

Council Roundup for December 05, 2022

The Newberg City Council met on December 05, 2022 and took the following actions.

Approved:

Resolution 2022-3875, Adopting the revised Facility Use Policy for the Newberg Public Library.

Resolution 2022-3874, Awarding the contract of destination tourism marketing services to Visit Newberg DBA Tatse Newberg.

Moved to approve the content of the 2022-2023 Notice of Funding Availability (NOFA) for the Newberg Construction Excise Tax (CET).

Moved to revise the interview question portion of Resolution 2022-3873 and show the scoring results during the Council meeting where district 3 interviews are taking place.

In other business:

Heard activities report from City Manager



**City Council Business Session
December 5, 2022 - 6:00 PM
Newberg public safety building 401 e. third street
denise bacon community room
(formerly psb training room)
hybrid
<https://us06web.zoom.us/j/87085462958>
1 669 444 9171
webinar id: 870 8546 2958**

1. CALL TO ORDER

- 1.A Agenda en español
[Spanish Council Biz Sxn Agenda 2022-1205.docx](#)

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. CITY MANAGER'S REPORT

- 4.A CM narrative report covering November 2022
[CM report November 2022 events.pptx](#)

5. PUBLIC COMMENTS

6. CONSENT CALENDAR

- 6.A Res. 2022-3875 A Resolution adopting the revised Facility Use Policy for the Newberg Public Library.
[Res 3875 LibraryFacilityUsePolicy2022.docx](#)
[Policy-Facility Use 2022 - Appendix A.docx](#)
[Policy-Facility Use 2016 B.docx](#)

7. PUBLIC HEARINGS

- 7.A Res. 2022-3874 A Resolution awarding the Contract for destination tourism marketing services to Visit Newberg DBA Taste Newberg via the special procurement method.

[2022 RCA Res 2022-3874 Taste Newberg contract award 2022-1205 \(002\)
4880-9621-3312.docx](#)
[Taste Newberg_City of Newberg_Contract 2023-25.docx](#)

8. NEW BUSINESS

8.A Construction Excise Tax (CET) Implementation and Notice of Funding Availability (NOFA) Documents

[MOTION RCA_CET Implementation_Dec 5, 2022.docx](#)
[Att 1_CET NOFA Documents.pdf](#)
[CET Implementation_Council Presentation_Dec 5 2022.pptx](#)

9. COUNCIL BUSINESS

10. ADJOURNMENT

ADA STATEMENT

Contact the City Recorder's Office for physical or language accommodations at least 2 business days before the meeting. Call (503) 537-1283 or email cityrecorder@newbergoregon.gov. For TTY services please dial 711.



Sesión de Determinación del Concejo Municipal

5 de diciembre, 2022 - 6:00 PM

Híbrido

En Persona: Edificio de Seguridad Pública 401 E. Third Street

Sala Comunitaria de Denise Bacon

(anteriormente sala de entrenamiento)

En línea: <https://us06web.zoom.us/j/87085462958>

Por teléfono: 1 669 444 9171

Webinar ID: 870 8546 2958

1. LLAMAR AL ORDEN
2. PASAR LISTA DE ASISTENCIA
3. PROMESA DE LEALTAD
4. INFORME DEL ADMINISTRADOR DE LA CIUDAD
- 4.A Informe narrativo del CM que cubre noviembre de 2022
[CM report November 2022 events.pptx](#)
5. COMENTARIOS DEL PÚBLICO
6. CALENDARIO DE CONSENTIMIENTO
- 6.A Resolución 2022-3875, Una Resolución que adopta la póliza de Uso de Instalaciones revisada para la Biblioteca Pública de Newberg.
[Res 3875 LibraryFacilityUsePolicy2022.docx](#)
[Policy-Facility Use 2022 - Appendix A.docx](#)
[Policy-Facility Use 2016 B.docx](#)
7. AUDIENCIAS PÚBLICAS
- 7.A Resolución 2022-3874, Resolución de adjudicación del Contrato de servicios de marketing turístico de destino a Visit Newberg DBA Taste Newberg a través del método especial de contratación.
[2022 RCA Res 2022-3874 Taste Newberg contract award 2022-1205 \(002\) 4880-9621-3312.docx](#)

[Taste Newberg_City of Newberg_Contract 2023-25.docx](#)

8. NUEVOS ASUNTOS

8.A Documentos de Implementación del Impuesto Especial de Construcción (CET) y Aviso de Disponibilidad de Fondos (NOFA)

[MOTION RCA_CET Implementation_Dec 5, 2022.docx](#)

[Att 1_CET NOFA Documents.pdf](#)

9. ASUNTOS DEL CONSEJO

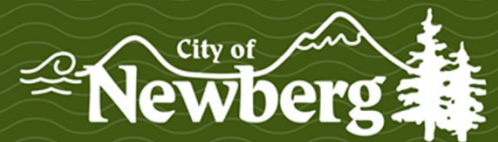
10. APLAZAMIENTO

DECLARACIÓN BAJO LA LEY ESTADOUNIDENSE DE DISCAPACIDADES

Contacta la oficina de la secretaría de la ciudad al menos 2 días hábiles antes de la sesión para obtener adaptaciones físicas o lingüísticas. Llame al (503) 537-1283 o envíe un correo electrónico a cityrecorder@newbergoregon.gov. Para servicios de TTY, marque 711.

Newberg CM report

Monthly Events for November 2022



Here are some of the Public Works projects currently underway or nearing completion at this time:

The advanced metering infrastructure project is mostly completed. The integration of the customer portal and information into our financial systems is almost complete.

The pavement maintenance projects for FY22 / 23 will be Brutscher Street and Sherman Street. The ADA ramps on Brutscher Street are under construction.

Improvements to Otis Springs to provide non-potable water north of 99W is underway.



Storm Drain Installation on Elliott Rd



Some maintenance things that have happened recently:

- Maintenance Fire Hydrants - 6
- Exercised water distribution valves – 6
- Service connections – 72
- Service disconnections - 45
- Leak Checks conducted - 31
- Water Meter Radios (MXU's) Replaced - 133
- Water meter maintenance – 73
- Water meters replaced – 4
- New water meters installed - 12
- Delinquent Lock Offs - 66

Streets/Storm

- Street sweeping debris collected – 124 Cubic yards.
- Storm pipes cleaned –190
- Storm pipes video – 200 ft.

Sequoia tree taken down at N. College and E. Vermillion





6

Sewer and Storm Video Inspection



7

**Rain or Shine - Work
Continues on PWM Fuel
Station site construction
and facilities improvements**



Facilities/Grounds work:

City Hall

- Troubleshoot occupancy sensor on second floor in cubicle area
- Walk through w/Global Electric for HVAC electrical upgrades

WWTP

- Repair shop alarm
- Get quote and order cabinet

PWM

- Replace GFI outlet

Library

- Building door for library
- Source wood finish products for handrails
- Fix handicap button door opener
- Planning meeting for Sensory Santa
- Changed lightbulbs

... and more Facilities/Grounds work:

PSB

- Assemble metal rack for EOC
- Troubleshoot HVAC in Dispatch
- Take down metal cable raceway from a wall
- Replaced 4 ballast in front office
- Set up blood drive in training room
- Replaced paper towel dispenser in Dispatch restroom

With the recent heavy rains in early November, we have seen our flows at the treatment plant jump up to the normal winter month flows of around 4 million gallons per day.

During the heaviest part of the storm on November 4th our flows peaked at just over 13 MGD, or just over 9,000 gallons per minute. While this is not a historically high flow rate (we have seen flows more than double that), this is a high flow rate for this early in the wet season.

Operationally, the plant is running great with all our lab numbers being right where we like to see them this time of year.

Going into the wetter months of the year is when our staff are cutting back on the projects that we are completing and turning our focus primarily to operations of the compost facility for our operators and preventative maintenance activities for our mechanics.

NDPD news

Our Honor Guard posted colors at Councilor Denise Bacons memorial.

Our Code Enforcement position has one candidate in backgrounds.

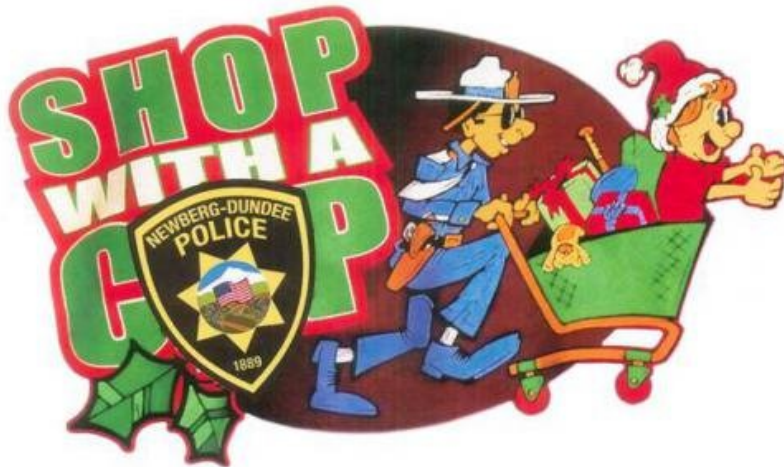
K. Raudy graduated from DPSST for dispatch.

She was the class leader and graduated top of her class.

Welcome Jordan he is a new dispatcher and is doing great →



So far local businesses have donated over \$6,000.00 for Shop With a Cop. This year it will be held on December 17th @ Fred Meyer. Typically 30+ kids are in the program.





Captain Simmons, K. Raudy, L. Cox and Chief Kosmicki at Raudy's graduation.



Honor Guard:

Officer Dickerson, Detective Fouch, Corporal Fults and Officer Siqueiros

Community Development, Pre-application meetings were held for:

- A modification to the Crestview Crossing Planned Unit development to incorporate multi-family housing.
- With Highline Classics for a new facility.
- A property at 814 E 4th St for either a triplex, duplex or ADU development.
- The Arts Committee for art pedestals in the downtown area.

Community Development went live with the TVF&R Service Provider Permit portal on the TFV&R web site. All application material has been updated for the link to enter information into the TFV&R site.

