranes or applying the “solution”.
5. MSI will provide parts/pieces necessary to reconnect the membranes once work is complete.

Let me know if you have questions.

Rob Bechtloff
McClure and Sons
425-316-6999 office
425-225-2039 office direct
206-963-2375 cell
www.mcclureandsons.com

Total Base Bid:

Thirteen Thousand Twenty and no/100 (words)

\$ 13,020.00 (figures)

Price does not include Testing CM

Note: The Bids will be evaluated and the Project will be awarded to the lowest responsive bidder based on the Total Base Bid.

If the Bidder submits proposals for furnishing substitute or Proposed Equivalent ("or equal") equipment or systems, the substitute proposed shall be equal in quality, construction, function, performance, and efficiency to the first item specified. Alternatives to the Bid items shall include the cost of all necessary modifications to foundations, structures, piping, and electrical service and controls to provide a complete, installed functioning unit equal to the first specified item in accordance with the General Conditions.

Selection of proposed "or equal" equipment or material will be at the sole option of the Owner, and will be made after award and execution of the contract and upon the basis of a written Change Order. In the event that "or equal" equipment is accepted by the Engineer and Owner, the Contract Price shall be increased or decreased by Change Order. Any schedule delays caused by selection of an "or equal" or substitute other than the Owner-selected item(s) in the Major Equipment Schedule will not constitute grounds for a contract adjustment.

ARTICLE 6

- 6.1 Bidder agrees that the work will be finally complete and ready for acceptance and final payment in accordance with Article 13 of the GENERAL CONDITIONS on or before the dates or within the number of calendar days indicated in the AGREEMENT.
- 6.2 Bidder accepts the provisions of the AGREEMENT as to liquidated damages in the event of failure to complete the work on time.
- 6.3 Bidder accepts the Indemnity Clause contained in the AGREEMENT.

ARTICLE 7

The following signed documents are attached to and made a condition of this BID FORM:

- (a) Required Bid Security in the form of _____ (Document Number 00410)
- (b) First-Tier Subcontractor List (Document Number 00440)
- (c) Noncollusion Affidavit (Document Number 00480)

REPORT

To: Mayor Russ and City Council
From: Rob Daykin, City Administrator
Date: July 14, 2016
Re: Keeping of Poultry/Turkeys in Dundee

Pursuant to DMC 8.16.020, the keeping of poultry and rabbits, except the keeping of six or fewer chicken hens and the keeping of six or fewer rabbits, and the offspring under the age of four months thereof, is deemed a nuisance affecting public health and safety. Chapter 6.08 of the Dundee Municipal Code (attached) regulates the keeping of chickens. At the June 21 council meeting, Council was informed that Nathan Bean was keeping turkeys at his residence located at 660 SE Locust Street, which is in violation of DMC 8.16.020. Mr. Bean stated he misinterpreted the nuisance provision and requested the Council consider the same approach as Newberg, i.e. a no fee permit process for allowing the turkeys. Council agreed to suspend enforcement of the nuisance violation to consider possible changes to Dundee's regulations on the keeping of turkeys.

In the case of Newberg, the keeping of all types of domestic and wild fowl may be allowed through a no-fee permit issued by the police department. (Note: this permit also covers honeybees, wild animals, and domestic animals – cats and dogs excepted) A permit issued may be revoked at any time either by the city council or the police department whenever the maintenance of the permitted fowl, animal or bees *interferes with the rights of others in the enjoyment of their property, peace, health and safety.* (Note: Permits are only valid in residential zones)

Since the City of Dundee first started allowing the keeping of chickens in 2010, there have been few complaints from neighbors. On those occasions, a letter is sent notifying the keeper on the complaint received and reminding the keeper of the Code requirements. If a complaint is unresolved, then a citation may be issued to appear before the Municipal Court Judge. Prior to issuing a citation I would first suggest mediation via Your Community Mediators of Yamhill County to the neighbors to resolve the dispute. If mediation is rejected or fails to resolve the complaint, I would then request the police to conduct an investigation to determine if there are sufficient grounds to issue a citation. The maximum penalty for violation of Chapter 6.08 is \$250, with each day the violation continues constituting a separate violation.

Since the Council is considering allowing turkeys, it should be noted that some cities also allow other types of domestic fowl. These include ducks, geese, quail, pheasants, and guinea hens.

If following discussion of these issues the Council desires to amend provisions of the Dundee Municipal Code regarding the keeping of fowl, staff will prepare the appropriate ordinances for consideration at the August 2 meeting.

Chapter 6.08

KEEPING OF CHICKENS

Sections:

- 6.08.010 Definitions.
- 6.08.020 Keeping of chickens.
- 6.08.030 Enclosures.
- 6.08.040 Violation.

6.08.010 Definitions.

For purposes of this chapter, the following definitions apply:

"Chicken" means the common domestic fowl Gallus gallus.

"Coop" means a small enclosure for housing chickens that is properly ventilated, designed to be easily accessed, cleaned and maintained, and at least two square feet per chicken in size.

"Rooster" means a chicken of the male gender greater than four months old.

"Run" means an outdoor enclosed or fenced area where chickens may feed or exercise.

6.08.020 Keeping of chickens.

No person shall keep chickens within the city except as provided in this chapter. A resident of a single-family dwelling or owner of a parcel having a garden with an area greater than 5,000 square feet may keep six or fewer chickens, and the offspring under the age of four months thereof, on the lot or parcel on which the resident resides or garden is located. No person may keep roosters. Chickens may not be slaughtered or killed in the city except pursuant to the lawful order of state or county health officials, or for the purpose of euthanasia when surrendered to a licensed veterinarian for such purpose, or as otherwise expressly permitted by law.

6.08.030 Enclosures.

- A. Chickens must be kept in an enclosed coop or run at all times. The coop and run shall be located in the rear yard or side yard of the lot or parcel.
- B. The coop and run must be kept in good repair, capable of being maintained in a clean and sanitary condition, and free of vermin and obnoxious smells.
- C. During daylight hours, the chickens must have access to the coop and also have access to a run that is adequately designed and constructed to confine chickens to the coop or run.
- D. Chickens must be kept in a covered, enclosed coop from dusk to dawn.
- E. Neither the coop nor the run may be located less than 10 feet from any abutting property line unless the keeper of the chickens obtains the written consent of the owner(s) of all abutting properties to be more closely located, in which event the agreed-upon location shall then be deemed acceptable until said consent is withdrawn in writing by the owner(s) of the abutting properties.

6.08.040 Violation.

Violation of any section of this chapter is punishable, upon conviction, by a fine in the maximum amount of \$250.00. Each day a violation continues to exist shall constitute a separate violation for which a separate fine or penalty may be assessed.

REPORT

To: Mayor Russ and City Council
From: Rob Daykin, City Administrator
Date: July 13, 2016
Re: Ordinance No. 549-2016

At the July 5 meeting the Council adopted Ordinance No. 548-2016 that adds a new section to Chapter 8.16 Nuisances of the Dundee Municipal Code. This new section prohibited the landing and taking off of helicopters and aircraft in Dundee, except at facilities registered with the State of Oregon Department of Aviation, or in an emergency. This ordinance went into effect immediately out of concern with preserving the health, safety and welfare of the community. However, Council requested an amendment be brought back to provide a process for granting exceptions to this prohibition on a case by case basis. The City Attorney prepared Ordinance No. 549-2016 to provide a variance process that is currently used in Chapter 8.28 on Noise. Under this process a written request for a variance is reviewed by the City Council, and the Council may grant the variance if the Council determines that not granting the variance results in a hardship without equal or greater benefit to the public. Per the suggestion of Mayor Russ, the amendment also clarified that manned aircraft are subject to the nuisance provision. This will exclude drones, which are otherwise regulated by the FAA.

I informed the City Planner that City Council directed the Planning Commission to review and make recommendations on amendments to the Dundee Development Code regarding these related issues. In addition to updating definitions and possible amendments to the table of uses by zoning district, the Planning Commission will consider standards for these related uses. We will invite industry representatives to a future workshop with the Planning Commission.

I discussed the proposed Ordinance No. 549-2016 and future planning actions with David Rath, Managing Director of Precision. Mr. Rath expressed concerns with the proposed variance review process since the Council only meets twice a month and he suggested an administrative process that would involve written pre-approval of the neighbors adjacent to landing site. Also, part of the incompatibility between the two approaches is the variance process requires a finding that there is essentially a benefit to the public to granting the variance whereas the administrative process envisioned by Mr. Rath is primarily looking at safety review and acceptance by the immediate neighborhood.

Recommendation: Motion to adopt Ordinance No. 549-2016, an ordinance relating to amending Dundee Municipal Code 8.16.115 to allow for council approved variance.

ORDINANCE NO. 549-2016

AN ORDINANCE RELATING TO AMENDING DUNDEE MUNICIPAL
CODE 8.16.115 TO ALLOW FOR COUNCIL APPROVED VARIANCE

WHEREAS, the Dundee City Council approved Ordinance No. 548-2016 on July 5, 2016, making the landing of any helicopter or aircraft within the City limits, with the exception of registered heliports or airports or in an emergency, a public nuisance; and

WHEREAS, Council received testimony at the July 5, 2016 Council meeting relating to the need to allow certain exceptions to the nuisance provision upon approval of Council and now wishes to amend the City's Code to allow for such approval.

