



PORT OF HOOD RIVER COMMISSION

REVISED AGENDA

Wednesday, February 7, 2024

Port Conference Room

1000 E. Port Marina Drive, Hood River

-
1. **Call to Order** – 4:00 PM
 2. **Action Item:**
 - a. Approve 2024 CHUBB Bridge Insurance Policy Renewal (*Comm Bieker, Scott Reynier, Page 3*)
 - b. Approve Contract with Beery Elsner and Hammond for Port General Counsel Services (*Comm. Chapman/Gehring, Kevin Greenwood, Page 7*)
 3. **Discussion Item:**
 - a. Negotiations with WSP on Owners Rep Services Related to Lot 1 Transportation Improvements (*Kevin Greenwood, Page 25*)
 4. **Action Item:**
 - a. Approve Contract with WSP USA to complete Connect Oregon grant application for Lot 1 transportation improvements (*Comm. Sheppard, Kevin Greenwood, Page 31*)
 5. **Adjourn**

If you have a disability that requires any special materials, services, or assistance, please contact us at 541,386,1645 so we may arrange for appropriate accommodations.

*The chair reserves the opportunity to change the order of the items if unforeseen circumstances arise. The Commission welcomes public comment on issues not on the agenda during the public comment period. With the exception of factual questions, the Commission does not immediately discuss issues raised during public comment. The Commission will either refer concerns raised during public comment to the Executive Director for a response or will request that the issue be placed on a future meeting agenda. People distributing copies of materials as part of their testimony should bring **10 copies**. Written comment on issues of concern may be submitted to the Port Office at any time.*

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Commission Memo



Prepared by: Kevin Greenwood, Executive Director
Date: February 7, 2024
Re: Approve Bridge Insurance Policy for 2024

The Port's is currently in the second of a two-year bridge insurance policy. The current policy is active as there is a 45 to 90-day payment period. Port staff is recommending that the Commission approve property coverage on the bridge before February 15th. At their January meeting, the Commission delegated Commissioner Bieker to investigate options with staff. On January 31st, the Port met with Scott Reynier, the Port's insurance agency at Columbia Insurance to discuss the premium.

There was discussion about the effect of reducing the amount of bridge replacement property coverage to a smaller amount of either \$50M or \$100M vs. \$187M. Another item that was directly related to the larger premium was the increase in the "Loss of Revenue" coverage. This coverage almost doubled in part due to the September 2023 rate increase that was done to build up reserves needed for the federal construction loan.

Upon discussing the property coverage amounts for bridge replacement, staff is recommending approval of the policy.

RECOMMENDATION: Approve CHUBB bridge insurance policy for calendar year 2024.

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Exp Terms - Full Limit - 500k Deductible				
	Value	Limit	Rate 24-25	Premium
AOP	\$ 152,492,370	\$ 152,492,370		
BI	\$ 28,490,000	\$ 28,490,000		
EM	\$ 180,982,370	\$ 50,000,000		
FL	\$ 180,982,370	\$ 180,982,370		
NW	\$ 180,982,370	\$ 180,982,370		
TOTAL	\$ 180,982,370	\$ 180,982,370	0.232688	\$422,278

Full Limit - 1M Deductible				
	Value	Limit	Rate 24-25	Premium
AOP	\$ 152,492,370	\$ 152,492,370		
BI	\$ 28,490,000	\$ 28,490,000		
EM	\$ 180,982,370	\$ 50,000,000		
FL	\$ 180,982,370	\$ 180,982,370		
NW	\$ 180,982,370	\$ 180,982,370		
TOTAL	\$ 180,982,370	\$ 180,982,370	0.217734	\$395,140

100M Limit - 500k Deductible				
	Value	Limit	Rate 24-25	Premium
AOP	\$ 152,492,370	\$ 100,000,000		
BI	\$ 28,490,000	\$ 28,490,000		
EM	\$ 180,982,370	\$ 50,000,000		
FL	\$ 180,982,370	\$ 100,000,000		
NW	\$ 180,982,370	\$ 100,000,000		
TOTAL	\$ 180,982,370	\$ 100,000,000	0.209264	\$379,769

100M Limit - 1M Deductible				
	Value	Limit	Rate 24-25	Premium
AOP	\$ 152,492,370	\$ 100,000,000		
BI	\$ 28,490,000	\$ 28,490,000		
EM	\$ 180,982,370	\$ 50,000,000		
FL	\$ 180,982,370	\$ 100,000,000		
NW	\$ 180,982,370	\$ 100,000,000		
TOTAL	\$ 180,982,370	\$ 100,000,000	0.196526	\$356,651

75M Limit - 500k Deductible				
	Value	Limit	Rate 24-25	Premium
AOP	\$ 152,492,370	\$ 75,000,000		
BI	\$ 28,490,000	\$ 28,490,000		
EM	\$ 180,982,370	\$ 50,000,000		
FL	\$ 180,982,370	\$ 75,000,000		
NW	\$ 180,982,370	\$ 75,000,000		
TOTAL		\$ 75,000,000	0.197637	\$358,669

75M Limit - 1M Deductible				
	Value	Limit	Rate 24-25	Premium
AOP	\$ 152,492,370	\$ 75,000,000		
BI	\$ 28,490,000	\$ 28,490,000		
EM	\$ 180,982,370	\$ 50,000,000		
FL	\$ 180,982,370	\$ 75,000,000		
NW	\$ 180,982,370	\$ 75,000,000		
TOTAL	\$ 180,982,370	\$ 75,000,000	0.186651	\$338,731

50M Limit - 500k Deductible				
	Value	Limit	Rate 24-25	Premium
AOP	\$ 152,492,370	\$ 50,000,000		
BI	\$ 28,490,000	\$ 28,490,000		
EM	\$ 180,982,370	\$ 50,000,000		
FL	\$ 180,982,370	\$ 50,000,000		
NW	\$ 180,982,370	\$ 50,000,000		
TOTAL	\$ 180,982,370	\$ 50,000,000	0.188931	\$342,868

50M Limit - 1M Deductible				
	Value	Limit	Rate 24-25	Premium
AOP	\$ 152,492,370	\$ 50,000,000		
BI	\$ 28,490,000	\$ 28,490,000		
EM	\$ 180,982,370	\$ 50,000,000		
FL	\$ 180,982,370	\$ 50,000,000		
NW	\$ 180,982,370	\$ 50,000,000		
TOTAL	\$ 180,982,370	\$ 50,000,000	0.178188	\$323,372