Staff met with Lincoln Avenue Capital who is investigating multi-family development opportunities in Newberg.

Clay Downing, Planning Manager, has been conducting introductory meetings with a variety of partners including ODOT, CPRD and City of Dundee.

Staff presented to the Dundee City Council for a Comprehensive Plan and Zone Change for the new Dundee Elementary School as part of the contract services to Dundee.

Staff met with the Missing Middle Housing Fund, a non-profit organization, as part of the Workforce Housing Consortium efforts.

A meeting was held for the Mid-Willamette Valley Council of Governments for updating the Comprehensive Economic Development Strategy Advisory Group.

As reported last month the Building Division continues to see a slowdown with the economy in submittal of and processing building permits.

Community Engagement:

Through the month of November, Community Engagement has been focused on supporting internal administrative operations and communications.

Sharepoint has seen a gradual increase in use by City staff, so CE has been using the platform as an auxiliary method for distributing City news to staff.

November has also been cross-training month for the Admin team, so Community Engagement has been training to support the City Recorder.



CE has also been working on developing an updated SOP to train backup social media managers in the Admin team.

In the public sphere, Community Engagement put together an Employee Spotlight for Veterans' Day on November 11 to show our appreciation to our staff members who have served.

CE has also been working to support other departments in the City, like posting social media alerts on behalf of Public Works – and pushing out the recruitment campaign for volunteer boards, commissions, and committees.

On the next few slides are examples of community engagements latest work:





Weather Event

Friday 11/4 - Monday 11/7

Expect Strong Winds, Heavy Rain, Significant Temperature Drop Overnight 11/6-11/7

First Active Weather System of the Winter Season.

Please be aware of potential flooding and slick roads, and damage to trees or power lines.

*Report **Storm Damage** to 503-537-8321 or use the See Click Fix app*

*Report **Power Outages** to PGE by calling 503-464-7777*

or go online: <https://portlandgeneral.com/outages-safety>

Thank You

— ★ ★ ★ —
To the Veterans &
Service Members on
our Staff and to All Who
Have Served

November 11, 2022

PUBLIC WORKS DEPARTMENT

Alan McKeel - Air Force

Jennifer Valdez - Air Force

Luke Hoogendam - Marines

Russ Thomas - Navy

NEWBERG PUBLIC LIBRARY

Gabriella McMahan - Navy

COMMUNITY DEVELOPMENT

Michele Faber - Air Force

CITY COUNCIL

Jefferson Mildemberger - Navy



Finance

During the month of November, Finance and HR worked collaboratively on the Incode Implementation of the payroll module configuration and parallel payroll testing in order to go live for the November payroll.

There were countless late nights and weekends involved in this portion of the implementation so big thank you to the entire Finance and HR team for pulling this off.

Additionally, the city annual financial audit is under way with Singer Lewak LLC conducting the audit.

Since the last update, the IT Department worked with the police department on a project to deploy a new software application for managing physical evidence. The application is up and running for testing and training, with a future finalized data export to be completed in December.

We also began the deployment process of our final ARPA Project, a software solution to help manage and deploy security patches to critical parts of our infrastructure faster. In addition, we performed a migration of our phone lines from an older analog delivery method to a more modern digital phone signal.

In November HR circulated an employee benefits survey and received a terrific response with 111 of 145 total employees participating.

This demonstrates a *very* engaged workforce.

SHRM, Cascade Employers Association and Miller Nash have all suggested that to remain competitive in the persistently tight labor market, business leaders need to seriously consider what current and prospective employees need and value. What qualifies as a benefit is rapidly changing and what employees value is best determined by asking them.

Once the results of the survey have been reviewed, we will be able to give Council an overview of the findings and the city's proposed responses.

November also saw the beginning of messaging on the new Oregon Paid Leave program, to give employees time to learn about the tax that will be collected in the January payroll.

The leave itself will not become available until September 2023. The city has decided to proceed with the state plan rather than a private alternative plan, which was more expensive and offered no advantages over the state plan.



It's Cozy Reading time at the library! During the late fall and winter holidays the library makes it fun and easy to keep up the reading habit for kids and families, and adds a little more fun with incentives for reading for teens and grown-ups too.

This year our Cozy Reading Mascot is the highly-squeezable Mellow (see next slide), the marshmallow fellow, who moves to a new hiding place around the library each week. This popular program encourages weekly visits, helps children work on their verbal and spatial skills, and is just plain fun.



In other news the library recently received a grant from the American Library Association to purchase laptop devices for offering computer classes in the community.

The library has already hosted several classes, one for our Spanish-speaking community as well as classes for our Seniors at the Chehalem Senior Center and Friendsview on basic computer skills and internet safety.

The library also received grant funding from the Newberg Early Bird Rotary to keep our Cultural Passes going for the twelfth year in a row. Passes are available for check-out with a library card. Each pass gets a varying number of people into a location free of charge.

Popular passes include Evergreen Aviation Museum, AC Gilbert House, the Portland Art Museum, and many more. This year we have added Pittock Mansion and the Rice Rock Museum. These passes make cultural experiences available to families and individuals free of charge.

So that's it for November events!

As you can see our residents tax dollars have been hard at work as usual.

Questions?

REQUEST FOR COUNCIL ACTION



Date Action Requested: December 5, 2022

Order <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Information <input type="checkbox"/> No. 2022-3875	
Subject: A Resolution adopting the revised Facility Use Policy for the Newberg Public Library.	Staff: Korie Buerkle Department: Library File No.
Business Session	Order On Agenda: Consent Calendar

Recommendation:

Adopt Resolution No. 2022-3875 approving the revision of the library’s Facility Use Policy.

Executive Summary:

Newberg Library Staff and the Library Advisory Board have revised the Library Facility Use Policy which was last revised in 2016. The revised policy clearly lays out expectations of use through the “Public Meeting Room Use Regulations” and clarifies the procedure for reserving the room through a four-step process.

The revision adds both legibility and clarity to the process. The new policy is listed as appendix A. The previous policy is included as appendix B.

Fiscal Impact:

There is no charge for use of the library’s meeting room. Groups may incur charges if library property is damaged. No fiscal impact is expected.

Strategic Assessment:

The Newberg Public Library’s meeting room is most often in use with library programs. Groups may reserve the room up to thirty days ahead of time when available. The revised Facility Use Policy brings clarity in form and language to the process and provides better customer service to groups from outside the library.

RESOLUTION NO. 2022-3875

A Resolution adopting the revised Facility Use Policy for the Newberg Public Library.

Recitals:

1. The City of Newberg last updated the library meeting room policy by motion on August 1, 2016.
2. The Library Advisory Board desires the Newberg City Council to adopt the revision of the library's Facility Use Policy, which was approved by the Newberg Library Advisory Board on October 20, 2022.

The City of Newberg Resolves as Follows:

1. The City Council approves the revision of the library's Facility Use Policy.

Effective Date of this resolution is the day after the adoption date, which is: December 6, 2022.

Adopted by the City Council of Newberg, Oregon, this 5th day of December, 2022

Sue Ryan, City Recorder

Attest by the Mayor this 6th day of December, 2022.

Rick Rogers, Mayor

Facility Use Policy

Authority: Newberg City Council

Update history: Adopted by Newberg Library Advisory Board November 12, 2002; Adopted by the Newberg City Council December 2, 2002; Revision Adopted by Newberg Library Advisory Board April 28, 2016; Revision Adopted by Newberg City Council August 1, 2016; Revision Adopted by Newberg Library Advisory Board October 20, 2022

Public Use of Meeting Room

The Newberg Public Library makes its meeting room available for use by nonprofit and civic groups for cultural, informational, educational, intellectual, and civic purposes. Availability is contingent on there being no conflict with library programs, meetings, or events, which have priority. Priority for use of the meeting room is to individuals or organized groups in the library's service area.

The library director reserves the right to determine use of the space, to assess fees for use of the space, and to cancel or reschedule all arrangements, at their discretion, with or without cause or reason, and without liability.

Public Meeting Room Use Regulations

1. Reservations may be made up to one month in advance. Reservations may be made same day depending upon availability. Groups may have only one reservation at a time for the library meeting room.
2. Reservations must be made on the library's reservation form by a group. No person or group may transfer its reservation to another person or group.
3. Groups must be no smaller than two people for a reservation. Groups may not exceed the capacity of the room, which is 59 according to the fire marshal.
4. Excessive noise or use of hazardous material is prohibited.
5. The library meeting room is available only during library open hours. Groups may enter the room for set-up only at their reserved time and must adjourn 15 minutes before closing time.
6. All meetings or programs must be open to the public.
7. In publicizing a meeting to be held in a library meeting room, the sponsoring group must be clearly identified. Groups must not imply library sponsorship of their program or organization in their publicity. Use of the Newberg Library's logo on flyers or posters is prohibited.

8. No admission fees may be charged or solicited. No donations of money or other property may be solicited or collected from the audience. No promotions or sales of services, products, merchandise, materials or other items are allowed. Exceptions may be made by the library director or for fundraising for the library, the Newberg Library Friends, or the Library Foundation of Newberg.
9. Light refreshments may be served, but groups may not prepare food on library property. Groups are responsible for cleanup.
10. The use, possession, or consumption of alcoholic beverages is not permitted in library facilities except with written authorization of the library director and city manager, in compliance with the library's "Alcohol Use Policy."
11. Tables and chairs are available at each location. Other equipment may be provided by the library if staff are available to assist. The group is responsible for setting up, rearranging, and taking down tables and chairs.
12. Groups are responsible for leaving the facilities in order after use. If the room is not cleaned up, groups may be charged a fee determined by the time required for staff to clean the room.
13. The library is not responsible for theft of or damage to property brought into a library meeting room.
14. An adult age 18 or older must complete the Austin Meeting Room Reservation Form, and at least one adult age 18 or older must be present when youth groups use the meeting rooms.
15. Children aged 10 and younger may not be left unaccompanied in the library while their adults participate in a meeting. Please see the library's "Unattended Children Policy."
16. Any group that damages library property will be liable for costs incurred in connection with such damage and may lose the privilege of using meeting rooms in the future. If the room is not cleaned up, groups may be charged a fee determined by the time required for staff to clean the room.
17. All groups, clubs, entities, or individuals using a library meeting room must comply with these regulations and with Newberg Public Library policies. Failure to comply with the guidelines and policies may lead to immediate termination of the meeting, exclusion of individuals from library premises pursuant to the guidelines and policies, and/or loss of future meeting room use privileges.