THE CITY OF DUNDEE DOES ORDAIN AS FOLLOWS:

Section 1. Section 8.16.115 of the Dundee Municipal Code is hereby amended to read as follows (deleted language in ~~strikethrough~~, additional language is underlined):

- A. No person shall cause or permit the landing or takeoff of any helicopter or manned aircraft on property within the city, except at an airport or heliport registered with the State of Oregon Department of Aviation, or in an emergency, or as allowed with a variance granted pursuant to this section.
- B. The city council may grant a variance of limited duration from the particular requirements of this Section 8.16.115 for a specific event or activity if the city council determines that not granting the variance would produce hardship without equal or greater benefit to the public.
- C. Any person requesting a variance shall make the request in writing to the city administrator and state in a concise manner the facts to show why such variance should be granted. The city administrator will place the application on the city council's agenda for the next regular meeting after the date the city administrator receives the application.
- D. A variance granted may be revoked by the city administrator in the case of an emergency or safety hazard, or if the conditions of the variance granted are violated. The person whose variance is revoked may appeal the revocation to the city council.

Section 2. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

ADOPTED by the Council this _____ day of _____, 2016.

Approved:

David Russ
Mayor

Attest:

Rob Daykin
City Administrator/Recorder

RESOLUTION NO. 2016-19

A RESOLUTION RELATING TO THE 2017 SPECIAL CITY ALLOTMENT PROGRAM

RECITALS:

Under the provisions of ORS 366.800 and 366.805, there has been withdrawn from State Highway funds appropriated for allocation to the several cities of the State of Oregon the sum of Five Hundred Thousand and No/100 (\$500,000) Dollars, and in addition there has been withdrawn from monies available to the Department of Transportation from the State Highway Fund the sum of Five Hundred Thousand and No/100 (\$500,000) Dollars. As provided in ORS 366.805, said sums have been set up in a separate account to be administered by the Oregon Transportation Commission and to be allotted each year by said commission to be spent, within cities of 5,000 or fewer persons, upon streets not a part of the State Highway system that are inadequate for the capacity they serve, or are in a condition detrimental to safety. No one project can receive more than \$50,000.

The City of Dundee is an incorporated City of the State of Oregon and has a population of less than 5,000 as given by the latest official federal census. The following street of said City, Alder Street between Ninth Street and Eighth Street, meets the conditions required in ORS 366.805.

NOW THEREFORE, THE CITY OF DUNDEE RESOLVES AS FOLLOWS:

1. That the aforementioned named street of said City is inadequate for the capacity it serves or is in a condition detrimental to safety.
2. That said street of said City is in need of repair, reconstructions, or other major improvement.
3. That said street is not a part of the state highway system, and are under the jurisdiction and control of the City.
4. That the Oregon Transportation Commission hereby is respectfully requested to consider and declare said street as qualified for reconstruction, repair, or other improvements out of funds allocated and made available by and through the said \$1,000,000 appropriation of revenues which is to be administered and spent by the Transportation Commission.
5. That the City of Dundee does hereby offer to Transportation Commission and does hereby pledge complete cooperation and assistance to the end, that said City may share and participate in the use and benefit of said special fund and appropriation; and therefore does designate the City Administrator as the official representative of the City in all negotiations resulting from this request.

PASSED by the City Council this 19th day of July 2016.

Approved:

David Russ, Mayor

There is attached hereto and made a part hereof, a City map on which is indicated the street described in this resolution.

I hereby certify that the foregoing resolution was passed and approved by the City Council of the City of Dundee at a regular meeting of said Council, held on the 19th day of July, 2016.

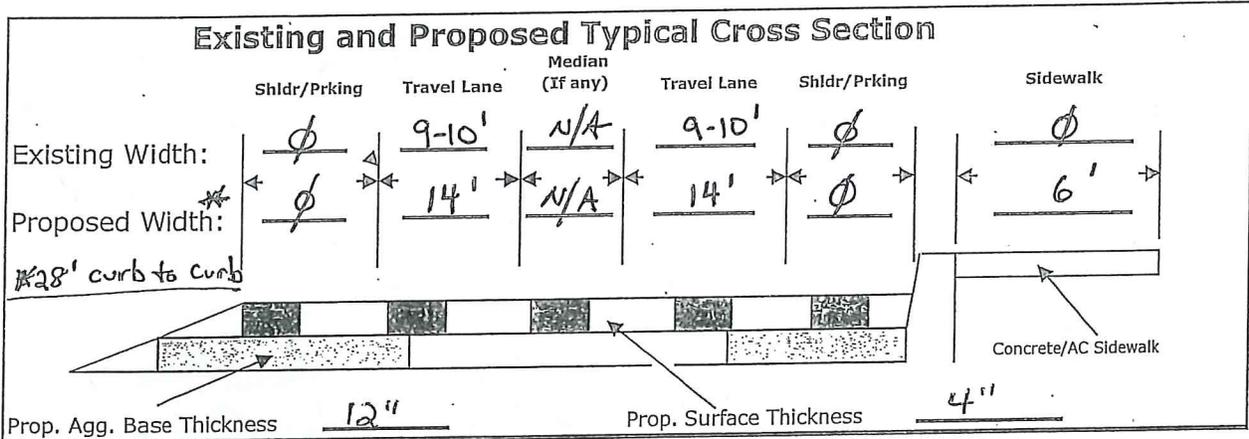
Dated this ____ day of _____, 2013

Rob Daykin, City Administrator/Recorder

Special City Allotment (SCA) Application

CITY OF Dundee DATE July 19, 2016
 STREET NAME SW Alder FROM 9th St. TO 8th Street Alignment
 (Attach map showing project limits.)

Project Length 400' Est. Project Cost \$ 262,000
 Avg. Daily Cars (Current) Est. 800 Avg. Daily Trucks (Current) Unknown



Pavement
 Surface Type _____
 Existing: ACP
 Proposed: ACP
 Proposed Thickness: 4"

Storm Sewer
 Existing (Y/N): Y
 Proposed (Y/N): Y
 Pipe Diameter: 15"
 Pipe Length: 400 ±

Adjustments:
 Inlets #: 4
 Manholes #: 2
 Pipes #: As Required

Right-of-Way
 Existing Width: 60'
 Adequate? (Y/N): Y
 Proposed Width: 60'

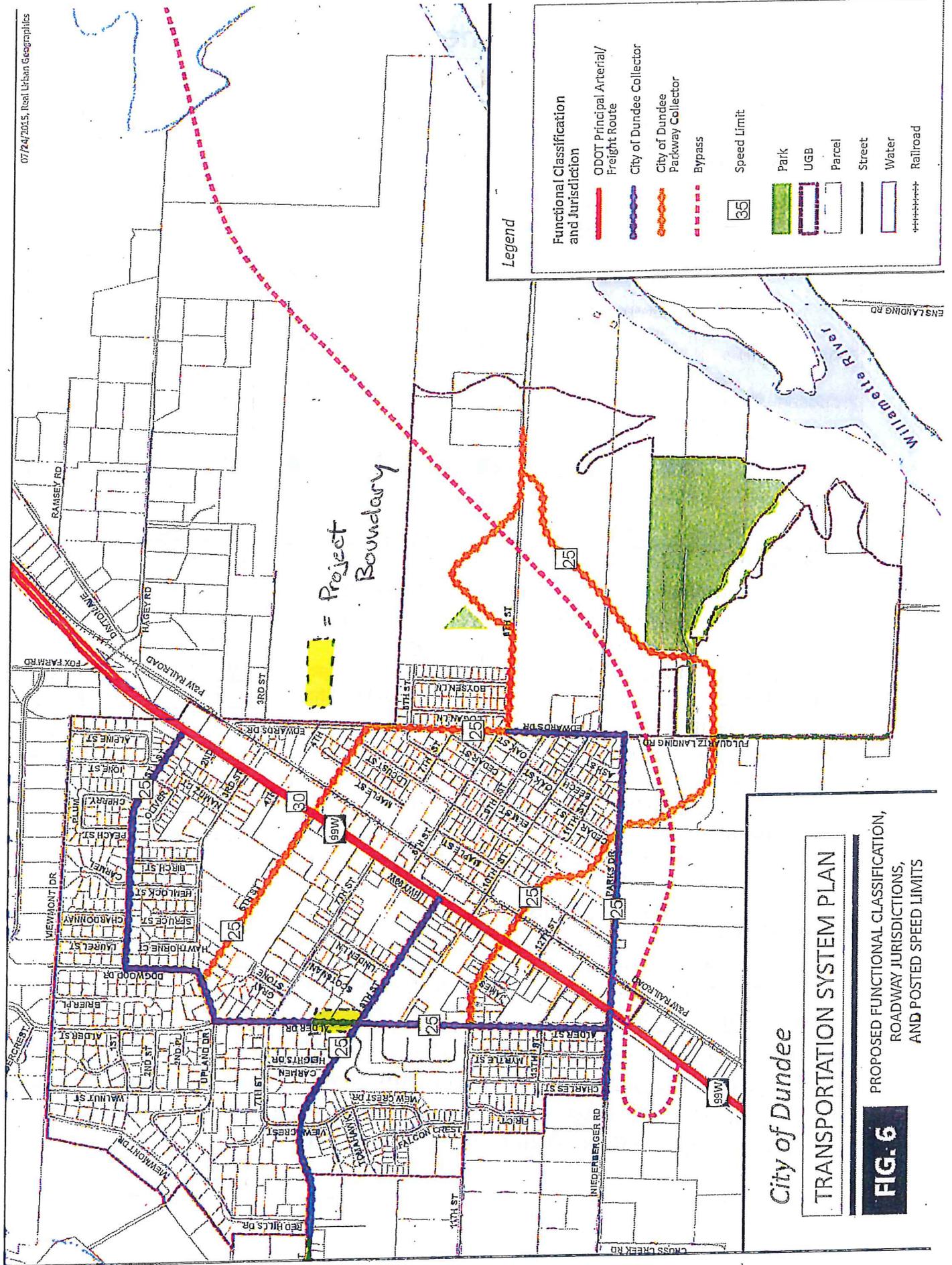
	Left Side	Right Side
Sidewalks		
Existing (Y/N):	<u>N</u>	<u>N</u>
Prop. (Y/N):	<u>Y</u>	<u>Y</u>
Proposed Length:	<u>400'</u>	<u>400'</u>
Proposed Width:	<u>6'</u>	<u>6'</u>
Curbs		
Existing (Y/N):	<u>N</u>	<u>N</u>
Prop. (Y/N):	<u>Y</u>	<u>Y</u>
Length:	<u>400'</u>	<u>400'</u>
Type:	<u>Curb + Gutter</u>	<u>Curb + Gutter</u>
Bridge		
Name & Bridge #:	<u>N/A</u>	
Length:	_____	
Width:	_____	
Type of Structure:	_____	
Sufficiency Rating #:	_____	
Name of Stream:	_____	

Remarks: Constrained collector cross-section of 2 travel lanes and no parking is allowed under the Dundee Transportation Plan. This project will address a safety concern with the existing skewed alignment of Alder with Ninth Street.