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Commission Memo



Prepared by: Kevin Greenwood, Executive Director
Date: February 7, 2024
Re: Approve Contract with Beery Elsner & Hammond (BEH) for General Counsel services

The Port's general counsel, Kristen Campbell, alerted the Port in December that due to workload issues she would be unable to continue on in the role. The Commission authorized President Chapman to begin the process of interviewing new firms. Staff was directed to obtain a list of qualifying firms and narrow the list to two firms for the Internal Personnel Committee (Chapman and Commissioner Gehring) to interview. Cambell and Executive Director Greenwood interviewed five firms and narrowed the choices to BEH and Local Government Law Group (LGLG). The committee interviewed the two finalists

and recommended to the Executive Director that BEH serve as General Counsel and that Ashleigh Dougill serve as lead attorney. The evaluation committee appreciated Dougill's enthusiasm and open-mindedness toward Commission priorities. There are seven attorneys in the firm, and all will be working on Port issues depending on their expertise. Dougill's rate is \$265/hr and will be in attendance at the Commission's Feb. 20th meeting to introduce herself. BEH's website can found here ... [Attorneys & Staff — BEH \(behllp.com\)](http://behllp.com). Chad Jacobs, BEH Partner, also participate in the interview process.

LEGAL SERVICES PROCUREMENT

Task	Due Date
Obtain List of Qualifying Firms	1/22/2024
Initial Interview of Firms	1/29/2024
Score Finalists	1/31/2024
Interview Finalists	2/5/2024
Negotiate Contract	2/6/2024
Prepare Contract for Commission	2/7/2024
Execute Contract	2/7/2024

Dougill will shadow Campbell in the development of the February board packet.

RECOMMENDATION: Approve contract for general counsel services with Beery Elsner and Hammond.

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ACHIEVEMENTS

*Recipient of VAWAT
BRAVO award*

*Recipient of the
Hitchcock Kenna
Award*

MEMBERSHIPS

Oregon State Bar

*OSB – Government Law
Section*

*OSB – Administrative
Law Section*

*OSB – Real Estate and
Land Use Section*

*OSB – Construction
Law Section*

*OSB – Energy, Telecom
and Utility Section*

*OSB – Cannabis and
Psychedelics Law*

*OSB – Environmental
and Natural Resources
Law Section*

PUBLICATIONS

*Fishing for Solutions:
Pacific Northwest
Atlantic Salmon Fish
Farming in the Wake of
the Cooke Aquaculture
Net-Pen Collapse,
Oregon Review of
International Law*



Ashleigh K. Dougill

Ashleigh brings a blend of public and private experience to BEH. In addition to general governance advice, Ashleigh’s practice is focused on land use issues, development review, and property acquisition.

EXPERIENCE

BEERY, ELSNER & HAMMOND, LLP

Associate 2022-Present

Provides legal services to local governments on general municipal issues with a focus on land use, development review and property acquisitions.

VESTAS-AMERICAN WIND TECHNOLOGY, INC.

Associate Corporate Counsel 2020-2022

Assisted senior attorneys with drafting, negotiating, and advising on multi-million dollar wind turbine sales, service, and tax implications throughout the US. Drafted and negotiated project financing contracts and others, provided general legal advice, and conducted legal research.

CITY OF SHERWOOD

Legal Intern 2019-2020

Drafted legal documents and memoranda, and prepared, reviewed and edited contracts. Researched and drafted new city ordinances. Attended City meetings and presented information to City Council.

EDUCATION

University of Oregon School of Law J.D., 2020

University of Oregon B.A.

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Beery, Elsner & Hammond, LLP

General Counsel Services

Beery, Elsner & Hammond, LLP

Yen Huynh

Office Manager

1804 NE 45th Ave

Portland, OR 97213-1416

Tel. 503.226.7191

Fax. 503.226.2348

yen@gov-law.com

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I. Firm Background and Qualifications

Beery, Elsner & Hammond, LLP (BEH) is a Martindale-Hubbell AV-rated law firm which has exclusively represented public bodies in Oregon and Washington since its inception in 1998. Our attorneys have over 100 years of combined experience serving both as general and special counsel to local governments. Our expertise covers all aspects of government concern, including general municipal law, procurement and public contracting, real estate transactions, land use and zoning, labor and employment, urban renewal, development agreements, annexation and withdrawals, intergovernmental relations, water and utility law, public works, budget and finance, public meetings and public records, litigation, code enforcement, regulatory matters, ethics, and elections. This depth of local government experience is unmatched by any other law firm in the state and has earned BEH an unparalleled reputation as municipal lawyers of the highest caliber in both legal skill and ethical behavior. Our commitment to representing only local governments uniquely allows us to provide tailored, cost-effective legal services, completely free of conflicts of interest from non-public clients.

BEH is designed as a full-service law firm for local governments; we approach our work as an outside general counsel's office for local governments. We are a group of attorneys who individually possess expertise in various areas of municipal law, which when combined allows us to assist local governments with the myriad of issues they face on a daily basis. In this manner, we find that our clients receive the best and most cost-effective legal advice possible.

To accomplish this goal, BEH assigns an attorney to serve as the primary contact for a client. However, all of our attorneys are available to work with each of our clients. The primary attorney would delegate any work to the appropriate attorney with the greatest level of expertise and is best fitted to address the issue.

The firm is proud to have a growing list of clients from all over the state. We serve as general counsel to 22 cities and 19 other local governments and as special counsel in land use, labor and employment law and many other areas for approximately 50 additional clients.

II. General Counsel Services

Our firm is widely recognized for its expertise on the full range of topics fundamental to the operation of local governments. Examples include:

Council / Board Packets and Meetings

We are prepared to have an attorney from our firm in attendance at city council / board meetings, either in person or via remote technology such as Zoom, Teams or over the phone, if necessary. We are flexible in our approach and tailor our services to the unique needs of each of our clients. Additionally, we are prepared to be available for all other special meetings, work sessions, and executive sessions or to simply meet with staff as needed.

When necessary, the attorneys in our office dedicate time to review the meeting agendas and regularly advise on the matters to be considered. We typically contact the client prior to each meeting to confirm whether our attendance is needed and to discuss any potential issues noted on the agenda. Our goal is that meetings run smoothly and to the extent possible, issues are worked out with staff in advance.

