



## **AGENDA**

CITY COMMISSION OF THE CITY OF WARRENTON  
REGULAR MEETING  
August 22, 2023 – 6:00 P.M.  
Warrenton City Commission Chambers – 225 South Main Avenue  
Warrenton, OR 97146

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Public Meetings will also be audio and video live streamed. Go to <https://www.ci.warrenton.or.us/administration/page/live-stream-public-meetings> for connection instructions.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **CONSENT CALENDAR**

- A. City Commission Meeting Minutes – 8.08.23
- B. Police Department Monthly Report – July 2023
- C. Parks Advisory Committee Meeting Minutes – 6.12.23

Items on the Consent Calendar have previously been discussed and/or are considered routine. Approval of the Consent Calendar requires a motion, a second, and no discussion, unless requested by a member of the City Commission.

4. **COMMISSIONER REPORTS**

5. **PUBLIC COMMENT**

At this time, anyone wishing to address the City Commission concerning items of interest may do so. The person addressing the Commission must complete a Public Comment Card and submit it to the City Recorder prior to the meeting. All remarks will be addressed to the whole City Commission and limited to 3 minutes per person. Public Comments may also be submitted by email to the City Recorder, at [cityrecorder@ci.warrenton.or.us](mailto:cityrecorder@ci.warrenton.or.us), no later than 4:00 p.m. the day of the meeting. The Commission reserves the right to delay any action, if required, until such time as they are fully informed on a matter.

6. **PUBLIC HEARINGS** – None

**7. BUSINESS ITEMS**

- A. Consideration of 69 NE Heron Lease Agreement – Battery 245
- B. Consideration of Community Center Lease Agreement – Warrenton Seniors, Inc.
- C. Consideration of Parks Advisory Committee Recommendation – BMX Track
- D. Consideration of Parks Advisory Committee Recommendation – Hammond Community Garden Relocation
- E. Consideration of Intergovernmental Agreement – Warrenton Hammond School District; Hammond Community Garden
- F. Consideration of City Camping Zones

**8. DISCUSSION ITEMS**

**9. GOOD OF THE ORDER**

**10. EXECUTIVE SESSION**

*Under the authority of ORS 192.660(2)(e); to conduct deliberations with persons designated by the governing body to negotiate real property transactions.*

**11. ADJOURNMENT**

**Warrenton City Hall is accessible to the disabled. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting Dawne Shaw, City Recorder, at 503-861-0823 at least 48 hours in advance of the meeting so appropriate assistance can be provided.**

MINUTES  
Warrenton City Commission  
August 8, 2023  
6:00 p.m.  
Warrenton City Hall - Commission Chambers  
225 S. Main  
Warrenton, OR 97146

Mayor Balensifer called the meeting to order at 6:00 p.m. and led the public in the Pledge of Allegiance.

Commissioners Present: Mayor Henry Balensifer, Paul Mitchell, Tom Dyer, Gerald Poe, and Mark Baldwin (via Zoom)

Staff Present: City Manager Esther Moberg, Planning Director Jay Blake, Public Works Director Greg Shafer, and City Recorder Dawne Shaw

CONSENT CALENDAR

- A. City Commission Meeting Minutes – 7.25.23
- B. Budget in Brief – FY 2024
- C. Public Works Department Quarterly Update – Quarter 2, 2023

**Commissioner Dyer made the motion to approve the consent calendar as presented. Motion was seconded and passed unanimously.**

**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

COMMISSIONER REPORTS

Commissioner Poe stated he contacted LCTC and that he will attend the September meeting.

Mayor Balensifer discussed OMA conference he will be attending this weekend; he got approval to form a coastal mayors caucus. That will allow them to get unanimous consent to allow coastal mayors to have specific items to advocate for at state and federal levels. The major issue he is pushing for is the FEMA BiOP.

PUBLIC COMMENT

Tony Faletti noted his disappointment with ODOT and their treatment of our landscaping during their sidewalk work. He noted the landscaping was paid for by Urban Renewal funds and asked the city to go to ODOT and request funds to repair the landscaping.

Jim Ray asked about the status of the Popeye's restaurant; City Manager Esther Moberg gave an update stating that they are trying to sell it before it has been built and there's no takers. Mayor Balensifer discussed MOD Pizza and Chipotle going in at the Youngs Bay Plaza and that they should be opening shortly. He also discussed Ulta going in by Big 5.

PUBLIC HEARINGS - None

## BUSINESS ITEMS

Clatsop Community College Board Chair Trudy Van Dusen Citovic gave an update to the commission. She discussed previous issues with the board. She believes the college has a bright future. She discussed the college's current statistics compared to past statistics. Commissioner Poe asked why was there a lack of interest on the punch list on the new building and how did that happen. Ms. Van Dusen Citovic stated that it wasn't willful and that she believes that it was a matter of board members turning the oversight to the president of the college as well as board members having a lack of knowledge on the building process. Commissioner Poe thanked the Clatsop Community College Board for finding Kevin LaCoste. Mayor Balensifer stated that she previously mentioned that the college will be out of money by May. She stated that they will not be out of money by May; there is a contingency fund but with past President Breitmeyer leaving his contract payout will eat up about half of the contingency fund. She stated there's retention funds from Covid coming in, but they are not here yet. Mayor Balensifer asked if the Covid money does not come in by May that they will be out of money; Ms. Van Dusen Citovic confirmed. She discussed when the Covid money comes in they will be able to get through this year. Mayor Balensifer asked for the record if the financial data comes from the higher education coordinating commission and why they don't have financial information for this year; Ms. Van Dusen Citovic confirmed. She stated that the audits were delayed and there's resistance from staff. Mayor Balensifer asked Ms. Van Dusen Citovic what she's looking for from the commission. She stated that she wants to let everyone know what is going on and communicate directly with the City of Warrenton. Discussion continued.

City Manager Esther Moberg reviewed a request from Spruce Up Warrenton for a noise variance for amplified sound at the Movie in the Park event, which will take place on August 10th.

**Commissioner Mitchell made the motion to authorize the use of amplified sound at the August 10, 2023 Movie In the Park event. Motion was seconded and passed unanimously.**

**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

Public Works Director Greg Shafer discussed his request for bid and the bidding process for widening the intersection of SW 9<sup>th</sup> & Main Ave. He discussed the project is needed to accommodate better turning movements especially for school buses and fire trucks.

**Commissioner Dyer made the motion to approve advertising the request for bids of the SW 9<sup>th</sup> St. & Main Avenue intersection project, including 10% Contingency. Motion was seconded and passed unanimously.**

**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

Mr. Shafer discussed his request for bid and the bidding process for the Safe Routes to School for additional sidewalk, noting the project is in the approved budget and the Capital Improvement Program. Mayor Balensifer asked if the intersection widening on SW 9<sup>th</sup> & Main Ave. and the additional sidewalk for Safe Routes to School are separate projects. Ms. Moberg stated the projects are two separate capital improvement projects, but she believes it may have originally started as one concept. Mayor Balensifer asked if they will be working on the whole intersection. Mr. Shafer stated they are only working on the west side.

**Commissioner Dyer made the motion to approve advertising the request for bids of the Safe Routes to School project, from the SW 9<sup>th</sup> St. & Main Avenue intersection to SW 11<sup>th</sup> St., according to the approved 2023-2024 budget, including 10% contingency. Motion was seconded and passed unanimously.**

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**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

Ms. Moberg discussed the Police Levy introducing Resolution No. 2654. She stated that the ballot title is clear and within the word count. She stated at the last meeting, the City Commission approved placing the police levy on the November ballot at a rate of \$0.34 per \$1,000.

**Commissioner Poe made the motion to adopt Resolution No. 2654. Motion was seconded and passed unanimously.**

**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

Ms. Moberg discussed the draft City of Warrenton Camping Policy created so that staff may implement Ordinance No. 1265 amending Section 12 of the City's camping code. She discussed that there are five possible areas with either tent camping or RV/ car camping. She reminded the commission that the policy is just for overnight, and they would have to move after 7 a.m. Mayor Balensifer asked if the zones would be approved by the commission before they are implemented; Ms. Moberg confirmed they would be. Mayor Balensifer asked if the zone could be created where they are currently located; Ms. Moberg noted she would need to check with legal since we do not own that land and it is owned by the county. Discussion continued.

**Commissioner Dyer made the motion to approve the Camping policy, understanding this is for staff to implement as it pertains to Ordinance No. 1265. Motion was seconded and passed unanimously.**

**Baldwin - aye; Poe – aye; Mitchell – aye; Balensifer – aye; Dyer - aye**

#### DISCUSSION ITEMS

Planning Director Jay Blake discussed the request for a developmental code audit RFP. He discussed that he already has a list of issues his team has identified. He stated that a code audit is not going to solve the city's problems but will identify areas that will need to be fixed. He stated that a code audit will ensure that the code works the way they want it to. He discussed his process for identifying issues with the current code. He asked the commission if there were items, they would like him to include in the RFP process. Mayor Balensifer noted he would like to see a Hammond Downtown zone as well as a Warrenton Downtown zone. He noted that they are two very different downtown areas. He would like staff to be empowered to take more actions with nuisances to make the system less clunky as well as defining the differences. He would also like there to be an airport-specific district instead of just an industrial district; he stated it might be worthwhile to consider an I3 zone. He would like them to consider how to push the limits to dormitories for employee housing due to the city running into issues with employee housing. He suggested they define what is going to be passed by resolution and what will be passed by ordinance. He suggested they consider a marina commercial district or a recreational commercial district due to the current code limiting what can be done in the Hammond Marina. Mr. Blake discussed the audit, it will review all plans, and ensure it is consistent. Mr. Blake noted they will need a technical advisory committee for this process. Commissioner Mitchell noted he likes that they will be involving the community; he noted he would like to be on the committee. Commissioner Dyer noted concerns with the housing development and traffic on Ridge Road, he discussed that the roads are not equipped to handle the number of vehicles traveling on that road. Mr. Blake noted there is a traffic study in the works. Mayor Balensifer would like the advisory committee to keep in mind the quality of life of its citizens. He would also like them to consider 4H and FFA youth when they are looking into chicken issues. Mr. Blake stated that the process will require a significant amount of outreach to allow them to

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consider multiple perspectives. Mr. Blake stated he will bring this to the planning commission to get their input as well. Mayor Balensifer asked if Mr. Blake envisions it's going to be an omnibus passage package or a phased passage package. Mr. Blake stated it depends on how big the changes are, and it might be easier to start over.

### GOOD OF THE ORDER

City Manager Moberg reminded everyone of the movie in the park on August 10<sup>th</sup>.

Mayor Balensifer noted the Cornhole Tournament for the parks on August 19<sup>th</sup> and that he will not be able to compete in the event but he is happy to sponsor a team.

There being no further business, Mayor Balensifer adjourned the meeting at 7:09 p.m.

Respectfully prepared and submitted by Hanna Bentley, Deputy City Recorder.

APPROVED:

ATTEST:

\_\_\_\_\_  
Henry A. Balensifer III, Mayor

\_\_\_\_\_  
Dawne Shaw, CMC, City Recorder



# WARRENTON POLICE DEPARTMENT MONTHLY REPORT



TO: The Warrenton City Commission  
FROM: Chief Mathew Workman  
DATE: August 22, 2023  
RE: July 2023 Stats Report

## Upcoming Dates:

- 08/25 WGS Community Resource Fair
- 08/28 WMS Teacher Inservice Presentation
- 08/29 WGS Teacher Inservice Presentation
- 09/04 CERT Meeting
- 09/21 LEA Meeting

## Highlights Since the Last Report:

- 07/26 911 Subscriber Meeting
- 07/27 Acquired Surplus Office Equipment from OR-DAS
- 07/31 Moved Bicycle Shed to PW Lot
- 08/03 Citizens Corps Meeting
- 08/07 CERT Meeting
- 08/07 to 08/11 CIS Kids Camp at Fairgrounds
- 08/10 Family Fun/Movie Night in the Park
- 08/17 LEA Meeting
- 08/19 Cornhole Tournament at City Park

## Traffic Statistic Highlights:

- One (1) DUI Arrests (2-Alcohol, 0-Drugs)
- Nine (9) Driving While Suspended Citations/Arrests
- One (1) Hit and Run Arrest/Citation
- One (1) Reckless/Careless Driving Arrest/Citation
- Four (4) Speeding Citations
- Two (2) Fail to Yield Citations
- Two (2) Following Too Close Citations
- Eleven (11) Insurance Citations
- Four (4) Driver's License Citations
- Two (2) Registration Citations
- One Hundred Thirty-Five (135) other Citations and Warnings
- Sixteen (16) Accident Investigations

