



SCAPPOOSE

Oregon

CITY OF SCAPPOOSE
BID DOCUMENTS
FOR
VETERANS PARK INCLUSIVE PLAYGROUND
BID NUMBER: 2026-01



Public Works Project: The Work to be done under this Contract includes, but is not limited to: planning, design, procurement, and installation of an ADA and Universal Access-compliant playground structure at Veteran's Park at 52590 Captain Roger Kucera Way, Scappoose, Oregon 97056.

Date issued: March 4, 2026

Bids Due: March 31, 2026 by 2pm

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INVITATION TO BID #2026-01

CITY OF SCAPPOOSE

Veterans Park Inclusive Playground

Bid Submission Deadline: 2:00PM on March 31, 2026

Overview

The City of Scappoose invites firms qualified and interested in providing design, procurement, and installation services for the **Veterans Park Inclusive Playground Project** to the City of Scappoose to submit bids in response to this ITB.

Bids must be received by **2PM on March 31, 2026**. To download a free copy of the bid package, inclusive of scope of work and contract documents, please visit the City's website at: www.scappoose.gov/rfps.

Direct questions to: **Matia Malberg, Public Works Contract Administrator** at mmalberg@scappoose.gov
Addenda will be posted to the City's website at: <https://www.scappoose.gov/rfps>

Owner Reservations

Changes to the Scope of Work or contract documents, whether in response to requests for clarification, or change, or to issue supplemental instructions, may only be made by written addenda. The City will post notice of any addenda to the City's website at www.scappoose.gov/rfps. It is the responsibility of the bidders to check the website prior to submitting a bid. All addenda so issued shall become part of this request. No other oral or written statements to proposers shall be binding on the City unless reduced to written addenda.

Bidders shall comply with all applicable public contracting requirements. The City expressly reserves the following rights: to disregard any or all irregularities in the bids; reject any or all bids or portions thereof upon a finding that it is in the public interest to do so; base award with due regard to the quality of services, experience, compliance with the ITB, and other factors as may be necessary under such circumstances; and reject all bids and re-advertise at the City's sole discretion.

The City of Scappoose is an Equal Employment Opportunity/Affirmative Action Employer.

Bid Submission

Bids for the Veterans Park Inclusive Playground Project (ITB#2026-01) must be received by the City of Scappoose no later than 2:00PM on March 31, 2026 at the address or email below. Submissions must be clearly marked "Submittal for ITB 2026-01"

Matia Malberg
Attn: Public Works Department
RE: Bid for #2026-01
33568 E Columbia Avenue
Scappoose, Oregon 97056

1. Introduction and Background

Introduction

The Bid Documents/Proposed Contract Documents are issued for the information of Bidders submitting bids for this project and the work described herein, at the time and place indicated in the *Invitation to Bid*. These Bid Documents, subject to revision by addendum, in accordance with provisions stated below, will be incorporated in and made part of the contract documents for this project.

If the City elects to reject all bids and re-advertise for new bids to be received at a time later than that indicated in the *Invitation to Bid*, these Bid Documents will cease to be applicable and new Bid Documents will be issued by the City. Bidders submitting bids at the newly established bid date and time must obtain the new Bid Documents and base their bids upon them, as they will be bound by it in the event they are awarded a contract.

Project Overview and Background

The City of Scappoose is issuing this *Invitation to Bid* (ITB) to procure professional design, procurement, and installation services for accessible and inclusive playground equipment at Veterans Park. This initiative is funded through the Oregon Parks and Recreation Department’s Local Government Grant Program (LGGP) with an \$89,000 grant and an expected contribution of \$200,000 from City funds. The project aligns with a long-standing City Council priority and aims to deliver a distinctive, fully inclusive playground that will replace the existing play equipment, and serve as a signature feature for both Veterans Park and the broader Scappoose community.

The vendor should develop a schedule to complete Substantial Completion by December 31, 2026 and Final Completion by February 28, 2027. The City reserves the right to make necessary changes or corrections to the Bid Documents. The City will provide addenda only to registered plan holders via email.

Bid Documents are non-refundable and need not be returned to the City, except as necessary to submit a bid. Bidders shall submit bids responding to this ITB at their sole cost and expense.

ITB Contact

All correspondence regarding this ITB should be directed to: Matia Malberg, Public Works Contract Administrator, mmalberg@scappoose.gov or 503-543-7146 x802.

2. Scope of Work

Scope

The City seeks a qualified recreation equipment company to develop documents that include a site plan, play equipment design, construction documents, project manual, technical specifications, that conforms to the vendor's written bid/quote. The selected proposer will also be expected to install and construct the playground. The Vendor shall prepare documents for the Veterans Park inclusive playground to include:

- Design and installation of an ADA-compliant playground & Universal Design Standards.
- Equipment must include sensory-friendly, inclusive, and wheelchair-accessible elements
- Installation of rubberized safety surfacing or another approved accessible surface
- Provide site evaluation and design to include: Drainage, surfacing, hardscape and playground plans.

Playground Design & Equipment Specifications

- Age Groups: Equipment designed for children ages 5 – 12
- Accessibility: All components must meet, or exceed ADA, & Universal Design standards
 - Relevant Universal Access and ADA Design Standards are: Oregon Parks and Recreation Department: ACCESS Accessibility Design Standards, 2023.¹
- Safety Surfacing: Compliant with applicable safety and accessibility requirements.
- Desired Features:
 - Ground-Level Play: Sensory panels, musical play elements
 - Slides: Accessible transfer-height slides
 - Climbing Structures: Ramps, handrails, transfer points
 - Surface: The City desires a natural looking preferably green continuous surface
 - Pathways: ADA-compliant routes
 - *Note:* The City desires to keep the current sidewalk configuration as is but is open to reconfiguration, if it benefits the project and stays within the budget.

¹ <https://www.oregon.gov/oprd/AO/Documents/ACCESS-Accessibility-Design-Standards-112023.pdf>

3. Evaluation Criteria

Evaluation

The following criteria will be used to evaluate proposals:

Criteria	Maximum Score
Proposed Playground Design & Past Examples	20
Creativity of playground design	20
Inclusivity and Universal Design Focus	20
Cost Estimate based on the details and scope	40
Total	100

Description of Criteria-

Proposed Playground Design & Past Examples (20 points): Provide a preliminary layout and example of what sort of playground would be constructed. What amenities would be installed and where? How well does your proposed playground design meet the “Playground Design & Equipment Specifications” as provided in Section 2.

In order to receive points under this category, proposers must also provide project descriptions of **three (3)** past projects of similar size and scope that exemplify proposers’ qualifications. Please list the team member(s) that worked on the example projects.

Creativity of playground design (20 points): Propose an innovative and exciting playground design, include a proposed site plan, and types of equipment. Explain how your proposal is “outside the box,” innovative, or creative. If you could expand the budget, what amenities would you propose and what would they cost?

Inclusivity and Universal Design Focus (20 points): Explain how well your proposed playground design adhere to Universal Design and ADA Standards, and provide an inclusive facility.

Cost Estimate based on the details and scope (40 points): Provide cost estimates for design, planning, equipment procurement, and installation of the equipment. What is your firm’s approach to Change Orders?

Evaluation and Selection of Consultant

An evaluation committee of at least three members will evaluate the proposals received. For scoring proposals, each member will evaluate each proposal in accordance with the **Evaluation Criteria listed and detailed**. The evaluation committee may seek outside expertise, including but not limited to, input from technical advisors, to assist in the evaluation process.

The successful Consultant(s) shall be selected by the following process:

- a. An City staff evaluation committee will evaluate submitted written proposals.
- b. The committee will score proposals according to the evaluation criteria.
- c. A short list of Consultants, based on the highest scoring proposals, may be selected for interviews.
- d. Final scores, based on the written evaluation criteria and interview performance (may be requested), will be determined.

4. Proposal Format and Submission

Proposal Submittal

Sealed proposals for the **VETERANS PARK INCLUSIVE PLAYGROUND (#2026-01)** will be received by the City of Scappoose until **March 31, 2026 at 2:00 PM (PST)** at the address below. Proposals will not be accepted after this date and time. Submit digital copies to the email address for the ITB Point of Contact (Matia Malberg, Public Works Contract Administrator, mmalberg@scappoose.gov.) The City is not liable for any costs incurred by proposers in the preparation and/or presentation of their proposals or interviews.

33568 E. Columbia Ave., Scappoose, Oregon 97056

Evaluation Schedule*

Action	Location	Date	Time
Solicitation Advertisement	Business Tribune, Spotlight, City Website, Other	3/4/2026	8:00am
Pre-Proposal Questions Due	Email	3/18/2026	2:00PM
Addenda Deadline	City Website	3/20/2026	5:00PM
Proposals Due	City Hall	3/31/2026	2:00PM
Notice of Intent to Award Contract	Email	4/09/2026	4:00PM
Challenge Period Expires	NA	4/16/2026	4:00PM
City Council Authorization	Scappoose Council Chambers	4/20/2026	7:00 PM
Notice of Award	City Website, Email	4/21/2026	10:00AM
Contract Security Due	NA	5/1/2026	
Begin Contract (Estimated)	NA	5/1/2026	-
Desired Project Completion	NA		-

*These dates are subject to change at the sole discretion of the City.

Proposal Format

To provide a degree of consistency in review of the written proposals, the standard format for proposals is as follows:

- a) **Page limit:** 15 – Proposals exceeding the specified number of pages in Section 4 may be deemed non-responsive. Each side of the page is counted as one page for hard copy proposals printed double-sided. Certificates of insurance, bonding, and a cover do not count towards the 15 page limit.
- b) **Font size:** 11 or 12-point

Recycled Products Statement

Proposers shall use recyclable products to the maximum extent economically feasible in the preparation of proposals, and the selected Consultant shall continue the same practice in the performance of the contract work in accordance with ORS 279B.270.

5. Bid Modification or Withdrawal

Bids may be modified or withdrawn at any time prior to the opening of Bids. This may be done by the BIDDER in person or upon the BIDDER's written request delivered to the place where Bids are to be submitted. A telephoned request for withdrawal of a Bid will not be recognized as a legitimate means for withdrawal of a Bid.

If, within twenty-four (24) hours after Bids are opened, any Bidder files a duly signed, written notice with CITY and promptly thereafter demonstrates to the reasonable satisfaction of CITY that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid and the Bid guaranty will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Bidding Documents.