Ordinance/Resolution Drafting, Review, and Approval

As our many years of practice in municipal law likely makes evident, we have significant experience with ordinance drafting and codification. We understand the differences between the various kinds of municipal enactments—such as resolutions, ordinances and orders—and are accustomed to assisting staff at whatever level is needed. Because we specialize in this field and limit our practice to representing local governments, we remain abreast of developments in the law and best practices for drafting codes, ordinances, resolutions and administrative policies, and ensure that ordinances comply with state statutes.

Public Records and Meetings Law

Questions regarding public records and meeting law are a nearly daily experience in our office. Our attorneys regularly conduct training and presentations in these topic areas and often provide newly elected officials with initial training. We are accustomed to assisting with public records requests and are well-versed in the lawful conduct of public meetings, hearings and executive sessions. We have decades of experience advising elected and appointed officials in public meeting matters, including parliamentary procedure. We are recognized as experts in this area of law and are often asked to speak at statewide conferences and trainings on public records and meetings.

Oregon Budget Law

BEH possesses the necessary knowledge and skill to advise our clients on local budget law matters, including public participation and notice, statutory deadlines, document and publication requirements, and budget adjustments. We routinely advise our clients on management of dedicated funds, fund transfers, and the intricacies of tax increment financing and special levies.

Code Enforcement

Several of our attorneys have significant experience in this area. Our firm routinely writes and assists our clients in the enforcement of codes, including nuisance abatement, dangerous buildings and permit and land use code violations.

Human Resources and Labor Negotiations

Several of our attorneys are accomplished in human resource and employment law matters, including advising public bodies on discipline and discharge, wage and hour compliance, reductions in force, military leave, medical leave and accommodations, harassment investigations and complaints, whistleblowing and retaliation complaints, and deferred compensation plans. We also routinely update personnel handbooks, policies and forms, and draft employment contracts as well as separation and settlement agreements for our clients.

Our experience with labor law matters includes handling labor negotiations, labor arbitrations, representation and unit clarification, defending unfair labor practice complaints, and settling grievances.

Contracts and Agreements

Negotiation, review and drafting a wide array of contracts and other transactional documents for our municipal clients constitutes a significant portion of our practice. This includes extensive experience in drafting, negotiating and implementing intergovernmental agreements to create entities and provide a wide range of public services including water, sewer and related utility services, police services, storm water management, planning and population forecasting, and service delivery (including building permit and other shared services).

Litigation

All of our attorneys are experienced in multiple aspects of litigation and administrative law and appeals. We are admitted to practice in federal court including at the Ninth Circuit Court of Appeals and routinely practice in Oregon's circuit courts where inverse condemnation, writ of review proceedings, contract disputes and other litigation of importance to our clients is most often filed. We routinely handle appeals at the Oregon Land Use Board of Appeals, the Oregon Court of Appeals and various other state and federal courts.

Property Acquisitions / Dispositions

As general counsel for numerous clients, BEH has negotiated, advised on and completed a broad range of real estate transactions, including the establishment of new parks, public buildings and other public facilities. BEH has advised on all aspects of the land acquisition, including preparing transactional documents (primarily purchase and sale agreements, deeds, easements, amendments, closing date extensions and escrow instructions), the internal mechanisms for prioritizing acquisitions, monitoring and accounting for bond revenues and assisting with due diligence, appraisal and title report exception issues. The firm has also assisted numerous clients with transactions related to the disposition of real property, ranging from standard purchase and sale agreements to complex public/private partnerships established through disposition and development agreements (DDAs). We pride ourselves in working creatively with our clients to achieve desired development goals.

III. Special Areas of Expertise in Oregon Government Law

Over the course of our careers, we have handled hundreds of complex municipal issues on a wide range of subjects. Some additional special areas of expertise that may be of interest to local governments are outlined below.

Land Use

BEH is recognized as one of the premier law firms practicing land use law in Oregon. We have several highly experienced land use attorneys with expertise in growth management and legislative matters; development review, hearings and appeals; and land use appellate experience. We also serve by appointment as Land Use Hearings Officer for Washington

County, and serve as special land use counsel for various jurisdictions, including Clatsop County and Hood River County.

Our attorneys regularly conduct training for the Oregon State Bar on land use issues and have authored a new chapter in the state Bar's treatise, "Land Use." One of our attorneys has served for many years as a legislative advisor to the State Bar's Land Use and Real Estate Section and was a member of that body's executive committee. We also routinely provide comprehensive land use training for many planning commissions and city councils.

Public Purchasing and Public Contracting

Our firm advises all clients regarding all aspects of the Oregon Public Contracting Code and the requirements it imposes on their procurement of personal services, construction services, and goods and trade services.

Over the years, we have developed a comprehensive set of local procurement rules and have adapted them for many of our clients. This has enabled each of these clients to establish extensive new regulations at a very reasonable cost. We stay current on all legal requirements in this area. We routinely assist clients with developing complex solicitation documents and advise our clients on the competitive bidding process, design-build alternatives, and CM/GC approach to larger public construction projects. In addition, we assist our clients in the handling of bid protests, bidding irregularities, and litigation arising out of the award or performance of public contracts. We also assist contract managers with the negotiation of requested revisions to standard contract language and in evaluating the risks related to proposed deviations from the requirements in those contracts.

Franchising and Franchise Fees

Our firm has a long history of working on franchise matters for our clients. Currently, we assist clients on various franchise matters, especially those dealing with solid waste haulers. While we also work with clients on other franchise related matters, such as with telecom and cable companies, we find that it is much more cost-effective for our clients for our firm to subcontract much of this work with attorneys who specialize in this area of law. One of our former colleagues, Nancy Werner, is a nationally known expert in this area, and subcontracts with us for several of our clients to ensure the best work product possible. In conjunction with our work with Nancy, we also remain abreast of current topics in this area and often assist with various negotiation and compliance matters, including drafting ordinances addressing right-of-way management and compensation from utilities, and advising clients on issues of authority and preemption under the many state and federal laws and regulations that impact franchising. The firm's franchising experience also includes working with gas and electric providers.

Taxes, Fees and Charges

We have litigated matters in a wide range of municipal law topics, including system development charges (SDCs), municipal financing of improvements, and governmental authority to charge fees and taxes. We have advised clients about the relationship between various user and utility fees and Measures 5 and 50. We also have significant experience providing day-to-day assistance with these matters, including establishing and amending

SDCs for a wide variety of capital improvements, successfully defending clients against SDC challenges brought by home builders, as well as SDC alternatives such as establishing local improvement districts, advance financing/reimbursement districts, and economic improvement districts.