By: _____ Date: _____
 Mayor

By: _____ Date: _____
 City Recorder

By: _____ Date: _____
 City Administrator





1201 Court Street NE, Suite 200 • Salem, Oregon 97301
(503) 588-6550 • (800) 452-0338 • Fax: (503) 399-4863
www.orcities.org

June 6, 2016

Dear Chief Administrative Official:

For the past three months, eight policy committees have been working to identify and propose specific actions as part of the League's effort to develop a pro-active legislative agenda for the 2017 session. They have identified 29 legislative objectives as set forth in the enclosed ballot and legislative recommendation materials. These objectives span a variety of issues and differ in the potential resources required to seek their achievement. Therefore, it is desirable to prioritize them in order to ensure that efforts are focused where they are most needed.

Each city is being asked to review the recommendations of the policy committees and provide input to the LOC Board of Directors as it prepares to adopt the League's 2017 legislative agenda. After your city council has had the opportunity to review the 29 proposals and discuss them with your staff, please return the enclosed ballot indicating the top four issues that your city council would like to see the League focus on in the 2017 session. **The deadline for response is July 22, 2016.** The board of directors will then review the results of this survey of member cities, along with the recommendations of the policy committees, and determine the League's 2017 legislative agenda.

Your city's participation and input will assist the board in creating a focused set of specific legislative targets that reflect the issues of greatest importance to cities. Thank you for your involvement, and thanks to those among you who gave many hours of time and expertise in developing these proposals.

Do not hesitate to contact me or Craig Honeyman, Legislative Director, with questions.

Sincerely,

Michael J. McCauley
Executive Director

INSTRUCTIONS

1. Each city should submit one form that reflects the consensus opinion of its city council on the top four legislative priorities for 2017.
2. Simply place an X in the space to the left of the city's top four legislative proposals (last pages of the packet).
3. The top four do not need to be prioritized.
4. Return by July 22nd via mail, fax or e-mail to:

Paul Aljets
League of Oregon Cities
1201 Court St. NE, Suite 200
Salem, OR 97301
Fax – (503) 399-4863
paljets@orcities.org

Thank you for your participation.

City of: _____

Please mark 4 boxes with an X that reflect the top 4 issues that your city recommends be the priorities for the League's 2017 legislative agenda.

Legislation

Community Development

- A. Needed Housing Assistance Program
- B. Natural Hazard Land Use Reform
- C. DOGAMI Disaster Mapping
- D. Floodplain Technical Assistance

Energy

- E. Green Energy Technology Requirement
- F. Funding Public Energy Projects
- G. Updates to Oregon Energy Code

Finance and Taxation

- H. Property Tax Reform - Market Value / Local Control
- I. Property Tax Reform - Fairness and Equity
- J. Local Lodging Tax
- K. Nonprofit Property Tax Exemption
- L. Marijuana and Vaping Taxes

General Government

- M. Restore Recreational Immunity
- N. Increase Local Liquor Fees
- O. Marijuana Legalization Implementation
- P. Mental Health Investments
- Q. Qualification Based Selection

Human Resources

- R. Subsidy for Retiree Health Insurance Repeal
- S. PERS Reform
- T. Arbitration Reform
- U. Veterans Preference Clarifications

Telecommunications

- V. Rights of Way
- W. Franchise Fees
- X. 9-1-1 Emergency Communications
- Y. Technology Funding

Transportation

- Z. Transportation Funding and Policy Package

Water/Wastewater

- AA. Funding Water System Resilience
- BB. Enhanced Prescription Drug Take-Back
- CC. Water Supply Development Fund

Community Development

Legislation

A. Needed Housing Assistance Program

Create state grants and technical assistance to cities working to develop housing development programs directed at new or innovative means of providing housing solutions for low-income or senior populations.

B. Natural Hazard Land Use Reform

Create process for communities to move the UGB from an identified hazard area to resource lands and planning for replacing significant urban areas lost after a natural disaster.

C. DOGAMI Disaster Mapping

Increase funding for DOGAMI to complete comprehensive disaster mapping of cities, including landslide and floodplain risk identification, and natural hazard related evacuation planning for additional potential risks such as tsunami or wildfire inundation.

D. Floodplain Technical Assistance

Provide DLCD funding for technical assistance to cities implementing required changes to floodplain development management practices from FEMA.

Background

Cities are looking for new ways to serve the needs of a variety of people needing housing options and putting more resources toward housing projects. However, there is a need for state resources and assistance in implementing these programs. Funds that cities could access could be used to assist in land purchases for leasing for long-term low income housing, incentives for creating single story housing for seniors, tiny housing development, and planned developments that serve a range of incomes. Technical assistance to other cities should help a city determine what programs or planning options are available tools to help cities reach the goals set in the comprehensive plan.

As science has better located some hazards areas and as regulations impact the expected development of other areas, cities need to find ways to respond more efficiently to address long-term planning for development. This requires a simplification of the process for changing the location of development, including adding new areas to the UGB, to account for lost development capacity. There also needs to be a streamlined process for a city to identify areas of new development should a disaster remove a large portion of the buildable land supply if a disaster should strike.

The Oregon Department of Geology and Mineral Industries (DOGAMI) provides a number of technical resources to cities to identify hazards that could impact development. The department is also an integral partner in creating plans for the emergency response for many disasters that could occur in the state. Increasing funds for comprehensive maps will help with long-term planning for hazard mitigation, resilience, and survival.

Because of the recent release of the Biological Opinion from the National Oceanic and Atmospheric Administration Fisheries Service related to the National Flood Insurance Program's potential to impact endangered species, there is a need for cities to receive significant assistance in implementing any changes required by the Federal Emergency Management Agency. As the federal process moves forward, the state must provide resources to help cities update comprehensive plans and development codes. This issue will have a number of impacts and assistance in the form of model codes, staff resources, grants, and other expertise will be necessary for cities trying to implement any changes or additional work.

Energy

Legislation

E. Changes to 1.5 Percent Green Energy Technology Requirement

Advance legislation to statutorily modify the existing “1.5 percent green energy technology for public buildings” requirement to allow for alternative investment options such as offsite solar or community solar projects.

Background

Oregon statute currently requires public contracting agencies to invest 1.5% of the total contract price for new construction or major renovation of certain public buildings on solar or geothermal technology. The requirement allows for offsite technology, but only if the energy is directly transmitted back to the public building site and is more cost-effective than onsite installation.

Removing the requirement that an offsite project be directly connected to the public building project could result in increased flexibility for local governments to invest in solar projects that are more cost-effective and provide for increased solar energy generation. In addition, the League will work to allow 1.5 percent funds to be invested in alternative projects that provide a greater economic or social return on investment. As an example, a city could use the funds on a community solar project to benefit low-income residents rather than being required to invest in solar generation at the site of the public building project.

F. Funding for Public Energy Projects

Support enhanced incentives for public energy projects including grants for technical assistance, feasibility studies and resource recovery projects for energy and fuel generation.

There are programs that exist in Oregon for the purpose of incentivizing energy projects including renewable energy generation, alternative fuel vehicles, and energy efficiency. Programs such as the Business Energy Tax Credit (BETC), which was discontinued in 2014, and the State Energy Loan Program have been important tools for incentivizing energy projects for local governments. However, as a result of scrutiny over the administration of these incentives including private loan defaults, these programs are either no longer available, such is the case with the BETC program, or are at risk of being discontinued. It is critical for municipalities to have ongoing access to incentive opportunities as energy projects can be difficult to pencil-out and even more difficult for smaller communities to finance. The state of Oregon should take into consideration that loans for public energy projects, including cities, are lower-risk and should not be penalized in light of recent scrutiny. In addition, investments in these projects often result in environmental, social and economic benefits including long-term savings for taxpayers and reductions in greenhouse gas emissions.

The League will work to enhance funding, including grants for technical assistance and feasibility studies for communities that currently do not have access to resources. The League will also advocate for incentives for energy and fuel generation projects. Examples of projects that warrant funding incentives include methane capture for fuel or energy generation, investments in community solar projects, renewable energy generation, and energy efficiency improvements.

Energy (Continued)

Legislation

G. Require Updates to Oregon Energy Code

Require the Oregon Building Codes Division (BCD) to engage in more frequent review of the state's energy code to reduce greenhouse gas reductions and ensure that Oregonians can more affordably and efficiently heat their homes and businesses.