**TRAFFIC  
STATISTICS**

## Overall Statistics:

| July Statistics (% changes are compared to 2023) |       |       |       |      |       |       |       |
|--------------------------------------------------|-------|-------|-------|------|-------|-------|-------|
| Category                                         | 2023  | 2022  | % Chg | 2021 | % Chg | 2020  | % Chg |
| Calls for Service                                | 853   | 783   | 9%    | 868  | -2%   | 767   | 11%   |
| Incident Reports                                 | 193   | 210   | -8%   | 205  | -6%   | 257   | -25%  |
| Arrests/Citations                                | 116   | 168   | -31%  | 167  | -31%  | 153   | -24%  |
| Traffic Stops/ Events                            | 216   | 196   | 10%   | 173  | 25%   | 169   | 28%   |
| DUI's                                            | 1     | 4     | -75%  | 4    | -75%  | 2     | -50%  |
| Traffic Accidents                                | 16    | 21    | -24%  | 17   | -6%   | 28    | -43%  |
| Property Crimes                                  | 91    | 110   | -17%  | 112  | -19%  | 104   | -13%  |
| Person Crimes                                    | 81    | 90    | -10%  | 112  | -28%  | 101   | -20%  |
| Drug/Narcotics Calls                             | 9     | 2     | 350%  | 4    | 125%  | 3     | 200%  |
| Animal Calls                                     | 37    | 34    | 9%    | 28   | 32%   | 27    | 37%   |
| Officer O.T.                                     | 85.25 | 178.8 | -52%  | 129  | -34%  | 147.2 | -42%  |
| Reserve Hours                                    | 0     | 0     | 0%    | 0    | 0%    | 0     | 0%    |



| Category                     | Jan    | Feb   | Mar    | Apr  | May   | Jun | Jul   | Aug | Sep |
|------------------------------|--------|-------|--------|------|-------|-----|-------|-----|-----|
| <b>Calls for Service</b>     | 717    | 629   | 656    | 724  | 826   | 771 | 853   |     |     |
| <b>Incident Reports</b>      | 194    | 182   | 212    | 190  | 211   | 206 | 193   |     |     |
| <b>Arrests/Citations</b>     | 103    | 122   | 119    | 85   | 127   | 87  | 116   |     |     |
| <b>Traffic Stops/ Events</b> | 218    | 208   | 144    | 161  | 258   | 144 | 216   |     |     |
| <b>DUI's</b>                 | 3      | 1     | 1      | 2    | 1     | 2   | 1     |     |     |
| <b>Traffic Accidents</b>     | 25     | 10    | 14     | 20   | 12    | 10  | 16    |     |     |
| <b>Property Crimes</b>       | 69     | 94    | 87     | 77   | 91    | 117 | 91    |     |     |
| <b>Person Crimes</b>         | 64     | 57    | 61     | 62   | 74    | 60  | 81    |     |     |
| <b>Drug/Narcotics Calls</b>  | 5      | 1     | 3      | 5    | 2     | 9   | 9     |     |     |
| <b>Animal Calls</b>          | 19     | 22    | 26     | 22   | 30    | 40  | 37    |     |     |
| <b>Officer O.T.</b>          | 144.25 | 181.5 | 116.75 | 63.5 | 84.25 | 94  | 85.25 |     |     |
| <b>Reserve Hours</b>         | 0      | 0     | 0      | 0    | 0     | 0   | 0     |     |     |

| Oct | Nov | Dec | 2023 YTD | 2023 Estimate | 2022   | 2023 v 2022 | 2021   | 2023 v. 2021 | 2020   | 2023 v. 2020 |
|-----|-----|-----|----------|---------------|--------|-------------|--------|--------------|--------|--------------|
|     |     |     | 5176     | 8873          | 8050   | 10%         | 8669   | 2%           | 7955   | 12%          |
|     |     |     | 1388     | 2379          | 2484   | -4%         | 3160   | -25%         | 2447   | -3%          |
|     |     |     | 759      | 1301          | 1602   | -19%        | 2020   | -36%         | 1891   | -31%         |
|     |     |     | 1349     | 2313          | 1848   | 25%         | 2088   | 11%          | 1594   | 45%          |
|     |     |     | 11       | 19            | 34     | -45%        | 30     | -37%         | 27     | -30%         |
|     |     |     | 107      | 183           | 168    | 9%          | 182    | 1%           | 229    | -20%         |
|     |     |     | 626      | 1073          | 1204   | -11%        | 1267   | -15%         | 1192   | -10%         |
|     |     |     | 459      | 787           | 811    | -3%         | 1013   | -22%         | 830    | -5%          |
|     |     |     | 34       | 58            | 40     | 46%         | 36     | 62%          | 65     | -10%         |
|     |     |     | 196      | 336           | 273    | 23%         | 253    | 33%          | 207    | 62%          |
|     |     |     | 769.5    | 1319          | 2212.8 | -40%        | 1503.1 | -12%         | 2075.4 | -36%         |
|     |     |     | 0        | 0             | 0      | 0%          | 0      | 0%           | 12.5   | -100%        |

| Homeless Incidents   | 2023 | 2022 | 2021 | 2020 |
|----------------------|------|------|------|------|
| Code 40 (Normal)     | 28   | 44   | 44   | 21   |
| Code 41 (Aggressive) | 3    | 4    | 1    | 0    |

| Elk Incidents       | 2023     | 2022     | 2021     |
|---------------------|----------|----------|----------|
| Interaction:        | 2        | 0        | 1        |
| Traffic Accidents:  | 0        | 1        | 1        |
| Traffic Complaints: | 0        | 0        | 0        |
| <b>Total:</b>       | <b>2</b> | <b>1</b> | <b>2</b> |



MINUTES  
Warrenton Parks Advisory  
Board June 12, 2023  
Warrenton City Hall – Commission Chambers  
225 South Main Avenue, Warrenton, OR 97146

1. **CALL TO ORDER**

Parks Board Members Present: Chairperson Bert Little, Carol Snell, Ron Dyer, Sammi Beechan

Parks Board Members Absent: Anya Schauermann, Michelle Murray, Brooke Terry

City Staff Present: Esther Moberg, City Manager; Greg Shafer, Public Works Director; Jessica McLean, Public Works Analyst; Paige Stump, Public Works Executive Secretary

2. **Pledge of Allegiance**

3. **Consent Calendar**

- a. **Review Minutes of April 10, 2023 Meeting** – In the presence of a quorum of four members of the Parks Advisory Board, Ron Dyer made the motion to approve the minutes of the April 10, 2023 meeting. Carol Snell seconded the motion. All board members were in favor. Motion Passed.

4. **Reports**

- a. **Warrenton Kids, Inc.** – Debbie Little shared that all four fields have been utilized by WKI, Inc. for baseball and softball. Cal Ripken has concluded for the year, Babe Ruth is ongoing. Softball will conclude on July 1<sup>st</sup>. Ron Dyer shared that the older baseball players will continue to use field #4 for a while longer.
- b. **Public Works Operations** – Greg Shafer, Public Works Director, provided updates on Quincy Robinson Park and Carruthers Dog Park:
- i. Quincy Robinson Park has been maintained by leveraging a combination of Public Works personnel and volunteers. Public Works has completed seasonal mowing and volunteers have mowed the ball fields. Public Works has received calls related to vandalism in the park and responded accordingly.
  - ii. Carruthers Dog Park has also been maintained by leveraging a combination of Public Works personnel and volunteers. Public Works has been out on several occasions to mow both inside and outside the dog run areas. Volunteers have worked to grade and level the gravel and spread wood chips on the walking paths. Onsite volunteers maintain dog supplies and the restrooms.
  - iii. Ron Dyer requested an update on a drainage issue near the batting cages that he had previously discussed with Greg Shafer. Greg Shafer informed the Board that

- Public Works is currently operating with 50% of Utility Worker positions filled. Interviews for additional staff have been completed and he is optimistic that Public Works will soon be more fully staffed and able to address this issue.
- iv. Bert Little informed attendees that another flagpole is needed for Flag Park and that he believes Camp Rilea can provide one. He inquired as to who would be responsible for installing that. It was agreed that Public Works would be responsible for installing this. Esther Moberg stipulated that the new flagpole must match the existing flagpoles.
  - v. Sammi Beechan requested more details on the vandalism at Quincy Robinson Park. Greg Shafer elaborated that the highest volume of incidents occurred approximately one month ago and that incidents have declined in the last couple of weeks. Public Works will adjust the automatic locks on the restroom doors to lock earlier and is assessing existing camera placement and opportunities for improvement. Esther Moberg clarified that existing cameras can't see the areas being most frequently targeted, the gazebo and restroom entrances.

## 5. **Business Items**

- a. **BMX Bike Track – Erik Luysterborghs** – Bert Little has drafted a recommendation from the Board and will submit it to the City Recorder following this meeting. The next step will be to bring this issue before the City Commission. Erik Luysterborghs will be invited to speak before the City Commission. Esther Moberg informed the Board that the agenda for the next City Commission meeting is likely full and that this issue will need to be postponed until the July City Commission meeting.

## 6. **Discussion Items**

- a. **Cornhole Tournament Progress** – Sara Long provided an update on Brook Terry's behalf. The radio station will be on site to play music, make announcements, and recognize event sponsors. The Beer Garden has been approved and the beer will be provided by Buoy Beer Company. Buoy Beer Company will not provide servers. Additional fencing is needed for the beer garden. Jessica McLean agreed to check into Public Works providing this. The OLCC application has been submitted and is awaiting approval. Job Core is loaning out 7 of the 8 required sets of boards for this event. Esther Moberg suggested that the Seaside Library may have another set. If necessary, Sara Long will purchase a set that could be given as a raffle prize. Additional raffle prizes will be solicited beginning in July. Esther Moberg explained that any cash donations need to be processed through the City. The event will be cash only. Volunteers are needed. A date for team registrations to begin will be set soon. Bert Little agreed that VFW has trash cans available for use during the event.
- b. **Warrenton High School Trail Signs** – Carol Snell requested clarification on if the Warrenton High School students can complete this project or if Spruce Up Warrenton should be asked to do so. Bert Little clarified that the high school students had created designs but were not ready to present them. Jeanne Smith with Spruce Up Warrenton confirmed that they are able to do this work. Esther Moberg confirmed that there is budget allocated for this project. It was agreed that Bert Little would

reach out to the school to get a copy of any materials they have created. He will bring these materials to the Spruce Up Warrenton meeting on Thursday, June 15, 2023. Spruce Up Warrenton will collaborate with members of the Board to create designs. Design specifications discussed included: drone location photos, QR codes, mile marker indicators, the City of Warrenton logo, and trail maps. Locations discussed included: trailheads and trail intersections. Sammi Beechan agreed to send pictures of existing Warrenton Trail signs as examples.

- c. **WIKI Field Update – Pitching Mond and Infield, Field 2** – Ron Dyer informed the Board that he expects to have all the materials by mid-July. Turf has been donated and will be installed under each base and the pitcher's mound. He expects the work to be completed by September.
- d. **Community Garden Relocation Proposal** – Bert Little informed the Board that the School Board will discuss this topic during their July meeting. Sammi Beechan asked for clarification around payment of associated water costs. Bert Little confirmed that the City has existing budget for this. Jasper, the community garden representative, will secure garden materials via his connections at Home Depot. The only anticipated expense is the installation of the water meter. Sammi Beechan expressed concerns around the accessibility and walkability of the proposed site and recommended crosswalks and/or signage be considered.
- e. **Adopt-A-Park** – Bert Little expressed a desire for any sponsorships to be long-term. Sammi Beechan suggested that, in alignment with Esther Moberg's suggestion from the April 10, 2023 meeting, the existing unofficial park stewards be consulted around their priorities. It was agreed that this project be placed on hold.

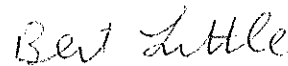
#### **Additional Business Brought Before the Board**

- a. **Field 4 to Grade School Trail** – Ron Dyer raised this issue. It was agreed that it would be added to the next meeting agenda.

#### **7. ADJOURNMENT**

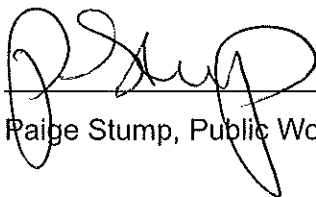
There being no further business, Chairperson Bert Little adjourned the meeting at 5:15 p.m. The next regular meeting is scheduled for August 14, 2023 at 4:00 p.m.

Approved



Bert Little, Parks Advisory Board Chair

Attest



Paige Stump, Public Works Executive Secretary

**From:** Dunlap, Alisa (PacifiCorp) <Alisa.Dunlap@pacificorp.com>  
**Sent:** Monday, August 21, 2023 3:08 PM  
**To:** Esther Moberg  
**Subject:** City of Warrenton Camping Considerations

Hi Esther,

Pacific Power would like to submit a comment regarding the camping considerations being proposed by Council at the meeting tomorrow. We support our communities efforts to help the unhoused however, there are safety concerns near and under high voltage power lines.

First, we want to make sure there is no camping underneath our power lines. This is a safety concern for the unhoused as well as for our infrastructure.

Second, the camping site proposed near the North Coast Business Park, we want to make sure we will maintain access to the ROW that goes to our transmission lines (we need vehicle access along the ROW). The area proposed around SE Ensign Lane and SE 19<sup>th</sup> St causes some concern for blocking ROW access.

Thanks for your consideration of our comments.

Best,  
Alisa

Alisa M. Dunlap  
Regional Business Manager  
Pacific Power  
971-219-6698 mobile  
[Alisa.dunlap@pacificorp.com](mailto:Alisa.dunlap@pacificorp.com)



## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Esther Moberg, City Manager  
DATE: August 22<sup>nd</sup>, 2023  
SUBJ: Approval of Lease Agreement with Battery 245

### SUMMARY

Requesting approval of the 6 year lease agreement with Battery 245 for the City property at 69 NE Heron. This is a 6 year lease with the option to extend an additional 6 years, if tenant and City are in agreement. Tenant has also requested in the lease a first right of refusal should the City desire to sell the property at some point.

### RECOMMENDATION/SUGGESTED MOTION

I move to approve the 6 year lease agreement with Battery 245, with the option for an additional 6 year extension, and first right of refusal.

### ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

### FISCAL IMPACT

After two months, this lease will generate money for the City based on the terms of agreement for the lease.

Approved by City Manager: \_\_\_\_\_

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.



## LEASE AGREEMENT

This LEASE (this "Lease") is made and entered into on \_\_\_\_\_, 20\_\_\_\_ (the "Commencement Date"), by and between the City of Warrenton, an Oregon municipal corporation ("Landlord"), and \_\_\_\_\_ ("Tenant").

### RECITALS

A. Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the real property located at 69 NE Heron Ave, Warrenton, Oregon described on attached Exhibit A, including the 4400 square feet (Building) together with any and all rights, privileges, easements, and appurtenances (collectively, the "Premises").

C. The interior of the Building is in need of repairs, which the Tenant agrees to undertake as part of this Lease, as described below.

### AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Lease agree as follows:

#### Article 1

##### PREMISES

Landlord does hereby demise, lease, and let unto Tenant, and Tenant does hereby take and lease from Landlord, the Premises for the term and on the rents, conditions, and provisions herein.

#### Article 2

##### LEASE TERM

**2.1 Initial Term.** Starting on the Commencement Date, the Premises will be leased for a term of six (6) years (the "Initial Term"), unless earlier terminated pursuant to the terms of this Lease.