Urban Renewal

Our firm is one of a very few actively practicing and experienced in urban renewal law. We currently serve as general counsel to several urban renewal agencies, including the Hillsboro Economic Development Commission, the Corvallis Urban Renewal Agency, and the Canby Urban Renewal Board, and have advised the Portland Development Commission—Oregon’s largest urban renewal agency—on a variety of topics, including public/private partnerships. We have a keen understanding of the politics that inform urban renewal, particularly the establishment of new urban renewal areas in the wake of recent legislative changes granting other taxing authorities more input into the process.

Election Laws

We are experienced in representing our municipal clients on election law matters. Our work covers the full spectrum of election law issues, from creation of local election codes, to assisting with ballot titles, explanatory statements, initiative and referendum petitions and petition circulating, to post-election requirements. We have been retained to defend cities in election law challenges and ballot title challenges and frequently advise in matters under review by the Secretary of State.

IV. Fee Schedule

Our hourly billing rates are:

Partners and Of Counsel	\$285.00
Senior Associates	\$275.00
Associates	\$265.00
Paralegals	\$175.00
Legal Assistants	\$150.00
Attendance at meetings	Billed at hourly rate
Travel time	Billed at hourly rate

Out-of-pocket costs are billed at cost without markup and include postage, copies, conference calls, delivery fees, outside consulting, Westlaw research, lodging/airfare/car rental/parking, etc. Mileage is billed at IRS standard mileage rate.

V. Conclusion

BEH attorneys focus solely on municipal law in order to help our clients achieve the results they desire for their communities. We care strongly for our clients and their communities and believe this is demonstrated through the high-quality work product we provide. It would be our honor to help your community thrive! For more information about our firm and the professionals who work here, please visit our web site at <http://behllp.com/>.

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LEGAL SERVICES AGREEMENT

Professional Services. Beery, Elsner & Hammond, LLP, 1804 NE 45th Ave., Portland, OR 97213, (“Attorneys”) agrees to provide legal services for the Port of Hood River (“Port”) as Port general legal counsel. Duties of Attorneys shall include: (1) attendance at Port Commission meetings via videoconferencing, if needed; (3) meetings with Port Staff, Commissioners or committees when appropriate or requested by the Port; (4) providing written and oral legal opinions and advice; (5) reviewing and preparing contracts, leases, deeds and other legal documents; (6) representing the Port in contract, real estate, labor and other negotiations when requested to do so; (7) representing the Port in litigation and appeals, or supervising or associating with other legal counsel representing the Port; (8) other routine duties expected of Port general counsel and those requested by the Port Executive Director, Port Commission President or Port Commission as a whole (“Services”).

1. Principal Attorney. Ashleigh Dougill (“Principal Attorney”) will have primary responsibility for legal work undertaken for the Port. Other attorneys and paralegals in Attorneys’ office may handle Port legal matters as determined by Principal Attorney. Attorneys will assist the Port in a professional manner, to the best of their abilities.

2. Fees. Payment will be made to Attorneys for the Services performed based on a detailed monthly billing showing work performed. Payment will be made within 30 days of Port’s receipt of the detailed monthly billing from Attorneys. Hourly rates for Services performed by Attorneys shall be:

Partners and Of Counsel	\$285.00
Senior Associates	\$275.00
Associates	\$265.00
Paralegals	\$175.00
Legal Assistants	\$150.00

It is understood that the above rates may be adjusted by Attorneys on not more than a yearly basis with not less than 60 days written notice to Port.

3. Out-of-Pocket Expenses. In addition to legal fees, Attorneys’ bills may include out-of-pocket expenses incurred or advanced on behalf of the Port. These expenses generally will include such items as postage, filing, recording, certification, and registration fees charged by governmental bodies. Expenses may also include costs of courier services, charges for terminal time for computer research and complex document production, charges for photocopying materials, and costs of recorded information or documents we receive. These expenses are charged by Attorneys to Port without additional markup.

4. Consultants & Associated Legal Counsel. During the course of Attorneys’ representation, Attorneys may hire third parties to provide services on behalf of the Port. These services may include such things as consulting or testifying experts, investigators, providers of computerized litigation support, and court reporters. Because of the legal “work product” protection afforded to services that an attorney requests from third parties, in certain situations Attorneys may assume responsibility for retaining appropriate service providers. For some Port matters, Attorneys may consult or associate with other lawyers outside Attorneys’ office to provide assistance. Port will be responsible for paying all fees and expenses directly to the service providers or reimbursing Attorneys for these expenses.

5. Relationships with Other Clients. Because Attorneys are a full-service law firm with many clients, Attorneys may be asked to represent a client with respect to interests that are adverse to those of another client who is represented by Attorneys’ firm in connection with another matter. Attorneys’ firm is not prevented from representing other persons who may disagree with the Port, or who may have business interests potentially affected by the Port, provided the matter Attorneys are handling for another client is

not directly related to a matter Attorneys are handling for the Port. If Attorneys determine there is a potential conflict with Attorneys' representation of the Port and another client, Attorneys may provide written notice of the potential conflict to the Port and to Attorneys' other client, and seek the consent of both parties to Attorneys' representation of the Port. Port recognizes and understands that the Hood River County ("County") and the City of Hood River ("City") are both currently clients to Attorneys, and to that end Port agrees to sign an informed consent letter permitting Attorneys to continue to represent to the County and City on matters of current representation as well as future land use issues for the County, provided that Port may immediately terminate this Agreement if it determines providing such consent is not in the best interests of the Port.

6. Malpractice Insurance. Attorneys' firm will maintain professional malpractice insurance during our representation of the Port with coverage equal to or exceeding Oregon State Bar requirements.

7. Termination. The Port has the right to terminate Attorneys' representation at any time. Attorneys have the same right, subject to Attorneys' obligation to give the Port reasonable notice to arrange alternative representation and, if required, to obtain permission from the judge before whom a litigation matter is pending. If Port terminates this Agreement, it shall deliver full payment to Attorneys for services rendered to date of termination.

8. Bar Membership. Attorneys are responsible for maintaining professional standing, as members of the Oregon State Bar Association, of all of its attorneys providing Services pursuant to this contract.

9. Additional Terms. Additional terms of engagement are provided in Exhibit A, which is incorporated into this Agreement.