Background

Oregon's statewide energy code for commercial and residential buildings is an important tool for achieving greenhouse gas reductions through decreased energy consumption while helping to ensure that Oregonians are able to more efficiently and affordably heat their homes and businesses. Federal law requires each state to certify that their state energy code is equivalent to federal model energy codes. While Oregon was once a leader in energy code adoption and implementation, the state is now in a position of falling behind the federal code. This is due, in large part, to a decision made by the Oregon Building Codes Division in 2013 which changed the code cycle from a three-year update to a six-year update. Major code changes, including adoption of national codes, will now occur every six years with minor changes occurring every three years. This change will impact Oregon's ability to keep pace with federal standards and new technologies in energy efficiency.

The League will work to support efforts to align new construction building codes with the state's climate goal timelines. In addition, the League will support efforts to establish a periodic review schedule to ensure that Oregon more frequently updates the state energy code in order to reflect federal code requirements. Also, the League will encourage the state to set specific targets for increased energy efficiency in residential and commercial building construction with specific goals for increasing energy efficiency standards for affordable housing projects and increasing use of net-zero and passive house building requirements. Finally, the League will work to require BCD to make regular reports back to the legislature to update on energy code implementation and goals.

Finance and Tax

Legislation

H. Property Tax Reform – Market Value / Local Control

A legislative constitutional referral to reform the property tax system:

- a) to achieve equity, transitions to a market based property tax valuation system; and
- b) to restore choice, allows local voters to adopt tax levies and establish tax rates outside of current constitutional limits in their taxing jurisdictions.

I. Property Tax Reform – Fairness and Equity

A bill that pursues statutory modifications to the existing property tax system that enhances the fairness and adequacy of the current system.

Background

Property taxes are regulated largely by Measure 5 (1990) and Measure 50 (1997), as provided in the Oregon Constitution. Measure 50 established a new method for assessing property, discounting the assessment at 10 percent of the real market value and calling this assessed value. Assessed value is capped at an annual growth limit of 3 percent. As a state total, due to the limits and market changes, the gap between real market value and assessed value has now grown to nearly 25 percent over the past 20 years. This gap varies widely on a property by property basis, creating considerable property tax inequities for properties that sell for similar prices in a city. In short, Oregon property taxes have become disassociated from real market value and the result is considerable inequity.

For FY 2014-15, 60 percent of cities, 97 percent of counties, and 89 percent of school districts had some compression. This means that the Measure 5 caps of \$5 per \$1000 for education and \$10 per \$1000 for general government on real market value have been exceeded in most taxing jurisdictions. The caps are over 25 years old and were set low as voters were anticipating a sales tax to be coupled with it. Voters can no longer vote for the services they desire due to these caps. With looming PERS costs increases, paying for services with the present restrictions will become very difficult in some cities.

There are some adjustments to the property tax process and calculations that can be done statutorily. These include altering the changed property ratio statute and the statutory discount given to property owners who pay their taxes by November 15th. New property is added to the tax rolls using a county-wide ratio (assessed value to real market value) for determining the discount to apply to the real market value and that could be changed statutorily to a city-wide ratio in taxing districts who elect the change.

Finance and Tax (Continued)

Legislation

J. Local Lodging Tax

A lodging tax bill, the outcome of which, would:

- a) Provide jurisdictions greater flexibility to spend local lodging tax revenue to plan for and provide services and infrastructure related to tourism;
- b) Reduce or eliminate the required reimbursement charge that a lodging tax collector is allowed to retain for filing a local lodging tax return; and
- c) Improve efficiency and collection of local lodging taxes in cooperation with the state.

Background

State law restricts how local lodging tax revenues may be expended. Post 2003, any new taxes or any tax increase requires a 70 percent revenue dedication to tourism promotion or tourism-related facilities. In addition, state statute provides that cities may not lower the actual percentage of lodging tax revenues that were dedicated to tourism prior to 2003. This means that cities have varied percentages of restricted local lodging taxes revenues. These numbers are arbitrary as they were set based on circumstances in 2003 that have often greatly changed. In addition, the legislative history shows that the legislature intended to provide some revenue flexibility and provide that certain infrastructure (roads, sewer lines, etc.) would qualify as tourism-related but the statutes need revision and clarification.

State law requires local governments to provide a 5 percent collector reimbursement charge if they impose a new lodging tax or tax increase after January 1, 2001. This is a deduction from the taxes that would otherwise be due. The state also provides a 5 percent collector reimbursement charge for state lodging taxes. In addition, local governments that had a reimbursement charge, must continue it. Thus, cities have very different reimbursement requirements—some are at zero, others are at 5 percent, and some are in between. When coupled with the state deduction, the deduction seems too generous.

The Oregon Department of Revenue now collects state lodging taxes throughout the state and could collect and enforce local lodging taxes at the same time if given statutory authority. Local governments could then enter into voluntary agreements with the state to delegate the collection. This option could make collection much more efficient and cost-effective for some local governments. In addition, cities continue to struggle with collections and auditing, particularly from online companies and private home rentals (through Airbnb, etc.) and this area of the law could be improved.

Finance and Tax (Continued)

Legislation

K. Nonprofit Property Tax Exemption

Clarify and reform the statutory property tax exemption provided to nonprofit entities to address cost-benefit concerns for the continued full exemption in light of cost of city services provided to nonprofits and the changing services and business models of some nonprofit entity types.

Background

Nonprofit organizations that are charitable, literary, benevolent or scientific are provided a property tax exemption that will cost more than \$194 million in the 2015-17 biennium. In addition, exemptions for the property of nonprofit religious organizations costs more than \$113 million for the biennium. For many cities, much of the city is exempt from property taxes due to the public property exemption and these nonprofit exemptions. This includes hospitals, nursing homes, etc.

The Legislature has formed a work group to look at the nonprofit property tax exemption issue as the nature and number of nonprofits is changing and the administration of the exemption has become complex for county tax assessors. Nonprofit entities require significant services, including transportation, water, sewer, police, fire, etc. Thus, the legislature is looking at property taxes more as a service tax and considering how the full exemption could be adjusted to have nonprofits pay for their fair share of costs of services or otherwise meet a benefit test for continuing an exemption.

L. Marijuana and Vaping Taxes

Defend against restrictions and preemptions regarding local marijuana and vaping taxes and advocate for appropriate state shared revenue levels and distribution formulas for state marijuana taxes and potential vaping taxes.

There are no revenue use restrictions on local marijuana taxes, but the local marijuana tax rate is capped at 3 percent. There are no restrictions on local governments imposing a vaping tax. The state has not imposed a tax on vaping products to date but is considering a tax. Often when the state imposes a tax (for example, cigarette or liquor), the state preempts local governments from also imposing a tax.

10 percent of state marijuana taxes will be distributed to cities after state administrative costs. Distributions will be made per capita for revenues received prior to July 1, 2017. After July 1, they will be distributed based on the number of the various marijuana licenses issued in a city. Cities that prohibit establishments for recreational marijuana producers, processors, wholesalers or retailers will receive no state shared revenue. Likewise, cities that prohibit a medical marijuana grow site or facility will receive no state shared revenue.

General Government

Legislation

M. Restore Recreational Immunity

Cities should enjoy protection from unreasonable litigation when offering recreational opportunities to the public.

Background

ORS 105.682 grants that a land owner is not liable for any personal injury, death or property damage that arises out of the use of their land for recreational purposes as long as no fee is charged in order to access that property. This statute allows cities to operate parks and trails without fear of lawsuit.

However, in the recently decided Oregon Supreme Court case, *Johnson v Gibson*, It was held that even though the landowner may be immune from liability, their employees are not. As a result, two employees of the City of Portland were found liable for injuries sustained by a jogger in a park, employees who are indemnified by their employer.

The practical effect of this ruling is that the immunity previously enjoyed by cities that allowed for robust park development have been eroded to the point of being non-existent. This priority directs LOC staff to seek to amend the ORS 105.682 to restore that immunity.

N. Increase Local Liquor Fees

Cities play an important role in the review and investigation of liquor license applicants and should be able to recoup costs associated with that role.

ORS 471.166 allows cities to adopt fees that are "reasonable and necessary to pay expenses" associated the review and investigation of liquor license applicants. However, the same statute limits the amounts of those fees to between \$25 and \$100 depending on the license or approval being sought by the applicant.

This priority is to pursue changes to this statute that allow cities to recoup the actual costs associated with performing their role in the liquor licensing process and allowing for periodic increases.

General Government (Continued)

Legislation

O. Continue Marijuana Legalization Implementation

Allow for civil enforcement of marijuana laws.
Ensure equitable distribution of marijuana shared revenues.
Eliminate limitations on shared revenue use.

Background

One of the promises made by marijuana legalization advocates is that illicit sales and production of marijuana would shift into a legalized and regulated market. This has occurred to a large extent but many producers and retailers continue to seek the financial benefits or participation in the marijuana industry while avoiding the inconvenience of its regulatory framework. This priority seeks legislation that gives the Oregon Liquor Control Commission (OLCC) the same civil and administrative authority to prevent unlicensed sales and production of marijuana as it has in regards to liquor.

Beginning in 2017, state shared revenue from marijuana will be distributed to cities based in the number of OLCC licensed commercial marijuana entities exist in their jurisdiction. This priority is to alter that arrangement so that is it distributed on a per capita basis to ensure equitable distribution among cities that are incurring costs.

Measure 91 required that money distributed by the state to cities be used exclusively for costs associated with marijuana legalization. Tracking a dollar through a city's general fund and determining if a service was related to marijuana is inefficient if not impossible, and is not imposed for the receipt of liquor revenue. This priority is to advocate for legislation that removes this burden.