**2.2 Extended Term.** If Tenant is not in default under the Lease, and if Tenant provides Landlord with written notice of its desire to extend the Lease no less than one-hundred twenty (120) days before the expiration of the Initial Term, Landlord has the option to extend the Initial Term for an additional period of six (6) years (the "Extended Term") by providing written notice thereof to Tenant no less than ninety (90) days before the expiration of the Initial Term (the Initial Term, if and as extended by the Extended Term, is referred to in this Lease as the "Term"). Upon exercise of this option to extend, the term of this Lease will be extended through the expiration date of the Extended Term, on the same terms and conditions as contained in this Lease, except for Rent (which will be determined in accordance with section 3.2 below).

**2.3 Early Termination.** If, through no fault of Tenant, Tenant is unable to obtain a liquor license and/or brewers license within ninety (90) calendar days after the Commencement Date, Tenant may, by written notice to Landlord, terminate this Lease without further obligation to Landlord.

## **Article 3**

### **RENT**

**3.1 Rent for Initial Term.** Tenant agrees to pay to Landlord monthly rent in the amount of \$2,500 ("Rent") beginning two months after the Commencement Date. On the first annual anniversary of the Commencement Date and every year thereafter (each, an "Adjustment Date"), Rent will increase by 3% over the previous monthly rent.

**3.2 Rent Adjustment Provision for Fixed Increases**

On each annual anniversary of the Commencement Date of this Lease, Rent will increase by 3%.

**3.2 Payment of Rent.** Rent is payable in advance, commencing on the Commencement Date and thereafter on the first day of each month throughout the Term, without notice or demand and without abatement, deduction or setoff except as otherwise provided in this Lease. If the Commencement Date is a day other than the first day of a month, Rent payable on the Commencement Date will be prorated based on the number of days that will elapse during that month after the Commencement Date. Rent and all other amounts payable to Landlord under the terms of this Lease must be delivered to Landlord at its office, located at 225 S. Main Ave/P.O. Box 250, Warrenton, Oregon 97146, or at another place that Landlord may designate by notice to Tenant, in lawful money of the United States.

**3.3 Late Charge and Interest.** If Rent or any other amount payable by Tenant to Landlord is not paid within 10 calendar days of its due date, Tenant will pay to Landlord a late charge of five percent of the amount due. The parties agree that the late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of the late payment. Collection of the late charge will not be considered a waiver of default nor of any other right or remedy. In addition, all delinquent amounts will bear interest at the rate of nine percent per annum, or the highest rate permitted by law, whichever is lower (the "Default Rate"), from the date first due until the date paid in full.

**3.4 Net Lease.** This Lease is a totally net lease, and it is intended that the rent provided for in this Lease will be an absolutely net return to Landlord throughout the Term. Tenant will be responsible for paying all costs and expenses relating to the Premises, including real and personal property taxes, utilities, maintenance, repairs, interior and exterior structural repairs, interior and exterior nonstructural repairs, insurance, and all other costs and expenses relating to the Premises. Without notice or demand and without abatement, deduction, or setoff except as may be otherwise provided in this Lease, Tenant is required to pay, as additional rent, all sums, impositions, costs, and other payments that Tenant assumes or agrees to pay in any provision of this Lease. If Tenant fails to make a payment, Landlord will have (in addition to all other rights and remedies) all the rights and remedies provided for in this Lease or by law for nonpayment of the Rent.

## **Article 5**

### **USE AND COMPLIANCE WITH LEGAL REQUIREMENTS**

**5.1 Permitted Use.** Tenant will use and occupy the Premises during the Term for the purpose of operating a brewery and restaurant and must be in compliance with all applicable Legal Requirements (as defined in section 5.2 below).

**5.2 Compliance with Legal Requirements.** Tenant will observe and comply with all Legal Requirements that may apply to the Premises, or to the use or manner of uses of the Premises whether or not the Legal Requirements affect the interior or exterior of the Premises,

necessitate structural changes or improvements, or interfere with the use and enjoyment of the Premises, and whether or not compliance with the Legal Requirements is required by reason of any condition, event, or circumstance existing before or after the Term commences. Tenant will pay all costs of compliance with Legal Requirements.

“Legal Requirements” means all applicable present and future laws, ordinances, orders, rules, regulations, codes, and requirements of all federal, state, and municipal governments, departments, commissions, boards, and officers, that now or hereafter apply to the Premises, the Improvements, or any component thereof or any activity conducted thereon, including but not limited to those pertaining to Environmental Laws and the use and storage of Hazardous Substances (as these terms are defined below).

“Environmental Laws” means all present or future federal, state, and local laws or regulations related to the protection of health or the environment, including but not limited to the Resource Conservation and Recovery Act of 1976 (RCRA) (42 USC § 6901 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC § 9601 *et seq.*), the Toxic Substances Control Act (15 USC § 2601 *et seq.*), the Federal Water Pollution Control Act (the Clean Water Act) (33 USC § 1251 *et seq.*), the Clean Air Act (42 USC § 7401 *et seq.*), amendments to the foregoing, and any rules and regulations promulgated thereunder.

“Hazardous Substances” means any hazardous or toxic substance, material, or waste that is or becomes regulated by any local, state, or federal governmental authority, including without limitation, any hazardous material, hazardous substance, ultra-hazardous material, toxic waste, toxic substance, pollutant, radioactive material, petroleum product, and PCB, as those and similar terms are commonly used or defined by Environmental Laws.

**5.4 Prohibited Uses.** Tenant will not use or occupy the Premises or the Improvements, or permit or suffer all or any part of the Premises or the Improvements to be used or occupied: (a) for any unlawful or illegal business, use, or purpose; (b) in any manner so as to constitute a nuisance of any kind; (c) for any purpose or in any way in violation of the certificate of occupancy, or of any Legal Requirements, including Legal Requirements respecting Hazardous Substances; or (d) for any business, use, or purpose deemed disreputable.

**5.5 No Waste.** Tenant will not cause or permit any waste, damage, disfigurement, or injury to the Premises,

## **Article 6 IMPROVEMENTS**

**6.1 Construction, Modification, and Demolition of Improvements.** Tenant may not construct, reconstruct, demolish, remove, replace, remodel, or rebuild on any part or all of the Premises such buildings, structures, parking areas, driveways, walks, and other improvements of any nature including excavation, earthmoving, paving, installation of utilities, and all other development activities (“Improvements”) without obtaining the prior written consent of the Landlord which consent is in Landlord’s sole and absolute discretion. Construction of any approved Improvements will be undertaken in compliance with all Legal Requirements and will be performed in a good and workmanlike manner.

**6.3 Notice of Construction.** Tenant agrees to notify Landlord in writing of Tenant’s intention to commence construction of an approved Improvement at least 30 calendar days before commencement of any such work or delivery of any materials. The notice must specify the approximate location and nature of the intended Improvements, and the anticipated date that work will be commenced and completed. Landlord will have the right at any time and from time

to time to post and maintain on the Premises notices of nonresponsibility and such other notices as Landlord deems necessary to protect Landlord's interest in the Premises and the Improvements from the liens of mechanics, laborers, materialmen, suppliers, or vendors; and Landlord will have the right to inspect the Premises and the Improvements in relation to the construction at all reasonable times.

**6.4 Landlord Cooperation.** Landlord agrees to cooperate with Tenant in all respects in connection with Tenant's construction of any approved Improvements, including but not limited to, executing the applications and other instruments reasonably necessary for construction of the Improvements, provided that Landlord will not be required to pay any application fees or incur any other costs or liabilities in connection with the Improvements beyond Landlord's fees for any professional advice Landlord desires.

**6.5 Easements and Dedications.** Tenant and Landlord each recognize that in order to provide for the development of the Premises, it may be necessary, desirable, or required that street, water, sewer, drainage, gas, power line, and other easements and dedications and similar rights be granted or dedicated over or within portions of the Premises. Granting any such rights shall be in Landlord's sole discretion.

## **Article 7**

### **TAXES AND UTILITIES**

**7.1 Taxes Defined.** As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises or the Improvements, or based on or otherwise in connection with the use, occupancy, or operations of the Premises or the Improvements, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises or the Improvements, or on Landlord with respect to the Premises or the Improvements, or on any act of leasing space in the Improvements, or in connection with the business of leasing space in the Improvements, including any tax on rents, whether direct or as a part of any "gross receipts" tax, and whether or not in lieu of, in whole or in part, ad valorem property taxes. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises or the Improvements, including, but not limited to, any road-user or transportation-system-maintenance fee and any charges or fees measured by trip generation or length, parking spaces, impervious surfaces, buildings, vehicle usage, or similar bases for measurement.

**7.2 Payment of Taxes.** Throughout the Term, Tenant will pay all Taxes as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, Tenant may pay the same in installments as each installment becomes due and payable, but in any event must do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest. Taxes for the year in which this Lease commences and expires will be prorated between the parties as of the Commencement Date or expiration date as the case may be and, on the Commencement Date, Tenant will pay its pro rata share of the current year's taxes.

**7.3 Contesting Taxes.** If Tenant in good faith desires to contest the validity or the amount of any Tax, Tenant will be permitted to do so by giving to Landlord written notice thereof before commencement of such contest. Landlord will, at Tenant's expense (including reimbursement of attorney fees reasonably incurred by Landlord), cooperate with Tenant in any such contest to the extent that Tenant may reasonably request, but Landlord will not be subject to any liability for the payment of any costs or expenses in connection with any proceeding brought by Tenant, and Tenant will indemnify and save Landlord harmless from any such costs or expenses. Any rebates on account of the Taxes required to be paid and paid by Tenant under the provisions of this Lease will belong to Tenant, except that to the extent any rebates or refunds are related to a period of time in which this Lease is not in effect (either before commencement or after expiration or termination), the portion of the rebate attributable to such time will be returned to Landlord to the extent previously paid by Landlord. Any contest as to the validity or amount of any Tax or assessed valuation on which the Tax was computed or based, whether before or after payment, may be made by Tenant in the name of Landlord or of Tenant, or both, as Tenant will determine.

**7.4 Evidence of Payment.** Promptly after payment, Tenant will provide Landlord with evidence reasonably satisfactory to Landlord that all Taxes required to be paid by Tenant have been paid.

**7.5 Personal-Property Taxes.** Tenant must pay before delinquency all taxes assessed against and levied on improvements, fixtures, furnishings, equipment, and all other personal property of Tenant contained in the Premises, and when possible Tenant must cause said improvements, fixtures, furnishings, equipment, and other personal property to be assessed and billed separately from the real property of Landlord.

**7.6 Utilities and Services.** Tenant will pay, directly to the appropriate supplier, for all water, sanitary sewer, storm sewer, gas, electric, telephone, internet, cable, garbage pickup, and all other utilities and services used by Tenant on the Premises as they become due, together with any taxes thereon, from and after the Commencement Date. Tenant is required to maintain the following utility services during the Term: water, sanitary sewer, storm sewer, gas, electric, and garbage pickup. All other utilities may be maintained or discontinued at Tenant's discretion.

## **Article 8 INSURANCE**

**8.1 Property Insurance.** Tenant, at its cost and expense, will keep all Improvements insured against loss or damage by property insurance written on the standard Insurance Services Office (ISO) "special-form" policy, or its nearest equivalent in use at the time. Tenant will obtain endorsements to its special-form policy to maintain the following types of coverage to the extent required by Landlord and available at commercially reasonable rates: (a) flood, (b) earthquake, (c) business interruption, (d) indirect loss, (e) boiler and machinery perils, and (f) ordinance and law. The property insurance must cover the full replacement value of the Improvements (excluding foundation and excavation cost) and require that all losses are payable to Landlord and Tenant as their interests may appear. Any loss adjustment must require written consent of both parties, which will not be unreasonably withheld, conditioned, or delayed. The amount of the insurance policy will be increased from time to time as the full replacement value of the Improvements increases.

**8.2 Liability Insurance.** Tenant, at its cost and expense, will maintain commercial general liability insurance covering the Premises, the Improvements, and the conduct or operation of its business with limits of loss of at least \$2 million combined single-limit coverage

for personal injury and property damage. The insurance policy must be primary to any insurance available to Landlord, contain a severability-of-interest or cross-liability clause, include contractual-liability coverage for Tenant's indemnification obligations contained in this Lease, and name Landlord as an additional insured. Landlord has the right from time to time to increase the amount of liability insurance required under this Lease based on then-current market conditions for properties comparable to the Premises.

**8.3 Additional Requirements.** Tenant's insurance carriers must be reputable insurance companies reasonably acceptable to Landlord, licensed to do business in the State of Oregon, and have a minimum A-VIII rating as determined by the then-current edition of *Best's Insurance Reports* published by A.M. Best Co. Tenant will provide Landlord with certificates of insurance concurrently with the execution of this Lease and upon each renewal thereafter to establish that Tenant's insurance obligations have been met and that the policies are not subject to cancellation or material change without at least 30 calendar days advance written notice to Landlord; provided, however, that Landlord reserves the right to inspect and require full copies of all insurance policies to be provided to Landlord.

## **Article 9**

### **RELEASE AND INDEMNIFICATION**

**9.1 Release.** Tenant is and will be in exclusive control of the Premises and the Improvements, and Landlord will not in any event whatsoever be liable for any injury or damage to any property or to any person happening on, in, or about the Premises or the Improvements, or any injury or damage to the Premises or the Improvements or to any property, whether belonging to Tenant or to any other person, caused by any fire, breakage, leakage, defect, or bad condition on any part of the Premises or the Improvements, or from steam, gas, electricity, water, rain, or snow that may leak into, issue, or flow from any part of the Premises or the Improvements from the drains, pipes, or plumbing work of the same, or from the street, subsurface, or any place or quarter, or because of the use, misuse, or abuse of all or any of the Improvements, or from any kind of injury that may arise from any other cause whatsoever on the Premises or in or on the Improvements, including defects in construction of the Improvements, latent or otherwise; and Tenant hereby releases Landlord from and against any and all liabilities resulting from any such injuries and damages. Landlord acknowledges that it remains responsible for liability to any third party to the extent that the liability arises from Landlord's gross negligence or willful misconduct.