10. Modification/Waiver. Except as otherwise provided herein, any modification of the provisions of this contract shall be reduced to writing and signed by the parties. A waiver by a party of any breach by the other shall not be deemed to be a waiver of any subsequent breach.

11. Compliance with Laws. Attorneys shall comply with all applicable Federal, State and local laws, codes, ordinances and regulations applicable to providing Services under this contract. All provisions of ORS 287B.220 through 279B.335 and ORS 279C.500 through 279C.870 are incorporated herein to the extend applicable to professional services agreements.

12. Integration. This contract contains the entire agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the same subject. If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

The Port's agreement to this engagement constitutes its acceptance of the foregoing terms. If any of these terms are unacceptable to the Port, now or in the future, please advise Attorneys so that Attorneys can resolve any differences and proceed with a clear, complete and consistent understanding of the Attorneys/Port relationship.

BEERY ELSNER AND HAMMOND

PORT OF HOOD RIVER

By: Chad Jacobs
Title: Partner

By: Kevin M. Greenwood
Title: Executive Director

Date: _____

Date: _____

EXHIBIT A

TERMS OF ENGAGEMENT

Thank you for selecting our firm to represent your organization. We are pleased to serve you and look forward to a successful professional relationship.

We explain our client service practices and billing procedures below. These practices and procedures will apply to your account unless you have reached a different written understanding with us. We encourage you to discuss them with our attorneys at the start of an engagement and whenever you have any questions during that engagement.

GENERAL PHILOSOPHY AND CONCEPT OF REPRESENTATION

The firm operates as a team. While the firm assigns an attorney to serve as the primary contact for each client, we share work and will involve whichever lawyers and personnel as circumstances warrant are best suited to serve your legal needs. While we can never guarantee a particular outcome, our goal is to see that your legal needs are met in the most cost-effective and efficient manner possible, and this team approach permits us to achieve that goal. Please do not hesitate to reach out to your primary contact or a partner at the firm with any concerns about a lawyer or firm personnel working on a matter for you.

COMMUNICATION PRACTICES

Our firm will communicate with authorized representatives of your entity regarding the work we are asked to perform on your behalf. We typically use standard means of professional communication, including telephone discussions, videoconferencing and e-mail communications, although there are times we may use less standard forms of communications such as text messaging. In today's world of technology of viruses and hacking, there is some risk that third parties may intercept or otherwise gain access to confidential communications between our firm and your authorized representatives. We believe the benefits of using these forms of communication outweigh the risk of accidental or malicious disclosure. But we will use whatever means of communication that you prefer if you inform us of your preferences. Nonetheless, we recommend that your authorized representatives avoid using computers or other communication tools that are owned, controlled, or accessible by others, such as public Wi-Fi networks or shared public computers when communicating with our office. Use of any computer, device, or account that is accessible by others increases the risk of disclosure of confidential information. Any devices used to communicate with our firm should be password protected.

BILLING PRACTICES

We bill monthly throughout the engagement for a particular matter, and our periodic bills are due when rendered. Our bills contain a concise summary of each matter for which legal services are rendered and a fee is charged. We bill in one-tenth hourly (six-minute) increments. Payment is due within 30 days of mailing, and the firm retains the right to charge interest on overdue bills at an annual rate of 9%. Please review your bills upon receipt. If you do not object to a bill within 30 days, the bill is deemed final. Please do not hesitate to contact us if you have a concern about a fee or billing issue.

COSTS AND EXPENSES

We strive to serve you through the most cost-effective and efficient support systems available. Our internal charges typically include such items as courier services, certain charges for legal research, engagement of outside contractors and charges for photocopying materials. We may request an advance cost deposit when we expect that we will be required to incur substantial advanced costs on your behalf. We pass along out-of-pocket expenses at cost. Travel time is billed at our hourly rates and mileage is billed at current IRS rates.

RATE CHANGES

We adjust our standard rates and chargeable costs from time to time but not more than yearly. Such adjusted rates will be charged for time spent only after the effective date of the adjustment. We will provide you with at least 60 days' notice of any rate change. If you have any questions or concerns regarding billing matters or our rates, please contact us.

PRIVACY/CONFIDENTIALITY POLICY

Attorneys have been and continue to be bound by professional standards of confidentiality that are even more stringent than other privacy laws. We have always protected each client's right to privacy and will continue to do so. We want you to know that all information that we receive from a client is held in confidence, and is not released to people outside the firm, except as agreed by the client, or as required under applicable law. To accomplish this, we maintain physical, electronic, and procedural safeguards that comply with our professional standards.

TERMINATION OF SERVICES

We retain the right to stop performing legal services and to terminate our legal representation for any reason consistent with the applicable ethical rules, including unanticipated conflicts of interest or unpaid legal fees and expenses. You retain the right to discharge the firm for any reason at any time. You agree that if you discharge the firm or we terminate our legal representation as provided above, you remain liable for all fees, costs, and expenses actually incurred under this contract, which may include work we are required to perform on your behalf after you transition to another attorney, and that you will make payment in full.

CHOICE OF LAW/VENUE

This agreement shall be considered to have been negotiated, signed, and delivered, and to be wholly performed, in the state of Oregon in the United States, and the rights and obligations of the parties to this Agreement shall be construed and enforced in accordance with, and governed by, the laws of the state of Oregon without giving effect to that state's or any other state's or country's choice-of-law principles. You further agree that any claim or dispute you may have against the firm will be resolved by a state or federal court located in Multnomah County, Oregon. You agree to submit to the personal jurisdiction of the courts located within Multnomah County, Oregon, for the purpose of litigating any and all such claims or disputes. Each party shall be responsible for its own costs and attorney fees for any claim, action, suit or proceeding, including any appeal.

FILE RETENTION

We securely store our electronic files either on a local server, a remote backup server or using a cloud service. Physical files, of which there are not many, are stored securely at the firm's offices or an offsite storage facility. Email communications are stored in the cloud unless and until they are downloaded to a local server. We believe your files and information are secure using these methods, however, if you have any concerns about the security of your files, please let us know and we will take reasonable and appropriate steps to alleviate your concerns. Upon termination, we will return any requested files to you. Unless otherwise required by law to be kept for a longer period of time, electronic and physical files will be destroyed after 10 years. Collection and returning of files is charged at our then in-place billable rates.

MARKETING

Our firm will, on occasion, publicize the clients with which we work. For example, we generally list the names of clients on our website or refer to them in proposals for new clients. Any information we share about clients includes only that which is publicly available. We will assume that by engaging the services of our firm, you consent to our firm using your entity's name and any publicly available information in such marketing. You may withdraw this consent at any time by providing written notice to our office manager.