P. Protect Mental Health Investments Made in 2015

Oregon made significant and strategic investments in protecting and caring for the mentally ill in 2015 that should be maintained.

The Legislature increased access to mental health care and expanded existing, proven programs designed to de-escalate police contacts with the mentally ill. Those programs could be vulnerable in a difficult budget environment made challenging by increased PERS rates.

This priority is defensive in nature and seeks to preserve investments that are improving the lives of mentally ill Oregonians.

Q. Remove Qualification Based Selection Mandate

Cities should be allowed to consider cost when making initial contract award decisions when hiring architects and engineers.

Cities are currently required to use a procurement method that prevents the consideration of cost when contracting with architects and engineers for public improvements. Instead, cities must base their initial selection for these services based solely on qualifications and can only negotiate the price after an initial selection is made.

This mandate is not a cost effective means for procuring services and is poor stewardship of the public's dollars. This priority is to seek the removal of this mandate.

Human Resources

Legislation

R. Repeal Requirement to Subsidize Retiree Health Insurance

Public employers should not subsidize the health insurance of former employees when reasonable, cost competitive options exist.

Background

ORS 243.303 mandates that local governments provide retirees with access to health insurance and requires that they be placed in the same risk pool as active employees. As retirees are approximately 2.5 times more expensive to insure than active employees this mandate results in employers and current employees subsidizing the health insurance costs of former employees. This subsidization, according to the Government Accounting Standards Board, must be shown on an audit as long term liability, thus creating an inaccurate perception of a city's financial condition. Further, this requirement could be described as anachronistic as individuals are now able to purchase health insurance under the Affordable Care Act.

This priority is to eliminate ORS 243.303 from Oregon's laws.

S. PERS Reform

PERS benefits should be adjusted where legally allowable and investments should be maximized to ensure a sustainable and adequate pension system.

The PERS unfunded liability stands at \$22 billion and employer rates are anticipated to approach 30 percent of payroll in the coming biennium. Rates are expected to remain at that level for the next twenty years. This is not sustainable.

This priority is to seek any equitable changes to benefits that will reduce employer rates while not pursuing options that are legally tenuous or counterproductive. Additionally, changes are to be sought to the investment portfolio that will maximize returns through improved risk management and efficiencies.

Human Resources (Continued)

Legislation

T. Arbitration Changes

Public employers should have greater influence over the disciplining of their employees.

Background

Currently under the Public Employee Collective Bargaining Act, contested employee discipline matters must be submitted to an outside arbitrator for adjudication. Decisions by arbitrators are binding unless the conduct was a violation of public policy as defined by the state, there was serious criminal conduct or an egregious inappropriate use of force.

This priority is to seek the following changes to the statute:

- Arbitrator decisions should also comply with local policies;
- Decisions should comply with policies related to any inappropriate use of force a;
- Arbitrator decisions should recognize all criminal misconduct related to employment not just "serious";
- Employer disciplinary decisions as it regards employees who are supervisors as defined by the EEOC and BOLI should be given more weight.

U. Veterans Preference Clarifications

Requirements that veterans be given preference in public sector hiring should be clear and unambiguous for the benefit of veterans and employers.

The State of Oregon requires and the League agrees that honorably discharged veterans deserve special consideration in public sector hiring. However, statutes describing how this is to be accomplished are unclear and ambiguous. Vague statutes do not serve the interests of employers or veterans.

This priority seeks a clear definition of "preference" in the statute, ensure that recently separated veterans receive the consideration necessary for them to successfully enter the workforce and establishes clarity as to when the preference is to be applied.

Telecommunications, Cable & Broadband

Legislation

V. Rights of Way

Oppose legislation that preempts local authority to manage public rights-of-way and receive compensation for their use.

W. Franchise Fees

To ensure market fairness and equity, prepare legislation for possible introduction repealing ORS 221.515 (HB 2455 -7 in 2013, and HB 2172 in 2015) to remove franchise fee rate and revenue restrictions which currently apply to incumbent local exchange carriers but not to competitive local exchange carriers.

X. 9-1-1 Emergency Communications

Support legislation enhancing the effectiveness of the state's emergency communications system through an increase in the 9-1-1 tax and/or a prohibition of legislative "sweeps" from accounts managed by the Oregon Office of Emergency Management.

Background

In its commitment to the protection of Home Rule and local control, the League consistently opposes restrictions on the rights of cities to manage their own affairs. From time to time, in the context of franchise fee and rights-of-way management authority discussions, proposals to restriction to this authority arise. These include a statewide franchise policy and revenue collection system as well as limiting the ability of cities to charge fees of other government entities. This is contrary to local government management authority, the ability to enter into agreements with service providers either by agreement/contract or ordinance and to derive revenues from business fees charged to users of public rights-of-way.

Oregon statute currently contains a discrepancy between how cities collect franchise fees from incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs). ORS 221.515 limits cities collecting franchise fees from ILECs to a maximum of 7 percent of revenues derived from dial-up services, which represents only a portion of ILEC total revenues due to the addition of a broader array of customer services. There is no such rate cap or revenue restriction on CLECs, hence the discrepancy. In the past the League has worked with CLECs to "level the playing field." Repeal of ORS 221.515 would accomplish that.

The League worked with other stakeholder groups in 2013 to extend the sunset date on the statewide 9-1-1 emergency communications tax to January 1, 2022 (HB 3317). In 2014, the League also worked to pass legislation including prepaid cellular devices and services under the 9-1-1 tax (HB 4055). As concerns mount with regard to disaster preparedness and recovery and as new upgrades to communications technology becomes available, it is apparent that state and local governments do not have the resources necessary to address challenges or take advantage of opportunities. Additional funding is needed and the practice of periodically sweeping funds out of the state's emergency management account for other uses should cease. It is worthy of note that the practice of "sweeps" disqualifies the state from receiving federal funds for emergency communications. It is unknown how many federal dollars have been foregone as a result of this policy.

Telecommunications, Cable & Broadband (continued)

Legislation

Y. Technology Funding

Seek additional funding to assist for cities in:

- **Increasing high speed broadband deployment and close the digital divide.**
- **Purchasing upgraded emergency management communications equipment.**
- **Providing local match money for federal funding programs, such as high speed broadband deployment.**

Background

The deployment of broadband throughout the state of Oregon is critical to economic development, education, health and the ability of citizens to link with their governments. Additional funding, from various sources, including the state and federal government, needs to be allocated for this purpose. The need becomes even more acute when consideration is given to the certainty of a major seismic event. Often federal assistance comes with the requirement of a state or local match which is problematical for cities. A state mechanism for providing matching fund assistance would be helpful to those communities seeking to take control of their broadband destiny.

Transportation

Legislation

Z. Comprehensive, Multi-modal Transportation Funding and Policy Package

The League of Oregon Cities proposes that transportation infrastructure be raised to the same level of importance as other utilities, and be funded at a level capable of maintaining appropriate standards of operation and service. Therefore, the League will help draft and advocate for a comprehensive, inter-modal and statewide transportation funding and policy package that:

1. Provides a significant increase in resources available for the preservation and maintenance of city streets by:
 - Substantially increasing the state gas tax and licensing and registration fees.
 - Indexing the state gas tax.
 - Continuing efforts to identify and implement alternative funding mechanisms (VMT, tolling, public-private partnerships, etc.).
 - Disaster resilience and seismic upgrades for all transportation modes.
 - The completion of transportation projects begun but not yet completed due to lack of funding or changes in funding criteria.
 - Providing additional funding for voluntary jurisdictional transfer.
 - Funding transportation enhancements such as bike-ped facilities.
 - Increasing funding for the statutory Special City Allotment program while maintaining the 50%-50% ODOT/city split.
 - Repealing the referral requirement (2009 Jobs and Transportation Act) on cities seeking to create/increase local gas tax.
2. Addresses statewide needs relating to intermodal transportation through:
 - Additional funding for transit operations and capital projects.
 - Additional funding for freight rail capital projects and operations (*ConnectOregon*, short-line rail and transload facilities).

Background

Maintenance and preservation needs have outpaced the resources available for streets, roads and highways. In its March, 2016 Infrastructure Survey Report the League identifies a \$3.7 billion capital need for highway and non-highway transportation projects (\$2.6 billion highway / \$1.1 billion non-highway). In addition, the report shows, for the 120 cities that participated, an aggregated street budget shortfall for operations and maintenance of approximately \$217 million per year. Safety and disaster resilience were cited as major challenges and needs by most cities. Cities also expressed support for a voluntary jurisdictional transfer program (the sensible alignment of highway facilities and management responsibility) provided the availability of adequate funding to facilitate the transfer and to maintain the asset.

Given the threat that inadequate funding represents to investments already made in the transportation system, the League will insist on a transportation package that increases and makes more sustainable the ability of all government jurisdictions to preserve and maintain these assets. Notwithstanding its emphasis on the need to preserve and maintain existing streets, the League of Oregon Cities agrees that the state's transportation system and the policy and funding programs that support it must be multimodal and statewide in scope. The League will therefore work to pass legislation in 2017 that addresses funding and policy initiatives relating to all modes (streets, bike/ped, transit, rail, aviation and marine) and in so doing address such issues as:

- Connectivity and capacity (especially truck mobility/rail)
- Safety for all users across all modes
- Resiliency and recovery (seismic retrofit across all modes)
- Jobs and economic development
- Impact on climate change
- Active transportation and public health
- Transportation access available on an equitable basis to all Oregonians
- Continuing and extending *ConnectOregon*
- Ensuring adequate new revenues for program/equipment such as the Oregon Department of Motor Vehicles technology upgrade
- Creative solutions to ongoing challenges (dedicated non-roadway fund, increased local authority to fund transit, bike-ped funding, etc.)