**9.2 Indemnification.** Except to the extent caused by the gross negligence or willful misconduct of Landlord, Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all liabilities, obligations, damages, fines, penalties, claims, costs, charges, and expenses (including, without limitation, reasonable attorney fees and costs at trial and on appeal; environmental response and remedial costs; environmental consultant and laboratory fees; and natural resource damages) that may be imposed on or incurred by or asserted against Landlord by reason of any of the following occurrences during the Term:

- (a) Any work or thing done in, on, or about all or any part of the Premises or the Improvements by Tenant or any party other than Landlord.
- (b) Any use, nonuse, possession, occupation, condition, operation, maintenance, or management of all or any part of the Premises or the Improvements or any adjacent alley, sidewalk, curb, vault, passageway, or space;
- (c) Any negligence on the part of Tenant or any of its agents, contractors, servants, employees, subtenants, licensees, or invitees;



(d) Any accident, injury, or damage to any person or property occurring in, on, or about the Premises or the Improvements, even if caused in part by the negligence of Landlord, but only up to the limits of Tenant's liability insurance coverage with respect to any such negligence of Landlord; and

(e) Any failure of Tenant to comply with or to perform any covenant, agreement, term, provision, condition, or limitation that this Lease requires Tenant to comply with or to perform, including without limitation Tenant's compliance with the Legal Requirements and the release of Hazardous Substances in violation of Environmental Laws.

## **Article 10**

### **LIENS**

**10.1 No Liens.** Tenant will not suffer or permit any construction liens to attach to or be filed against any part the Premises or the Improvements by reason of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to, Tenant or any person occupying or holding an interest in any part of the Premises or the Improvements. If any such lien is filed against any portion of the Premises or the Improvements, Tenant will cause the same to be discharged of record within 15 calendar days after the date of its filing by payment, deposit, or bond.

**10.2 Landlord Right to Post Notices.** Landlord will have the right to post and keep posted at all reasonable times on the Premises and the Improvements notices of nonresponsibility and any other notices that Landlord desires or is required to post for the protection of Landlord's interest in the Premises and the Improvements from any such lien.

**10.3 No Right to Lien Landlord's Interest.** Nothing in this Lease may be deemed to be, or be construed in any way as constituting, the consent or request of Landlord, express or implied, by inference or otherwise, to any person, firm, or corporation for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration, or repair of or to the Premises or to the Improvements, or as giving Tenant any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that might in any way give rise to the right to file any lien against Landlord's interest in the Premises or against Landlord's interest, if any, in the Improvements. Tenant is not an agent for Landlord.

## **Article 11**

### **REPAIRS AND MAINTENANCE**

**11.1 Tenant Obligation.** Tenant must maintain, repair, and replace the Premises and the Improvements and keep the Premises in the same condition it is in on the Commencement Date (minus normal wear and tear). The Tenant shall keep the Premises in a clean and attractive condition, and in good condition and repair, throughout the entire Term. Tenant's obligations extend to both structural and nonstructural items and to all maintenance, repair, and replacement work. Tenant must bring the current structures on the Premises up to a clean and attractive condition, and in good condition and repair, within six months of the Commencement date. The Landlord shall have the right to inspect to ensure compliance with this section pursuant to Article 13.

**11.2 Landlord Obligation.** Landlord is not required to furnish to Tenant, the Premises, or the Improvements any facilities, utilities, or services of any kind whatsoever during the Term, such as, but not limited to, water, sanitary sewer, storm sewer, gas, electric, telephone, cable, garbage pickup, or any other utilities or services used by Tenant. Landlord is not required to make any alterations, rebuilding, replacements, changes, additions, improvements, or repairs to any portion of the Premises or the Improvements during the Term. The landlord will be

responsible for any future replacement of HVAC system and water heater. Tenant to do due diligence on maintenance. Landlord at commencement of lease will be replacing initial roof, siding, and 3 bay doors on exterior of building. If a suppression system is required by building code, the Landlord will be responsible for 25% of the cost of the suppression system initial install, not to exceed \$3,000. Tenant to do due diligence on maintenance.

**11.3 Limited Assignment of Rights.** Landlord assigns to Tenant, without recourse, any rights that Landlord may have against any parties causing damage to the Improvements on the Premises to sue for and recover amounts expended by Tenant as a result of the damage.

## **Article 12**

### **SIGNAGE AND SITE SECURITY**

**12.1 Signage.** Tenant is permitted to install signage on the Premises and the Improvements as long as Tenant complies with all applicable Legal Requirements.

**12.2 Site Security.** Within six months of the Commencement Date, Tenant must install, and thereafter maintain at Tenant's expense, the following (unless not required by insurance and the City agrees to waive the requirement):

- (a) Exterior lighting meeting industry standards;
- (b) Locks on exterior doors and windows meeting industry standards;
- (c) A security alarm system meeting industry standards, including but not limited to standards designed to prevent false alarms; and
- (d) Security cameras meeting industry standards, providing at minimum coverage of all exterior doorways and parking areas, and retaining recordings for a minimum of 72 hours. Tenant shall provide Landlord access to and copies of such recordings upon request.

## **Article 13**

### **INSPECTION AND ACCESS**

Tenant will permit Landlord or its authorized representative to enter the Premises and the Improvements at all reasonable times during normal business hours for purposes of inspecting them for compliance with the terms of this Lease and making any repairs or performing any work that Tenant has neglected or refused to make in accordance with the terms of this Lease. Nothing in this Lease implies any duty or obligation, however, on Landlord's part to make such inspections or perform such work (including, but not limited to, repairs and other restoration work made necessary because of any fire or other casualty or partial condemnation, irrespective of the sufficiency or availability of any property or other insurance proceeds, or any award in condemnation, that may be payable). Landlord's performance of any work will not constitute a waiver of Tenant's default in failing to perform the same.

## **Article 14**

### **DAMAGE AND DESTRUCTION**

If the Premises or any Improvements on the Premises are damaged or destroyed by fire or other casualty, Rent will not abate and Tenant must (a) promptly restore the damaged Improvements to substantially the same condition existing before the casualty, or (b) promptly remove all damaged Improvements (including foundations) and leave the Premises in a clean, attractive, and safe condition. The proceeds available from Tenant's property insurance policy (the "Proceeds") must be used for restoring or removing the damaged Improvements as provided above, and any Proceeds not used for such restoration or removal will be delivered to Tenant. If the Proceeds are not sufficient for Tenant to restore or remove the damaged Improvements, Tenant must pay the difference.

**Article 15**  
**ASSIGNMENT AND SUBLETTING**

**15.1 Limitations on Transfers.** Tenant must not, voluntarily or by operation of law, sell, assign, or transfer this Lease or any interest therein, sublet the Premises or any part thereof, or grant any right to use the Premises, the Improvements, or any respective part thereof (each a "Transfer") without the prior written consent of Landlord, which consent is in Landlord's sole and absolute discretion. Any attempted Transfer without such prior written consent will be void. Landlord's consent to a Transfer will in no event release Tenant, any assignee, or any guarantor from their respective liabilities or obligations under this Lease or any guaranty of this Lease (including any liabilities or obligations arising during the Extended Term), nor relieve Tenant from the requirement of obtaining Landlord's prior written consent to any further Transfer. Landlord's acceptance of Rent from any other person will not be deemed to be a waiver by Landlord of any provision of this Lease or consent to any Transfer.

If Tenant is a corporation, partnership, limited liability company, or other entity or unincorporated association, then any Transfer of this Lease by merger, consolidation, liquidation, or change in the ownership of or power to vote the majority of the ownership interest of Tenant, will constitute a Transfer for the purposes of this Article.

**15.2. Assignments Prohibited.** An assignment prohibited within the meaning of section 16.1 includes, without limitation, one or more sales or transfers, direct or indirect, by operation of law or otherwise, or the creation of new stock or ownership interests, by which ownership or control of an aggregate of more than 50 percent of Tenant's stock or ownership interests must vest in a party or parties who are non-stockholders, partners, or members, as applicable, as of the Commencement Date.

**Article 16**  
**DEFAULT**

The occurrence of any one or more of the following constitutes an event of default under this Lease:

(a) Failure by Tenant to pay Rent or any other amount required to be paid by Tenant to Landlord under this Lease within 10 calendar days after written notice of such nonpayment is given to Tenant; provided, however, that Landlord is not required to give Tenant more than one such notice in any consecutive 12-month period. After giving the first such notice to Tenant during a consecutive 12-month period, Tenant will be deemed in default under this Lease for failure to pay Rent or any other amount within 10 calendar days after the same becomes due, without notice or opportunity to cure;

(b) Failure by Tenant to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Lease and such failure continues and is not remedied within 10 calendar days after written notice thereof is given to Tenant;

(c) Failure by Tenant, whether by action or inaction, to comply with any term or condition or fulfill any obligation under this Lease (other than as set forth in subsections (a) and (b) above) and such failure continues and is not remedied within 30 calendar days after written notice thereof is given to Tenant; provided, however, that if the failure is of such a nature that it cannot be cured within said 30-day period, then this provision is satisfied if Tenant begins the cure within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the cure within 90 calendar days after Landlord's notice is given to Tenant;

(d) Tenant becomes insolvent; Tenant makes an assignment for the benefit of creditors; Tenant files a voluntary petition in bankruptcy; Tenant is adjudged bankrupt or a receiver is appointed for Tenant's properties; the filing of any involuntary petition of bankruptcy and Tenant's failure to secure a dismissal of the petition within 75 calendar days after filing; or the attachment of or the levying of execution on the leasehold interest and Tenant's failure to secure discharge of the attachment or release of the levy of execution within 30 calendar days.

## **Article 17**

### **REMEDIES**

**17.1 Remedies.** Upon the occurrence of an event of default, Landlord may exercise any one or more of the remedies set forth in this section or any other remedy available under applicable law or contained in this Lease:

(a) Landlord may terminate this Lease by written notice to Tenant.

(b) Landlord or Landlord's agent or employee may immediately or at any time thereafter, without terminating the Lease, reenter the Premises and the Improvements either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Premises and the Improvements, to the end that Landlord may have, hold, and enjoy the Premises and the Improvements. RE-ENTRY OR TAKING POSSESSION OF THE PREMISES OR THE IMPROVEMENTS BY LANDLORD WILL NOT BE CONSTRUED AS AN ELECTION ON ITS PART TO TERMINATE THIS LEASE UNLESS A WRITTEN NOTICE OF SUCH INTENTION IS GIVEN TO TENANT.

(c) Landlord may, without terminating the Lease, relet the whole or any part of the Premises and the Improvements from time to time, either in the name of Landlord or otherwise, to any persons, for any terms ending before, on, or after the expiration date of the Term, at any rentals and on any other conditions (including concessions and free rent) that Landlord determines to be appropriate. To the extent allowed under Oregon law, Landlord will have no obligation to relet all or any part of the Premises or the Improvements and will not be liable for refusing to relet the Premises or the Improvements, or, in the event of reletting, for refusing or failing to collect any rent due on such reletting; and any action of Landlord will not operate to relieve Tenant of any liability under this Lease or otherwise affect such liability. Landlord at its option may make any physical change to the Premises or the Improvements that Landlord, in its sole discretion, considers advisable and necessary in connection with any reletting or proposed reletting, without relieving Tenant of any liability under this Lease or otherwise affecting Tenant's liability.

(d) Whether or not Landlord retakes possession of or relets the Premises and the Improvements, Landlord has the right to recover its damages, including without limitation all lost rentals, all legal expenses, all costs incurred by Landlord in restoring the Premises or otherwise preparing the Premises and the Improvements for reletting, and all costs incurred by Landlord in reletting the Premises and the Improvements.

(e) To the extent permitted under Oregon law, Landlord may sue periodically for damages as they accrue without barring a later action for further damages. Landlord may in one action recover accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent reserved in this Lease for the balance of the Term after the time of award and the fair rental value of the Premises and the Improvements for the same period, discounted at the time of award at a reasonable rate not to exceed 10 percent per annum. If

Landlord relets the Premises and the Improvements for the period that otherwise would have constituted all or part of the unexpired portion of the Term, the amount of rent reserved on the reletting will be deemed to be the fair and reasonable rental value for the part or the whole of the Premises and the Improvements so relet during the term of the reletting.

**17.2 Landlord's Self-Help Right.** If Tenant at any time (a) fails to pay any Tax in accordance with the provisions of this Lease, (b) fails to make any other payment required under this Lease, or (c) fails to perform any other obligation on its part to be made or performed under this Lease, then after 10 calendar days' written notice to Tenant (or without notice in the event of an emergency) and without waiving or releasing Tenant from any obligation of Tenant contained in this Lease or from any default by Tenant and without waiving Landlord's right to take any action that is permissible under this Lease as a result of the default, Landlord may, but is under no obligation to, (i) pay any Tax or make any other payment required of Tenant under this Lease, and (ii) perform any other act on Tenant's part to be made or performed as provided in this Lease, and may enter the Premises and the Improvements for any such purpose, and take any action that may be necessary. All payments so made by Landlord and all costs and expenses incurred by Landlord, including reasonable attorney fees, in connection with the performance of any such act will constitute additional rent payable by Tenant under this Lease and must be paid to Landlord on demand.

**17.3 No Waiver.** No failure by Landlord to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Tenant, and no breach by Tenant, may be waived, altered, or modified except by a written instrument executed by Landlord. No waiver of any breach will affect or alter this Lease, but each and every agreement, term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach.

