

INTERGOVERNMENTAL AGREEMENT

This Agreement is between the League of Oregon Cities (LOC) and the city of Wheeler, Oregon (City) each a “Party” and, together, the “Parties”.

SECTION 1: AUTHORITY

This Agreement is authorized by ORS Chapter 190.

SECTION 2: BACKGROUND AND PURPOSE

Beginning in 2018 and ending in early 2020, LOC, in coordination with the Association of Oregon Counties (AOC), Oregon Housing Community Services Department (OHCS) and the Department of Land Conservation and Development (DLCD), undertook a comprehensive evaluation of the barriers facing Oregon cities and counties in developing both affordable and workforce housing. These four agencies formed a project team which has identified communities throughout the coastal areas of Oregon that have viable project plans to begin breaking down their identified barriers to housing development.

The project team has specifically identified that there is a lack of capacity in local governments along the entire length of the Oregon coast to undertake updates to their local development codes to address opportunities highlighted in local housing plans. And while DLCD provides general fund grants to local governments to update their comprehensive plans and development codes, the available grant funding through this program is not substantial enough to meet the full existing needs of local governments along the Oregon coast. Funds allocated through this Agreement will be used to hire a land use planner(s) with experience in preparing and amending local development codes to provide needed updates to the City.

LOC, in concert with its partners at AOC, OHCS and DLCD, believe that providing the City with a grant of \$14,000 to update and revise both its comprehensive plan and development code, for the specific purposes described below, will assist the City in developing needed housing for its community:

- Address the lack of workforce housing that currently limits small businesses and staffing of healthcare facilities in Wheeler;
- Streamline land use so it is clearer and easier to apply by the Planning Commission and City Council;
- Increase the public’s understanding and trust in land use policy – engaging them in improvements;
- Save scarce resources, restore main street and provide goods and services to residents and visitors;
- Leverage development of the Nehalem Bay Regional Transportation System Plan; and
- .

SECTION 3: EFFECTIVE DATE AND DURATION

This Agreement is effective on the date it has been executed by both parties. The Agreement terminates on December 31, 2021; it may only be terminated sooner in accordance with Section 12.

SECTION 4: AUTHORIZED REPRESENTATIVES

4.1 LOC's Authorized Representative is:
Ariel Nelson, Lobbyist
1201 Court Street NE, Suite 200, Salem, OR 97301
(541) 646-4180
anelson@orcities.org

4.2 Wheelers's Authorized Representative is:
Juliet Hyams
City Manager
775 Nehalem Blvd.
Wheeler, OR 97147
(503) 812-7105
~~citymgrwheeler@nehalemtnet.net~~ *juliet@ci.wheeler.or.us*

SECTION 5: RESPONSIBILITIES OF EACH PARTY

5.1 LOC's Responsibilities include:

5.3.1 Within 30 days of this Agreement being fully executed, LOC will disburse \$14,000 to the City to assist the City in meeting the objectives and goals briefly outlined in Section 2 of this Agreement and more fully described in the City's Statement of Interest Application (attached herein as Exhibit A).

5.3.2 During the 2021 Legislative Session, and in meetings with legislators, legislative staff, the Governor's Office, and the Governor's staff prior to and during said Legislative Session, apprise State officials of the impact the \$14,000 grant allocation had on the City's ability to update to its local development code to address opportunities for local housing.

5.2 City's Responsibilities include:

5.2.1 Utilize the \$14,000 grant allocation from LOC in the hiring and retention of Morgan CPS (specifically John Morgan), consultants in community and organization development, to review and update the City's comprehensive plan and development code for the purposes of achieving the following:

5.2.1.1 Addressing the lack of workforce housing that currently limits small businesses and staffing of healthcare facilities in Wheeler;

5.2.1.2 Streamlining land use so it is clearer and easier to apply by the Planning Commission and City Council;

5.2.1.3 Increasing the public's understanding and trust in land use policy – engaging them in improvements;

5.2.1.4 Saving scarce resources, restore main street and provide goods and services to residents and visitors;

5.2.1.5 Leveraging development of the Nehalem Bay Regional Transportation System Plan; and

5.2.2 Provide LOC with a written report of the City's progress towards successfully accomplishing the plans identified in Section 5.2.1 and attend scheduled meetings with LOC, AOC, OHCS and DLCD.