6. Opening of Bids, Bids Remain Subject to Acceptance

Bids will be opened and (unless obviously non-responsive) not be read aloud publicly at the place where Bids are to be submitted.

All Bids will remain subject to acceptance for ninety (90) days after the Bid opening, but CITY may, in its sole discretion, release any Bid and return the Bid guaranty prior to that

date. CITY and the apparent low Bidder may, by written agreement, extend the period during which the Bid is subject to acceptance.

7. Protest Award, Interpretations and Addenda

Protests may be submitted to the City Manager only from those Proposers who would receive the contract if their protest was successful.

Protests must be in writing and received by the City Manager within seven (7) calendar days, UNLESS OTHERWISE NOTED, following the issue date of the City's Notice of Intent to Award. The protest must specifically state the reason for the protest and show how its proposal or the winning proposal was miss-scored or show how the selection process deviated from that described in the solicitation document. No contract will be awarded until the protest has been resolved.

Protests must be timely and must include all legal and factual information regarding the protest and a statement of the form of relief requested. Protests received later than specified or from other than the Consultant who would receive the contract if the protest was successful will not be considered. The exercise of judgment used by the evaluators in scoring the written proposals and interviews, including the use of outside expertise, is not grounds for appeal.

CITY reserves the right to reject any or all Bids for any reason, including without limitation the rights to reject any or all nonconforming, non-responsive, unbalanced or conditional Bids and to reject the Bid of any Bidder if CITY believes that it would not be in the best interest of the CITY to make an award to that Bidder, whether because the Bid is non-responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by CITY. The City Manager may waive any procedural irregularities that had no material effect on the selection of the proposed Consultant, invalidate the proposed award, amend the award selection, request the evaluation committee re-evaluate any proposal or cancel the solicitation and begin again to solicit new proposals. The City Manager shall create a written opinion on the protest. Decisions of the City Manager are final and conclude the administrative appeals process.

All questions about the meaning or intent of the Bidding Documents are to be directed to the City. Interpretations or clarifications considered necessary by City in response to such questions will be issued by Addenda and will be to each bidder. Questions received less than five (5) calendar days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda shall be binding. Oral and other

interpretations or clarifications will be without legal effect. Addenda may also be issued to modify the Bidding Documents as deemed advisable by City.

8. Federal/State/Local Requirements

The Consultant shall comply with all Federal, State, and local laws, regulations, executive orders, and ordinances applicable to the work under the resulting contract. Additionally, the proposers agree to comply with the:

- a) Title VI of the Civil Rights Act of 1964
- b) Section V of the Rehabilitation Act of 1973
- c) The Americans with Disabilities Act of 1990 and ORS 659.425
- d) All regulations and administrative rules established pursuant to the foregoing laws
- e) All other applicable requirements of Federal and State civil rights and rehabilitation statutes, rules, and regulations

The Consultant will be subject to the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires the provision of Workers' Compensation coverage for all employees working under the resulting contract. The City's programs, services, employment, and volunteer positions are open to all persons without regard to race, religion, color, national origin, sexual orientation, sex, age, marital status, disability, or political affiliation.

Every public contract that is subject to ORS 279C must include a representation and warranty from the consultant that consultant has complied with the tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318. The public contract must also require a covenant from the consultant to continue to comply with the tax laws of this state or a political subdivision of this state during the term of the public contract and provide that a consultant's failure to comply with the tax laws of this state or a political subdivisions thereof before the consultant executed the public contract or during the term of the public contract is a default for which a contracting agency may terminate the public contract and seek damages and other relief available under the terms of the public contract or under applicable law.

Construction work will be covered by Oregon BOLI prevailing wage requirements, as set out in ORS 279.800 through 279C.870, and the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) (collectively, state "PWR").

All other requirements of the Oregon Parks and Recreation Department grant contract (Exhibit B). The City reserves the right to amend any executed contract with a bidder to

incorporate terms and conditions required by the Oregon Parks and Recreation Department as a result of this funding.

9. Bonding and Insurance

Bid Guaranty

Each Bid must be accompanied by Bid Guaranty made payable to CITY in an amount of ten percent (10%) of BIDDER's maximum Bid price, which includes the base bid and all additive alternatives, and in the form of a certified or cashier's check or a Bid Bond on the form attached to the Bidding Documents or one conforming substantially to it, meeting the requirements of ORS 279C.365 and issued by an acceptable surety.

The Bid Guaranty of Successful Bidder will be retained until such Bidder has executed the Agreement, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid Guaranty will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within ten (10) days after the Notice of Award, CITY may annul the Notice of Award and the Bid Guaranty of that Bidder will be forfeited. The Bid Guaranty of other Bidders whom CITY believes to have a reasonable chance of receiving the award may be retained by CITY until the Effective Date of the Agreement or the sixtieth (60th) calendar day after the Bid opening, whereupon Bid Guaranty furnished by such Bidders will be returned. Bid Guaranty with Bids which are not competitive will be returned upon execution of the Agreement between CITY and the Successful Bidder.

Insurance Requirements

The Bidder shall be required to provide Errors and Omissions, Professional Liability, Workers' Compensation, General Liability, and Automobile insurance as required for compliance with the City's standards for applicable design and procurement services. All aforementioned policies, other than Workers' Compensation and Professional Liability, shall include the City, its officers, employees, agents, and representatives as additional insureds with respect to the resulting contract with the City. Coverage will be endorsed to provide a "per project" aggregate.

Other requirements

Conflict of Interest No member, officer, or employee of the CITY, or its designees or agents, no member of the governing body of the CITY, and no other public official of the CITY who exercise any function or responsibility with respect to this Contract during his/her tenure or

for one year thereafter, shall have any interest, direct or indirect, in Work performed in connection with this Contract.

Confidentiality All information submitted by a Bidder shall become and remain the property of the City and is considered public information and subject to disclosure pursuant to the Oregon Public Records Law, except such portions of the Bid, which are exempt from disclosure consistent with Oregon law. If a Bid contains any information that the Bidder believes is exempt from disclosure under the various grounds specified in the Oregon Public Records Law, the Bidder must clearly designate each such portion of its proposal as exempt at the time of proposal submission, along with a justification and citation to the legal authority relied upon. Identifying the Bid, in whole, as exempt from disclosure is not acceptable. Failure to identify specific portions of the Bid as exempt shall be deemed a waiver of any future claim of that information as exempt. The City will make available to any person requesting information, through the City processes for disclosure of public records, any and all information submitted as a result of this Invitation to Bid not exempted from disclosure without obtaining permission from any Bidder to do so. City may also, in its sole discretion, elect to publish all such information at any time, regardless of whether or not a public records request has been received. However, if a public records request is made for material marked by the Bidder as exempt, the City will attempt to notify the impacted Bidder prior to any release of the material. Application of the Oregon Public Records Law by the City will determine whether any information is actually exempt from disclosure. The City accepts no liability for the release of any information submitted.

10. Exhibits:

Exhibit A. Example Public Works Contract

EPC CONTRACT

VETERANS PARK INCLUSIVE PLAYGROUND

THIS CONTRACT is entered into between the City of Scappoose, a municipal corporation of the State of Oregon (“Buyer”), and [SERVICE PROVIDER], a [ENTITY TYPE] of the state of [ENTITY STATE] (“Seller”). This Contract is made effective as of the date last written in the signature blocks below (the “Effective Date”). This Contract may refer to the Buyer and Seller individually as “Party” or jointly as “Parties.”

RECITALS

WHEREAS, the Buyer desires to engage Seller through this Contract to design, procure, and install certain Goods & Services (as defined in Section 2 below); and

WHEREAS, the Buyer sought and received an exemption from its City Council then conducted a formal qualifications-based selection for the Goods & Services, and Seller responded by submitting a proposal for the Goods & Services dated [DATE] (the “Proposal”); and

WHEREAS, the Buyer duly selected Seller based on the information provided in Seller’s Proposal; and

WHEREAS, the Buyer desires to contract with Seller to provide the Goods & Services and Seller is willing to provide the Goods & Services.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals incorporated by this reference and the mutual promises contained in this Contract, Buyer and Seller agree as follows:

1. Term.

The initial term of this Contract shall be from the Effective Date through [END DATE], unless amended or sooner terminated under the provisions of this Contract. Passage of the Contract’s term shall not extinguish, prejudice, or limit either party’s right to enforce this Contract with respect to any default or defect in performance that has not been corrected.

2. Goods & Services Defined

Buyer shall purchase from Seller, and Seller shall design, sell, deliver, provide, and install for Buyer, the Goods & Services more particularly described in Exhibit A, attached hereto and incorporated herein by reference. For the purposes of this Contract, the following definitions apply:

- i. “Goods” means all the goods, supplies, and materials described in Exhibit A, including: [general description of the goods purchased].
- ii. “Services” means the [design, training, warranty, maintenance, and/or support services] associated with the purchase and delivery of the Goods, as more fully described in Exhibit A. Any conflict between this Contract and Exhibit A shall be resolved first in favor of this Contract.

The Goods and related Services are collectively referred to herein as the “Goods & Services.”

3. Project Schedule.

- i. Seller shall deliver the Goods and perform the Services in accordance with the following schedule, and as further set forth in Exhibit B (collectively, the “Project Schedule”):
 - a. Goods Design Completion:
 - b. Goods Delivery:
 - c. Final Acceptance:
- ii. Buyer and Seller recognize that time is of the essence as to the performance of this Contract, and that Buyer will suffer financial and other losses if the Goods & Services are not finally complete within the time specified in the Project Schedule, plus any extensions thereof allowed in accordance with this Contract. Further, the parties recognize the time, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the loss (whether direct, consequential, or otherwise) suffered by Buyer if the Goods & Services are not finally complete in accordance with the Project Schedule. Accordingly, instead of requiring any such proof, Buyer and Seller agree that as liquidated damages for delay (but not as a penalty) Seller shall pay Buyer **[\$insert dollar amount]** for each day that expires after the time specified in the Project Schedule for final completion of the Goods & Services.
- iii. Seller’s failure to adhere to the Project Schedule is sufficient grounds for the Buyer to terminate this Contract for cause. If Seller anticipates any delay that may prevent timely performance of Seller’s obligations under this Contract, Seller shall promptly notify the

Buyer, including the anticipated length of the delay, the cause of the delay, measures proposed or taken to prevent or minimize the delay, and the timetable for implementation of such measures. In the event of delay, the Buyer may obtain substitute Goods & Services from another source and bill all additional costs directly to Seller.