**17.4 Remedies Cumulative and Nonexclusive.** Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for now or hereafter existing at law or in equity or by statute or otherwise, and Landlord's or Tenant's exercise or beginning to exercise of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

## **Article 18**

### **RIGHT OF FIRST OFFER AND RIGHT OF FIRST REFUSAL**

As long as Tenant is not in default under this Lease, Tenant will, at all times during the Term, have the right of first offer to purchase the Premises from Landlord. This right of first offer will not apply to any transfer by Landlord to any Affiliate of Landlord (an "Exempt Transfer") but will survive an Exempt Transfer. If Landlord elects to sell the Premises, after following all required steps as set forth under the Warrenton City Charter, during the Term, Landlord will not list the Premises with a broker or otherwise market the Premises for sale without first making an offer ("Landlord's Offer") to Tenant for a price and on terms and conditions acceptable to Landlord and allowing Tenant 30 days from the date Tenant receives the

offer to respond. If Tenant accepts Landlord's Offer, the parties will negotiate a purchase and sale agreement. If Tenant fails to respond, then Landlord may sell the Premises to any person for such price and terms as Landlord desires without further notice to Tenant. If Tenant makes a counteroffer within the 30 days, Landlord will have the option of accepting the counteroffer at any time during the 60 days after it is delivered to Landlord. Tenant may not withdraw any counteroffer until 60 days after it is given. During that time, Landlord may market and sell the Premises to a third party, as long as the sale is for a price that is at least five percent higher than the price contained in Tenant's counteroffer.

If Landlord receives an acceptable unsolicited offer to purchase the Premises during the Term and after following all required steps as set forth under the Warrenton City Charter, then before accepting the offer Landlord will give Tenant a copy of the executed offer. When Tenant receives the offer, Tenant will have the option to purchase the Premises (or portion covered by the offer, as the case may be) at the same price and on the same terms and conditions as are contained in the offer. The option may be exercised only by notice to Landlord within 10 business days after receiving the offer, together with reasonably satisfactory evidence that Tenant is ready and able to make payment and otherwise ready to enter into a purchase and sale agreement for the Premises. If Tenant fails to timely exercise its purchase option, then Landlord may sell the Premises according to the terms of the offer to the third-party offeror.

If Landlord is unable sell the Premises to a third party within six months of (1) Tenant's failure to exercise its option with respect to a third-party offer or (2) Tenant's counteroffer to a Landlord offer, then Tenant's option rights under this Article 19 will be reinstated. As used in this Article 19, the term "sell" means actually conveying Landlord's interest in the Premises to a third party, any agreement between Landlord and a third party for a future conveyance of Landlord's interest in the Premises, or any transaction that is the substantial equivalent of such a conveyance or agreement for such a conveyance.

## **Article 19**

### **SURRENDER AND HOLDOVER**

**19.1 Condition of Premises and Improvements.** Upon expiration of the Term or earlier termination of this Lease, Tenant will deliver all keys to Landlord and surrender the Premises and the Improvements in good condition and repair and broom clean (reasonable wear and tear excepted), free and clear of all occupancies other than subleases to which Landlord has specifically consented and free and clear of all liens and encumbrances other than those, if any, existing on the date of this Lease or created or suffered by Landlord. Tenant's obligations under this Article will be subject to the provisions of Article 14 relating to damage or destruction.

**19.2 Tenant's Property.** Before the expiration or earlier termination of this Lease, Tenant will remove all furnishings, furniture, and trade fixtures that remain Tenant's property (the "Tenant's Property"). If Tenant fails to do so, at Landlord's option, (a) the failure to remove Tenant's Property will be deemed an abandonment of Tenant's Property, and Landlord may retain Tenant's Property and all rights of Tenant with respect to it will cease; or (b) by written notice given to Tenant, Landlord may elect to hold Tenant to Tenant's obligation of removal, in which case Landlord may effect the removal, transportation, and storage of Tenant's Property and Tenant will reimburse Landlord for the costs incurred in connection therewith on demand.

**19.3 Holding Over.** Any holding over after the expiration of the Term with the written consent of Landlord will be construed to be a tenancy from month-to-month, same Rent payable

for the period immediately before the expiration of the Term and will otherwise be on the terms and conditions of this Lease. If Landlord consents to Tenant holding over, either party may thereafter terminate the tenancy at any time on 30 calendar days' advance written notice to the other party.

Any holding over after the expiration of the Term without the written consent of Landlord will be construed as a tenancy at sufferance (which Landlord may terminate at any time without notice) and Tenant will be liable for any and all damages resulting from such unauthorized holdover (including, but not limited to, any and all damages that Landlord is required to pay a new tenant for failing to timely deliver any portion of the Premises or the Improvements).

#### **Article 20**

#### **CONDITION OF PREMISES**

Tenant acknowledges that it has examined the physical condition of the Premises (including whether the Premises contains any Hazardous Substances or fails to comply with any Environmental Laws) and as a result agrees to accept the Premises in "as-is" condition, with all faults. Tenant further acknowledges that no representations or warranties regarding the condition of the Premises have been made by Landlord or any agent or person acting for Landlord.

#### **Article 21**

#### **QUIET ENJOYMENT**

On paying the Rent and adhering to all covenants, agreements, and conditions of this Lease, Tenant will have quiet enjoyment of the Premises during the Term without hindrance or disturbance by any person claiming by, through, or under Landlord, subject, however, to the Permitted Exceptions and as otherwise excepted in this Lease.

#### **Article 22**

#### **NOTICES**

**22.1 Notice Parties and Means of Delivery.** Any notice required or permitted by the terms of this Lease will be deemed given if delivered personally (effective upon delivery), or sent by United States registered or certified mail, postage prepaid, return receipt requested (effective upon delivery or refusal to accept delivery), and addressed as follows:

If to Landlord: \_Attn: City Manager  
PO BOX 250



Warrenton, OR 97143

Attn: \_\_\_\_\_  
City Recorder  
With a copy to: PO BOX 250  
Warrenton, OR 97143

Attn: \_\_\_\_\_  
If to Tenant: \_\_\_\_\_

Attn: \_\_\_\_\_  
With a copy to: \_\_\_\_\_

Attn: \_\_\_\_\_

**22.3 Copies of Certain Notices to Tenant.** Tenant will immediately send to Landlord, in the manner prescribed in this Article, copies of all notices that Tenant receives with respect to the Premises or the Improvements from any government authority, fire regulatory agency, or similarly constituted body, and copies of its responses to those notices.

**22.4 Failure to Notify of Change of Address or Refusal to Accept a Notice.** Notwithstanding anything in this Article to the contrary, any notice mailed to the last-designated address of any person or party to which a notice may be or is required to be delivered pursuant to this Lease or this Article will not be deemed ineffective if actual delivery cannot be made because of a change of address of the person or party to which the notice is directed or the failure or refusal of such a person or party to accept delivery of the notice.

## Article 23 MISCELLANEOUS

**23.1 Survival.** All agreements (including, but not limited to, indemnification agreements) set forth in this Lease, the full performance of which are not required before the expiration or earlier termination of this Lease, will survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

**23.2 Invalidity.** If any term or provision of this Lease or the application of the Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

**23.3 Force Majeure.** If either party's performance of an obligation under this Lease (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any Legal Requirement (and not attributable to an act or omission of the party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the party's control, whether or not the cause is specifically mentioned in this Lease, the party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

**23.4 Nonmerger.** There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease, the

leasehold estate created by this Lease, or any interest in this Lease, may be held, directly or indirectly, by or for the account of any person who owns the fee estate in the Premises or any interest in such fee estate. No merger will occur unless and until all persons having an interest in the fee estate in the Premises and all persons having an interest in this Lease, or in the leasehold estate created by this Lease, join in a written instrument effecting the merger and duly record the same.

**23.5 Entire Agreement; Counterparts.** This Lease contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. Tenant and Landlord mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Lease. This Lease may be executed in any number of counterparts, including by electronic signatures, each of which will constitute an original, but all of which will constitute one Lease.

**23.6 Applicable Law.** This Lease will be governed by, and construed in accordance with, the laws of the State of Oregon.

**23.7 Brokerage.** Landlord and Tenant represent to each other that they have not employed any brokers in negotiating and consummating the transaction set forth in this Lease, but have negotiated directly with each other.

**23.8 Binding Effect.** The covenants and agreements contained in this Lease are binding on and inure to the benefit of Landlord, Tenant, and their respective successors and assigns.

**23.9 Recordation of Lease.** Tenant may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clatsop County, Oregon. Tenant will pay the recording costs.

**23.10 Time Is of the Essence.** Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Lease.

**23.11 Interpretation.** In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon must be given equal weight, and there must be no inference, by operation of law or otherwise, that any provision of this Lease may be construed against either party hereto. Landlord and Tenant acknowledge that they and their counsel have reviewed and revised this Lease and that any otherwise applicable rule of construction or any other presumption to the effect that any ambiguities are to be resolved against the drafting party will not be used in the interpretation of this Lease or any exhibit or amendment hereto.

**23.12 Headings, Captions, and References.** The headings and captions contained in this Lease are for convenience only and do not in any way define, describe, limit, or amplify the scope or intent of this lease or any term or provision in it. The use of the term "Herein" refers to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of a masculine or neuter gender in this Lease includes the masculine, feminine, and neuter genders and the singular form includes the plural when the context so requires.

**23.13 Relationship of Parties.** Nothing contained in this Lease is to be deemed or construed, either by the parties to this Lease or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between Landlord and Tenant.

IN WITNESS WHEREOF, Tenant and Landlord have caused this Lease to be executed by their duly authorized representatives as of the day and year first written above.

LANDLORD:

/s/ \_\_\_\_\_,  
a(n)

\_\_\_\_\_

By: \_\_\_\_\_

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

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

TENANT:

/s/ \_\_\_\_\_,  
a(n)

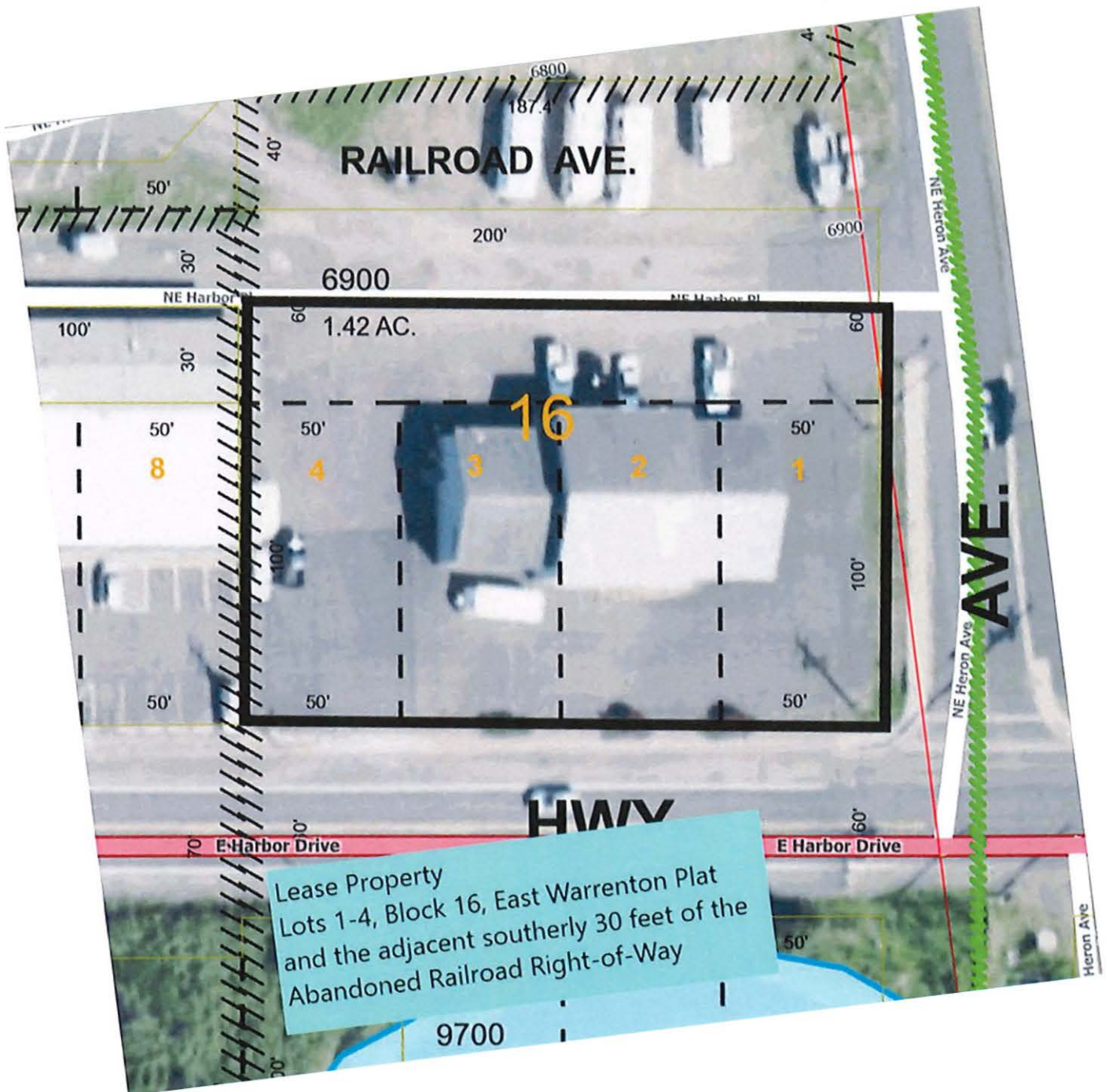
\_\_\_\_\_

By: \_\_\_\_\_

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

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

EXHIBIT A  
Property





## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Esther Moberg, City Manager  
DATE: August 22, 2023  
SUBJ: Seniors Community Center Agreement

### SUMMARY

This is an updated agreement with the Seniors regarding use of the Community Center. We are trying to be fair as far as fees while also recognizing the City partially subsidizes the use by the Seniors of the Community Center. The City helps support filling a need in our community by having the Seniors in the Community Center. The Seniors board met with the City Manager and they were okay with this agreement.

### RECOMMENDATION/SUGGESTED MOTION

I move to approve the Seniors Community Center Agreement.

### ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

### FISCAL IMPACT

This will bring in \$200/month or \$2,400 annually to the City.

Approved by City Manager: \_\_\_\_\_

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

Lease Agreement  
Warrenton Senior Citizens, Inc.  
With the City of Warrenton

This Agreement is made the \_\_\_\_ day of \_\_\_\_\_ 2023, by and between the Warrenton Senior Citizens, Inc., hereinafter designated as the LESSEE and the City of Warrenton, incorporated and existing under the laws of the State of Oregon and the City of Warrenton Charter hereinafter designated as the CITY.