Procedures

1. An organization seeking to use meeting/space facilities must have an authorized representative agree in writing on the "Austin Meeting Room Reservation Form" to observe this policy and the above regulations.
2. Forms are found at the library's upstairs reference desk.
3. Library staff will notify groups when their reservation is accepted.
4. Library staff will notify groups as soon as possible if the reservation is not accepted or if a reservation must be cancelled.

Library Grounds

Reserving the Carnegie Court is under the auspices of the Newberg Cultural District and reservations must be made through the Chehalem Cultural Center.

Facility Use Policy

Authority: Newberg City Council

Update history: Adopted by Newberg Library Advisory Board November 12 2002, Adopted by the Newberg City Council December 2 2002, revision Adopted by Newberg Library Advisory Board April 28 2016, revision Adopted by Newberg City Council August 1 2016

The Newberg Public Library makes available its meeting room for use by nonprofit and civic groups for cultural, informational, educational, intellectual and civic purposes. Availability is contingent on there being no conflict with Library programs, meetings, or events, which have first priority. Priority for the use of the meeting room is to individuals or organized groups in the Library service area. The Library Director reserves the right to determine use of the space, to assess fees for use of the space, and to cancel or reschedule all arrangements, at his/her discretion, with or without cause or reason, and without liability.

The fact that a group is permitted to meet at the Newberg Public Library does not in any way constitute an endorsement of the group's policies and/or beliefs. Groups may not use the name or address of the Newberg Public Library as the official address or headquarters of the organization. Advertisements for meetings/events/activities held in the Library may not be displayed in such a manner as to suggest Library sponsorship.

Programs and activities that would disrupt normal library operations are not allowed.

Failure to abide by this policy and the related regulations will result in cancellation or refusal of reservations. An organization seeking to use meeting/space facilities must have an authorized representative agree in writing to observe this policy and the following regulations.

Regulations Governing Use of the Meeting Room

Reservations must be made in writing, on the Library's reservation form, not more than 90 days nor less than 15 days prior to the event. All reservations must be confirmed by the Library; an application for use does not assure approval. Requests will be considered in the order of application. No group may transfer use of the room. The Library meeting room is available only during the regular operating hours. Groups may not exceed the stated capacity of the room. Excessive noise or use of hazardous material is prohibited.

Groups which will include children under the age of 18 must provide adult supervision. For children ages 6 to 18, one adult for every ten children and, for children under five, one adult for every five children shall be required.

All meetings / events shall be open to the general public, regardless of age, sex, race, religion, national origin or physical disabilities.

No admission fees may be charged nor money collected nor other money-raising activities conducted except as approved by the Library Director for civic or library activities.

The Library provides equipment such as tables and chairs for use within the Austin Meeting Room. The computer projector and BlueRay / DVD player may be used upon special request and if staff are available to supervise. Users of the room are required to obtain their own license for showing films.

Light refreshments, such as beverages, cakes, cookies or other finger foods, may be served within the room with the approval of the library director. Groups must transport their own supplies and equipment. Groups are responsible for leaving the facilities in order after use. If the room is not cleaned up, groups may be charged a fee determined by the time required for staff to clean the room.

The Library is not responsible for security or storage of property owned by groups using the Library nor is it responsible for damage or loss of property of others. Groups are responsible for reimbursing the Library for damage to the facility within 30 days of billing.

Smoking is not permitted on any Library premises. The use, possession, or consumption of alcoholic beverages is not permitted in library facilities except with written authorization of the Library Director and City Manager. Additional conditions imposed by the Library Director may be required. These requirements may include, but are not necessarily limited to, the following:

- A. A reserve police officer(s) present
- B. Proof of insurance holding the City/Library harmless will be provided.
- C. Proof of insurance with specified limits, insuring the City against breakage or damage to facility or equipment will be provided.
- D. All appropriate OLCC regulations must be met and a copy of the OLCC permit provided to the Library Director.
- E. References will be required.

Library Grounds

The Carnegie Court is now under the auspices of the Newberg Cultural District and reservations are made through the District.

REQUEST FOR COUNCIL ACTION



Date Action Requested: (December 5, 2022)

Order <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Information <input type="checkbox"/>	
No. 2022-3874	
Subject: A Resolution awarding the Contract for destination tourism marketing services to Visit Newberg DBA Taste Newberg via the special procurement method.	Staff: Will Worthey CM Department: Administration File No.
Business Session	Order On Agenda:
Hearing Type: Administrative	

Recommendation:

Staff recommends awarding the contract for destination marketing services to Visit Newberg DBA Taste Newberg as a special procurement per ORS 279B.085 and the City’s Purchasing Policy and Procedures (“Purchasing Manual”) Section 12.2.

Contract Review Board

ORS 279B.085 and the Purchasing Manual Section 12.2 outline the process for approval of special solicitation methods and exemptions. Exhibit “A” to Resolution No. 2022-3843 are the findings that support the City Council’s decision acting as the Contract Review Board.

Executive Summary:

At this time no other local entity exists with the skills or the ability to carry out the work of destination tourism marketing on behalf of the City of Newberg. Taste Newberg has an established track record of success in this field. By awarding the contract for a period of two-and a-half years, the timing on the Taste Newberg and Chamber Visitor center contracts can align to have the same performance period. This will create a more efficient and rational procurement pattern going forward as their services are complementary.

Fiscal Impact:

In line with the legal framework of Oregon law (**HB 2267**) a portion of Transient Lodging Taxes must be used for the Tourism economy while a portion may be used for general funds. In the case of the City of Newberg the tourism promotion portion is set to 35.0667% of Transient Lodging Taxes paid out on a quarterly basis. These taxes would be paid out on a quarterly basis (November, February, May and August). Since this portion of the TLT funds must by law be spent on growing the tourism economy this arrangement will greatly benefit the City of Newberg as Visit Newberg dba Taste Newberg will continue its work in the sector and as a result bring additional general fund dollars into our public coffers.

Strategic Assessment:

The relationship with Visit Newberg dba Taste Newberg is excellent. Continuing this relationship with the only entity capable of carrying out this mission is to the benefit of the city and especially its tourism economy.



RESOLUTION No. 2022-3874

A Resolution awarding the Contract for destination tourism marketing services to Visit Newberg DBA Taste Newberg via the sole source method.

Recitals:

1. Whereas, in 2003, the Oregon Legislature passed **HB 2267** adding guideline to the use of Transient Lodging Taxes; and
2. Whereas, the city codified these Transient Tourism Tax arrangements via **Ordinance No.1976-1835A** and as amended by **Ordinance No. 1989-2262, 1996-2433, 1997-2476, and 2014-2771**; and
3. Whereas, the only local entity capable of successfully carrying out tourism promotion work via the legally established portion of Transient Lodging Tax income; and
4. Whereas, only Visit Newberg can provide this service due to its local market intelligence and specialization.
5. Whereas, the correct public notifications have been made per the Purchasing Manual Section 12.2; and
6. The City Council desires to renew the Visit Newberg contract dba Taste Newberg for a period of two and one-half years.

The City of Newberg Resolves as Follows:

1. To continue our relationship with Visit Newberg dba Taste Newberg for a period of two and a half years.
2. To award this contract as a special procurement per ORS 279B.085 and the Purchasing Manual Section 12.2.

Effective Date of this resolution is the day after the adoption date, which is: December 6, 2022.

Adopted by the City Council of Newberg, Oregon, this 5th day of December 2022

Sue Ryan, City Recorder

Attest by the Mayor this _____ day of _____, 2022.

Rick Rogers, Mayor

**Exhibit “A” to Resolution No. 2022-3874
Findings of Fact for Exemption**

The City Council is the Contract Review Board (Board) pursuant to **NMC 3.25.030**. The City Council in its authority as the Board grants an exemption from the normal solicitation process and approves entering into an agreement with the Visit Newberg dba Taste Newberg based on the following Findings of Fact:

Process for approval of special solicitation methods and exemptions in line with **ORS 279B.085 and the Purchasing Manual Section 12.2**.

- A. Authority of City Council. In its capacity as contract review board for the city, the city council, upon its own initiative, or upon request of the purchasing manager, may create special selection, evaluation and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.

***Finding:** The City Manager, who oversees the Taste Newberg contract, has requested the exemption from competition.*

- B. Basis for Approval. The approval of a special solicitation method or exemption from competition must be based upon a record before the city council that contains the following:

1. The nature of the contract or class of contracts for which the special solicitation or exemption is requested;

***Finding:** The contract would be for an agreement between the City of Newberg and Visit Newberg dba Taste Newberg. Visit Newberg dba Taste Newberg will provide tourism marketing services utilizing transient lodging tax proceeds collected by the City for tourism marketing promotion as defined by Oregon Revised Statute (ORS) 320.300(6), (7), (8), and (10). Visit Newberg dba Taste Newberg is a non-profit organization in compliance with ORS 320.300(8).*

2. The estimated contract price or cost of the project, if relevant;

***Finding:** The estimated contract price is variable based upon the total amount of TLT revenue collected. For the last period this amount was approximately \$330,000 paid out in quarterly disbursements.*

3. Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;

***Finding:** Visit Newberg dba Taste Newberg has provided services for 4 years under contract with the City. Visit Newberg dba Taste Newberg has established protocols and processes to provide these services and has staffing and resources to operate the required functions.*

This is in the form of an arrangement in which the City furnishes partial funding through the transient lodging tax.

4. Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;

Finding: *Entering into an agreement with the Visit Newberg dba Taste Newberg is unlikely to encourage favoritism or diminish competition because Oregon Revised Statutes (ORS 320.300(8)) defines what a tourism promotion agency includes. Specifically, a tourism promotion agency is:*

- i) an incorporated non-profit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis,*
- ii) a non-profit entity that manages tourism-related economic development plans, programs, and projects, and*
- iii) a regional or statewide association that represents entities that rely on tourism-related business for more than 50 percent of their total income*

The City of Newberg has worked under contract with the Visit Newberg dba Taste Newberg for the past 4 years to perform the tourism marketing functions.

There are no other stated non-profit organizations within the area that provide the level of services the City desires to provide tourism marketing services for Newberg. Nor do any other local entities have the capability to do so. Visit Newberg dba Taste Newberg is in a unique situation as it has relationships with the businesses that operate tourist industries within the city and surrounding areas, which are the destinations for our visiting tourists.

With The Visit Newberg dba Taste Newberg award, this exemption would be unlikely to encourage favoritism in the awarding of public contracts.

The awarding of the agreement would substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements, such as a Request for Proposals. This is because Taste Newberg possesses a local footprint and access to intelligence information on the local market that could not be matched by an outside bidder. Additionally Visit Newberg has established relationships with other destination marketing organizations such as Visit Oregon that would be hard to recreate.

5. A description of the proposed contracting procedure to be employed; and

Finding: *The contract would be made via direct award to Visit Newberg dba Taste Newberg. Visit Newberg dba Taste Newberg is a non-profit organization. The contract would be for a thirty-month period (two and one half years) to allow this contract to synchronize with the Chehalem Valley Chamber of Commerce visitor center contract.*

6. The estimated date by which it would be necessary to sign the contract(s).

In making a determination regarding a special selection method, the city council may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.

Finding: *The estimated date to sign the contract with the Visit Newberg dba Taste Newberg is December 27, 2022.*

C. Notice and Protest Period.

1. The City will give public notice of the City Council's approval of this special procurement in the same manner as public notice of competitive sealed bids under ORS 279B.055(4). The public notice will describe the services to be acquired through the special procurement, identify the prospective contractor, and include the date and time when, and place where, protests of the special procurement must be filed.

In accordance with ORS 279B.085 and Section 12.2 of the Purchasing Manual, the City will give affected persons seven days from the notice of the City Council's approval of this special procurement to protest the special procurement. Protests must be made in accordance with ORS 279B.400 and OAR 137-047-0700.

Finding: *A public hearing was held on December 5, 2022, the exemption will be noticed in the Newberg Graphic on December 14, 2022. The notice period will be for seven (7) days. If no challenge is received the contract award will occur on December 27th and the contract will initiate on January 1, 2023.*

Conclusion

Based on the above Findings of Fact and in consideration of the long-term, ongoing relationship, the Council authorizes the City to enter into the agreement with Visit Newberg dba Taste Newberg to provide tourism marketing services. This agreement has been reached through direct negotiations with Visit Newberg dba Taste Newberg. The process is exempt from the normal public contracting process. This exemption applies only to this particular agreement.

Exhibit “B” to Resolution No. 2022-3874
AGREEMENT BETWEEN CITY OF NEWBERG,
OREGON AND VISIT NEWBERG, dba TASTE NEWBERG
FOR TOURISM PROMOTION SERVICES

RECITALS:

This Agreement is between the City of Newberg, an Oregon municipal corporation, (City) and Visit Newberg, dba Taste Newberg (Contractor), an Oregon nonprofit corporation. The City wishes to enter this Agreement with the Contractor for tourism promotion services for the City.

The Contractor is willing to provide the tourism promotion services the City desires. The City will compensate the Contractor with a portion of the Transient Lodging Taxes the City assesses pursuant to Oregon State law and Ordinance No.1976-1835A and as amended by Ordinance No. 1989-2262, 1996-2433, 1997-2476, and 2014-2771.

WHEREAS, In October 2016 the City and a City Transient Lodging Tax Ad Hoc Committee (Committee) began assessing how to improve tourism promotion through the use of Transient Lodging Tax proceeds; and

WHEREAS, the City, at the behest of the Committee, identified a granting program; and

WHEREAS, it was determined that the granting did not serve the full purpose of what the parties desired; and

WHEREAS, the parties agreed to hold, starting in December 2018 by Resolution No. 2018-3436, and not disperse the proceeds that the City collects that would be devoted to tourism promotion until such time as the parties had fully decided how to move forward; and

WHEREAS, the formation of Visit Newberg, dba Taste Newberg is the culmination of that work; and

WHEREAS, Contractor’s leadership was substantially the members of the Committee; and

WHEREAS, The City desires the successful relationship between Contractor to continue;

NOW THEREFORE, the parties hereby agree as follows:

1. Definitions:

a. "tourism promotion" means any of the following activities:

- I. advertising, publicizing, or distributing information for the purpose of attracting and welcoming tourists
- II. conducting strategic planning and research necessary to stimulate future tourism development
- III. operating tourism promotion agencies, and
- IV. marketing special events and festivals designed to attract tourists. ORS 320.300(7).

b. "tourism" means economic activity resulting from tourists (ORS 320.300(6)).

c. "tourist" means a person who, for business, pleasure, recreation, or participation in events related to the arts, heritage, or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from, and unrelated to the person's community of residence and that trip:

- I. requires the person to travel more than 50 miles from the community of residence, or
- II. includes an overnight stay (ORS 320.300(10)).

d. "tourism promotion agency" includes:

- I. an incorporated non-profit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis,
- II. a non-profit entity that manages tourism-related economic development plans, programs, and projects, and
- III. a regional or statewide association that represents entities that rely on tourism-related business for more than 50 percent of their total income (ORS 320.300(8)).

2. Contractor's Services:

In exchange for the payment provided in Section 3, Contractor will provide the following tourism promotion services to the City:

a. Tourism Promotion Activities: The Contractor will provide functions, activities, programs, web and digital marketing, create literature (develop, arrange for printing, and distribution), advertising, staff, supplies, equipment, and support to promote the Newberg area as a destination for tourists and visitors. The Contractor will coordinate its activities, as appropriate, with other organizations such as

the Chehalem Valley Chamber of Commerce and the Newberg Downtown Coalition and other visitor promotion entities. The Contractor will additionally play a leading part in the creation of a strategic tourism plan during the term of this agreement with the details to be agreed later.

b. Administrative and management functions:

The Contractor will provide day to-day management activities including planning and acquisition of services, equipment, supplies, and facilities to fulfill the Annual Business and Marketing Plan (the Plan) for Contractor. The Contractor will be responsible for maintaining capable and competent staff, including management staff. The Contractor's Executive Director or designee will attend any City Council meetings as requested by the City Council or City Staff to provide updates, information, or other data on Contractor's plans and services.

3. Contract provisions:

a. Funding model. Once the Agreement is fully executed and an acceptable certificate of insurance has been provided to the City, the City will provide Contractor with funding in the amount of 35.0667% of the Transient Lodging Taxes paid out on a quarterly basis (November, February, May and August) minus the City's total monthly expenditures paid to the Chehalem Valley Chamber of Commerce for the Visitor Center contract during the given quarter (the "Contract Price"), which shall be \$11,250 per quarter.

b. Contract duration. This contract will be effective from January 1, 2023, until June 30, 2025 (a period of two and a half years) providing the reporting requirements have been met. There is no automatic renewal of this agreement, and it terminates on June 30 2025 unless re-established by a new separate agreement prior to that date.

4. Reporting requirements:

a. Marketing plan. No later than May 1, 2023, the Contractor will prepare and submit the Plan to the City Council as part of the term of service. The Plan will contain a general description of the services the Contractor will continue to provide during the contract period, as well as a proposed budgets for the 2023-24 and 2024-25 fiscal years, respectively.

b. Performance goals. The Plan will identify activities and performance goals. The Contractor will be fully responsible for the implementation of services and programs and the City will not control the day-to-day activities and operations of Contractor and its employees and agents.

c. Financial forecasting. The City will provide assistance in TLT revenue forecasting to help the Contractor develop its plans. The City may also provide general suggestions regarding the funding of various services or programs. The Contractor's proposed 2023-2024 and 2024-2025 budgets will be prepared assuming a total budget for services provided under this Agreement equal to the Contract Price.

d. Council approval. The City Council will consider the Plan during a Contractor presentation during a Council meeting in the month of June 2023. After this presentation the Council will determine whether to approve the Plan. If the Council approves the Plan, the Council will authorize funding for the following two fiscal years starting on July 1, 2023. The Contractor will expend funds received from the City under this Agreement only as set out in and authorized by the Plan. If the Council does not approve the Plan and the parties cannot reach agreement on modification within 90 days of the Council initial review, this Agreement will terminate in the same manner as if the Contractor had defaulted or breached the Agreement, pursuant to Article 13.

e. Written progress reports and presentations:

The Contractor will prepare and submit to the City Council four written progress reports during the two years of service (set to occur in October 2023, March 2024, October 2024, March 2025). These reports will cover the status of the Plan, including the budget. The reports will be delivered in the form of a formal presentation by contractor to Council. The City Council may request that a representative of the Contractor attend a City Council meeting to provide further information and to answer any questions at any time during the contract term.

5. Administrative Costs:

The Contractor's administrative and management costs, including but not limited to personnel, rent, financial management services, internal budgeting and accounting, purchasing, insurance, maintenance, supervision, legal services, printing, and any other costs will be at the cost and discretion of the Contractor.