4. Goods Design.

Seller will use its best efforts and due diligence in its performance of the Services and will provide such personnel, materials, supplies, and equipment as are necessary to successfully provide the Services. Seller will perform the Services consistent with the skill and knowledge possessed by well-informed members of its industry, trade or profession and will apply that skill and knowledge with care and diligence to perform the Services under this Contract in a professional manner and in accordance with highest standards prevalent in Seller's industry, trade or profession under similar conditions and circumstances ("Standard of Care"). All Seller personnel and those of their subconsultants and subcontractors (collectively, "subcontractors"), if any, shall be properly trained and fully licensed to undertake any activities pursuant to this Contract, and Seller shall have all requisite permits, licenses and other authorizations necessary to provide the Services.

5. [Reserved]

6. Delivery and Installation by Seller.

- i. The point of delivery for the Goods is: 52590 Captain Roger Kucera Way, Scappoose, Oregon 97056 ("Point of Delivery"). On each bill of lading, Seller shall specify the following: A Purchase Order Number, Carton Number and number of cartons in the shipment, Seller's Invoice Number, and the name of the Seller and full routing to the Point of Delivery.
- ii. Seller shall deliver the Goods to the Point of Delivery and shall provide all related Services required hereunder, including, but not limited to, installation of any component or part necessary for proper operation of the Goods, even if an item is not specifically described in Exhibit A, in accordance with the Project Schedule. Seller shall be solely and exclusively responsible for all costs, liabilities, and expenses related to delivery, including but not limited to transportation, handling, freight, insurance, taxes, duties, unloading, and storage.
- iii. The project site is: 52590 Captain Roger Kucera Way, Scappoose, Oregon 97056 ("Project Site"). Seller shall install the Goods at the Project Site in accordance with the General Conditions provided in Exhibit C and all other applicable terms of this Contract.

7. Acceptance by Buyer.

- i. Title and risk of loss of the Goods shall remain with Seller and not pass to Buyer until Buyer accepts final completion of the Goods & Services in writing in accordance with the General Conditions, except as to latent defects, fraud, and Seller's warranty obligations ("Final Acceptance"). Seller shall be responsible for the consequences of negligent manufacture and packaging, and for the consequences of negligent handling of the Goods prior to the time when title passes to Buyer.
- ii. Upon Final Acceptance, title for the Goods passes to Buyer in accordance with ORS 72.4010.
- iii. Nothing in this Section shall in any way affect or limit the Buyer's rights and remedies as a buyer, including the rights and remedies relating to rejection under ORS 72.6020, revocation of acceptance under ORS 72.6080, and Buyer's rights to cover under ORS 72.7120.

8. Compensation.

- i. During the term of this Contract, Seller shall provide the Goods & Services to Buyer for a not-to-exceed amount/guaranteed maximum price of [spelled out dollar amount] (\$X) ("Contract Price"). Following Final Acceptance of the Goods & Services, Seller shall invoice Buyer for the full Contract Price. The invoice shall describe all Goods & Services delivered or performed and itemize and explain all expenses for which reimbursement is being claimed. In no event shall Seller invoice Buyer for any goods or services not expressly provided for in this Contract and agreed to in writing by Buyer. Buyer shall pay Seller the Contract Price within thirty (30) calendar days following the date that the Buyer receives an undisputed invoice. After forty-five (45) calendar days, Seller may assess overdue account charges up to a maximum rate of two-thirds of one percent per month (8% per annum) on the outstanding balance of the Contract Price. All payments are subject to ORS 293.462.
- ii. The installation portion of the Services is subject to prevailing wage as provided in ORS 279C.800 to 279C.875. The Seller shall comply fully with the provisions of ORS 279C.800 through 279C.870. Seller must pay workers not less than the applicable prevailing rate of wage in accordance with ORS 279C.838 and 279C.840. The current prevailing wage rates are contained in the link that follows and are incorporated by reference. The rates that apply are those that are in effect on the effective date of the Contract. <https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx> If both state and federal prevailing wage rates apply to the installation portion of the Services, Seller must pay all laborers, including those working on behalf of subcontractors, the higher of the applicable state or federal wage rate. If Seller is required to pay prevailing wages, Seller will ensure that its subcontractors also agree to do so in writing. If both state and federal wages apply to the installation portion of the Services, Seller will ensure that its subcontractors agree in writing to pay the higher of the applicable state or federal wage rate.

- iii. Buyer will not pay or reimburse any expenses incurred by Seller except as authorized in this Contract. For any authorized travel expenses, Seller shall choose the most economical form of transportation, and surface transportation mileage will be reimbursed for only one vehicle per two Seller personnel at the current in-effect IRS rate. Meals and incidental expenses will be paid consistent with the current in-effect U.S. General Services Administration (GSA) per diem rate, and hotels and parking will be paid at actual amounts, not to exceed the GSA daily rate. No reimbursement will be made for any alcohol purchases, personal entertainment, or parking or traffic citations.
- iv. Seller understands and agrees that Buyer's payments under this Contract are contingent on Buyer receiving appropriations, limitations, or other expenditure authority sufficient to allow Buyer, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.
- v. The parties understand and agree that this Contract is partially funded by state or federal grant funds. Buyer may unilaterally amend the terms of this Contract, with reasonable advance notice to Seller, upon request from such state or federal funder.

9. Third Party Intellectual Property.

In the event the Goods include any third party intellectual property, and unless otherwise agreed, Seller shall ensure that Buyer receives a license to use the Goods sufficient to fulfill the business objectives, requirements, and specifications identified in this Contract. Buyer shall have the right to review the proposed license agreement and negotiate terms with the licensor; upon agreement to the terms, Buyer shall be bound by such license agreement. If Buyer and licensor cannot reasonably agree to terms, Buyer, in its sole discretion, may return the Goods to Seller (without incurring any termination liability), and Seller shall provide a full refund including any shipping and handling charges.

10. Seller's Identification.

Seller shall provide the Buyer Seller's employer identification number, as designated by the Internal Revenue Service, or, if the Internal Revenue Service has designated no employer identification number, Seller's Social Security number.

11. Contract Administrator and Notice.

The Parties designate the following individuals as their Contract Administrator, who are designated to send and receive any notices required under this Contract.

Buyer's Contract Administrator

Matia Malberg
34485 E. Columbia Avenue

Seller's Contract Administrator

[Name of Contract Administrator]
[Address of Contract Administrator]

Scappoose, Oregon 97056
e: mmalberg@scappoose.gov
p: 503-543-7146 x.6

[Address of Contract Administrator]
e:[Email of Contract Administrator]
p:[Phone of Contract Administrator]

Each Party shall give the other written notice of any intended change of their Contract Administrator. Any change to Seller's Contract Administrator must be approved by the Buyer, such approval not to be unreasonably withheld.

Unless otherwise stated in the Contract, all notices shall be made in writing and may be given by [personal delivery, first class mail, certified mail (return receipt requested), or email (read receipt requested)]. Mailed notices shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery.

12. Duty to Inform.

Seller shall give prompt written notice to the Buyer's Contract Administrator if, at any time during the performance of this Contract, Seller becomes aware of actual or potential problems, faults or defects in the Goods & Services, any nonconformity with the Contract, or with any federal, state, or local law, rule, regulation, decree, or other mandate, or if Seller has any objection to any decision or order made by the Buyer. Any delay or failure on the part of the Buyer to provide a written response to Seller shall constitute neither agreement with nor acquiescence to Seller's statement or claim, and shall not constitute a waiver of any of the Buyer's rights.

13. Seller is Independent Contractor.

Seller is an independent contractor of the Buyer for all purposes and shall be entitled to no compensation other than the compensation expressly provided by this Contract. No employment or Buyer relationship is or is intended to be created between the Buyer and any individual representing Seller. Employees of Seller and any authorized subcontractors shall perform their work under this Contract under Seller's sole control. Seller hereby expressly acknowledges and agrees that as an independent contractor, Seller is not entitled to indemnification by the Buyer or the provision of a defense by the Buyer under the terms of ORS 30.285. This acknowledgment by Seller shall not affect Seller's independent ability (or the ability of Seller's insurer) to assert that the monetary limitations found at ORS 30.272, the immunities listed at ORS 30.265 or other limitations affecting the assertion of any claim under the terms of the Oregon Tort Claims Act (ORS 30.260 to ORS 30.300).

14. Seller Representations and Warranties

Seller represents and warrants to the Buyer that:

- i. Seller has the power, authority, ability, skills, and capacity to enter into and perform this Contract, and when executed and delivered this Contract shall be a valid and binding obligation of Seller enforceable in accordance with its terms.
- ii. Seller is validly organized and exists in good standing under the laws of the State of Oregon, and Seller is duly qualified, registered or licensed to do business in good standing in the State of Oregon.
- iii. Seller has the skill and knowledge possessed by well-informed members of its industry, trade or profession and will apply that skill and knowledge with care and diligence to perform under this Contract in a professional manner and in accordance with standards prevalent in Seller's industry, trade, or profession under similar conditions and circumstances.
- iv. The execution, delivery and performance of this Contract and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action and do not and will not (a) require any further consent or approval of the board of directors or any shareholders of the Seller or any other person which has not been obtained or (b) result in a breach or default under the certificate of incorporation or by-laws of the Seller or any indenture or loan or credit agreement or other material agreement or instrument to which the Seller is a party or by which the Seller's properties and assets may be bound or affected. All such consents and approvals are in full force and effect.
- v. Seller is not eligible for any federal social security, unemployment insurance, pension, PERS or workers' compensation benefits from compensation or payments paid to Seller under this Contract.
- vi. Seller is not an employee of the Buyer, any special district, local government, the federal government or the State of Oregon.
- vii. Seller has complied and will continue to comply with all applicable federal, state, and local laws and regulations applicable to the performance of Seller's obligations under this Contract. Seller warrants it is currently in compliance with all tax laws.
- viii. Seller warrants that as of the Effective Date there are no suits, actions, other proceedings, or reasonable anticipation thereof, in any judicial or quasi-judicial forum that will or may adversely affect Seller's ability to fulfill its obligations under this Contract. Seller further warrants that it will immediately notify the Buyer in writing if, during the term of this Contract, Seller becomes aware of, or has reasonable anticipation of, any lawsuits, actions, or proceedings in any judicial or quasi-judicial forum that involves Seller or any subcontractor and that will or may adversely affect Seller's ability to fulfill its obligations under this Contract.