QUESTIONS

We take pride in delivering legal services effectively and efficiently and in providing accurate and understandable billings. Please direct any questions about our services or billing practices to the lawyer responsible for your account. Any questions regarding the billing or payment status of your account should be promptly directed to the primary attorney on your matter or to Yen Huynh at (503) 226-7191.

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Commission Memo



Prepared by: Kevin Greenwood, Executive Director
Date: February 7, 2024
Re: Negotiations with WSP on Owners Rep Services related to Lot 1 Transportation Improvements

This first round of negotiations on the contract with WSP to manage the transportation improvements around Lot 1 begin this evening. This session will allow the Commission to share its goals and expectations related to deliverables to be managed by WSP. A copy of the original draft work order is included with this packet.

Staff had budgeted \$100,000 for managing the project for one year. This amount was generated by recent administrative/management staffing changes.

The main issues to be addressed by this O/R contract include:

1. Writing grant applications/appropriation requests to finance the funding of the roundabout and First Street re-alignment.
2. Managing the engineering schedule of the roundabout.
3. Coordinating communications/permits/financing/contracting with City of Hood River, Oregon Dept. of Transportation, County of Hood River, EDA and others.
4. A major effort will be following through on the EDA grant to ensure that the contract can be amended to allow for the construction of the roundabout and following through other grant requirements including ROW approvals.
5. Production of any press releases, presentations or hand-outs needed to communicate the goals of the project.

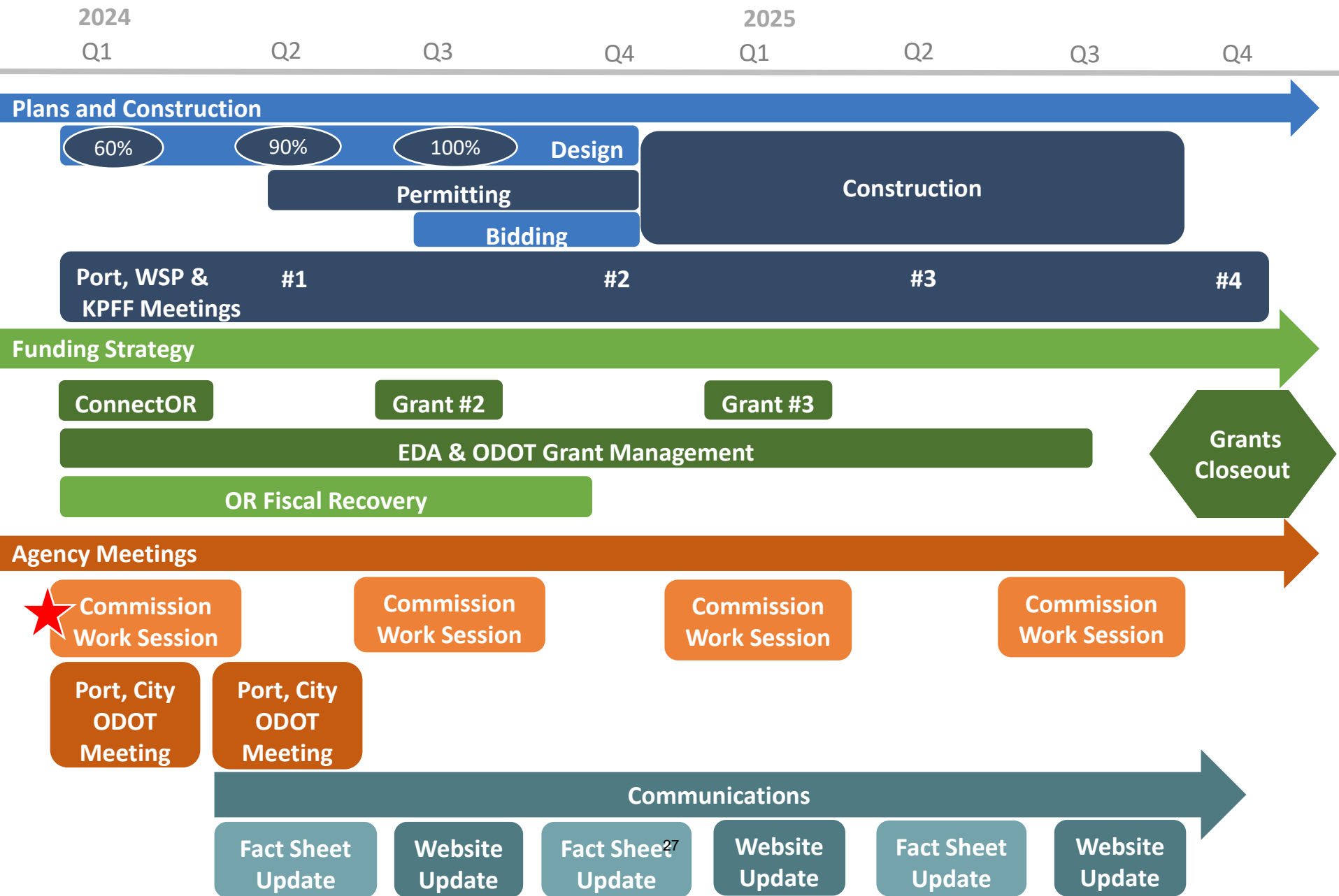
Scott Keillor, Project Manager, WSP, will be in attendance to primarily listen to the Commission's vision for the project. Keillor will then develop a breakdown of costs to be shared with Commissioner Sheppard before bringing a contract and work order to the Commission for approval Feb. 20th.

There will be smaller contract extension to have WSP complete the Connect Oregon grant application. The total contract is \$25,000 but needs Commission approval for \$15,000.