5.2.2.1 The reports required by this Section shall be submitted electronically to the LOC representative identified in Section 4.1 on the following dates: Wednesday, February 23, 2021; Friday, April 9, 2021; Wednesday, May 26, 2021; Friday, July 2, 2021; Friday, September 3, 2021; and Friday, December 3, 2021.

5.2.2.2 The reports required by this Section shall include any relevant updates related to City's efforts to update to its comprehensive plan and local development code to address opportunities for local housing.

SECTION 6: REPRESENTATION AND WARRANTIES

The Parties represent and warrant to one another that:

- 7.1 All parties are intergovernmental entities organized under ORS Chapter 190 and validly existing. Each party has the power and authority to enter into and perform this Agreement.
- 7.2 All parties state that the making and performance of this Agreement (a) has been duly authorized by their respective governing bodies; (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of their respective governing body's organizational documents; and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which the parties may be bound or affected.
- 7.3 This Agreement has been duly executed and delivered by the Parties and constitutes a legal, valid and binding obligation on the Parties enforceable in accordance with its terms.

SECTION 7: GOVERNING LAW, CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between the Parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by any Party of any form of defense or immunity to or from any Claim or from the jurisdiction of any court. By execution of this Agreement, all Parties consent to the in personam jurisdiction of said courts.

SECTION 8: CONTRIBUTION

- 8.1 If any third party makes any claim or brings any action, suit or proceedings alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal proceedings with respect to the Third Party Claim that have been received by the Notified Party. Each 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 Section and a 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 contribution obligations under this Section 10 with respect to the Third Party Claim.
- 8.2 With respect to a Third Party Claim for which the Parties are jointly liable (or would be if joined in the Third Party Claim), each Party shall contribute to the amount of expenses (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred and paid or payable in such proportion as is appropriate to reflect the relative fault of each Party. The relative fault of each Party 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.

SECTION 9: DEFAULT

Any Party will be in default under this Agreement upon the occurrence of any of the following events:

- 9.1 A Party fails to perform, observe, or discharge any of its covenants, agreements or obligations under this Agreement.
- 9.2 Any representation, warranty or statement made by a Party in this Agreement is untrue in any material respect when made;

SECTION 10: REMEDIES

In the event any Party is in default under Section 9, the Party not at fault, may, at its option, pursue any or all of the remedies available to it/them under this Agreement and at law or in equity.

SECTION 11: LIMITATION OF LIABILITY

Except for liability arising under or related to Section 8, no Party will be liable for incidental, consequential, or other indirect damages arising out of or related to this Agreement, regardless of whether the liability claim is based in contract, tort (including negligence), strict liability, product liability or otherwise. No party will be liable for any damages of any sort arising solely from the termination of this Agreement in accordance with its terms.

SECTION 12: TERMINATION

This Agreement may be terminated by:

- 14.1 The mutual written consent of all Parties;
- 14.2 Upon 30 calendar days advance written notice by one Party to all other Parties; or
- 14.3 Immediately upon written notice if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the performance of this Agreement is prohibited.
- 14.4 If the Agreement is terminated within:
 - 14.4.1 Sixty days of the Agreement being fully executed, the City shall return the entire \$14,000 grant to the LOC; or within
 - 14.4.2 One hundred and twenty days of the Agreement being fully executed, the City shall return \$7,000 in grant monies to the LOC.

SECTION 13: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties unless otherwise expressly provided within this Agreement.

SECTION 14: NOTICE

Any notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address or email address set forth in this Agreement, or to such other address as any Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) calendar days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

SECTION 15: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 16: SEVERABILITY

The Parties agree that 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 will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 17: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes and original.

SECTION 18: COMPLIANCE WITH LAW

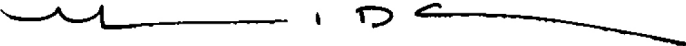
In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local laws.

SECTION 19: HEADINGS

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

League of Oregon Cities:




Mike Cully, Executive Director

12/16/2020

Date

Wheeler, Oregon



City Manager, Juliet Hyams

12.15.20

Date