6. Assets:

a. General provisions. The Contractor is an independent entity and will be responsible for acquiring and maintaining real and personal property related to the provision of services under this Agreement. The Contractor will own all real and personal property acquired by it. On termination of this Agreement, the Contractor will transfer any intellectual property or promotional materials associated with the provision of services under this Agreement to the City at no cost.

b. Risk of Loss and Insurance. The Contractor bears the risk of loss of all its property (as described in Section 6). The Contractor, at its own expense, will procure and maintain general liability insurance to protect the Contractor from claims that may arise out of or result from the services provided under this Agreement. Prior to funding of this Agreement, the Contractor will provide proof that it has acquired this insurance. The insurance will be in an amount per occurrence at least equal to the City's tort claims liability limits under the Oregon Tort Claims Act with a \$1,000,000 aggregate. The policy will name the City, its officers, agents, and employees as additional insureds. The Contractor and any of its subcontractors will maintain in full force and effect Worker's Compensation insurance and Employer Liability insurance in compliance with Oregon State law. The Contractor will be responsible for all deductibles, self-insurance retentions, and self-insurance costs for the insurance required under this section. The Contractor will notify the City thirty days prior to any material change in the Contractor's insurance, or, if that is not possible, immediately upon the Contractor receiving notice of a change.

7. Annual Review / Audit:

The financial books of Contractor will be audited or reviewed annually by an independent accountancy firm. The Finance Director of the City must be notified of Contractor's choice of accountancy firm. The accountant will make a written report of the review/audit to the Board of Directors which will then submit a copy of the report to the Newberg City Council. The audit or review will be completed as soon as practical after June 30, 2024, and June 30, 2025.

8. Records and Accounting:

The Contractor will maintain records and accounts that will allow the City to assure that all funds paid for the performance of this Agreement are properly accounted for. Within 72 hours of a written request by the City, the Contractor will make records relating to income and expenditures available for review and audit by the City. The City will have the right during the term of this Agreement, or

within 180 days after the expiration or termination of this Agreement, to audit the Contractor's records for the period of two years prior to the audit. The audit may be undertaken by a qualified person or entity selected by the City. The Contractor agrees that it will provide financial records to the City every month. These records will include, at minimum, a balance sheet and income and expense reports. The Contractor will maintain these financial records for at least six years after the expiration of this Agreement.

9. Term:

This Agreement will be in effect January 1, 2023. It will remain in effect until June 30, 2025 unless terminated earlier under the provisions of Section 10 (default or material breach) or Section 21 (assignment without approval).

10. Default and Breach:

Either party may terminate this Agreement in the event of a default or material breach by the other party. The notifying party must provide written notice to the other party specifying how the other party is not in compliance with the terms of this Agreement. The non-complying party will have thirty days after receipt of a notice of noncompliance to cure the issue(s). Should the correction(s) not be made during this thirty-day period, this Agreement may be terminated, at the discretion of the notifying party, unless the correction(s) cannot be made within thirty days. If the non-compliance cannot be corrected within thirty days, the non-complying party must, at minimum, begin corrective action within thirty days and proceed with due diligence until the correction is completed. This Agreement may be terminated, at the discretion of the notifying party, if the non-complying party either fails to begin to take corrective action within thirty days or fails or ceases to use due diligence to continue with the corrective action.

11. Equal Opportunity:

The Contractor agrees that it will not discriminate against any employee or applicant for employment on the basis of race, age, color, sex, religion, ancestry, national origin, sexual orientation, gender identity, genetic information, or disability and will take any affirmative action necessary to ensure that all employees and applicants are treated equally. The Contractor and its employees will not, in the performance of this Agreement, knowingly discriminate against any customer, potential customer, patron, or other person on the bases listed above in this section and will provide services to all persons equally.

12. Contractor Indemnification:

The Contractor will defend, protect, indemnify, and hold harmless the City, its officers, agents, and employees from and against any and all claims, losses, damages, injuries, or liability including claims for misapplication of contributions or other funds, state or federal anti-trust violations, personal injury or death, damage to property, liability arising out of the use of materials, concepts, or processes protected by intellectual property rights, and the liens of workmen and material men, regardless how these were caused, if they arose directly or indirectly from the performance of this Agreement by the Contractor, unless caused by the negligence or willful misconduct of the City. The Contractor is not an officer, employee, or agent of the City under ORS 30.285 or 30.287.16.

13. Licenses and Taxes:

The Contractor will be responsible for the acquisition and maintenance of all licenses and permits to carry on the Contractor's business.

14. Independent Contractor:

The Contractor is an independent contractor. The parties intend that an independent contractor relationship will be created by this Agreement. Conduct and control of the work will be the responsibility of the Contractor. The Contractor will not be considered an agent or employee of the City for any purpose, and the employees of the Contractor are neither employees of the City nor are they entitled to any of the benefits that the City provides for its employees.

15. No Third-Party Beneficiaries:

The City and the Contractor are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or will be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless the third persons are identified by name in this Agreement and expressly described as intended beneficiaries of the terms of this Agreement.

16. Authority:

As specified in Section 14, the Contractor is an independent contractor in the performance of this Agreement. The Contractor will comply with all laws regarding unemployment insurance, disability insurance, and worker's compensation. The Contractor will have no authorization, express or implied,

to bind the City to any agreement, settlement, liability, or understanding, and agrees not to perform any acts as an agent of the City.

17. Grant of License:

The City hereby grants an unlimited (other than by the term of this Agreement) license to Contractor to use the term "Newberg" for all purposes associated with this Agreement. It is contemplated that the Contractor will explore partnerships with other geographic and / or marketing organizations.

18. Access to data:

The City will share with the Contractor its non-exempt data regarding overnight stays in Newberg's lodging in compliance with Oregon Public Records Law (ORS Chapter 192), and other data that may be useful in financial forecasting.

19. Notice:

Any notice or notices provided for in this Agreement or by law which must be given or served on either party will be given or served by personal service, certified mail (return receipt requested, postage prepaid), or by e-mail or facsimile followed by certified mailing of the original, in a pre-addressed, stamped envelope, addressed to: City of Newberg, Will Worthey, City Manager, PO Box 970, Newberg, OR 97132 and/or Visit Newberg, dba Taste Newberg, Executive Director, 210 N Blaine Street, Newberg, OR 97132.

20. Assignment:

Neither party may assign, subcontract, or otherwise transfer any rights and responsibilities under this Agreement except upon the written consent of the other party. If any assignment is made, both the assigning party and the assignee will be bound by the terms of this Agreement. Any assignment without the prior written consent of the non-assigning party is void and unenforceable. The City may terminate the Agreement if an assignment is attempted without the prior written consent of the City.

21. Amendments:

This Agreement may be amended only by written agreement signed by both parties.

22. Laws of Oregon:

This Agreement will be governed by the laws of the State of Oregon, both as to the interpretation and performance, and the venue will be Yamhill County.

23. Waiver:

The City's failure to enforce a provision of this Agreement will not constitute a continuing waiver, will not constitute a relinquishment of the City's right to performance in the future, and will not operate as a waiver of the City's right to enforce any other provision of this Agreement.

24. Merger:

This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations regarding this Agreement, whether oral or written, that are not specified in this Agreement. This contract is entered into by the City of Newberg and the current Board of Directors of Visit Newberg, dba Taste Newberg

Denis Lewis (President)

Date

Leigh Jensen (Secretary)

Will Worthey (City Manager)

REQUEST FOR COUNCIL ACTION



Date Action Requested: December 5, 2022

Order <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Information <input type="checkbox"/>	
Subject: Construction Excise Tax (CET) Implementation and Notice of Funding Availability (NOFA) Documents	Staff: Mary Heberling-Creighton, Housing Planner Department: Community Development
Business Session	Order On Agenda: New Business

Recommendation:

Motion: I move to approve the content of the 2022-2023 Notice of Funding Availability (NOFA) for the Newberg Construction Excise Tax (CET) as shown in Attachment 1 and authorize staff to proceed with notification and publication of the NOFA with a schedule of applications due 3 weeks before an Affordable Housing Commission meeting.

Executive Summary:

Background Reminder of CET:

The City of Newberg adopted by [ordinance](#) a Construction Excise Tax (CET) in December 2020. Senate Bill 1533 from the 2016 Oregon Legislative session is the enabling legislation that allows local jurisdictions to implement a Construction Excise Tax. Revenues generated from a tax, 1% on the project building permit value, would be used to address housing affordability issues for homeowners or renters within Newberg for families that earn 80% or less of the median family income. For 2022 the median family income is \$106,500. 80% of that amount for a family of four is \$85,200.

The tax is attributed to new construction. For residential it applies to a new residential structure or new additional square footage in an existing residential structure, including remodeling that adds living space (ORS 320.192(2)(a)). For commercial and industrial including mixed use development it applies to new structures or additional square footage in an existing structure, including remodeling that adds living space (ORS 320.192(3)(a)). The CET would not apply to building permits such as a mechanical permit for a furnace replacement, plumbing permit for a bathroom remodel, or a commercial tenant improvement that does not create a new structure.

Who can access funding from the CET Fund?

Eligible recipients of resources from the CET Fund are organizations with interests in developing and/or preserving affordable housing in Newberg. Potential recipients include governmental subdivisions, community development corporations, local housing authorities, community action agencies, community-based or neighborhood-based non-profit housing organizations, other non-profit organizations, for-profit entities and private employers, and private landlords.

What types of projects qualify for funding under the CET?

The funds received through the CET can be used in a variety of ways, with some limitations, and for projects that address housing affordability issues for homeowners or renters within Newberg for households that earn 80% or less of the median family income (MFI). The ordinance also states that any

affordable housing that receives CET funds ***must remain affordable (80% or below MFI) for a period of at least 60 years following the date of construction.***

The state legislation limits the funding towards two categories:

- Developer incentives
- Affordable housing programs

Per ORS 197.309(5)(c) and (d) and 197.309(7), developer incentives allowed or offered include, but are not limited to:

- System development; and
- Land acquisition; and
- Local public improvements required by municipal governments.

Per Section 9, Chapter 59, Oregon Laws 2016, affordable housing programs include, but are not limited to:

- Rent buy-downs and subsidies; and
- Down-payment assistance; and
- Foreclosure-prevention assistance.

Examples of development proposals that could use CET funds based on the limitations above:

- Funds to pay the System Development Charges (SDCs) for a multi-family affordable housing project.
- Funds pay for certain amount of land acquisition of a parcel that a non-profit is buying for permanently affordable homeownership options.
- Funds towards the cost of street frontage improvements for a subsidized affordable housing project for seniors.
- Funds provided for a local organization’s rental assistance program.