- **Additional funding for passenger rail operations, equipment and capital projects (federal matching money and AMTRAK Cascades).**

- **Maximizing local benefits of the federal FAST Act in Oregon**

3. Does not:

- **Preempt local government ability to self-generate transportation revenues for street maintenance and preservation.**
- **Change the dedication of State Highway Fund dollars to highway, road and street projects contained in Article 8, Section 3a of the Oregon Constitution.**
- **Reduce cities 20% share of the State Highway Fund.**
- **Create unfunded mandates requiring cities to undertake specific programs, such as greenhouse gas reduction scenarios.**
- **Further complicate the planning and regulatory process that currently governs the project delivery process.**

Water & Wastewater

Legislation

AA. Funding for Water System Resilience

Secure dedicated funding for water and wastewater system resilience and emergency preparation. This would include additional funds to plan for and upgrade water systems to increase seismic resiliency and funding to better position communities to better prepare for water supply shortages due to drought, climate change or other emergency scenarios.

Background

In general, Oregon’s drinking water and wastewater systems are woefully underprepared for a catastrophic earthquake event. Restoration of water supply following such an event is critical for fire suppression, first aid, and for human health and safety. In 2013, the Oregon Resilience Plan provided estimates for service recovery of water and wastewaters systems in the event of a Cascadia earthquake under current infrastructure conditions. According to the plan, the estimated timeframe for service recovery in the valley ranges from one to twelve months. For the coast, service recovery is estimated between one to three years.

In addition to risks associated with significant natural disaster events, recent drought conditions in Oregon have demonstrated the need for emergency supply planning and coordination with other water users to better address water supply challenges. It is critical that communities are able to acquire alternative and back-up water supplies from multiple sources in order to better prepare for supply shortages or emergency situations, such as natural disasters or supply contamination.

The League will work to identify and secure low-interest loans or grants to seismically upgrade drinking water and wastewater system infrastructure and to help ensure that these systems are more resilient and better positioned to respond to water supply shortages resulting from drought, climate change, natural disasters, or other system failures.

Water & Wastewater (Continued)

Legislation

BB. Promote an Enhanced Prescription Drug Take-Back

Advocate for enhanced prescription drug take-back program funding and additional collection locations to reduce contamination of water from unwanted prescription drugs.

Background

Unused prescription drugs are problematic from both a public health and safety perspective as well as from a water quality perspective. Drug take-back programs help to ensure that unused prescription drugs are properly disposed of which keeps them from being abused, keeps them out of the hands of children, and keeps them from entering Oregon's waterways. Unwanted prescription drugs are often flushed down the toilet and despite wastewater treatment systems, they can end up contaminating lakes, streams and rivers. In 2014, U. S. Drug Enforcement Administration (DEA) expanded the types of locations allowed to accept unwanted medications including retail pharmacies and drug manufacturers. Prior to 2014, drug-take back programs were primarily supported through police department drop boxes. The challenge in expanding prescription drug take-back programs is now focused on the cost of transporting unused drugs from the take-back location to the disposal site and in educating the public about responsible disposal opportunities.

The League will work with a variety of stakeholders, including public health advocates, to identify additional funding mechanisms to increase drug take-back collection locations across Oregon. Funding should support the transportation and responsible disposal of unused prescription drugs. Funds should also be dedicated for enhanced education of disposal opportunities and the establishment of convenience standards to ensure that all Oregonians have reasonable access to drug take-back locations.

CC. Increased Funding for Water Supply Development

Support additional water supply funding through the state's Water Supply Development Account.

According to a survey conducted by the League, Oregon's water and wastewater infrastructure needs for cities alone are estimated to be \$9 billion over the next twenty years. In addition, the survey identified 66 percent of respondent cities as being in need of additional water supply storage. The 2015 drought highlighted the need for additional investments in water supply infrastructure, including storage and water delivery system efficiencies. Additional storage project investments are not only critical for adequate drinking water supply, they are an important tool for supplementing streamflows and habitat restoration.

The League will work to secure additional funding for existing water supply development programs. This includes support for feasibility grants and for the state's Water Supply Development Account which provides funding for water supply storage, reuse, restoration and conservation projects.

ORDINANCE NO. 550-2016

AN ORDINANCE ESTABLISHING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER IN THE CITY OF DUNDEE

WHEREAS, Section 34a of House Bill 3400 (2015) (codified at ORS 475B.345) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city; and

WHEREAS, the Dundee City Council wishes to exercise that power to tax the sale of marijuana items by a marijuana retailer in the City of Dundee.

NOW, THEREFORE, THE CITY OF DUNDEE ORDAINS AS FOLLOWS:

SECTION 1. Dundee Municipal Code is amended by adding a new Chapter 3.24, Recreational Marijuana Tax, to read as attached in Exhibit A.

SECTION 2. Severability. The sections, subsections, paragraphs and clauses of this ordinance or any intergovernmental agreement with any department or agency of the State of Oregon are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3. Savings. Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 4. Intergovernmental Cooperation. After the effective date of this ordinance, the City may enter into an agreement whereby the State of Oregon is responsible for the administration, collection, distribution or enforcement of the tax authorized under this chapter, either in full or in part, without needing to obtain voter approval.

SECTION 5. This ordinance shall be referred to the electors of Dundee at the next statewide general election on Tuesday, November 8, 2016.

SECTION 6. This ordinance shall be effective upon certification by the County Elections official that it has received voter approval at an election conducted on November 8, 2016.

ADOPTED by the Council this _____ day of _____, 2016.

Approved:

David Russ,
Mayor

Attest:

Rob Daykin
City Administrator/Recorder

Exhibit A

Chapter 3.24 RECREATIONAL MARIJUANA TAX

- 3.24.010 Purpose**
- 3.24.015 Definitions**
- 3.24.020 Tax Imposed**
- 3.24.025 Amount and Payment, Deductions**
- 3.24.030 Marijuana Retailer Responsible for Payment of Tax**
- 3.24.035 Penalties and Interest**
- 3.24.040 Appeal**
- 3.24.045 Refunds**
- 3.24.050 Actions to Collect**
- 3.24.055 Violation**
- 3.24.060 Confidentiality**
- 3.24.065 Audit of Books, Records, or Persons**
- 3.24.070 Forms and Regulations**
- 3.24.075 Intergovernmental Agreement**

3.24.010 Purpose

The purpose of this chapter is to impose a three percent tax upon the retail sale of marijuana items by marijuana retailers in the City of Dundee.

3.24.015 Definitions

As used in this ordinance, unless the context requires otherwise:

“Consumer” means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purposes of resale.

“Director” means the City Administrator for the City of Dundee or his or her designee.

“Retail sale price” means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

“Marijuana item” has the meaning given that term in ORS 475B.015(16).

“Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

“Retail sale” or “Sale” means the exchange, gift or barter of a marijuana item by any person to a consumer.

“Marijuana retailer” means any person who is required to be licensed or registered or has been licensed or registered by the State of Oregon to provide marijuana items to consumers for money, credit, property or other consideration.

“Tax” means either the tax payable by the marijuana retailer or the aggregate amount of taxes due from a marijuana retailer during the period for which the marijuana retailer is required to report collections under this chapter.

“Taxpayer” means any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

3.24.020 Tax Imposed

A tax is hereby levied and shall be paid by every marijuana retailer exercising the taxable privilege of selling marijuana items as defined in this chapter. The Director is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of the tax.

3.24.025 Amount and Payment, Deductions

In addition to any fees or taxes otherwise provided for by law, every marijuana retailer engaged in the sale of marijuana items in the City of Dundee shall pay a tax of three percent (3%) of the retail sale price paid to the marijuana retailer of marijuana items, or the maximum amount allowed under state law, whichever is greater. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

3.24.030 Marijuana Retailer Responsible for Payment of Tax

A. Every marijuana retailer shall obtain a business license from the City of Dundee pursuant to DMC 5.04.

B. Every marijuana retailer shall, on or before the twenty-fifth day of each month, make a return to the Director, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter for the preceding month. The marijuana retailer may request, or the City may establish, shorter reporting periods for any marijuana retailer if the marijuana retailer or City deems it necessary in order to ensure collection of the tax and the City may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.

C. At the time the return is filed, the full amount of the tax collected shall be remitted to the City.

D. Payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best

interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any marijuana retailer if the Director deems it necessary in order to ensure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by marijuana retailers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the City. A separate trust bank account is not required in order to comply with this provision.

E. Every marijuana retailer must keep and preserve, in an accounting format established by the Director, records of all sales made by the marijuana retailer and such other books or accounts as may be required by the Director for a period of three (3) years or until all taxes associated with the sales have been paid, whichever is longer. The City shall have the right to inspect all such records at all reasonable times.

3.24.035 Penalties and Interest

A. Any marijuana retailer who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.

B. If the City determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs 1 and 3 of this section.

C. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

D. Penalties imposed, and such interest as accrues for violation of this chapter are separate from, and in addition to, the tax imposed on the sale of marijuana items.

E. All sums collected pursuant to the penalty provisions in this section shall be distributed to the City of Dundee General Fund to offset the costs of auditing and enforcement of this tax.

3.24.040 Appeal

Any marijuana retailer aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council by filing a notice of appeal to the Director within fourteen (14) days of the decision. The Director shall transmit the notice of appeal, together with the file of the appealed matter, to the City Council, and shall schedule a time and place for hearing such appeal. The City Council shall give the appellant not less than fourteen (14) days' written notice of the time and place of the hearing. The City

Council shall consider the matter de novo and may approve, revise or remand the Director's decision. The City Council's decision shall be by written order and shall be subject to writ of review proceedings pursuant to ORS 34.010 et seq.