In consideration of the following agreement, the LESSEE and the CITY agree as follows:

1. CITY agrees to make available to the LESSEE, for use primarily as a Meals on Wheels food preparation site as well as a congregate meal site, the following areas: the entire building, including kitchen, multi-purpose room, and storage room, located at 170 SW 3<sup>rd</sup> Street (PO Box 250). This site will be available two days per week as agreed upon by the CITY and LESSEE, excluding legal holidays that fall on Tuesdays, Christmas Eve or Christmas Day, or required emergency or regular maintenance of the building. Any other additional days or times of requested use by the LESSEE will be charged the regular rate of use for the Community Center.
2. The CITY will allow the LESSEE to use CITY utilities, including utensils and equipment for service of meals and food preparation, and locked supply closets. However, the CITY makes no agreement to purchase any additional supplies or equipment for the operation of the LESSEE'S service.
3. The LESSEE agrees to indemnify and hold harmless the CITY against any loss or damage (including attorney's fees and other costs of litigation) caused by the LESSEE'S negligent act or omission, or the negligent acts or omissions of the LESSEE'S agents or employees.
4. The LESSEE will procure liability insurance and provide the CITY with evidence of such insurance, including details of liability coverage, each year on or near the date the AGREEMENT signed.
5. While the CITY regularly inspects the building after use by renters, The LESSEE agrees to immediately notify the Finance Director if the site has been left by a previous renter in a condition that needs cleaning. The CITY will be responsible for cleaning up after the previous renter.
6. The LESSEE agrees, after each use of the site, to restore it to the condition in which it is found. If more than ½ hour of additional cleaning is required by City staff following use, such time will be charged at the current cleaning rate of \$25 per hour or the rate set by the current city resolution.
7. The LESSEE takes full responsibility for the maintenance and replacement of any equipment and items that are exclusively used by the LESSEE and not by other renters of the building. This

equipment currently includes the walk-in freezer, the three-door Hoshizaki refrigerator, and the small upright freezer.

8. The CITY does not have any responsibility or liability for any repair work on equipment purchased by the LESSEE.
9. If the LESSEE has excessive trash which leads to additional dumpster pickups in a month and /or additional dumpster pickups are needed beyond the normal scheduled pickup due to this LESSEE, the additional cost of the dumpsters will be charged to the LESSEE.
10. The LESSEE and the CITY shall alternate in providing supplies for the dishwasher (soap and rinse).

LESSEE agrees that a contact person will be available for all deliveries made for the LESSEE's operations and services. No deliveries will be left outside the building. Supplies will be delivered to the LESSEE'S contact person.

The Lessee agrees to pay \$200 (Approximately \$25 per day) per month regardless of whether the building is used during their allotted time, from 6am to 3pm or not, commencing September 1, 2023.

Payment is due on the 1<sup>st</sup> of each month.

This agreement constitutes the entire agreement between the CITY and the LESSEE with respect to the subject matter hereof, and there are no other further written or oral understandings or agreements hereto. This agreement replaces past agreements. No variation or modification of the AGREEMENT, and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized representatives of the CITY and the LESSEE.

This AGREEMENT shall be effective as of September 1, 2023, and shall be in effect through August 31, 2028, or until terminated by either party by giving thirty (30) days written notice to the other.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WARRENTON

WARRENTON SENIOR CITIZENS, INC.

By: \_\_\_\_\_  
Esther Moberg, City Manager

By: \_\_\_\_\_





## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Esther Moberg, City Manager  
DATE: August 22, 2023  
SUBJ: Parks Recommendation BMX bike track

### SUMMARY

The Parks Advisory Board is recommending that a BMX bike track be approved by the City Commission on the former dump adjacent to the soccer fields. The location is also the City's designated tsunami evacuation assembly area. Staff have concerns regarding business plan, development on this site, encroachment on public works storage areas, and whether the City is being asked to participate in the development and costs. The non-profit has said this would be a membership based use, they would only allow community use for free in the "off season". Staff have concerns about how this would be used as a community track if membership is required and have not seen a comprehensive business plan. The BMX bike track is requesting they use the land at no charge.

### RECOMMENDATION/SUGGESTED MOTION

Staff do not recommend a motion at this time until more information is received.

### ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

### FISCAL IMPACT

It is unclear what fiscal impact there may be. The City is being asked to allow a non-profit to use an area that is partially used by Public Works for storage. Community members will be asked to pay a membership fee to support the nonprofit and track.

Approved by City Manager: \_\_\_\_\_

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.



# Committee Recommendation:

## Parks

February 13, 2023

### Recommendation Title:

BMX Bike Track Establishment In Warrenton Area

Vote Outcome 5-0-0

Opposition Statements? No

### Recommendation Narrative:

#### Summary:

This type of track is a needed project for our area. With this track the youths will be able to have a safe place to ride their bikes and hold events. This would have a positive impact for our community. Once established this could bring in tourists who would in turn spend money helping our economy. The track would have to have some type of fencing to keep the Elk out and maybe lighting later.

#### Fiscal Impact:

The USA BMX Tracks would be responsible for building this track system. The city would have to issue permits. Inspectors would be needed to oversee the project having an administrative impact on the staff. There may be a need to add a water meter for keeping the track moist during the races. The finished overall project could bring in outside money to help support our parks and trails programs making it a win-win for the city.

#### RECOMMENDATION(S):

It is the Parks Board recommendation to allow the USA BMX Tracks organization to build a BMX track on the proposed site meeting all city and building codes for this location.

Signature

*Albert Little*

Title

*Parks Chairman*

*Attach opposition statements and/  
or additional narratives/info.*



## Committee Recommendation: Parks

August 14, 2023

### Recommendation Title:

Hammond Community Garden Re-Location

Vote Outcome 4-0-0

Opposition Statements? No ☒

### Recommendation Narrative:

#### Summary:

A task force was formed to find a new location for the Hammond Community Garden. After weeks of research with the Warrenton School District our task force recommends moving forward with the proposal from the Warrenton School District as soon as possible. The proposal has been sent to the city for review and comment.

Fiscal Impact Adding this to the park system, the insurance would be the possible finance burden on the city. The location of the waterline and hook up for a meter would be a possible cost to the city. Pulling the existing meter at the current location may save some money in this requirement.

RECOMMENDATION(S): Move forward as soon as possible. Form a committee to start making a list of materials and supplies to complete this project. Work with public works in getting the water meter in place and hooked up.

Respectfully Submitted,

Albert (Bert) Little and Ron Dyer *Ron Dyer*  
Community Garden Re-location task force.

Signature *Albert Little*

Title *Parks Chairman*

Attach opposition statements and/  
or additional narratives/info.





## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Esther Moberg, City Manager  
DATE: August 22, 2023  
SUBJ: Community Garden Agreement

### SUMMARY

The Parks Advisory Board sub-committee has worked with the school district to find a new location for the Hammond area community garden. Staff have reviewed the Intergovernmental agreement and feel this would be in the best interest of the City to enter into an agreement relocating the community gardens to this area off Pacific Drive that is owned by the School District. The current community garden lease has a mutually agreed upon early termination of November 2023 since the trust that owns the land would like to sell it (Currently listed for sale).

### RECOMMENDATION/SUGGESTED MOTION

*I move to approve the IGA between the school district and City of Warrenton entering into a 20 year lease agreement for a community garden near Pacific Drive & 7<sup>th</sup> ave.*

### ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

### FISCAL IMPACT

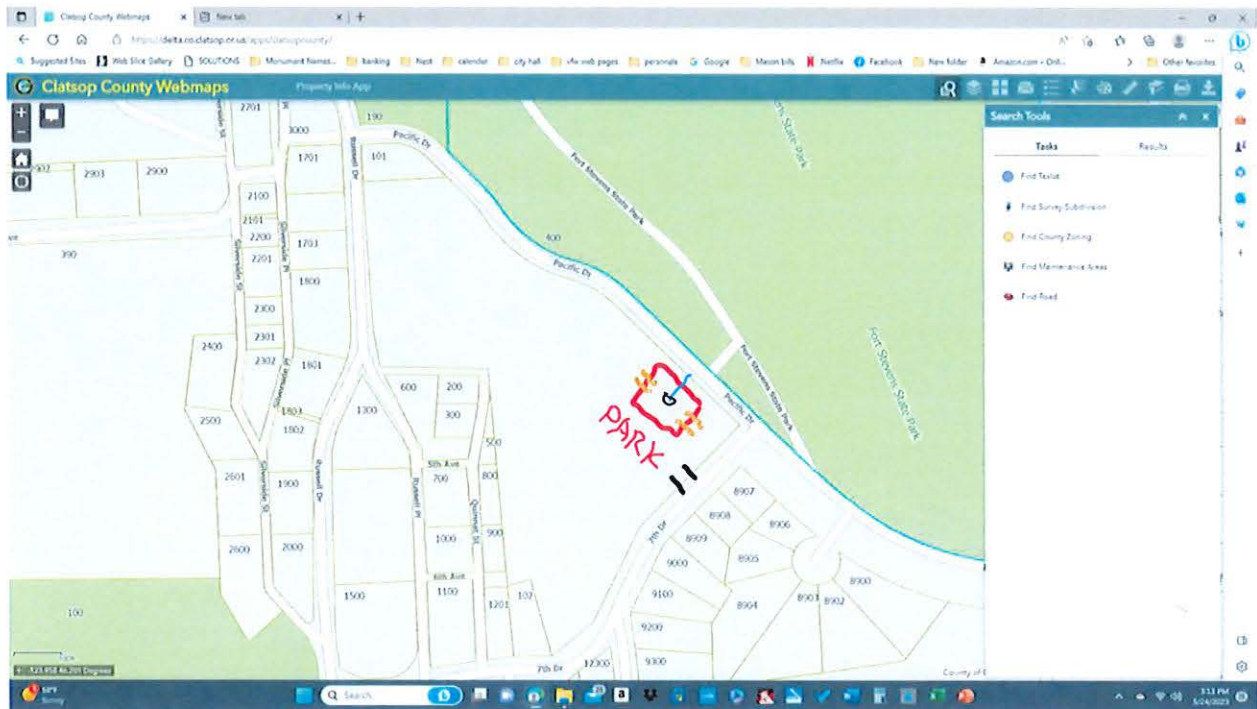
\$20 for 20 years (total) to lease the land, cost to install water main, water line to the area, water charges, any additional costs to clean up previous community

garden area (removal of all items), and staff time assisting volunteers with install of new raised bed gardens.

Approved by City Manager: \_\_\_\_\_

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

## Parks Board Recommendation for new location of Community Garden in Hammond



Proposed Community Garden location. 150ft x 150ft

Northeast corner boarding Pacific Dr and 7<sup>th</sup>

There will be 2 Double high boxes for wheelchair access 2 x 16.

4 Food Bank boxes 4 x 16

36 community use boxes 4 X 8

Two drive through gates to haul debris and fertilizer in and out.

Eight-foot-high fence two gates.

Add water service in center for easy access to all boxes.

Small 4ft x 4ft shed in center by water to keep needed equipment.

Committee for relocation of Hammond Community Garden

Chairman: Bert Little

Ron Dyer

Jasper

May 28, 2023



## INTERGOVERNMENTAL AGREEMENT

An Intergovernmental AGREEMENT dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023 (Effective Date), between the CITY OF WARRENTON, a municipal corporation of the State of Oregon, hereinafter referred to as "City", and the WARRENTON-HAMMOND SCHOOL DISTRICT #30, hereinafter referred to as "District."

WITNESSETH:

WHEREAS, District owns property located WHERE (list address) and as identified in the attached Exhibit A (Property) which Property is within City limits that the parties mutually agree is in the public interest to be developed into a community garden; and

WHEREAS, the District and the City intend that the community garden may include, but is not limited to, garden plots, fencing, play areas, open space, storage, parking, and maintenance of the area; and

WHEREAS, because of financial restrictions and other reasons, District and City agree that City is the more appropriate unit of local government to develop the proposed community garden on the Property; and

**WHEREAS**, ORS Chapter 190 authorizes the parties to enter into agreements such as this for the performance of any functions and activities that a local government has authority to perform; and

WHEREAS, District herewith agrees to lease to City and City agrees to lease from District the Property in conformity with ORS Chapter 271; and

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, IT IS AGREED AS FOLLOWS:

1. City will pay to District, upon the Effective Date, the sum of \$20.00 which is allocated for rental of \$1.00 per year for 20 years.
2. This Agreement shall be effective from the Effective Date to June 30, 2043. This Agreement may be terminated at any time by either party provided that the terminating party gives the other party at least one year written notice.
3. The community garden is intended to include garden plots, fencing, play areas, open space, storage, parking, and maintenance of the area. The City shall operate and maintain the community garden at the City's own cost and expense in accordance with the City's budget. The City reserves the right to determine how the community garden is maintained and the items that are constructed and installed on the Property.

4. The revenue from any fees derived from the community garden shall be the property of City and the revenue accounted for in accordance with applicable budget law.

5. There is no transfer of personnel between the respective agencies.

6. The City will supply District a Certificate of Liability Insurance showing liability coverage that will meet or exceed the following requirements:

General Liability – Occurrence based General Liability, to include premises operations, independent providers, products/completed operations and blanket contractual; with limits not less than \$1,000,000 Combined Single Limit Bodily Injury, Property Damage and Personal Injury any one occurrence and \$2,000,000 in the aggregate.

Auto Liability – including owned, non-owned and hired vehicles: \$1,000,000 Combined Single Limit Bodily Injury and Property Damage any one occurrence and in the aggregate. State of Oregon mandated limits for personal auto insurance may be accepted in certain circumstances.

Worker's Compensation – as required by law

Employer's Liability – in the minimum of \$500,000 when the Vendor has one or more employees performing services under the contract.

7. **Liability and Indemnification.** Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each Party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney's fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that Party. Each Party shall give the other immediate written notice of any action or suit filed or any claim made against that Party that may result in litigation in any way related to this Agreement.

8. **Notice of Claim.** Each Party shall provide to the other immediate written notice of any action, suit filed, claim made or notice of claim presented against that Party for actions arising under this Agreement, regardless of whether litigation is involved.