Competitive Selection Criteria - Minimum Threshold and Scored Criteria:

Minimum threshold and additional scored criteria are located in Attachment A of the CET Fund application (see Attachment 1).

A project may receive additional points towards being awarded CET Funds if it meets some of the additional scored criteria. A few examples are:

- The project provides deeply affordable housing for households earning less than 50% of the median family income. *(Up to 10 points could be awarded)*
- Project concepts and designs showing close proximity to schools, parks, commercial areas, public transportation, services and jobs, green building designation or the integration of green building technologies and demonstration of cost-effective sustainability and energy-efficiency measures. *(Up to 10 points could be awarded)*
- The project maximizes partnerships in the community (volunteers, in-kind contributions, cash contributions, multiple organization involved, etc.) and demonstrates alliance building that directly

benefits community members in need, such as helping build household wealth. (*Up to 5 points could be awarded*)

Up to 70 points can be awarded to a project. The higher the points awarded, the more likely to be recommended for funding by the Affordable Housing Commission to City Council.

Draft Documents:

Draft documents for the 2022-2023 Notice of Funding Availability for the Construction Excise Tax (CET) Fund have been provided for the Affordable Housing Commission's review based on the conversations at the [July 26th](#) and [October 25th](#) Affordable Housing Commission (AHC) meetings.

- CET NOFA Application Draft
- CET NOFA Information Packet Draft
- CET NOFA Graphic Notice Draft

Affordable Housing Commission Recommendation

The Newberg Affordable Housing Commission passed a motion 4-0 on October 25, 2022 recommending the City Council accept the CET NOFA documents.

Fiscal Impact:

Construction Excise Tax expenditures are budgeted in Fund 14 Economic Development Fund, 14-9130-605001 Developer Incentives (\$525,112) and 14-9130-605003 Affordable Housing Program & Incentives (\$367,578).

Strategic Assessment:

City Council Goal 3: Promote development of housing affordability such as houselessness, transitional housing, workforce housing.



Newberg Construction Excise Tax (CET) Funding Request Application

NOTE: Applications are due 3 weeks before an Affordable Housing Commission Meeting at 4:30 p.m. A list of those due dates are in the information packet.

Applications are to be submitted to Mary Heberling-Creighton, Housing Planner by email at mary.heberlingcreighton@newbergoregon.gov or by postal mail via City of Newberg, PO Box 970,

CONTACT INFORMATION:

Project Name:	
Organization Name:	<input type="checkbox"/> For-profit <input type="checkbox"/> Non-profit
Contact Name/Title:	
Mailing Address:	State/Zip:
Phone:	Email:

PROJECT INFORMATION:

Total project cost: _____
Requested amount of CET funding: _____
Has this project requested or will request funds from the Affordable Housing Trust Fund? <input type="checkbox"/> No <input type="checkbox"/> Yes Amount requested: _____
Amount and description of other matching funds being contributed to the project, if applicable: _____
Has this organization received Newberg CET funds in the past? <input type="checkbox"/> No <input type="checkbox"/> Yes Amount received: _____

Project Partners and their Contributions to the Project: _____ _____ _____ _____

Estimated project beginning date: _____	Completion date: _____
---	------------------------

COMMUNITY DEVELOPMENT
PLANNING DIVISION
(503) 537-1240
planning@newbergoregon.gov

Please briefly describe the affordable housing problem this project is trying to solve and how it helps in solving that challenge:

Please attach additional information that describes how this project will address the Competitive Awards Selection Criteria described in "Attachment A" of this form, including additional documentation/evidence as needed.

Information that addresses Competitive Selection Criteria, attached (please select)

Briefly describe what is attached:

ATTACHMENT A

Construction Excise Tax (CET) Fund FY 2022-23 Competative Selection Criteria

Minimum Threshold Criteria	Potential Points
1. The project is considered an eligible use or activity under Section 3, and benefits households earning less than 80% of the median family income for a period of at least 60 years following the date of construction (threshold verification)*.	NA
2. The project is ready for implementation with documentation to demonstrate financial feasibility.	NA
3. If the project includes the acquisition of property, the identified property is currently available for acquisition and the applicant has secured either a purchase option or letter of interest from the seller. If the applicant is also applying for federal funding, review procurement requirements and limitations before obtaining a purchase option.	NA
4. That relocation of existing residents will be minimized, and when necessary, the applicant has included accurate relocation assistance costs as part of the project pro forma.	NA
5. The proposal demonstrates that the Construction Excise Tax (CET) Funds are the most appropriate funding source for the project. Provide a description of a financing gap that includes funding sources or demonstrates budget constraints that limit the ability to pay or finance projects.	NA
Scored Application Criteria	
7. The project provides new affordable housing, or new affordability, through retention or rehabilitation of existing housing, within the city.	Up to 10 points
8. The project provides deeply affordable housing for households earning less than 50% of the median family income.	Up to 10 points
9. The project provides extremely affordable housing for households earning less than 30% of the median family income. Projects could include permanent supportive housing and/or transitional housing for families or individuals who are houseless.	Up to 5 points
10. Project concepts and designs showing close proximity to schools, parks, commercial areas, public transportation, services and jobs, green building designation or the integration of green building technologies, and demonstration of cost-effective sustainability and energy-efficiency measures.	Up to 10 points
11. The project maximizes partnerships in the community (volunteers, in-kind contributions, cash contributions, multiple organization involved, etc.) and demonstrates alliance building that directly benefits community members in need, such as helping build household wealth.	Up to 5 points
12. The project utilizes already existing resources in effective and innovative ways. The project shall not duplicate services provided by another organization.	Up to 10 points
13. The agency submitting the proposal has the capacity to carry out the project and has had demonstrated successes completing projects of similar scope. Higher points to projects that demonstrate engagement and contracting with D/M/W/ESB/SDVBE businesses in the last 10+ years.	Up to 10 points
14. The budget and timeline are thorough and realistic (evidence of construction and/ or service costs required with application).	Up to 10 points
Total Potential Points	70

***FOR 2022, the Median Family Income for the City of Newberg was \$106,500.**

DEFINITIONS:

“D/M/W/ESB/SDVBE” means a business that is Disadvantaged, Minority-Owned, Women-Owned, Emerging Small Businesses, and/or Service Disabled Veterans Business Enterprises.

“Gross Income” (GI) is income before taxes for all members of one family in the previous twelve months. Income can be derived from salaries, investments, self-employment, farming, and other sources. Assets such as a house or a farm are not income. For people who have wages, gross income means the figure that they would have received in their paychecks if there were no taxes. Gross income before taxes when applied to farm income means the figure that results when farm expenses are subtracted from farm sales. Gross income also includes unemployment and disability compensation, worker's compensation and severance pay; and welfare assistance payments.

“Family” means all persons living in the same household who are related by birth, marriage or adoption.

“Median Family Income” (MFI) includes the income of the householder and all other individuals 15 years old and over in the household, whether they are related to the householder or not. Because many households consist of only one person, average household income is usually less than average family income. Although the household income statistics cover the past 12 months, the characteristics of individuals and the composition of households refer to the time of application. Thus, the income of the household does not include amounts received by individuals who were members of the household during all or part of the past 12 months if these individuals no longer resided in the household at the time of application. Similarly, income amounts reported by individuals who did not reside in the household during the past 12 months but who were members of the household at the time of application are included. However, the composition of most households was the same during the past 12 months as at the time of application, as defined by the U.S. Census.

Release Date: January XX, 2023

Notice of Funding Availability Construction Excise Tax Fund Fiscal Year 2022 - 2023

This Notice of Funding Availability (NOFA) is directed to organizations (non-profit and for-profit) and individuals that provide affordable housing and/or related services within the City of Newberg. The goal of this NOFA is to inform the intended audience of the availability of funds for activities that will assist with the creation/acquisition of new affordable housing or the assistance of programs that help lower income individuals and families to continue renting, prevent foreclosure, or buy housing.

Funding Availability

Funding of up to \$XXXX is available for the fiscal year ending June 30, 2023.

Deadlines:

Applications will be initially reviewed by the Affordable Housing Commission (AHC). The AHC will then recommend applications and their amount of funding to the City Council. The AHC meets quarterly, and deadlines are based on the upcoming AHC meetings for 2023:

CET Fund Application Deadline	Affordable Housing Commission Meeting
April 4, 2023	April 25, 2023
July 4, 2023	July 25, 2023
October 3, 2023	October 24, 2023
January 2, 2024	January 23, 2024

What is the Construction Excise Tax (CET) Fund?

The City of Newberg adopted by [ordinance](#) a Construction Excise Tax (CET) in December 2020. Senate Bill 1533 from the 2016 Oregon Legislative session is the enabling legislation that allows local jurisdictions to implement a Construction Excise Tax. Revenues generated from a tax, 1% on the project building permit value, would be used to address housing affordability issues for homeowners or renters within Newberg for families that earn 80% or less of the median family income.

The City of Newberg defines affordable housing as residential housing primarily for households or persons earning less than 80% of the median family income (MFI) and where housing and/or rental costs do not constitute more than 30% of a household’s income. MFI shall be established

by the most current U.S. Department of Housing and Urban Development Department data for Yamhill County, Oregon as determined by the Community Development Director in the year of application submission.

*FOR 2022, the Median Family Income for the City of Newberg was \$106,500.

Who can access funding from the CET Fund?

Eligible recipients of resources from the CET Fund are organizations with interests in developing and/or preserving affordable housing in Newberg. Potential recipients include governmental subdivisions, community development corporations, local housing authorities, community action agencies, community-based or neighborhood-based non-profit housing organizations, other non-profit organizations, for-profit entities and private employers, and private landlords.

What types of projects qualify for funding under the CET?

The funds received through the CET can be used in a variety of ways, with some limitations, and for projects that address housing affordability issues for homeowners or renters within Newberg for households that earn 80% or less of the median family income (MFI). The ordinance also states that any affordable housing that receives CET funds *must remain affordable (80% or below MFI) for a period of at least 60 years following the date of construction.*

The state legislation limits the funding towards two categories:

- Developer incentives
- Affordable housing programs

Per ORS 197.309(5)(c) and (d) and 197.309(7), developer incentives allowed or offered include, but are not limited to:

- System development; and
- Land acquisition; and
- Local public improvements required by municipal governments.