- ix. Seller prepared its Proposal for the Goods & Services independently from all other proposers, and without collusion, fraud or other dishonesty. Seller warrants it has no present interest and shall not acquire any interest that would conflict in any manner with its duties and obligations under this Contract.
- x. Any Goods & Services delivered to, granted to, or performed for the Buyer under this Contract are provided to the Buyer free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and are free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind. Further, the Goods are new and unused (and, if applicable, the current model) and carry full manufacturer warranties, and are delivered with complete documentation. All Goods delivered to Buyer shall be free from defects in labor, material, and workmanship, shall be in compliance with the specifications set out in this Contract, and shall be suitable for the operating environment in which it is installed. Seller shall furnish the details of both Seller's and manufacturer's warranties on design, materials and workmanship to Buyer. Seller owns or has the right to sell the Goods that are the subject of this Contract.
- xi. Upon the Buyer's request, Seller shall provide the Buyer with evidence reasonably satisfactory to the Buyer confirming the foregoing representations and warranties. The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations and warranties that Seller provides and that are provided elsewhere in this Contract. All warranties provided for in this Contract shall be cumulative, shall be deemed consistent and not in conflict, are intended to be given full force and effect and to be interpreted expansively to give the broadest warranty protection to Buyer.

15. Indemnity.

- i. General. Seller shall indemnify, defend and hold harmless the Buyer, its officers, elected and appointed officials, agents, and employees, from all claims, demands, suits, and actions for all losses, damages, liabilities, costs and expenses (including all attorneys' fees and costs), resulting from or arising out of the actions, errors, or omissions of Seller or its officers, employees, subcontractors, or agents under this Contract.
- ii. Infringement Liability. Seller shall indemnify, defend, and hold harmless the Buyer, its directors, officers, employees, and agents from and against any and all claims, demands, suits, and actions for any damages, liabilities, losses, costs, and expenses (including reasonable attorneys' fees, whether or not at trial and/or on appeal), arising out of or in connection with any actual or alleged misappropriation, violation, or infringement of any proprietary right, whether arising from copyright, patent, trademark, trade secret or any other intellectual property right of any person whatsoever. The Buyer agrees to notify Seller of the claim and gives Seller sole control of the defense of the claim and negotiations for its settlement or compromise.

- iii. Tax Liability. Seller shall indemnify, defend, and hold harmless the Buyer against any taxes, premiums, assessments, and other liabilities (including penalties and interest) that the Buyer may be required to pay arising from Services or deliverables provided by Seller under this Contract. The Buyer, as a municipal corporation of the State of Oregon, is a tax-exempt unit of local government under the laws of the State of Oregon and is not liable for any taxes.
- iv. The obligations of the indemnifications extended by Seller to the Buyer shall survive the termination or expiration of this Contract.

16. Insurance.

Seller and its subcontractors shall provide the following insurance coverages against any claims that may arise from or relate to the performance of the Goods & Services. Seller and its subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract. The Buyer in no way warrants that the limits stated in this section are sufficient to protect the Seller from the liabilities that might arise out of the performance of the work under this Contract by Seller, its agents, representatives, employees, subcontractors, and Seller may purchase such additional insurance as they determine necessary.

- i. Commercial General Liability Insurance.

- a. The policy must be in an occurrence form and include bodily injury, property damage, broad form contractual liability coverage in the following amounts:

General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$2,000,000
Each Occurrence	\$2,000,000

- b. The policy shall be endorsed to name the City of Scappoose and its elected and appointed officials, officers, agents, and employees as an additional insured with respect to liability for bodily injury, property damage, and personal and advertising injury with respect to premises, ongoing operations, products and completed operations, and liability assumed under an insured contract arising out of the activities performed by, or on behalf of, the Seller related to this Contract.
- c. The endorsement shall be indicated on the Certificate of Insurance, and there shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the Buyer as an additional insured. As an additional insured, the Buyer is entitled to collect up to the Seller’s policy limits.
- d. Seller’s insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the Buyer.

- ii. Goods in Transit/Cargo Insurance. The policy must be in an occurrence form, must be “all risk” (including but not limited to theft, accidents, natural disasters, and mishandling), from door-to-door, in an amount of not less than \$2,000,000.
- iii. Workers' Compensation Coverage. Seller certifies that it has qualified for State of Oregon Workers' Compensation coverage for all Seller's employees who are subject to Oregon's Workers' Compensation statute, either as a carrier-insured employer as provided by ORS 656.407 or as a self-insured employer. Seller shall provide to the Buyer within ten (10) days after contract award and prior to commencing Services, a certificate of insurance evidencing coverage of all subject workers under Oregon's Workers' Compensation statutes insured by an insurance company satisfactory to the Buyer, if any. The certificate and policy shall indicate that the policy shall not be terminated by the insurance carrier without thirty (30) days' advance written notice to the Buyer. A copy of the certificate of self-insurance issued by the State shall be provided to the Buyer if Seller is self-insured. To the extent permitted by law, a waiver of subrogation in favor of the Buyer shall be included in the policy.
- iv. Certificates. Seller shall furnish the Buyer with certificates evidencing the date, amount, and type of insurance required by this Contract (ACCORD form or equivalent approved by the Buyer). The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All policies will provide for not less than thirty (30) days' written notice to the Buyer before they may be canceled. Such notice will be mailed and emailed to [the Buyer Contract Administrator at 34485 E. Columbia Avenue Scappoose, OR 97056; mmalberg@scappoose.gov]. All certificates and any required endorsements are to be received and approved by the Buyer before the work commences. Each insurance policy required by this Contract must be in effect at or prior to the commencement of the work under this Contract and remain in effect for the duration of the project or extended reporting period, as required. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of this Contract.
- v. Primary Coverage. The coverage provided by insurance required under this Contract shall be primary and noncontributory, and any other insurance carried by the Buyer shall be excess.
- vi. Subcontractors. Seller shall be responsible for ensuring and verifying that all subcontractors have valid and collectible insurance. At any time throughout the term of the Contract, the Buyer reserves the right to require proof from Seller that its subcontractors have insurance coverage. All subcontractors providing services included under this Contract's Scope of Services are subject to the insurance coverages identified above and must include the Buyer as an additional insured. In certain circumstances, Seller may, on behalf of its subcontractors, waive a specific type of coverage or limit of

liability where appropriate to the type of work being performed under the subcontract. Seller assumes liability for all subcontractors with respect to this Contract.

Acceptability of Insurers. Insurance is to be placed with insurers duly licensed or authorized to do business in the State of Oregon and with an “A.M. Best” rating of not less than A- or better. The Buyer in no way warrants that the required minimum insurer rating is sufficient to protect Seller from potential insurer insolvency.

17. Warranties.

- i. Unless otherwise stated, all Goods shall be new and the latest available model and shall carry full manufacturer warranties. Seller hereby assigns to Buyer the benefits of all warranties given by any person or entity from whom Seller purchased any product contained within the Goods & Services. Seller represents and warrants that, to the best of its knowledge, the Goods & Services furnished do not infringe any patent, registered service mark, trademark, trade dress, copyright, or other intellectual property rights. Further, Provider warrants and guarantees to Owner that the title to the Goods conveyed will be proper, its transfer rightful, and free from any security interest, lien, or other encumbrance.
- ii. Seller represents and warrants that the Goods & Services are free from defects in design, material, and workmanship, are of merchantable quality, and shall conform to applicable specifications and associated documentation within this Contract (“Defect Warranty”) for a period of two (2) years from the date of Final Acceptance by Buyer (“Defect Warranty Period”).
- iii. If Buyer observes that any of the Goods, or repairs to the Goods, fail to comply with the Defect Warranty during the Defect Warranty period, Buyer shall promptly inform Seller of this violation in writing. Within fourteen (14) calendar days of receiving Buyer’s notice, Seller shall either repair or replace and re-install the Good that is violating the Defect Warranty, as determined in Buyer’s sole discretion and at no additional cost to Buyer. For clarity’s sake, Seller shall bear all costs, losses and damages attributable to the removal, replacement, reinspection, and retesting of Goods that do not comply with the Defect Warranty during the Defect Warranty Period. If Buyer elects to permit the Seller to modify the Goods to correct the Defect Warranty non-compliance, then Seller shall promptly provide a schedule for such modifications and shall make the Goods comply with the Defect Warranty within a reasonable time.
- iv. When correcting Goods that do not comply with the Defect Warranty, Seller shall take no action that would void or otherwise impair Buyer’s special warranty and guarantee, if any, on said Goods.

- v. In addition to its correction, removal, and replacement obligations with respect to Goods that do not comply with the Defect Warranty, Seller shall pay all claims, costs, losses, and damages arising out of or relating to Goods that fail to comply with the Defect Warranty, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such Goods, fines levied against Buyer by governmental authorities because the Goods do not comply with the Defect Warranty, and the costs of repair or replacement of work of others resulting from Goods that fail to comply with the Defect Warranty. Seller's obligations will include the costs of the correction or removal and replacement of the Goods that do not comply with the Defect Warranty and the replacement of property of Buyer and others destroyed by the correction or removal and replacement of the Goods that do not comply with the Defect Warranty, and obtaining Goods that comply with the Defect Warranty from others.
- vi. The Defect Warranty excludes defects or damage caused by:
 - 1. abuse, or improper modification, maintenance, or operation, by the Buyer;
 - 2. use of Goods in a manner contrary to Seller's written instructions for installation, operation, and maintenance; or
 - 3. normal wear and tear under normal usage.