9. **No Third-Party Beneficiaries.** The signatories hereto are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide

any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such persons are individually identified by name herein.

10. **Merger; Modifications.** This writing is intended both as the final expression of the Agreement between the Parties with respect to the terms and subject addressed herein and as a complete and exclusive statement of the terms of the parties' Agreement. This Agreement can be changed, modified, amended, or terminated only by an instrument in writing executed by both Parties. The Parties mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Agreement.

11. **Applicable Law.** This Agreement will be governed by, and construed in accordance with, the laws of the State of Oregon. Venue shall be in Clatsop County, Oregon.

12. This Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and permissible assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WARRENTON

By: \_\_\_\_\_  
Esther Moberg, City Manager

WARRENTON-HAMMOND SCHOOL DISTRICT #30

By: \_\_\_\_\_  
Tom Rogozinski, Superintendent



## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Esther Moberg, City Manager  
DATE: August 22, 2023  
SUBJ: Camping Zones

### SUMMARY

Staff are requesting that the City Commission select 2-3 zones for use with our Camping Ordinance. Staff would recommend the zones at Neptune, Bugle, and Dolphin as our choices in that respective order. Staff need zones in place so they can implement the camping ordinance should the need arise.

### RECOMMENDATION/SUGGESTED MOTION

I move to approve the following locations for zones for the Camping Policy per our Camping Ordinance.

### ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

### FISCAL IMPACT

No fiscal impact at this time.

Approved by City Manager: \_\_\_\_\_

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.