Per Section 9, Chapter 59, Oregon Laws 2016, affordable housing programs include, but are not limited to:

- Rent buy-downs and subsidies; and
- Down-payment assistance; and
- Foreclosure-prevention assistance.

Examples of development proposals that could use CET funds based on the limitations above:

- Funds to pay the System Development Charges (SDCs) for a multi-family affordable housing project.
- Funds pay for certain amount of land acquisition of a parcel that a non-profit is buying for permanently affordable homeownership options.
- Funds towards the cost of street frontage improvements for a subsidized affordable housing project for seniors.
- Funds provided for a local organization's rental assistance program.

Competitive Selection Criteria - Minimum Threshold and Scored Criteria:

Minimum threshold and additional scored criteria are located in Attachment A of the CET Fund application.

A project may receive additional points towards being awarded CET Funds if it meets some of the additional scored criteria. A few examples are:

- The project provides deeply affordable housing for households earning less than 50% of the median family income. *(Up to 10 points could be awarded)*
- Project concepts and designs showing close proximity to schools, parks, commercial areas, public transportation, services and jobs, and demonstration of cost-effective sustainability and energy-efficiency measures. *(Up to 10 points could be awarded)*
- The project maximizes partnerships in the community (volunteers, in-kind contributions, cash contributions, multiple organization involved, etc.) and demonstrates alliance building that directly benefits community members in need, such as helping build household wealth. *(Up to 5 points could be awarded)*

Up to 70 points can be awarded to a project. The higher the points awarded, the more likely to be recommended for funding by the Affordable Housing Commission to City Council.

How does one apply for funding under CET Fund?

The application form for funding under the CET Fund can be found at <https://www.newbergoregon.gov/planning/page/affordable-housing-loansgrants-available> or may be picked up at the Newberg City Hall at 414 E First Street.

Who do I contact with questions about the CET Fund?

For questions about the CET Fund, please contact Mary Heberling-Creighton at 503-554-7778 or at mary.heberlingcreighton@newbergoregon.gov, P.O. Box 970 Newberg, OR 97132

DEFINITIONS:

“Gross Income” (AGI) is income before taxes for all members of one family in the previous twelve months. Income can be derived from salaries, investments, self-employment, farming, and other sources. Assets such as a house or a farm are not income. For people who have wages, gross income means the figure that they would have received in their paychecks if there were no taxes. Gross income before taxes when applied to farm income means the figure that results when farm expenses are subtracted from farm sales. Gross income also includes unemployment and disability compensation, worker's compensation and severance pay; and welfare assistance payments.

“Family” means all persons living in the same household who are related by birth, marriage or adoption.

“Median Family Income” (MFI) includes the income of the householder and all other individuals 15 years old and over in the household, whether they are related to the householder or not. Because many households consist of only one person, average household income is usually less than average family income. Although the household income statistics cover the past 12 months, the characteristics of individuals and the composition of households refer to the time of application. Thus, the income of the household does not include amounts received by individuals who were members of the household during all or part of the past 12 months if these individuals no longer resided in the household at the time of application. Similarly, income amounts reported by individuals who did not reside in the household during the past 12 months but who were members of the household at the time of application are included. However, the composition of most households was the same during the past 12 months as at the time of application, as defined by the U.S. Census.

Notice of Funding Availability Construction Excise Tax (CET) Fund Fiscal Year 2022 - 2023

This Notice of Funding Availability (NOFA) is directed to organizations (non-profit and for-profit) and individuals that provide affordable housing and/or related services within the City of Newberg. The goal of this NOFA is to inform the intended audience of the availability of funds for activities that will assist with the creation/acquisition of new affordable housing or the assistance of programs that help lower income individuals and families to continue renting, prevent foreclosure, or buy housing.

Funding Availability

Funding of up to \$XXXX is available for the fiscal year ending June 30, 2023.

Deadlines:

Applications will be initially reviewed by the Affordable Housing Commission (AHC). The AHC will then recommend applications and their amount of funding to the City Council. The AHC meets quarterly, and deadlines are based on the upcoming AHC meetings for 2023:

CET Fund Application Deadline	Affordable Housing Commission Meeting
April 4, 2023	April 25, 2023
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October 3, 2023	October 24, 2023
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For a more detailed description of this Notice of Funding Application (NOFA), please visit the following website link <https://www.newbergoregon.gov/planning/page/affordable-housing-loansgrants-available> or visit City Hall at 414 E First Street.

For questions about the CET Fund, please contact Mary Heberling-Creighton at 503-554-7778 or at mary.heberlingcreighton@newbergoregon.gov or planning@newbergoregon.gov
Mailing Address: P.O. Box 970 Newberg, OR 97132.

*FOR 2022, the Median Family Income for the City of Newberg was \$106,500.

DEFINITIONS:

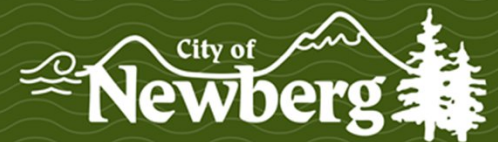
“Gross Income” (GI) is income before taxes for all members of one family in the previous twelve months. Income can be derived from salaries, investments, self-employment, farming, and other sources. Assets such as a house or a farm are not income. For people who have wages, gross income means the figure that they would have received in their paychecks if there were no taxes. Gross income before taxes when applied to farm income means the figure that results when farm expenses are subtracted from farm sales. Gross income also includes unemployment and disability compensation, worker's compensation and severance pay; and welfare assistance payments.

“Family” means all persons living in the same household who are related by birth, marriage or adoption.

“Median Family Income” (MFI) includes the income of the householder and all other individuals 15 years old and over in the household, whether they are related to the householder or not. Because many households consist of only one person, average household income is usually less than average family income. Although the household income statistics cover the past 12 months, the characteristics of individuals and the composition of households refer to the time of application. Thus, the income of the household does not include amounts received by individuals who were members of the household during all or part of the past 12 months if these individuals no longer resided in the household at the time of application. Similarly, income amounts reported by individuals who did not reside in the household during the past 12 months but who were members of the household at the time of application are included. However, the composition of most households was the same during the past 12 months as at the time of application, as defined by the U.S. Census.

Construction Excise Tax (CET) Implementation

Newberg City Council
December 5, 2022



Background:

- The City of Newberg adopted by ordinance a Construction Excise Tax (CET) in December 2020.
- Revenues generated from a tax, 1% on the project building permit value
- Used to address housing affordability issues for homeowners or renters within Newberg for families that earn 80% or less of the median family income.

Newberg Median Family Income 2022: \$106,500*

**For a family of 4*

How Collected Funds Could be Used:

- CET funds from ***Residential Improvements***:
 - 4% administration costs
 - 50% to fund developer incentives
 - 15% to the Oregon Housing and Community Services Department to fund home ownership programs that provide down payment assistance
 - 35% to fund developer incentives and affordable housing programs
- CET funds from ***Commercial, Industrial, and Mixed-Use Property***:
 - 100% of the net revenues will be allocated to fund affordable housing programs, including developer incentives

Definitions:

Developer Incentives include, but aren't limited to:

- System development; and
- Land acquisition; and
- Local public improvements required by municipal governments

Affordable Housing Programs include, but aren't limited to:

- Rent buy-downs and subsidies; and
- Down payment assistance; and
- Foreclosure-prevention assistance

What this Means:

- Projects that address housing affordability issues for homeowners or renters within Newberg for families that earn 80% or less of the median family income (MFI).
- Funded projects must also remain affordable (80% MFI or below) for a period of 60 years following date of construction.

Examples:

- Funds to pay the System Development Charges (SDCs) for a multi-family affordable housing project.
- Funds towards the cost of street frontage improvements for a subsidized affordable housing project for seniors.
- Funds provided for a local organization's rental assistance program.



CET Implementation - Background

Funds Collected – As of Nov. 18, 2022:

Fund Type	Amount
Developer Incentives	\$525,112
Affordable Housing Program & Incentives	\$367,578
TOTAL	\$892,690

Ordinance Adopted



Public meetings with the Newberg Affordable Housing Commission



Notice of Funding Availability (NOFA) Documents

Competitive Selection Criteria

- **Minimum Threshold** – application must meet this criteria to be eligible
- **Scored Criteria** – an application could be awarded up to 70 points
 - The higher the points awarded, the more likely the application will be recommended for funding by the Affordable Housing Commission to Council