3.24.045 Refunds

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in subparagraph 2 of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one (1) year of the date of payment. The claim shall be on forms furnished by the City.

B. The Director shall have twenty (20) calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a marijuana retailer may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The marijuana retailer shall notify Director of claimant's choice no later than fifteen (15) days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the fifteen (15) day period and the marijuana retailer is still in business, a credit will be granted against the tax liability for the next reporting period. If the marijuana retailer is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

C. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

3.24.050 Actions to Collect

Any tax required to be paid by any marijuana retailer under the provisions of this chapter shall be deemed a debt owed by the marijuana retailer to the City. Any such tax collected by a marijuana retailer which has not been paid to the City shall be deemed a debt owed by the marijuana retailer to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Dundee for the recovery of such amount. In lieu of filing an action for the recovery, the City of Dundee, when taxes due are more than thirty (30) days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Dundee has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of fifty dollars (\$50.00) or fifty percent (50%) of the outstanding tax, penalties and interest owing.

3.24.055 Violation

A. Violation of this chapter is punishable by a fine not to exceed five hundred dollars (\$500.00) per day for each continuing day of violation. It is a violation of this chapter for any marijuana retailer or other person to:

1. Fail or refuse to comply as required herein;
2. Fail or refuse to furnish any return required to be made;
3. Fail or refuse to permit inspection of records;
4. Fail or refuse to furnish a supplemental return or other data required by the City;
5. Render a false or fraudulent return or claim; or
6. Fail, refuse or neglect to remit the tax to the city by the due date.

B. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this chapter prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.

3.24.060 Confidentiality

Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

- A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana items are sold or provided; or
- B. The disclosure of general statistics in a form which would not reveal an individual marijuana retailer's financial information; or
- C. The disclosure of information to any state agency related to the licensing or registration of the marijuana retailer or when required to carry out any part of this chapter.
- D. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the City or an appeal from the City for amount due the City under this chapter; or
- E. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- F. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six (6) months or the tax exceeds five thousand dollars (\$5,000). The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

3.24.065 Audit of Books, Records, or Persons

A. The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of marijuana retailer's state and federal income tax return, bearing upon the matter of the marijuana retailer's tax return. All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director.

B. If the examinations or investigations disclose that any reports of marijuana retailers filed with the Director pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the Director may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.

C. The marijuana retailer shall reimburse the City for reasonable costs of the examination or investigation if the action disclosed that the marijuana retailer paid ninety-five percent (95%) or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of one percent (1%) per month, or the portion thereof, from the date the original tax payment was due.

D. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the City may immediately seek a subpoena from the Dundee Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.

E. Every marijuana retailer shall keep a record in such form as may be prescribed by the City of all sales of marijuana items. The records shall at all times during the business hours of the day be subject to inspection by the City or authorized officers or agents of the Director.

F. Every marijuana retailer shall maintain and keep, for a period of three (3) years, or until all taxes associated with the sales have been paid, whichever is longer, all records of marijuana items.

3.24.070 Forms and Regulations

The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

A. A form of report on sales and purchases to be supplied to all vendors; and

B. The records which marijuana retailers are to keep concerning the tax imposed by this chapter.

3.24.075 Intergovernmental Agreement

The City Council may enter into an IGA with any department or agency of the State of Oregon whereby the State is responsible for the administration, collection, distribution, or enforcement of the tax authorized under this chapter, either in full or in part. The terms of that agreement shall apply in lieu of and shall supersede conflicting provisions of this chapter but shall not be construed as repealing any provision of this chapter.

RESOLUTION NO. 2016 - 20

A RESOLUTION APPROVING REFERRAL TO THE ELECTORS OF THE CITY OF DUNDEE AT THE NOVEMBER 8, 2016 ELECTION, THE QUESTION OF WHETHER TO ESTABLISH A TAX, FOR THE MAXIMUM AMOUNT ALLOWED UNDER STATE LAW, ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER IN THE CITY OF DUNDEE

WHEREAS, Section 34a of HB 3400 (codified at ORS 475B.345) provides that a city council may adopt an ordinance to be referred to the electors of the city that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City; and

WHEREAS, the Dundee City Council adopted Ordinance No. 550-2016, which establishes a tax on the sale of marijuana items by a marijuana retailer in the City of Dundee equal to the amount allowed under State of Oregon law (currently three percent); and

WHEREAS, the Dundee City Council, pursuant to Section 34a of HB 3400 (ORS 475B.345), desires to refer Ordinance No. 550-2016 to the electors of the City of Dundee.

NOW, THEREFORE, THE CITY OF DUNDEE RESOLVES AS FOLLOWS:

SECTION 1. Measure. A measure election is called in and for the City of Dundee, Yamhill County, Oregon, for the purpose of submitting to the voters a measure that would establish a tax of the full amount allowed under State law (currently 3%) on the sale of marijuana items by marijuana retailers in the City of Dundee. A copy of the measure is attached and incorporated as "Exhibit 1."

SECTION 2. Election Conducted by Mail. The measure election shall be held on Tuesday, November 8, 2016, which is the next election. The precinct for the election shall be all of the territory within the corporate limits of the City of Dundee. As required by ORS 254.465, the measure election will be conducted by mail by the Yamhill County Elections Department, according to the procedures adopted by the Oregon Secretary of State.

SECTION 3. Notice of Ballot Title. The City Elections Officer is directed to publish notice of receipt of the ballot title in compliance with ORS 250.275(5).

SECTION 4. Ballot Title. Pursuant to ORS 250.285 and ORS 254.095, the Dundee City Council directs the City Elections Officer to file a notice of City Measure Election in substantially the form of Exhibit 2, with the Yamhill County Elections Office, unless, pursuant to a valid ballot title challenge, a judge at the Yamhill County Circuit Court certifies a different Notice of City Measure Election be filed, such filing shall occur no earlier than the eighth business day after the date on which Exhibit 2 is filed with the City Elections Officer and not later than September 8, 2016.

SECTION 5. Explanatory Statement. The explanatory statement for the measure, for publication in the county voters' pamphlet, which is attached and incorporated as "Exhibit 3," is approved; said statement shall be filed with the Columbia County Elections Office at the same time the Notice of City Measure Election is filed by the City Elections Officer.

SECTION 6. Delegation. The Dundee City Council authorizes the City Administrator/Recorder or a designee of the City Administrator/Recorder to act on behalf of the City of Dundee and to take such further action as is necessary to carry out the intent and purposes herein in compliance with the applicable provisions of law.

SECTION 7. Effect of "Yes" Vote. If a majority of eligible voters vote "yes" on the measure, the measure will be approved and the tax will be imposed, as set forth in Exhibit 1 of this Resolution.

This resolution was PASSED and ADOPTED this ____ day of _____, 2016, and takes effect upon passage.

DAVID RUSS, MAYOR

ATTEST:

ROB DAYKIN, CITY ADMINISTRATOR/RECORDER

EXHIBIT 1

ORDINANCE NO. 550-2016

AN ORDINANCE ESTABLISHING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER IN THE CITY OF DUNDEE

WHEREAS, Section 34a of House Bill 3400 (2015) (codified at ORS 475B.345) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city; and

WHEREAS, while the current maximum tax rate allowed by statute is 3%, the City wishes to allow flexibility in the event the legislature raises that amount; and

WHEREAS, the Dundee City Council wishes to exercise that power to tax the sale of marijuana items by a marijuana retailer in the City of Dundee.

Now, therefore, the City of Dundee ordains as follows:

SECTION 1. Dundee Municipal Code is amended by adding a new Chapter 3.24, Recreational Marijuana Tax, to read as attached in Exhibit A.

SECTION 2. Severability. The sections, subsections, paragraphs and clauses of this ordinance or any intergovernmental agreement with any department or agency of the State of Oregon are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3. Savings. Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 4. Intergovernmental Cooperation. After the effective date of this ordinance, the City may enter into an agreement whereby the State of Oregon is responsible for the administration, collection, distribution or enforcement of the tax authorized under this chapter, either in full or in part, without needing to obtain voter approval.

SECTION 5. This ordinance shall be referred to the electors of Dundee at the next statewide general election on Tuesday, November 8, 2016.

SECTION 6. This ordinance shall be effective upon certification by the County Elections official that it has received voter approval at an election conducted on November 8, 2016.

ADOPTED by the Council this _____ day of _____, 2016.

Approved:

David Russ,
Mayor

Attest:

Rob Daykin
City Administrator/Recorder

Exhibit A

Chapter 3.24 RECREATIONAL MARIJUANA TAX

- 3.24.010 Purpose**
- 3.24.015 Definitions**
- 3.24.020 Tax Imposed**
- 3.24.025 Amount and Payment, Deductions**
- 3.24.030 Marijuana Retailer Responsible for Payment of Tax**
- 3.24.035 Penalties and Interest**
- 3.24.040 Appeal**
- 3.24.045 Refunds**
- 3.24.050 Actions to Collect**
- 3.24.055 Violation**
- 3.24.060 Confidentiality**
- 3.24.065 Audit of Books, Records, or Persons**
- 3.24.070 Forms and Regulations**
- 3.24.075 Intergovernmental Agreement**

3.24.010 Purpose

The purpose of this chapter is to impose a three percent tax upon the retail sale of marijuana items by marijuana retailers in the City of Dundee.

3.24.015 Definitions

As used in this ordinance, unless the context requires otherwise:

“Consumer” means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purposes of resale.