18. Public Records and Confidentiality.

- i. Public Records Requests. Seller acknowledges that the Buyer is subject to the Oregon Public Records Act and federal law. Third persons may claim that the Seller Confidential Information (as defined below) that Seller submitted to the Buyer hereunder may be, by virtue of its possession by the Buyer, a public record and subject to disclosure pursuant to the Oregon Public Records Act. The Buyer's commitments to maintain certain information confidentially under this Contract are all subject to the constraints of Oregon and federal laws. All information submitted by Seller to the Buyer is a public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions for which Seller requests and meets an exemption from disclosure consistent with federal or Oregon law, in accordance with the process set forth in Section 16.iii. Within the limits and discretion allowed by those laws, the Buyer will make a good faith effort to maintain the confidentiality of information.
- ii. Public Records Retention. The Buyer will retain one (1) copy of any public records for the express purposes of complying with State of Oregon public records and archiving laws.

iii. Confidentiality.

- a. Seller's Confidential Information. During the term of this Contract, Seller may disclose to the Buyer certain Seller confidential information pertaining to Seller's business ("Seller Confidential Information"). Seller shall be required to mark Seller Confidential Information CONFIDENTIAL with a restrictive legend or similar marking, together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request under Oregon public records laws. If Seller Confidential Information is not clearly marked, or the Seller Confidential Information cannot be marked with a restrictive legend or similar marking or is disclosed either orally or by visual presentation, Seller shall identify the Seller Confidential Information as confidential at the time of disclosure or within a reasonable time thereafter. This Contract itself shall not be considered Seller Confidential Information. Seller Confidential Information does not include information that (1) is or becomes (other than by disclosure by the Buyer) publicly known; (2) is furnished by Seller to others without restrictions similar to those imposed by this Contract; (3) is rightfully in the Buyer's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (4) is obtained from a source other than Seller without the obligation of confidentiality, (5) is disclosed with the written consent of Seller, or; (6) is independently developed by employees or agents of the Buyer who can be shown to have had no access to the Seller Confidential Information. Subject to subsection (i) and (ii), the Buyer shall: (1) limit disclosure of Seller Confidential Information to those directors, elected and appointed officials, employees, contractors and agents of the Buyer who need to know the Seller Confidential Information in connection with the Goods & Services and who have been informed of confidentiality obligations at least as strict as those contained in this Contract, and (2) exercise reasonable care to protect the confidentiality of the Seller Confidential Information, at least to the same degree of care as the Buyer employs with respect to protecting its own proprietary and confidential information.
- b. Buyer's Confidential Information. Any and all information that the Buyer provides to Seller or its employees or agents in the performance of this Contract that the Buyer designates as confidential (either on the document itself or through related correspondence), as well as all reports and other documents and materials that result from Seller's use of such information and any other Work Product that the Buyer designates as confidential, is deemed to be confidential information of the Buyer ("Buyer Confidential Information"). Buyer Confidential Information does not include information that (1) is or becomes (other than by disclosure by Seller) publicly known; (2) is furnished by the Buyer to others without restrictions similar to those imposed by this Contract; (3) is rightfully in Seller's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (4) is obtained from a source other than the Buyer without the obligation of confidentiality, (5) is disclosed with the written consent of Buyer, or; (6) is

independently developed by employees or agents of Seller who can be shown to have had no access to the Confidential Information.

- c. Seller shall treat as confidential any Buyer Confidential Information that has been made known or available to Seller or that Seller has received, learned, heard or observed; or to which Seller has had access. Seller shall use Buyer Confidential Information exclusively for the Buyer's benefit in the performance of this Contract. Except as may be expressly authorized in writing by the Buyer, in no event shall Seller publish, use, discuss or cause or permit to be disclosed to any other person such Buyer Confidential Information. Seller shall (1) limit disclosure of the Buyer Confidential Information to those directors, officers, employees, subcontractors, and agents of Seller who need to know the Buyer Confidential Information in connection with the Goods & Services and who have agreed in writing to confidentiality obligations at least as strict as those contained in this Contract, (2) exercise reasonable care to protect the confidentiality of the Buyer Confidential Information, at least to the same degree of care as Seller employs with respect to protecting its own proprietary and confidential information, and (3) return immediately to the Buyer, upon its request, all materials containing Buyer Confidential Information, in whatever form, that are in Seller's possession or custody or under its control. Seller is expressly restricted from and shall not use the intellectual property rights of the Buyer without the Buyer's prior written consent.
- d. Retroactivity. This Section shall apply to all Buyer Confidential Information previously received, learned, observed, known by or made available to Seller and related to this Contract.
- e. Survival. Seller's confidentiality obligations under this Contract shall survive termination or expiration of this Contract.
- f. Equitable Relief. Seller acknowledges that unauthorized disclosure of Buyer Confidential Information will result in irreparable harm to the Buyer. The Parties agree that, notwithstanding any other section of this Contract, in the event of a breach or a threatened breach of the Contract's terms related to Confidential Information or intellectual property rights, the non-breaching Party shall be entitled to seek equitable relief to protect its interests, including but not limited to injunctive relief. Nothing stated herein shall be construed to limit any other remedies available to the Parties.
- g. Discovery of Documents. In the event a court of competent jurisdiction orders the release of Confidential Information submitted by one Party, the other Party will notify the Party whose Confidential Information is being requested to be disclosed of the request. The Party receiving the request shall allow the other Party to participate in the response at its own expense. Each Party will comply with any effective court order.

19. Amendment.

Any changes to the provisions of this Contract shall be in the form of an amendment. No provision of this Contract may be amended unless such amendment is executed in writing by authorized representatives of the Parties. If the requirements for amendment of this Contract as described in this section are not satisfied in full, then such amendments automatically will be deemed null, void, invalid, non-binding, and of no legal force or effect. The Buyer reserves the right to make administrative changes to the Contract unilaterally, such as extending the contract time or increasing the contract price. An administrative change means a written change that does not affect the substantive rights of the Parties.

20. Errors.

Seller shall perform such additional work as may be necessary to correct errors in the Goods & Services required under this Contract without undue delays and without additional cost.

21. Disputes.

Seller shall cooperate with the Buyer to ensure that all claims and controversies which arise during this Contract will be resolved as expeditiously as possible in accordance with the following resolution procedure:

- i. Any dispute between the Buyer and Seller shall attempt to be resolved by their respective Contract Administrator or designee.
- ii. If the Contract Administrators are unable to resolve the dispute within three (3) days of notice of dispute is given by a Party, the dispute shall be referred to the Contract Administrators' superiors.
- iii. If the dispute cannot be resolved pursuant to subsections (i) or (ii), the parties agree to mediate in good faith prior to initiating litigation pursuant to Section 28.

22. Early Termination of Contract.

- i. The Buyer may terminate this Contract for convenience at any time for any reason deemed appropriate in its sole discretion. Termination is effective immediately upon notice of termination given by the Buyer.
- ii. Either Party may terminate this Contract in the event of a material breach by the other Party that is not cured. Unless otherwise set forth in the Contract, before termination is permitted, the Party seeking termination shall give the other Party written notice via certified mail of the breach, its intent to terminate, and thirty (30) calendar days to cure the breach. If the breach is not cured within thirty 30 days, the Party seeking termination may terminate immediately by giving written notice by certified mail that the Contract is terminated. If there is an immediate risk of harm to life or property, the Buyer may

terminate the Contract immediately and without regard to the 30-day notice provision. Moreover, the Buyer may immediately terminate this Contract if Seller: (a) becomes insolvent, makes a general assignment for the benefit of creditors; (b) suffers or permits the appointment of a receiver for its business or assets; (c) becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, and such proceeding has not been dismissed within a sixty (60) Calendar Day period; or (d) has wound up or liquidated, voluntarily or otherwise.

- iii. Seller shall promptly notify the Buyer in writing upon the occurrence of any event that could reasonably be expected to result in a material adverse change in the financial condition, operations, or business prospects of the Seller, including but not limited to insolvency, bankruptcy proceedings (whether voluntary or involuntary), appointment of a receiver, assignment for the benefit of creditors, or the commencement of any proceeding under any law relating to bankruptcy, insolvency, or the reorganization or relief of debtors. In the event that the Buyer determines, in its sole discretion, that Seller's financial condition has materially deteriorated or that any such adverse event has occurred or is reasonably likely to occur, the Buyer shall have the right to terminate this Contract immediately upon written notice to Seller, without penalty or further obligation.

23. Remedies and Payment on Early Termination.

- i. If the Buyer terminates pursuant to Section 23(i), the Buyer shall pay Seller for the Goods & Services performed in accordance with the Contract prior to the termination date. No other costs or loss of anticipated profits shall be paid.
- ii. If the Buyer terminates pursuant to Section 23(ii), the Buyer is entitled all remedies available at law or equity. In addition, Seller shall pay the Buyer all damages, costs, and sums incurred by the Buyer as a result of the breach.
- iii. If the Seller justifiably terminates the Contract pursuant to 23(ii), Seller's only remedy is payment for Goods & Services performed and accepted by the Buyer prior to the effective date of the termination. No other costs or loss of anticipated profits shall be paid.
- iv. If the Buyer's termination under Section 23(ii) was wrongful, the termination shall be automatically converted to one for convenience, and Seller shall be paid as if the Contract was terminated under Section 23(i).

24. Compliance with Applicable Law.

- i. Seller shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Contract. Without limiting the generality of the

foregoing, Seller expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal, state and municipal civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated.

- ii. Certain Oregon laws apply to all public contracts in Oregon. The Buyer's performance under the Contract is conditioned upon Seller's compliance with the applicable provisions in Attachment 1 – OR Statutorily Required Contract Provisions, which are incorporated herein by this reference.

25. Records and Audits.

- i. Records Retention. Seller shall maintain current financial records in accordance with Generally Accepted Accounting Principles (GAAP). Seller agrees to maintain and retain and retain all financial records, supporting documents, statistical records and all other records pertinent to this Contract during the term of this Contract and for a minimum of six (6) years after the expiration or termination date of this Contract, or for a minimum of six (6) years after all other pending matters in connection with this Contract are closed, whichever is longer.
- ii. Buyer Audits. The Buyer, either directly or through a designated representative, may conduct financial and performance audits of the billings and Services at any time in the course of the Contract and during the records retention period listed above. Audits shall be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States Government Accountability Office.
- iii. Access to Records. The Buyer may examine, audit and copy Seller's books, documents, papers, and records relating to this Contract at any time during the records retention period listed above upon reasonable notice. Copies of applicable records shall be made available upon request. Access to said documents shall be granted within seven (7) days written notice, or such other earlier time as is reasonable under the circumstances.