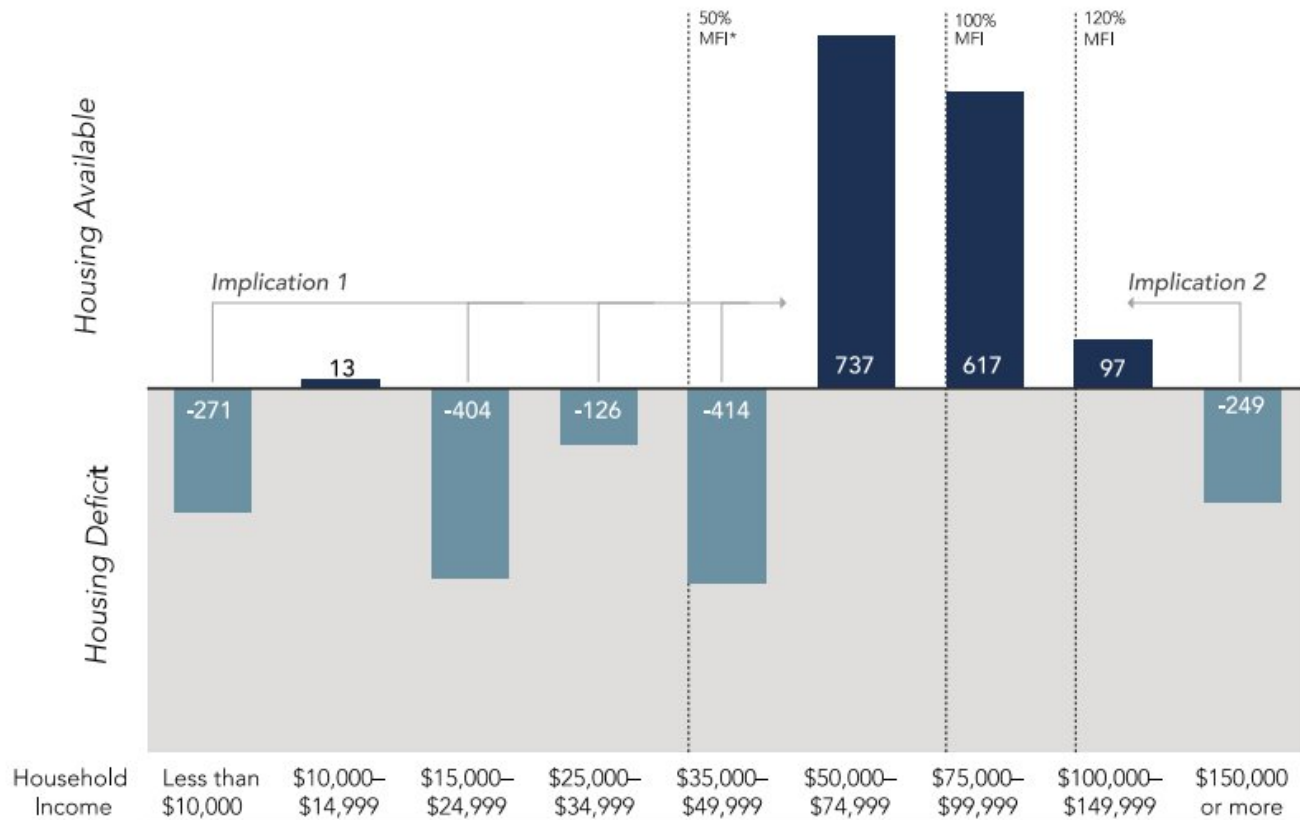
CET Implementation – Minimum Threshold

Minimum Threshold Criteria	Potential Points
1. The project is considered an eligible use or activity under Section 3, and benefits households earning less than 80% of the median family income for a period of at least 60 years following the date of construction (threshold verification)*.	NA
2. The project is ready for implementation with documentation to demonstrate financial feasibility.	NA
3. If the project includes the acquisition of property, the identified property is currently available for acquisition and the applicant has secured either a purchase option or letter of interest from the seller. If the applicant is also applying for federal funding, review procurement requirements and limitations before obtaining a purchase option.	NA
4. That relocation of existing residents will be minimized, and when necessary, the applicant has included accurate relocation assistance costs as part of the project pro forma.	NA
5. The proposal demonstrates that the Construction Excise Tax (CET) Funds are the most appropriate funding source for the project. Provide a description of a financing gap that includes funding sources or demonstrates budget constraints that limit the ability to pay or finance projects.	NA

CET Implementation – Scored Criteria

Exhibit 46. Affordable Housing Costs and Units by Income Level, Newberg, 2018

Source: U.S. Census Bureau, 2012–2016 ACS. Note: MFI is Median Family Income, determined by HUD for Yamhill County.



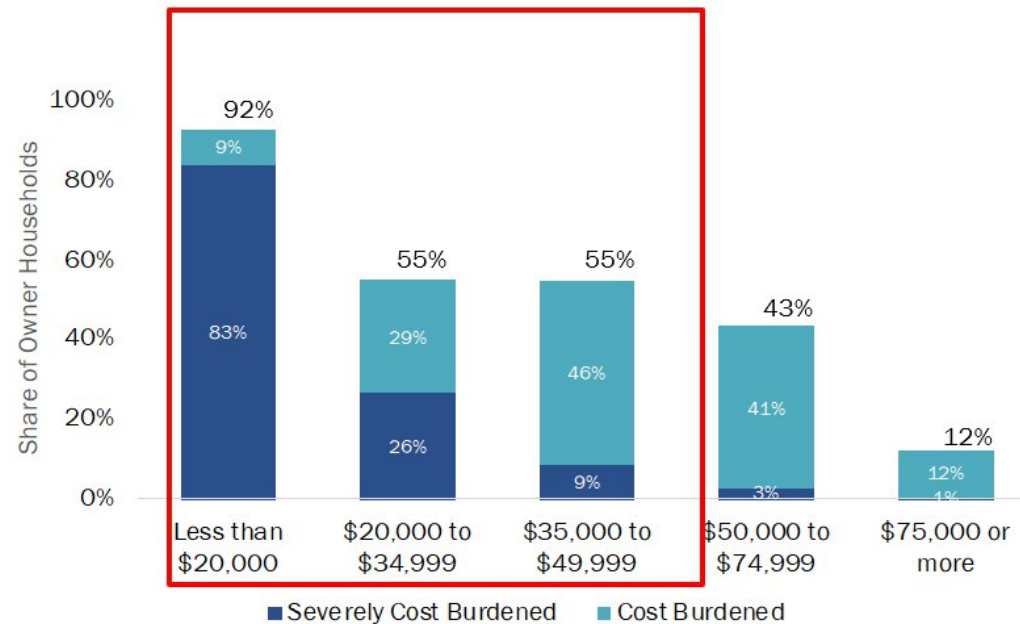
Graph taken from the Newberg Housing Needs Analysis



CET Implementation – Scored Criteria

Cost Burden by Income for **Renter** Households, Newberg, 2015-2019

Cost Burden by Income for **Owner** Households, Newberg, 2015-2019



Source: U.S. Census, American Community Survey 2015-2019



CET Implementation – Scored Criteria

Scored Application Criteria	
7. The project provides new affordable housing, or new affordability, through retention or rehabilitation of existing housing, within the city.	Up to 10 points
8. The project provides deeply affordable housing for households earning less than 50% of the median family income.	Up to 10 points
9. The project provides extremely affordable housing for households earning less than 30% of the median family income. Projects could include permanent supportive housing and/or transitional housing for families or individuals who are houseless.	Up to 5 points
10. Project concepts and designs showing close proximity to schools, parks, commercial areas, public transportation, services and jobs, green building designation or the integration of green building technologies, and demonstration of cost-effective sustainability and energy-efficiency measures.	Up to 10 points
11. The project maximizes partnerships in the community (volunteers, in-kind contributions, cash contributions, multiple organization involved, etc.) and demonstrates alliance building that directly benefits community members in need, such as helping build household wealth.	Up to 5 points
12. The project utilizes already existing resources in effective and innovative ways. The project shall not duplicate services provided by another organization.	Up to 10 points
13. The agency submitting the proposal has the capacity to carry out the project and has had demonstrated successes completing projects of similar scope. Higher points to projects that demonstrate engagement and contracting with D/M/W/ESB/SDVBE businesses in the last 10+ years.	Up to 10 points
14. The budget and timeline are thorough and realistic (evidence of construction and/ or service costs required with application).	Up to 10 points
Total Potential Points	70

Review Timeframe:

CET Fund Application Deadline	Affordable Housing Commission Meeting
January 3, 2023	January 24, 2023
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CET Implementation – Recommendation

Affordable Housing Commission Recommendation:

The Newberg Affordable Housing Commission passed a motion 4-0 on October 25, 2022 recommending the City Council accept the CET NOFA documents.

Motion to revise the interview question portion (Appendix A) of Resolution 2022-3873 as follows:

Part two: Candidate Interview Questions:

Remove: "each councilor may add one interview question to be asked of candidates on the night of December 19th. These questions will be emailed to cityrecorder@newbergoregon.gov"

Part three: Interviews:

Remove "Each councilor will ask each candidate in turn the question drafted by that councilor earlier."

Replace with:

A subcommittee of the Council shall be formed to:

1. receive input from other council members regarding qualifications desired in the successful candidate.
2. After finalizing and sharing the list of qualifications with the other councilors, solicit questions from them related to those qualifications to ensure that the interview brings light whether or to what degree each candidate possesses the qualifications.
3. Finalize the interview questions to ensure all qualifications are covered and to avoid duplicate questions, after which one question will be assigned to each council member who is present on December 19th.
4. Selection of new council member will by motion carried.

Councilor Kilburg handout
December 5, 2022 City Council Meeting

2022 NEWBERG CITY COUNCIL MEETING INFORMATION

Meeting Date:

12/05/2022

Start: 6:00 p.m.

Stop: 8:00 p.m.

Councilors	Roll Call	Consent Res 3875 Library Facility Use Policy	Res 3875 Taste Newberg Contract	Motion CET & NOFA documents	Motion Revise Res 3873 Appendix A	Motion Show scoring during dist. 3 interviews	
MCBRIDE	X	Yes	Yes	No	Yes	Yes	
MILDENBERGER	X	Yes	Yes	Yes	Yes	Yes	
YARNELL HOLLAMON	X	Yes	Yes	Yes	Yes	Yes	
KILBURG	X	Yes	Yes	Yes	Yes	Yes	
ROGERS	Absent	Absent	Absent	Absent	Absent	Absent	
DIST. 3	Vacant	Vacant	Vacant	Vacant	Vacant	Vacant	
FINDLEY	X	Yes	Yes	Yes	Yes	Yes	
ROLL CALL VOTES		YES:5 NO: 0 ABSENT: 2	YES:5 NO: 0 ABSENT: 2	YES:4 NO: 1 ABSENT: 2	YES:5 NO: 0 ABSENT: 2	YES:5 NO: 0 ABSENT: 2	
MOTION (1 st /2 nd):		Findley/ McBride	Findley/ McBride	Findley/ Mildenberger	Kilburg/ Findley	Kilburg/ Mildenberger	
Department/ Staff:							
Changes:							
Tabled:							

City Recorder

[X] Scheduling on Forward Looking Calendar

[2.00] Workmen's Compensation hours

See Page 2 for Executive Session tracking if needed