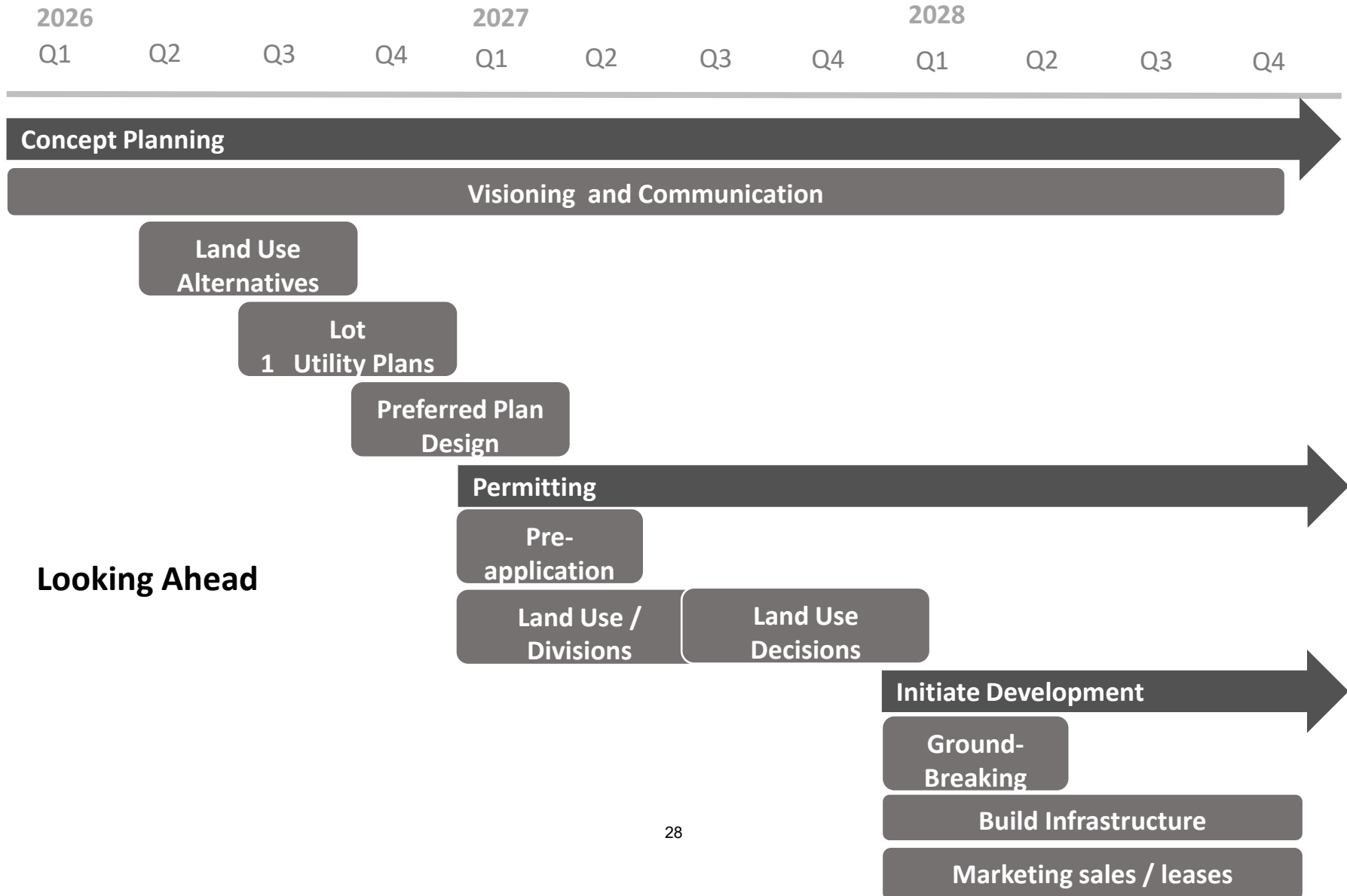
RECOMMENDATION: informational.

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Phase 1: Lot 1 Transportation Design, Construction, Funding and Communications



Phase 2: Lot 1 Land Use Concept Plan, Design, Utilities, Permitting and Development



Looking Ahead

ATTACHMENT B - DRAFT WORK ORDER NO. 1

A version of this Statement of Work will be modified and serve as the basis for Work Order No. 1 found in the Sample Contract (Attachment C). For each task and sub-task item, identify the staff positions and number of hours for each listed work order item. Key staff positions listed should have resumes included in the MSA proposal. Owner is interested in analyzing hours and seniority of staff working on each task to determine best efficiencies. The selected proposer will submit this draft work order listed by task, positions working on each task, and hours and fee for each task.

B.1 TASK 1: FUNDING (2024)

Itemized below are a series of tasks to be carried out as part of the Lot 1 owner's representative contract, Task 1 based on task scope and fee agreement within 2024 budget constraints.

- Funding Plan:
 - Develop a funding plan to identify grant sources that match the Port's needs.
 - Identify up to three grant sources to target over the next two years.
- Grant Writing:
 - Prepare a Connect Oregon grant application using materials provided by the Port (materials may include but are not limited to graphics provided by KPFF, support letters from agency partners, etc.).
 - Assist the Port in a request to ODOT for an additional \$1M above the current \$500,000 ODOT Immediate Opportunity Fund grant award based on state benefits from the project.
- Grant Management:
 - Coordinate with EDA on the existing \$1.9M EDA grant to transfer the project solution from prior Anchor Way extension to the new 2nd Street/Riverside roundabout.
 - Track and assist the Port in meeting grant reporting requirements.
- Due Diligence:
 - For the EDA grant, assist the port with grant-required NEPA assurances based on NEPA documents already completed by the Port and ROW assurance in conjunction with the Port's surveyor (Terra Surveying).
- Port and Agency Coordination:
 - Meet approximately monthly with Port staff at the Port office in Hood River and have the availability to work in the Port office as a staff extension on occasion and as needed.
 - Coordinate with the Port, ODOT, City of Hood River, and KPFF to initiate roundabout design approval, permit strategies, and funding.
 - Participate in and assist with Port, City and State briefings and communications as agreed upon in the contract, and work with the Port and its separate contractors to advance funding toward agreed project schedule.
- Year-end Documents:
 - Within 60-days of year end, provide an annual work plan that outlines needs for the coming year and estimates cost to complete current year tasks.

B.2 FUTURE TASKS

Future annual work plans and task orders may include but are not limited to the following based on task scope and fee agreement within annual budget constraints:

- Preparing additional grant applications for project funding
- Project schedule management
- Coordination with other Port consultants and provide planning-level review of schedules,

timing and completeness of other consultant materials

- Agency coordination and communications
- Concept planning and utility coordination
- Community engagement/communications
- Other tasks at the direction of the Port

Commission Memo



Prepared by: Kevin Greenwood, Executive Director
Date: February 7, 2024
Re: Approve Personal Services Agreement with WSP for grant production services.