“Director” means the City Administrator for the City of Dundee or his or her designee.

“Retail sale price” means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

“Marijuana item” has the meaning given that term in ORS 475B.015(16).

“Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

“Retail sale” or “Sale” means the exchange, gift or barter of a marijuana item by any person to a consumer.

“Marijuana retailer” means any person who is required to be licensed or registered or has been licensed or registered by the State of Oregon to provide marijuana items to consumers for money, credit, property or other consideration.

“Tax” means either the tax payable by the marijuana retailer or the aggregate amount of taxes due from a marijuana retailer during the period for which the marijuana retailer is required to report collections under this chapter.

“Taxpayer” means any person obligated to account to the Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

3.24.020 Tax Imposed

A tax is hereby levied and shall be paid by every marijuana retailer exercising the taxable privilege of selling marijuana items as defined in this chapter. The Director is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of the tax.

3.24.025 Amount and Payment, Deductions

In addition to any fees or taxes otherwise provided for by law, every marijuana retailer engaged in the sale of marijuana items in the City of Dundee shall pay a tax of three percent (3%) of the retail sale price paid to the marijuana retailer of marijuana items, or the maximum amount allowed under state law, whichever is greater. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

3.24.030 Marijuana Retailer Responsible for Payment of Tax

- A. Every marijuana retailer shall obtain a business license from the City of Dundee pursuant to DMC 5.04.
- B. Every marijuana retailer shall, on or before the twenty-fifth day of each month, make a return to the Director, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter for the preceding month. The marijuana retailer may request, or the City may establish, shorter reporting periods for any marijuana retailer if the marijuana retailer or City deems it necessary in order to ensure collection of the tax and the City may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.
- C. At the time the return is filed, the full amount of the tax collected shall be remitted to the City.
- D. Payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion,

determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any marijuana retailer if the Director deems it necessary in order to ensure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by marijuana retailers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the City. A separate trust bank account is not required in order to comply with this provision.

E. Every marijuana retailer must keep and preserve, in an accounting format established by the Director, records of all sales made by the marijuana retailer and such other books or accounts as may be required by the Director for a period of three (3) years or until all taxes associated with the sales have been paid, whichever is longer. The City shall have the right to inspect all such records at all reasonable times.

3.24.035 Penalties and Interest

A. Any marijuana retailer who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.

B. If the City determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs 1 and 3 of this section.

C. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

D. Penalties imposed, and such interest as accrues for violation of this chapter are separate from, and in addition to, the tax imposed on the sale of marijuana items.

E. All sums collected pursuant to the penalty provisions in this section shall be distributed to the City of Dundee General Fund to offset the costs of auditing and enforcement of this tax.

3.24.040 Appeal

Any marijuana retailer aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council by filing a notice of appeal to the Director within fourteen (14) days of the decision. The Director shall transmit the notice of appeal, together with the file of the appealed matter, to the City Council, and shall schedule a time and place for hearing such appeal. The City Council shall give the appellant not less than fourteen (14) days' written notice of the time and place of the hearing. The City

Council shall consider the matter de novo and may approve, revise or remand the Director's decision. The City Council's decision shall be by written order and shall be subject to writ of review proceedings pursuant to ORS 34.010 et seq.

3.24.045 Refunds

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded as provided in subparagraph 2 of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one (1) year of the date of payment. The claim shall be on forms furnished by the City.

B. The Director shall have twenty (20) calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a marijuana retailer may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The marijuana retailer shall notify Director of claimant's choice no later than fifteen (15) days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the fifteen (15) day period and the marijuana retailer is still in business, a credit will be granted against the tax liability for the next reporting period. If the marijuana retailer is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

C. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

3.24.050 Actions to Collect

Any tax required to be paid by any marijuana retailer under the provisions of this chapter shall be deemed a debt owed by the marijuana retailer to the City. Any such tax collected by a marijuana retailer which has not been paid to the City shall be deemed a debt owed by the marijuana retailer to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Dundee for the recovery of such amount. In lieu of filing an action for the recovery, the City of Dundee, when taxes due are more than thirty (30) days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Dundee has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of fifty dollars (\$50.00) or fifty percent (50%) of the outstanding tax, penalties and interest owing.

3.24.055 Violation

A. Violation of this chapter is punishable by a fine not to exceed five hundred dollars (\$500.00) per day for each continuing day of violation. It is a violation of this chapter for any marijuana retailer or other person to:

1. Fail or refuse to comply as required herein;
2. Fail or refuse to furnish any return required to be made;
3. Fail or refuse to permit inspection of records;
4. Fail or refuse to furnish a supplemental return or other data required by the City;
5. Render a false or fraudulent return or claim; or
6. Fail, refuse or neglect to remit the tax to the city by the due date.

B. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this chapter prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.

3.24.060 Confidentiality

Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

- A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana items are sold or provided; or
- B. The disclosure of general statistics in a form which would not reveal an individual marijuana retailer's financial information; or
- C. The disclosure of information to any state agency related to the licensing or registration of the marijuana retailer or when required to carry out any part of this chapter.
- D. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the City or an appeal from the City for amount due the City under this chapter; or
- E. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- F. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six (6) months or the tax exceeds five thousand dollars (\$5,000). The City

Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

3.24.065 Audit of Books, Records, or Persons

A. The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of marijuana retailer's state and federal income tax return, bearing upon the matter of the marijuana retailer's tax return. All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director.

B. If the examinations or investigations disclose that any reports of marijuana retailers filed with the Director pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the Director may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.

C. The marijuana retailer shall reimburse the City for reasonable costs of the examination or investigation if the action disclosed that the marijuana retailer paid ninety-five percent (95%) or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of one percent (1%) per month, or the portion thereof, from the date the original tax payment was due.

D. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the City may immediately seek a subpoena from the Dundee Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.

E. Every marijuana retailer shall keep a record in such form as may be prescribed by the City of all sales of marijuana items. The records shall at all times during the business hours of the day be subject to inspection by the City or authorized officers or agents of the Director.

F. Every marijuana retailer shall maintain and keep, for a period of three (3) years, or until all taxes associated with the sales have been paid, whichever is longer, all records of marijuana items.

3.24.070 Forms and Regulations

The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

A. A form of report on sales and purchases to be supplied to all vendors; and

B. The records which marijuana retailers are to keep concerning the tax imposed by this chapter.

3.24.075 Intergovernmental Agreement

The City Council may enter into an IGA with any department or agency of the State of Oregon whereby the State is responsible for the administration, collection, distribution, or enforcement of the tax authorized under this chapter, either in full or in part. The terms of that agreement shall apply in lieu of and shall supersede conflicting provisions of this chapter but shall not be construed as repealing any provision of this chapter.

EXHIBIT 2

Notice of Measure Election
City

SEL 802

rev 1/14: ORS 250.035, 250.041,
250.275, 250.285, 254.095, 254.465

Notice		
Date of Notice	Name of City or Cities City of Dundee	Date of Election November 8, 2016

The following is the final ballot title of the measure to be submitted to the city's voters.

Final Ballot Title Notice of receipt of ballot title has been published and the ballot title challenge process has been completed.

Caption 10 words which reasonably identifies the subject of the measure

Imposes city tax on marijuana retailer's sale of marijuana items

Question 20 words which plainly phrases the chief purpose of the measure

Shall City impose a tax on the sale of marijuana items by a marijuana retailer in the City?

Summary 175 words which concisely and impartially summarizes the measure and its major effect

Under current state law, a city council may adopt an ordinance to be referred to the voters of the city imposing up to a three percent tax or fee on the sale of marijuana items in the city by a licensed marijuana retailer.

If this measure is adopted, it would approve a Dundee Ordinance imposing a tax on the sale of marijuana items in the city by a licensed marijuana retailer. The tax amount would be the maximum amount allowed under state law, which is currently three percent (3%). The tax would be collected at the point of sale and remitted by the marijuana retailer. The measure also includes provisions regarding collection, administration and enforcement of the tax.

Explanatory Statement 500 words that impartially explains the measure and its effect, if required attach to this form

If the county is producing a voters' pamphlet an explanatory statement must be submitted for any measure referred by the city governing body and if required by local ordinance, for any initiative or referendum.

Measure Type	County producing voters' pamphlet	Local ordinance requiring submission	Explanatory statement required
<input checked="" type="checkbox"/> Referral	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Not applicable	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Initiative	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Referendum	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Authorized City Official Not required to be notarized

→ By signing this document, I hereby state that I am authorized by the city to submit this Notice of Measure Election and I certify that notice of receipt of ballot title has been published and the ballot title challenge process for this measure completed.

Name	Title	Work Phone
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Signature	Date Signed
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EXHIBIT 3
EXPLANATORY STATEMENT

500 words

Under measure 91, adopted by the Oregon voters in November 2014, and amended by the Legislature in 2015, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. The 2015 Legislation provides that a city council may adopt an ordinance imposing up to a three percent tax on the sale of marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the city, but the council must refer that ordinance to the voters at a statewide general election. The Dundee City Council has adopted an ordinance imposing a tax of the full amount allowed under State law, which is currently three percent (3%), on the sale of marijuana items by a marijuana retailer in the city, and, as a result, has referred this measure to the voters.

If this measure is adopted, it would approve Dundee Ordinance No. 550-2016, and impose a three percent tax, or the maximum rate allowed by the state, whichever is greater, on the sale of marijuana items in the city by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer. The measure also includes provisions regarding collection, administration and enforcement of the tax. There are no restrictions on how the city may use the revenues generated by this tax.

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Faint, illegible text, possibly bleed-through from the reverse side of the page.