26. Law of Oregon.

This Contract is governed by the laws of the State of Oregon without reference to its “conflict of laws” provisions that might otherwise require the application of the law of any other jurisdiction. Any action or suits involving any question arising under this Contract shall be brought in the appropriate court of Columbia County, Oregon.

27. Mediation, Trial By Jury, Attorneys’ Fees.

- i. Should any dispute arise between the Parties to this Contract that cannot be resolved by Section 19, it is agreed that such dispute will be submitted to a mediator prior to any litigation, and the Parties hereby expressly agree that no claim or dispute arising under the terms of this Contract shall be resolved other than first through mediation and only in the event said mediation efforts fail, through litigation. By mutual agreement, the Parties may waive mediation and proceed with litigation. The waiver shall be in writing and signed by an authorized representative of each Party.
- ii. The Parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both Parties. Mediation will be conducted in Scappoose, Oregon, unless both Parties agree in writing otherwise. Both Parties agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. If a Party requests mediation and the other party fails to respond within ten (10) days, or if the Parties fail to agree on a mediator within ten (10) days, a mediator shall be appointed by the presiding judge of the Columbia County Circuit Court upon the request of either Party.
- iii. Any litigation arising under or as a result of this Contract shall be tried to the court without a jury.
- iv. In any mediation or litigation arising under this Contract, each Party shall bear its own fees and costs, including attorneys’ fees.
- v. Any legal proceeding of any nature whatsoever brought by Seller against the Buyer that asserts a breach of contract, a declaratory judgment proceeding, or any other legal or equitable claim related to, or arising from, the Goods & Services performed under this Contract shall be brought within one (1) year of the date that final payment is made to Seller, regardless of whether Seller is aware of the legal claim it might have during that time. If the legal proceeding is not brought within that one (1) year period, Seller expressly waives any and all claims that are in any way related to the Contract. For purposes of this subsection, final payment is considered to be made when the Buyer sends a check to Seller that contains the undisputed balance that is due for all Goods & Services performed prior to the expiration or termination of the Contract. The subsequent payment of minor amounts to Seller that constitute less than 2% of the total

cost of Goods & Services performed, or the payment of claims made pursuant to section 19, shall not affect the date when final payment is considered to have been made.

28. Conflict of Interest.

Seller hereby certifies that it is not a Buyer official/employee or a business with which a Buyer official/employee is associated, and that to the best of its knowledge, Seller, its employee(s), officer(s) or its director(s) is not a Buyer official/employee or a relative of any Buyer official/employee who: (1) has responsibility in making decisions or ability to influence decision-making on the Contract or project to which this Contract pertains; (2) has or will participate in evaluation or management of the Contract; or (3) has or will have financial benefits in the Contract. Seller understands that should it elect to employ any former Buyer official/employee during the term of the Contract, then that former Buyer official/Seller employee must comply with applicable government ethics and conflicts of interest provisions in ORS Chapter 244, including but not limited to ORS 244.040(5) and ORS 244.047, and any provisions of the Buyer’s Charter, Code, ordinances, or administrative rules.

29. Subcontractors.

The Seller is solely and exclusively for the performance of the Goods & Services, notwithstanding any subcontracts that it enters into for the performance of the Goods & Services. Seller shall provide a list of all subcontractors with which Seller intends to utilize in providing Goods and Services. This list shall include such information on their relevant qualifications as may be requested by the Buyer. The Buyer reserves the right to review and reject Seller’s use of subcontractors where the Buyer has a reasonable objection. Seller shall obtain the Buyer’s written consent prior to entering into any subcontracts for any of the Goods & Services required by the Contract.

30. Force Majeure.

- i. A “Force Majeure Event” is an exceptional, unforeseeable and unavoidable occurrence beyond the reasonable control of the affected Party, such as, riots, epidemics, war, government regulations, labor disputes, fire, natural phenomena, or other unforeseeable causes beyond such Party’s reasonable control. In the event that either Party is unable to perform any of its obligations under this Contract due to a Force Majeure Event not the fault of the affected Party or its subcontractors, the Party who has been so affected immediately shall give notice to the other Party and shall do everything reasonably possible to resume performance. Upon receipt of such notice, the performance obligations affected by the Force Majeure Event shall immediately be suspended.
- ii. If the period of nonperformance exceeds fifteen (15) calendar days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

- iii. If the period of nonperformance due to a Force Majeure Event does not exceed fifteen (15) calendar days, such nonperformance shall automatically extend the time to complete the Goods & Services for a period equal to the duration of such events. Any warranty period affected by a Force Majeure Event shall likewise be extended for a period equal to the duration of such event.
- iv. If the period of nonperformance due to Force Majeure Event is longer than fifteen (15) calendar days, the Parties shall negotiate options for mitigating the Force Majeure Event.

31. General Provisions.

- i. Successors and Assigns. Each party binds itself, and any partner, successor, executor, administrator or assign to this Contract.
- ii. Assignment. Seller shall not assign, sublet or transfer any interest in or duty under this Contract without the written consent of the Buyer and no assignment shall be of any force or effect whatsoever unless and until the Buyer has so consented. For purposes of this Section, the acquisition, merger, consolidation or change in control of Seller or any assignment by operation of law shall be considered an assignment of this Contract that requires the Buyer's prior written consent. If the Buyer agrees to assignment of tasks to a subcontractor, Seller shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by the Buyer of any subcontractor nor anything contained in this Contract shall be deemed to create any contractual relation between them and the Buyer.
- iii. Change in Ownership. If, during the term of this Contract, Seller experiences a change in ownership or control, Seller shall immediately notify the Buyer in writing. Failure to notify the Buyer of such a change in ownership or control is sufficient grounds for terminating this Contract.
- iv. Severability. In the event any provision or portion of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the Parties when they entered into the Contract.
- v. No Third-Party Beneficiaries. Seller and the Buyer are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- vi. Non-Discrimination. Each Party agrees not to discriminate on the basis of age, citizenship status, color, familial status, gender identity or expression, marital status, mental disability, national origin, physical disability, race, religion, religious

observance, sex, sexual orientation, and source or level of income in the performance of this Contract.

- vii. News Releases and Public Announcements. Seller shall not use the Buyer seal or other representations of the Buyer in its external advertising, marketing, website, or other promotional efforts, nor shall Seller issue any news release or public announcements pertaining to this Contract or the Goods & Services without the express written approval of the Buyer. Such approval may be withheld in the Buyer's sole discretion.
- viii. Exclusivity. This is not an exclusive contract, and the Buyer retains the right to contract with other entities or contractors for the same or similar goods or services as provided under this Contract in the Buyer's sole discretion.
- ix. Integration. This Contract and attached Exhibits and Attachments constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified in this Contract regarding this Contract.
- x. No Waiver. No waiver, consent, modification, or change of terms of this Contract shall bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given.
- xi. Order of Precedence. Should there be any conflict between the terms of this Contract and the Seller's proposed contract terms, scope of work, or any other document provided by the Seller, this Contract shall follow the following order of precedence:
 - Highest Priority: Amendments
 Attachment 1
 This Contract
 Exhibit A, Scope of Goods & Services
 Exhibit B, Project Schedule
 Other Exhibits
 The Buyer's Solicitation
 - Lowest Priority: The Seller's Proposal
- xii. Survival. All provisions in this Contract, which by their nature should remain in effect beyond termination or expiration of this Contract, will survive until fulfilled.
- xiii. Counterparts; Electronic Signatures. The Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original and such counterparts shall together constitute but one and the same Contract. The Buyer and Seller may conduct this transaction, including any amendments, by electronic means, including the use of electronic signatures.
- xiv. Independent Legal Review. The Parties, by the signature of their authorized representatives, acknowledge that they have read this Contract, have performed an

independent legal review, understand it, and agree to be bound by its terms and conditions. This Contract has been drafted by the Buyer in the general format by the Buyer as a convenience to the Parties only and shall not, by reason of such action, be construed against the Buyer. Section headings are for ease of reference and convenience only and shall not affect or enter into the interpretation of any portion of this Contract.

SIGNATURE PAGE

IN WITNESS HEREOF, the Parties hereby cause this Contract to be executed as of the date last written below.

[SELLER]

CITY OF Scappoose

Authorized Signature

[Buyer Authorized Signer]

Printed Name and Title

Printed Name and Title

Date

Date

ATTACHMENT 1

Statutorily Required Public Contracting Provisions

Seller shall observe all applicable state and local laws pertaining to public contracts. Pursuant to ORS Chapters 279A, 279B and 279C, which require every public contract to contain certain provisions, and other state law, the following provisions shall be a part of this contract, as applicable. All defined terms in this Attachment shall be interpreted in accordance with the solicitation or contract document and the relevant statutory provision. Subcontractor shall be read to mean subcontractor or subconsultant.

1. ORS 279A.110 (Non-discrimination Certification): Seller shall certify that Seller has not discriminated and will not discriminate against a subcontractor in the awarding of a subcontract because the Subcontractor is a disadvantaged, minority owned, woman owned, veteran owned, or emerging small business enterprise (certified under ORS 200.055.), or a business that is owned or controlled by, or employs a disabled veteran (as defined in ORS 408.225).
2. Pursuant to ORS 279B.220 or 279C.505, as applicable, Seller shall make payment promptly, as due, to all persons supplying to the Seller labor or material for the performance of the work provided for in the contract; shall pay all contributions or amounts due the Industrial Accident Fund from the Seller or subcontractor incurred in the performance of the contract; not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished, and; pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
3. Pursuant to ORS 279B.225, every public contract for lawn and landscape maintenance shall contain a condition requiring the Seller to salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.
4. Pursuant to ORS 279B.230(1) or 279C.530(1), as applicable, Seller shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Seller, of all sums which the Seller agrees to pay for such services and all monies and sums which the Seller collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
5. Pursuant to ORS 279B.230(2) or 279C.530.(2), as applicable, in every public contract, all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
6. Pursuant to ORS 279B.235(1) and 279B.020 and ORS 279C.520 and 279C.540 (Hours of Labor, Holidays, and Overtime): Except as otherwise provided in an applicable collective bargaining agreement with a labor organization, Seller shall not employ and shall require that its Subcontractors not employ any person to perform construction work for more than ten hours

in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of Contracts for personal services as defined in ORS 279A.055, the laborer shall be paid at least time and a half pay:

- i. For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; and
 - ii. For all overtime in excess of ten hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
 - iii. For work performed on Saturday and on any legal holiday specified in any applicable collective bargaining agreement or ORS 279C.540(1)(b).
 - iv. The requirement to pay at least time and a half for all overtime worked in excess of 40 hours in any one week shall not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. Section 201 to 209 from receiving overtime.
 - v. Seller shall and shall require its Subcontractors to give notice in writing to their employees who work under this contract, either at the time of hire or before commencement of Work or Services under the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
7. Environmental Laws. Seller shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
 8. Oregon Tax Law Compliance: Seller must, throughout the duration of this contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Seller (to the best of Seller's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the date of this contract, represents and warrants that it has faithfully complied with, and will continue to comply with during the term of this contract: (A) all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (B) any tax provisions imposed by a political subdivision of this state that applied to Seller, to Seller's property, operations, receipts, or income, or to Seller's performance of or compensation for any work performed by Seller; (C) any tax provisions imposed by a political subdivision of this state that applied to Seller, or to goods, services, or property, whether tangible or intangible, provided by Seller; and (D) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions. Failure to comply with this section is a default for which the Buyer may terminate the contract and seek damages and other relief available under the terms of the contract or under applicable law.
 9. Foreign Contractor. If Seller is not domiciled in or registered to do business in the state of Oregon, Seller shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this contract. Seller shall demonstrate its legal capacity to perform these services in the state of Oregon prior to entering into this contract.
 10. Assignment or Transfer Restricted. Unless otherwise provided in the contract, the Seller shall

not assign, sell, dispose of, or transfer rights, or delegate duties under the contract, either in whole or in part, without the Contracting Agency's prior Written consent. Unless otherwise agreed by the Contracting Agency in writing, such consent shall not relieve the Seller of any obligations under the contract. Any assignee or transferee shall be considered the agent of the Seller and be bound to abide by all provisions of the contract. If the Contracting Agency consents in writing to an assignment, sale, disposal or transfer of the Seller's rights or delegation of Seller's duties, the Seller and its surety, if any, shall remain liable to the Contracting Agency for complete performance of the contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the Contracting Agency otherwise agrees in writing.

Exhibit B. OPRD Grant Contract

Oregon Parks and Recreation Department Local Government Grant Program Agreement

THIS AGREEMENT ("Agreement") is made and entered into by and between the State of Oregon, acting by and through its **Oregon Parks and Recreation Department**, hereinafter referred to as "OPRD" or the "State" and **the City of Scappoose**, hereinafter referred to as the "Grantee".

OPRD Grant Number: **LG25-023**
Project Title: **Veterans Park Play Area Project**
Project Type (purpose): **Development**
Project Description: **The project will replace old playground equipment with new accessible play equipment at Veterans Park in Scappoose, Oregon. The Project is further described in Attachment A - Project Description and Budget.**

Grant Funds /
Maximum Reimbursement: **\$ 89,000 (30.698%)**
Grantee Match Participation: **\$ 200,919 (69.301%)**
Total Project Cost: **\$ 289,919**

Grant Payments / Reimbursements: Grant funds are awarded by the State and paid on a reimbursement basis, and only for the Project described in this Agreement, and the Project Description and Budget included as Attachment A. To request reimbursement, Grantee shall use OPRD's online grant management system accessible at oprdgrants.org. The request for reimbursement shall include documentation of all project expenses plus documentation confirming project invoices have been paid. Grantee may request reimbursement as often as quarterly for costs accrued as of the date of the request. Requests for reimbursement will be reviewed and approved by the State.

Fiscal Year-End Request for Reimbursement: Grantee must submit a Progress Report and a Reimbursement Request to OPRD for all unreported Project expenses, if any, accrued up to **June 30**, of each fiscal year. The Fiscal Year-End Reimbursement Request must be submitted to OPRD by **July 31**.

Reimbursement Terms: Based on the estimated Project Cost of **\$289,919**, and the Grantee's Match participation rate of **69.301%**, **the reimbursement rate will be 30.698%**. Upon successful completion of the Project and receipt of the final reimbursement request, the State will pay Grantee the remaining Grant Funds balance, **or 30.698%** of the total cost of the Project, whichever is less.

Matching Funds: The Grantee shall contribute matching funds or the equivalent in labor, materials, or services, which are shown as eligible match in OAR 736 Division 6, and the Local Government Grant Program manual. Volunteer labor used as a match requires a log with the name of volunteer, dates volunteered, hours worked, work location and the rate used for match, to be eligible.

Progress Reports: Grantee shall submit Progress Reports with each Reimbursement Request or, at a minimum, at **three-month intervals**, starting from the effective date of the Agreement. Progress Reports shall be submitted using OPRD's online grant management system accessible at oprdgrants.org.

Agreement Period: The effective date of this Agreement is the date on which it is fully executed by both parties. Unless otherwise terminated or extended, the Project shall be completed by **December 31, 2027**. This Agreement shall expire on the date final reimbursement payment is made by OPRD to Grantee.

Retention: OPRD shall disburse up to 90 percent of the Grant Funds to Grantee on a cost reimbursement basis upon approval of invoices submitted to OPRD. OPRD will disburse the final 10 percent of the Grant Funds upon approval by OPRD of the completed Project, the Final Progress Report and the submission of five to ten digital pictures of the completed project site.

Final Request for Reimbursement: Grantee must submit a Final Progress Report, a Final Reimbursement Request and five to ten digital pictures of the completed project site to OPRD within 45 days of the Project Completion Date.

Project Sign: When project is completed, Grantee shall post an acknowledgement sign of their own design, with OPRD approval, or one supplied by the State, in a conspicuous location at the project site, consistent with the Grantee's requirements, acknowledging grant funding and the State's participation in the Project.

Agreement Documents: The following attachments are incorporated into and made a part of this Agreement:

- Attachment A: Project Description and Budget
- Attachment B: Standard Terms and Conditions
- Attachment C: Inadvertent Discovery Plan

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents is as follows, listed from highest precedence to lowest precedence: this Agreement without Attachments; Attachment B; Attachment A; Attachment C.

Contact Information: Except as otherwise expressly provided for in this Agreement, any notices or demands required or permitted to be given under this Agreement shall be given in writing by personal delivery, or mailing, or email, to the following addresses. A change in the contact information for either party is effective upon providing notice to the other party:

Grantee Administrator
Dave Sukau
City of Scappoose
33568 E Columbia Avenue
Scappoose, OR 97056
971-246-4015
dsukau@scappoose.gov

Grantee Billing Contact
Charlotte Baker
City of Scappoose
33568 E Columbia Avenue
Scappoose, OR 97056
503-543-8404
dsukau@scappoose.gov

OPRD Contact
Karen Litvin, Coordinator
Oregon Parks & Rec. Dept.
725 Summer ST NE STE C
Salem, OR 97301
971-720-0852
karen.litvin@oprd.oregon.gov

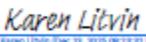
Authorization: If applicable and necessary, the execution and delivery of this Agreement by Grantee has been authorized by an ordinance, order, or resolution of its governing body, or voter approval, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings.

Signatures: In witness thereof, the parties hereto have caused this Agreement to be properly executed by their authorized representatives as of the last date hereinafter written.

GRANTEE

By: 
Signature
Benjamin Burger
Printed Name
City Manager
Title
11/17/25
Date

STATE OF OREGON Acting By and Through Its OREGON PARKS AND RECREATION DEPT.

By: 
Matt Rippee (Dec 30, 2025 15:59:14 PST)
Signature
Matt Rippee, Deputy Dir. of Field & Comm. Services
12/30/25
Date
Recommended: 
Michele Scalise (Dec 30, 2025 11:49:09 PST)
Signature
Michele Scalise, Grants Section Manager
12/30/25
Date
Recommended: 
Karen Litvin (Dec 30, 2025 09:23:32 PST)
Signature
Karen Litvin, Grant Program Coordinator
12/23/25
Date
Date

Attachment A: Project Description and Project Budget

OPRD Grant Number: **LG25-023**
Project Title: **Veterans Park Play Area Project**
Grantee Agency: **City of Scappoose**

Project Description:

The project will replace old playground equipment with new accessible play equipment at Veterans Park in Scappoose, Oregon.

Project Budget:

Project Expenses

Play Equipment	\$	148,446
Turf Surfacing	\$	91,473
Installation	\$	50,000
Total Project Expenses	\$	289,919

Match from Grantee

Parks Budget	\$	200,919
Total Match from Grantee	\$	200,919

Summary

Total Project Cost	\$	289,919
Total Match from Grantee	\$	200,919
Grant Funds Requested	\$	89,000

Attachment B – Standard Terms and Conditions

Oregon Parks and Recreation Department Local Government Grant Program Agreement

1. **Compliance with Law:** Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to implementation of the Project, including without limitation, OAR chapter 736, Division 6 (the Local Government Grant Program administrative rules).
2. **Compliance with Workers Compensation Laws:** All employers, including Grantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS.656.017 and provide the required Worker's Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included.
3. **Compliance with Prevailing Wage:**
 - a) Grantee shall comply with state prevailing wage law as set forth in ORS 279C.800 through 279C.870, and the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) (collectively, state "PWR"). This includes but is not limited to imposing an obligation that when PWR applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage for workers in each trade or occupation in each locality as determined by the Commissioner of the Bureau of Labor and Industries ("BOLI") under ORS 279C.815.
 - b) (b) When the federal Davis-Bacon Act applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage as determined by the United States Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 3141 et seq.).
 - c) Notwithstanding (1) and (2) above, when both PWR and the federal Davis-Bacon Act apply to the Project, contractors and subcontractors on the Project must pay a rate of wage that meets or exceeds the greater of the rate provided in (3)(a) or (3)(b) above.
 - d) When PWR applies, Grantee and its contractors and subcontractors shall not contract with any contractor on BOLI's current List of Contractors Ineligible to Receive Public Works Contracts.
 - e) When PWR applies, Grantee shall be responsible for both providing the notice to the BOLI Commissioner required by ORS 279C.835 and the payment of any prevailing wage fee(s) required under ORS 279C.825 and BOLI's rules, including OAR 839-025-0200 to OAR 839-025-0230. For avoidance of any doubt, Grantee contractually agrees to pay applicable prevailing wage fees for the Project rather than OHCS, the public agency providing Financing Proceeds under this Contract.
 - f) When PWR applies, and before starting work, Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by ORS 279C.836 and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring any subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the subcontractor has filed a public works bond before permitting the subcontractor to start Work.
 - g) Pursuant to ORS 279C.817, Grantee and any contractors or subcontractors may request that the BOLI Commissioner make a determination about whether the Project is a public works on which payment of the prevailing rate of wage is required under ORS 279C.840 (i.e. whether PWR applies).
4. **Amendments:** This Agreement may be amended only by a written amendment to the Agreement, executed by the parties.