As part of the original scope of work, the successful bidder for owners representative (O/R) services would be responsible for producing the Connect Oregon (CO) grant application to fund the construction of the roundabout at Lot 1. As the deadline for the CO application is February 29 and the negotiations for the full O/R contract are underway, it makes sense to extract the CO grant production from the master agreement and prepare a new, stand-alone contract.

The Executive Director signed a small contract (<\$10,000) with WSP to prepare materials for the application. Commission Sheppard (authorized by the full Commissioner) met with the Executive Director and WSP Project Manager, Scott Keillor, to discuss the grant process. Staff is recommending that an extension be granted authorizing WSP to complete the application and any communication/presentation materials needed to promote the application.

RECOMMENDATION: Approve contract with WSP for producing the Connect Oregon grant application for Lot 1 roundabout funding.

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Personal Services Contract Amendment For Services Under \$50,000

1. This Contract is entered into between the Port of Hood River ("Port") and _____WSP USA Inc _____ ("Contractor"). Contractor agrees to perform the Scope of Work described in attached Exhibit A to Port's satisfaction for a maximum consideration not to exceed \$15,000 Port shall pay Contractor in accordance with the schedule and/or requirements in attached Exhibit A.
2. This Contract shall be in effect from the date at which every party has signed this Contract through February 29, 2024. Either Contractor or Port may terminate this Contract in the event of a breach of the Contract by the other. Port may terminate this Contract for any reason by giving 15 days written notice to Contractor at Contractor's address listed below. If Port terminates this Contract, Contractor shall only receive compensation for work done and expenses paid by Contractor prior to the Contract termination date.
3. All work products of the Contract, which result from this Contract, are the exclusive property of Port. Port shall have access to all books, documents, papers and records of Contractor which relate to this Contract for purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment.
4. Contractor will apply that skill and knowledge with care and diligence to perform the work in a professional manner and in accordance with standards prevalent in Contractor's industry, trade or profession. Contractor will, at all times during the term of the Contract, be qualified, professionally competent, and duly licensed to perform the work.
5. Contractor certifies that Contractor is an Independent Contractor as defined in ORS 670.600 and shall be entitled to no compensation other than that stated above.
6. Contractor shall indemnify, save, and hold harmless Port, its Commissioners, officers, agents, and employees from all claims, suits, or actions of whatsoever nature resulting from or arising out of the negligent activities or wrongful misconduct of Contractor or its subcontractors, agents or employees under this Contract. Contractor shall provide insurance in accordance with attached Exhibit B.
7. This Contract may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.
8. This Contract shall be governed by the laws of the State of Oregon and any litigation involving any question arising under this Contract must be brought in the Circuit Court in Hood River County, Oregon. If any provision of this Contract is found to be illegal or unenforceable, this Contract shall remain in full force and effect and the provision shall be stricken.
9. Contractor shall adhere to all applicable federal, state, and local laws and regulations, including those governing its relationship with its employees.
10. This Contract contains the entire agreement between Contractor and Port and supersedes all prior written or oral discussions or agreements. Any modification to this Contract shall be reduced to writing and signed by the Contractor and Port. Contractor shall not assign this Contract or subcontract its work under this Contract without the prior written approval of Port.
11. The person signing below on behalf of Contractor warrants they have authority to sign for and bind Contractor.

Contractor:

Port of Hood River

Signed: _____

Title:

Date:

Address:

Phone/Email:

Signed: _____

Title:

Date:

Address:

Phone/Email:

Executive Director

February 8, 2024

1000 E. Port Marina Drive, Hood River, OR 97031

(541) 386-1645 porthr@gorge.net

**Personal Services Contract
Exhibit A**

I. SCOPE OF WORK:

1. Prepare Powerpoint to be used by Port staff to generate letters of support by local government agencies – due Feb. 12
2. Draft and provide two rounds of edits of the Connect Oregon grant application in time to be ready for submission two days in advance of grant application deadline. – due Feb. 25

II. DELIVERABLES AND TIMEFRAME:

The deliverable(s) covered under this Contract shall be:

Two draft grant applications for editing and a final application ready for submission.

The due dates for the deliverable(s) shall be: February 25, 2024.

III. CONSIDERATION:

Hourly rates under this Contract shall be \$_____.

Reimbursables under this Contract shall be \$0.

IV. BILLING AND PAYMENT PROCEDURE:

The Contractor shall submit to the Port for payment an itemized invoice in a form and in sufficient detail to determine the work performed for the amount requested. The invoice shall contain at a minimum:

- Invoice date
- Contract project title
- Record of hours worked and a brief description of activities
- Billing rate applied
- Description of reimbursable items

Invoices may be submitted monthly, or at such other interval as is specified below:

The Port shall process payment in its normal course and manner for Accounts Payable, net 30 days.

**Personal Services Contract
Exhibit B**

INSURANCE

Contractors, please send this to your insurance agent immediately.

During the term of this Contract, Contractor shall maintain in force at its own expense, each insurance noted below:

- 1. Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. (Required of contractors with one or more employees, unless exempt order ORS 656.027.)

X Required and attached OR _____ Contractor is exempt

Certified by Contractor: _____
Signature/Title

- 2. Commercial General Liability insurance on an occurrence basis with a limit of not less than \$1,000,000 each occurrence for bodily injury and property damage and \$2,000,000 general aggregate. The Liability Insurance coverage shall provide contractual liability. The coverage shall name the Port of Hood River and each of its Commissioners, officers, agents, and employees as Additional Insured with respect to the Contractor's services to be provided under the Contract.

X Required and attached Waived by Finance Manager _____

- 3. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

X Required and attached Waived by Finance Manager _____

- 4. Professional Liability insurance with a \$1,000,000 per claim and \$1,000,000 in the aggregate for malpractice or errors and omissions coverage against liability for personal injury, death or damage of property, including loss of use thereof, arising from the firm's acts, errors or omissions in any way related to this Contract.

X Required and attached Waived by Finance Manager _____

- 5. **Certificate of Insurance.** As evidence of the insurance coverage required by this Contract, the Contractor shall furnish acceptable insurance certificates to the Port at the time Contractor returns the signed Contract.

The General Liability certificate shall provide that the Port, its Commissioners, officers, agents, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract.

Endorsement CG 20 10 11 85 or its equivalent must be attached to the Certificate. The Certificate must contain a standard 30-day notice of cancellation clause which guarantees notification in writing to the Certificate Holder (Port of Hood River). Insuring companies or entities are subject to Port acceptance. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

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