Tent Camping Only

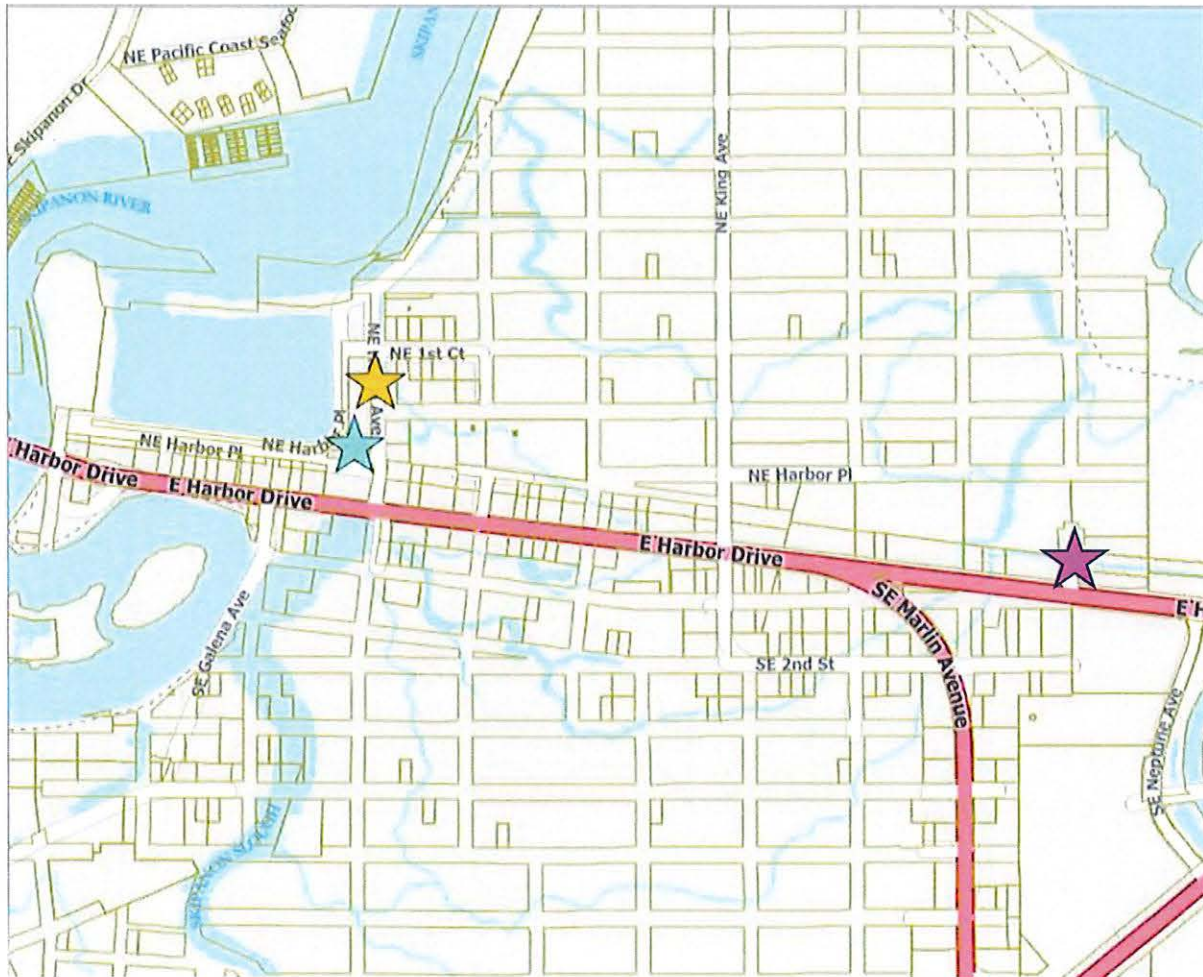


RV/Car Camping Only



Tent or RV/Car Camping

### North Camp Site Locations





Tent Camping Only

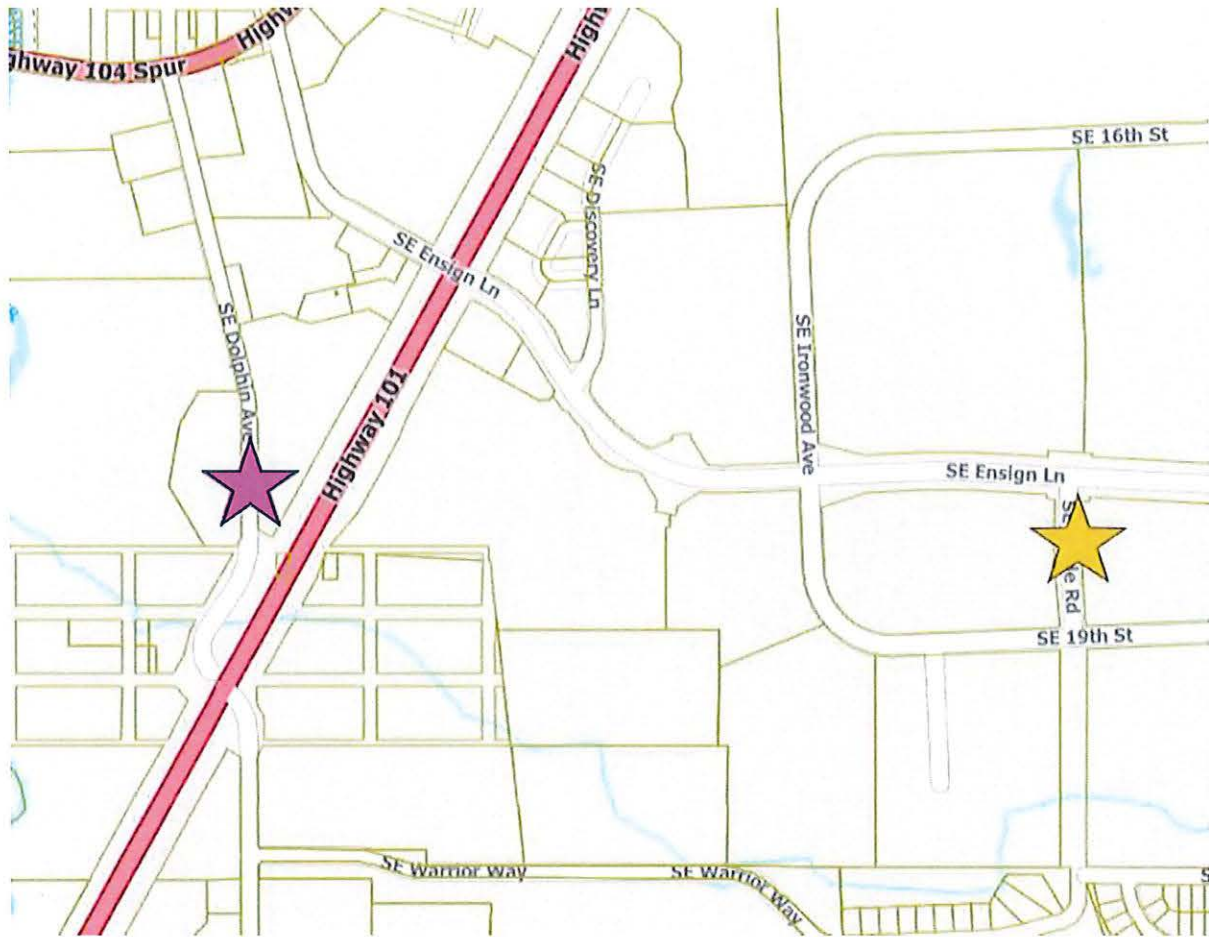


RV/Car Camping Only



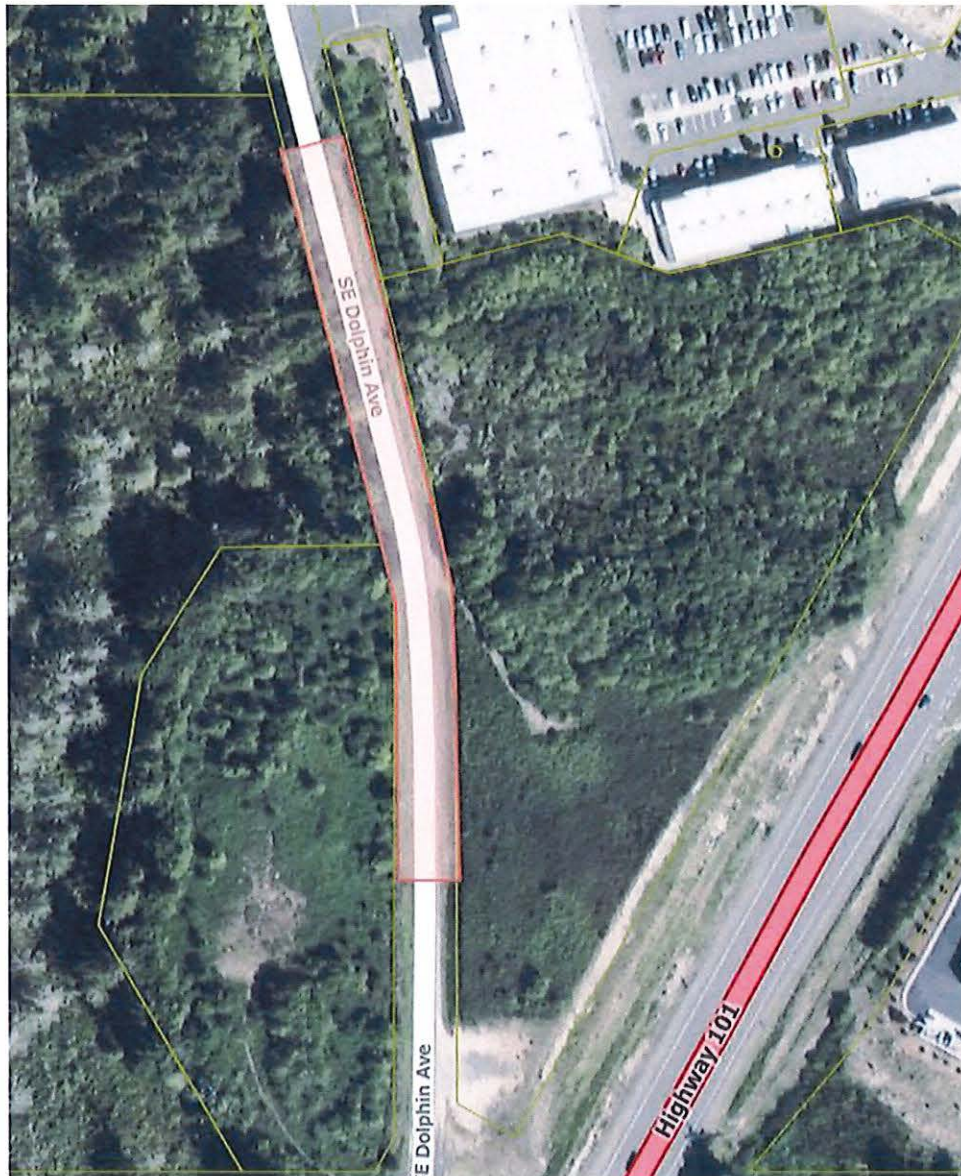
Tent or RV/Car Camping

### South Camp Site Locations





## South East Dolphin Avenue Right-of-way



### SITE INFORMATION

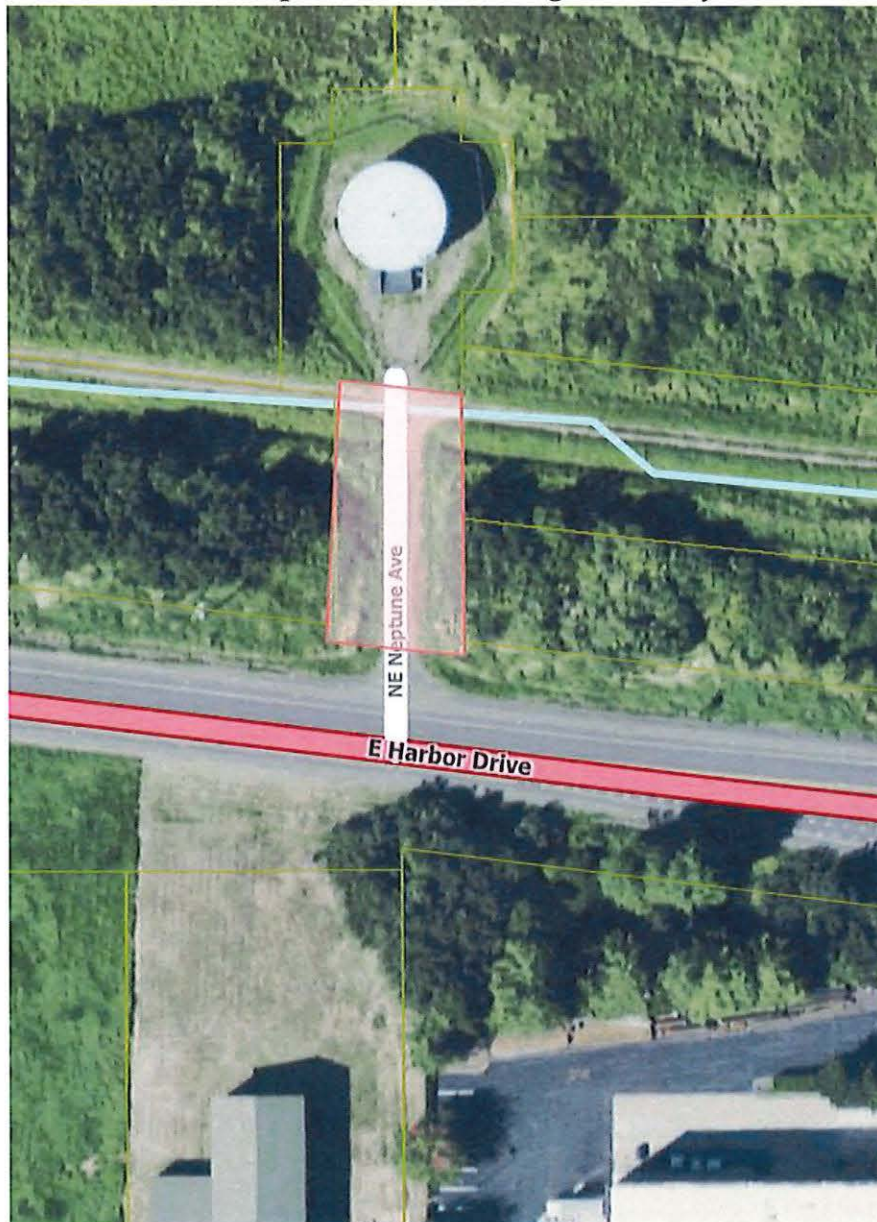
**Type of Site:** Street

**Size:** 24' wide x 1,049' long

**Description:** Paved asphalt roadway with limited shoulders in some areas. The City only owns the right-of-way for the roadway and no property on either side. There are no facilities at the location so it would not be feasible for a "camping site" location. The roadway was previously blocked off at the request of some property owners in near the location due to illegal dumping and suspicious person activity on the vacant lands near the south end of the location.



## NE Neptune Avenue Right-of-way



### SITE INFORMATION

**Type of Site:** Street

**Size:** 22' wide x 110' long

**Description:** Unpaved gravel roadway with limited shoulders and used to access the city water tank. The City only owns the right-of-way for the roadway and no property on either side but does own the lot where the water tank is located. There are no facilities at the location so it would not be feasible for a "camping site" location. This location could do both types of camping but would be very limited to the type of vehicle and how they would get in and out if other are camping there.

## West Side of NE Heron Avenue Right-of-way



### SITE INFORMATION

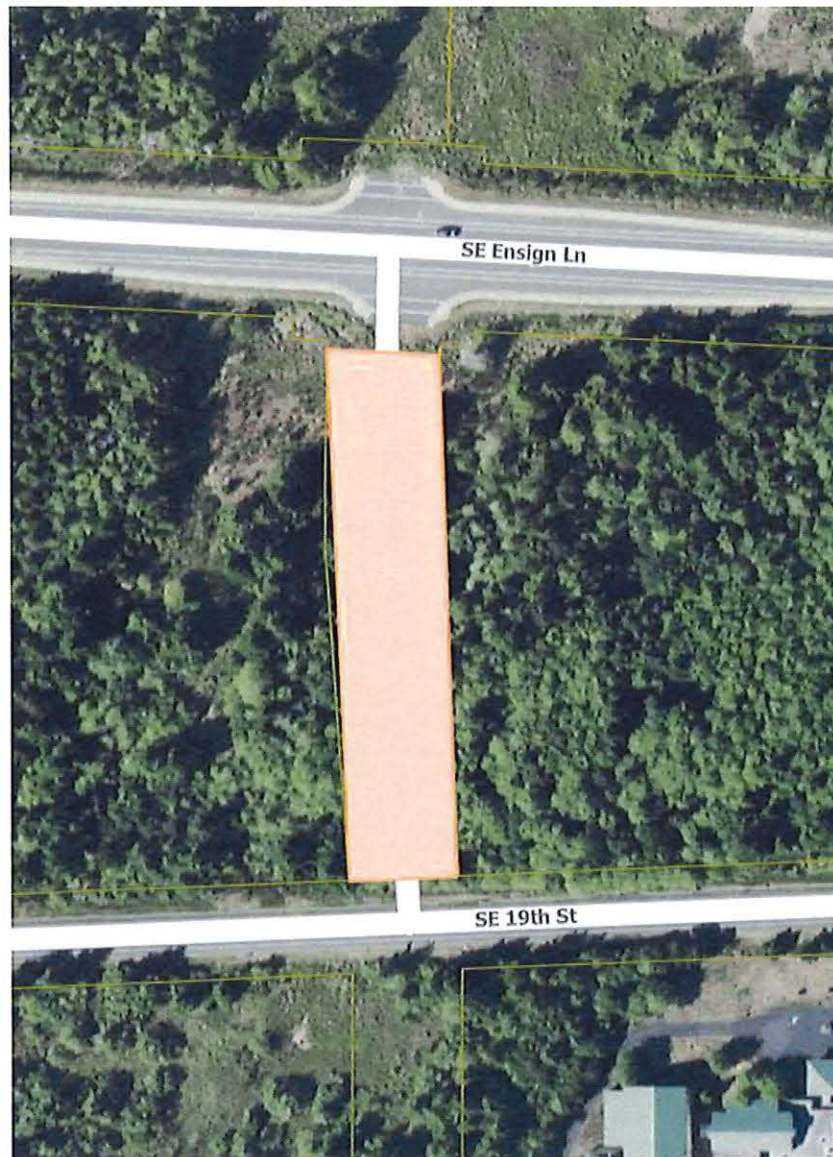
**Type of Site:** Lot

**Size:** 20' wide x 337' long

**Description:** Paved asphalt lot used to sort and store netting and equipment. The City only owns the right-of-way for the roadway and no property on either side. This site is only feasible for vehicle camping. There are no facilities at the location so it would not be feasible for a "camping site" location not to mention the other activity at this location would prohibit a "site". The location would need to be cleared early given the nature of the fishing activity and what happened in this location. The other issue is that it is 285' from a registered school so we would need to be very careful "who" is allowed at the location, etc.



## SE Bugle Avenue Right-of-way



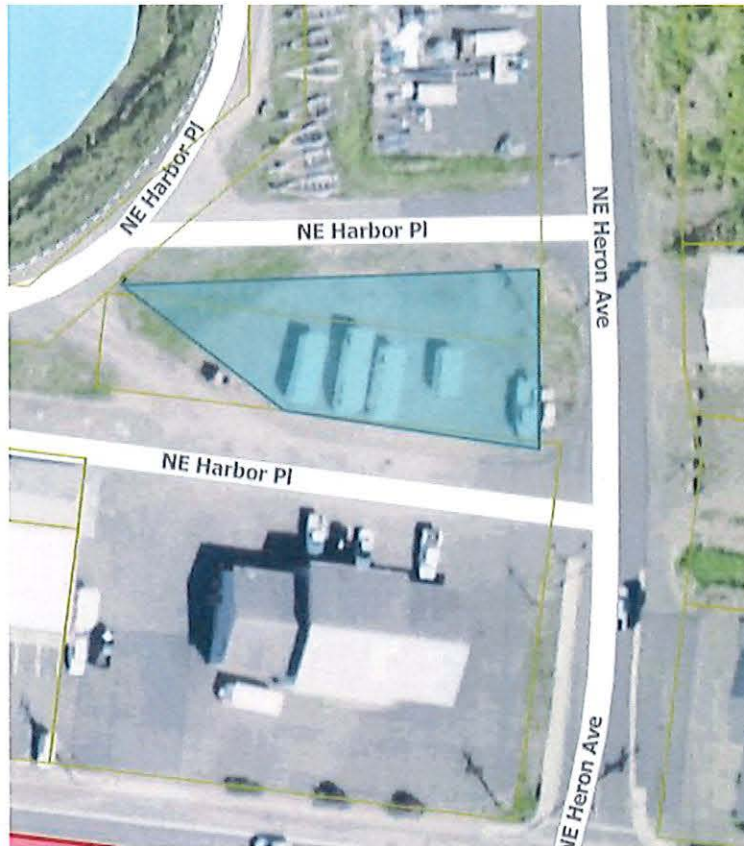
### SITE INFORMATION

**Type of Site:** Street

**Size:** 70' wide x 450' long

**Description:** Paved roadway with sidewalks on either side. There are two turnouts that will eventually be a roadway to the two properties on either side. This would only be suitable for vehicles, and we would need to limit the size of the vehicles to work. There are no facilities at the location so it would not be feasible for a "camping site" location.

## City Right-of-way North of NE Harbor Place



### SITE INFORMATION

**Type of Site:** Lot

**Size:** 80' wide x 187' long

**Description:** Grass and gravel lots with some elevation and leveling issues on one end. This is marked as "tent only" site but could be either depending on the size of the vehicle and the ability to safely separate tents from vehicles. There are no facilities directly at the location so it would not be feasible for a "camping site" location and is inside the marina which could be problematic. The other issue is that it is 120' from a registered school so we would need to be very careful "who" is allowed at the location, etc.



## North Coast Business Park SE Ironwood Avenue and SE 16<sup>th</sup> Street



### Site Information

**Type of Site:** 80-foot wide Right-of-way and adjacent Clatsop County Owned Land

**Description:** SE Ironwood Avenue and SE 16<sup>th</sup> Street are city owned roadways with a paved surface and gravel shoulders. There are no sidewalks or other facilities available. Car/RV parking could occur on portions of the area.



## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Greg Shafer, Public Works Director  
DATE: August 22, 2023  
SUBJ: 2023 Pavement Management – Approval to Award

### SUMMARY

As previously approved by the City Commission, Public Works advertised for bids to complete both the 2023 asphalt overlays and the roadway crack-fill treatments. Public bid opening was held on August 17<sup>th</sup>, at 2:00pm and the overlay low bidder was Bayview Asphalt, Inc. in the amount of \$325,114, and the crack-fill low bidder was CR Contracting in the amount of \$78,326. Both bids are subject to a one week bid protest which will be fulfilled on Thursday, August 24<sup>th</sup>. Public Works is requesting Commission approval to proceed with bid award provided no protests are received. This will assist in assuring completion of the construction work this late summer/early fall, prior to wet weather.

### RECOMMENDATION/SUGGESTED MOTION

*"I move to approve award of the 2023 Pavement Management overlay project to Bayview Asphalt Inc in the amount of \$325,114; and the crack-fill project to CR Contracting in the amount of \$78,326 including 10% contingency respectively; provided bids are not protested."*

### ALTERNATIVE

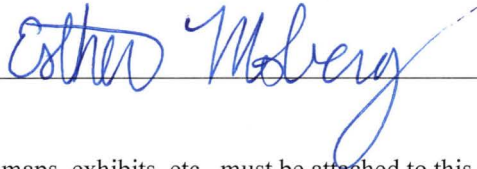
- 1) Other action as deemed appropriate by the City Commission.
- 2) None recommended.

### FISCAL IMPACT



The approved 2023-2024 budget has \$450,000 allocated to this project.

Approved by City Manager:

A handwritten signature in blue ink, reading "Esther Molberg", is written over a horizontal line.

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.



August 18, 2023

City of Warrenton

**Attn: Greg Shafer, Public Works Director**

45 SW 2<sup>nd</sup> Street/PO Box 250

Warrenton, OR 97146

**Re: Bid Recommendation for – City of Warrenton Crack Sealing Project-2023  
NCCivil Project No. 23008War\_A**

Dear Mr. Shafer:

There were 3 prime plan holders for the above referenced public works project. The public bid opening was held on August 17, 2023, at 2:00 PM, at which time there were 2 bids submitted.

Upon review of the bid package submitted, we recommend that the project be awarded to CR Contracting, for the calculated amount of \$78,326.00.

Upon your authorization, we will issue the required Notice of Intent to Award the contract to the lowest responsive bidder identified above. Notwithstanding any bid protests that might be submitted within seven days from after the date of the Notice of Intent to Award the contract, we will then award the contract to the lowest responsive bidder identified above.

Upon your approval, we will send out the notification to the contractors who submitted bids.

If you have any questions, regarding this project or the bid process, please feel free to call at your convenience.

Sincerely,

Kyle Ayers, PE  
Project Manager

encls: Bid Tabs  
cc: Project File



August 20, 2023

City of Warrenton

**Attn: Greg Shafer, Public Works Director**

45 SW 2<sup>nd</sup> Street/PO Box 250

Warrenton, OR 97146

**Re: Notice of Intent to Award for – Pavement Overlay Project-2023  
NCCivil Project No. 23008War**

Dear Mr. Shafer:

There were 2 prime plan holders for the above referenced public works project. The public bid opening was held on August 17, 2023, at 2:00 PM, at which time there was 1 bid submitted.

Upon review of the bid package submitted, we recommend that the project be awarded to Bayview Asphalt Inc., for the calculated amount of \$325,114.00.

Upon your authorization, we will issue the required Notice of Intent to Award the contract to the lowest responsive bidder identified above. Notwithstanding any bid protests that might be submitted within seven days from after the date of the Notice of Intent to Award the contract, we will then award the contract to the lowest responsive bidder identified above.

Upon your approval, we will send out the notification to the contractors who submitted bids.

If you have any questions, regarding this project or the bid process, please feel free to call at your convenience.

Sincerely,

Kyle Ayers, PE  
Project Manager

encls: Bid Tab  
cc: Project File