5. **Expenditure Records:** Grantee shall document, maintain and submit records to OPRD for all Project expenses in accordance with generally accepted accounting principles, and in sufficient detail to permit OPRD to verify how Grant Funds were expended. These records shall be retained by the Grantee for at least six years after the Agreement terminates. The Grantee agrees to allow Oregon Secretary of State auditors and State agency staff access to all records related to this Agreement for audit and inspection and monitoring of services. Such access will be during normal business hours, or by appointment. Grantee shall ensure that each of its subgrantees and subcontractors complies with these requirements.
6. **Equipment:** Equipment purchased with Local Government Grant Program funds must be used as described in the Project Agreement and Application throughout the equipment's useful life. The Grantee will notify the State prior to the disposal of equipment and will coordinate with the State on the disposal to maximize the equipment's ongoing use for the benefit of the Local Government Grant Program.
7. **Use of Project Property:** Grantee warrants that the land within the Project boundary described in the Application shall be dedicated and used for Project purposes for a period of no less than 25 years from the completion of the Project. Grantee agrees to not change the use of, sell, or otherwise dispose of the land within the Project boundary, except upon written approval by OPRD. If the Project is located on land leased from the federal government, the lease shall run for a period of at least 25 years after the date the Project is completed. If the Project is located on land leased from a private or public entity other than the federal government, the lease shall run for a period of at least 25 years after the date the Project is completed, unless the lessor under the lease agrees in writing that, in the event the lease is terminated for any reason, the land shall continue to be dedicated and used as described in the Project Application for a period of at least 25 years after the date the Project is completed.

Land acquired using Local Government Grant funds shall be dedicated, by an instrument recorded in the county records, for recreational use in perpetuity, unless OPRD or a successor agency consents to removal of the dedication.

8. **Conversion of Property:** Grantee further warrants that if the Grantee converts lands within the Project boundary to a use other than as described in the grant application or disposes of such land by sale or any other means ("Converted Land"), the Grantee must provide replacement land acceptable to OPRD within 24 months of the date of the conversion or disposal or, if the conversion or disposal is not discovered by OPRD until a later date, within 24 months after the discovery of the conversion or disposal. The replacement land must be equal to the current fair market value of the Converted Land, as determined by an appraisal. The recreation utility of the replacement land must also be equal to that of the Converted Land.

If replacement land cannot be obtained within the 24 month period, the Grantee will provide payment of the grant program's prorated share of the current fair market value of the Converted Land to the State. The prorated share is measured by that percentage of the original grant (plus any amendments) as compared to the original Project cost(s).

If conversion occurs through processes outside of the Grantee's control such as condemnation or road replacement or realignment, the Grantee must pay to the State a prorated share of the consideration paid to the Grantee by the entity that caused the conversion. The State's prorated share is measured by the percentage of the original grant (plus any amendments) as compared to the original Project cost(s).

The warranties and obligations set forth in Section 7 and this Section 8 of this Agreement are in addition to, and not in lieu of, any other warranties and obligations set forth in this Agreement or implied by law.

9. **Contribution:** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the Grantee (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Grantee in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Grantee on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the Grantee on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the Grantee is jointly liable with the State (or would be if joined in the Third Party Claim), the Grantee shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the Grantee on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Grantee on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Grantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

Grantee shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantee's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

10. **Inspection of Equipment and Project Property:** Grantee shall permit authorized representatives of the State, the Oregon Secretary of State, or their designees to perform site reviews of the Project, and to inspect all Equipment, real property, facilities, and other property purchased by Grantee as part of the Project.
11. **Public Access:** The Grantee shall allow open and unencumbered public access to the completed Project to all persons without regard to race, color, religious or political beliefs, sex, national origin or place of primary residence.

12. **Condition for Disbursement:** In addition to any conditions sets forth in the Agreement, including Attachments, disbursement of grant funds by OPRD is contingent upon OPRD having received sufficient funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OPRD, in the exercise of its reasonable administrative discretion, to make the disbursement and upon Grantee's compliance with the terms of this Agreement.
13. **Subgrants, Subcontracts and Assignment of Agreement, Successors in Interest:** Grantee shall not assign or transfer any interest in this Agreement, enter into any subcontracts, or subgrant any Grant funds, without the prior written approval of OPRD. Any such assignment, transfer, subcontract, or subgrant, if approved, is subject to such conditions and provisions, as OPRD may deem necessary, including without limitation that OPRD shall have reasonable access to the facilities of the assignee, transferee, subcontractor, or subgrantee to the same extent as to the facilities of Grantee as provided in this Agreement. No approval by OPRD of any assignment, transfer, subcontract or subgrant shall be deemed to create any obligation of OPRD in addition to those set forth in this Agreement nor will OPRD's approval of an assignment, transfer, subcontract or subgrant relieve Grantee of any of its duties or obligations under this Agreement.
14. **No Third Party Beneficiaries.** OPRD and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as intended beneficiary of the terms of this Agreement.
15. **Repayment:** In the event that the Grantee spends Grant Funds in any way prohibited by state or federal law, in violation or contravention of one or more provisions of this Agreement, or for any purpose other than the completion of the Project, the Grantee shall reimburse the State for all such unlawfully or improperly expended funds. Such payment shall be made within 15 days of demand by the State.
16. **Termination:** This Agreement may be terminated by mutual consent of both parties, or by either party upon a 30-day notice in writing, delivered by certified mail or in person to the other party's contact identified in the Agreement. On termination of this Agreement, all accounts and payments will be processed according to the financial arrangements set forth herein for Project costs incurred prior to date of termination. Full credit shall be allowed for reimbursable expenses and the non-cancelable obligations properly incurred up to the effective date of the termination.
17. **Governing Law:** The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.
18. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, Agreements, or representations, oral or written, not specified herein regarding this Agreement. The Grantee, by signature of its authorized representative on the Agreement,

acknowledges that the Grantee has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

19. **Notices:** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to Grantee contact or State contact at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may hereinafter indicate in writing. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received, or five days after mailing.
20. **Counterparts:** This agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.
21. **Severability:** If any term or provision of this agreement is declared by a court of competent jurisdiction 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 this Agreement did not contain the particular term or provision held to be invalid.
22. **Survival:** All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement (including, but not limited to, remedies and record-keeping) shall survive.

Standard Terms and Conditions Reviewed by ODOJ Zoey Kohn, 10/27/25 mc

ATTACHMENT C

ARCHAEOLOGICAL INADVERTENT DISCOVERY PLAN (IDP)

Archaeological materials are the physical remains of the activities of people in the past. This IDP should be followed should any archaeological sites, objects, or human remains be found. Archaeological materials are protected under Federal and State laws and their disturbance can result in criminal penalties.

This document pertains to the work of the Contractor, including any and all individuals, organizations, or companies associated with the project.

WHAT MAY BE ENCOUNTERED

Archaeological material may be found during any ground-disturbing activity. If encountered, all excavation and work in the area **MUST STOP**. Archaeological objects vary and can include evidence or remnants of historic-era and pre-contact activities by humans. Archaeological objects can include but are not limited to:

- **Stone flakes, arrowheads, stone tools, bone or wooden tools, baskets, beads.**
- Historic building materials such as **nails, glass, metal** such as cans, barrel rings, farm implements. **ceramics, bottles, marbles, beads.**
- Layers of **discolored earth** resulting from hearth fire
- Structural remains such as **foundations**
- **Shell Middens** (mounds)
- **Human skeletal remains** and/or **bone fragments** which may be whole or fragmented.

If in doubt call it in.

DISCOVERY PROCEDURES: WHAT TO DO IF YOU FIND SOMETHING

1. Stop ALL work in the vicinity of the find
2. Secure and protect area of inadvertent discovery with 30 meter/100 foot buffer—work may continue outside of this buffer
3. Notify Project Manager and Agency Official
4. Project Manager will need to contact a professional archaeologist to assess the find.
5. If archaeologist determines the find is an archaeological site or object, contact SHPO. If it is determined to *not* be archaeological, you may continue work.

HUMAN REMAINS PROCEDURES

1. If it is believed the find may be human remains, stop ALL work.
2. Secure and protect area of inadvertent discovery with 30 meter/100 foot buffer, then work may continue outside of this buffer with caution.
3. Cover remains from view and protect them from damage or exposure, restrict access, and leave in place until directed otherwise. **Do not take photographs. Do not speak to the media.**

4. Notify:
 - Project Manager
 - Agency Official
 - Contracted Archaeologist (if applicable)
 - Oregon State Police - **DO NOT CALL 911** 503-378-3720
 - SHPO (State Historic Preservation Office) 503-986-0690
 - LCIS (Legislative Commission on Indian Services) 503-986-1067
 - Appropriate Native American Tribes (as provided by LCIS)
5. If the site is determined not to be a crime scene by the Oregon State Police, do not move anything! The remains should continue to be *secured in place* along with any associated funerary objects, and protected from weather, water runoff, and shielded from view.
6. Do not resume any work in the buffered area until a plan is developed and carried out between the State Police, SHPO, LCIS, and appropriate Native American Tribes, and you are directed that work may proceed.

CONFIDENTIALITY

The Agency and employees shall make their best efforts, in accordance with federal and state law, to ensure that its personnel and contractors keep the discovery confidential. The media, or any third-party member or members of the public are not to be contacted or have information regarding the discovery, and any public or media inquiry is to be reported to the Agency. Prior to any release, the responsible agencies and Tribes shall concur on the amount of information, if any, to be released to the public.

To protect fragile, vulnerable, or threatened sites, the National Historic Preservation Act, as amended (Section 304 [16 U.S.C. 470s-3]), and Oregon State law (ORS 192.501(11)) establishes that the location of archaeological sites, both on land and underwater, shall be confidential.

Revised: 10/15/20