

**CITY COUNCIL AGENDA  
JUNE 16, 2014, 7:00 PM  
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

**Mission Statement**

*The City of Newberg serves its citizens, promotes safety, and maintains a healthy community.*

**Vision Statement**

*Newberg will cultivate a healthy, safe environment where citizens can work, play and grow in a friendly, dynamic and diverse community valuing partnerships and opportunity.*

**I. CALL MEETING TO ORDER**

**II. ROLL CALL**

**III. PLEDGE OF ALLEGIANCE**

**IV. SPECIAL PRESENTATIONS**

Administration of an Oath of Office for Jacque M. Betz appointing her as the city manager.

**V. CITY MANAGER'S REPORT**

**VI. PUBLIC COMMENTS**

(30 minutes maximum, which may be extended at the Mayor's discretion, with an opportunity to speak for no more than 5 minutes per speaker allowed)

**VII. CONSENT CALENDAR**

1. Consider a motion adopting **Resolution No. 2014-3143** adding the Oregon Savings Growth Plan to the employees' choices for deferred compensation investments. (Pgs. 3-12)
2. Consider a motion adopting **Resolution No. 2014-3147** affirming the bids received by the Oregon Department of Transportation for the N. College Street Sidewalk and Bike Lanes Improvement Project. (Pgs. 13-15)
3. Consider a motion adopting **Resolution No. 2014-3148** authorizing the city manager to execute amendment three to the professional services agreement with Parametrix, Inc. for the Wynoski to Riverfront Utilities Project in the amount of \$80,627.00. (Pgs. 17-26)

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

4. Consider a motion adopting **Resolution No. 2014-3150** revising existing alcohol usage policies on city of Newberg owned property within the Newberg Cultural District. (Pgs. 27-28)
5. Consider a motion adopting **Resolution No. 2014-3152** approving the purchase of a replacement 280 HP wastewater influent pump from Xylem Water Solutions for \$79,029.03. (Pgs. 29-30)
6. Consider a motion adopting **Resolution No. 2014-3153** accepting the canvass of votes for the May 20, 2014, Primary Election. (Pgs. 31-34)

## VIII. PUBLIC HEARING

1. Consider a motion adopting **Ordinance No. 2014-2771** approving an increase in the Transient Lodging Tax. (Pgs. 35-43)  
**(Legislative Hearing)**
2. Consider a motion adopting **Resolution No. 2014-3145** adopting the city of Newberg, Oregon budget for the 2014-2015 fiscal year, making appropriations, levying a property tax, and approving the city of Newberg's participation in the state revenue sharing program. (Pgs. 45-52)  
**(Administrative Hearing)**

## IX. COUNCIL BUSINESS

## X. ADJOURNMENT

*ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please dial 711.*

**Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. The exception is land use hearings, which requires a specific public hearing process. The City Council asks written testimony be submitted to the City Recorder before 4:30 p.m. on the preceding Wednesday. Written testimony submitted after that will be brought before the Council on the night of the meeting for consideration and a vote to accept or not accept it into the record.**

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 16 2014

Order ___ No.	Ordinance ___ No.	Resolution <u>XX</u> No. 2014-3143	Motion ___	Information ___
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**SUBJECT: To enhance choices for employees' deferred compensation accounts, including Oregon Savings Growth Plan.**

Contact Person (Preparer) for this  
Motion: Dawn Wilson  
Dept.: Administration (H/R)  
File No.:

## RECOMMENDATION:

Adopt Resolution No. 2014-3143 adding the Oregon Savings Growth Plan to employees' choices for deferred compensation investments.

## EXECUTIVE SUMMARY:

The city offers a deferred compensation plan formed under Section 457 of the Internal Revenue Code. Currently the City of Newberg has agreements with two providers, ICMA-RC and ING, to handle the deferred compensation investments made by city employees. Attached is a resolution to add a third provider, Oregon Savings Growth Plan (OSGP), as a choice for employees to handle their deferred compensation investments.

OSGP is a 457 deferred compensation plan that is open to all state, school, and local government employees in Oregon if their employer adopts the plan. OSGP allows an employee to contribute a portion of his/her salary into a pre-tax account thus lowering the amount he/she pays in income tax. OSGP is similar to 401(k) and 403(b) plans but has several advantages over those plans:

- There are no early withdrawal penalties
- Lower fees
- Oversight by the Oregon Investment Council
- User friendly investment structure

To simplify retirement finances, participants can transfer current 457 plans from other providers or roll eligible retirement plans from previous employers, as well as pre-tax IRAs, into OSGP. Upon retirement, participants can also roll their Individual Account Program (IAP) account to OSGP.

If approved, OSGP's representative will make an on-site visit to present to the employees who are interested, on knowing how much money they should save, an investment overview, how to manage their account, and how to make thoughtful (rather than emotional) investment choices during periods of market volatility.

**FISCAL IMPACT:** None.

## STRATEGIC ASSESSMENT:

Investing in deferred compensation accounts is prudent retirement planning, which is associated with the overall health of an employee that may lead to employee retention and quality services.



## **RESOLUTION No. 2014-3143**

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**A RESOLUTION ADOPTING THE INCLUSION OF “OREGON SAVINGS GROWTH PLAN” UNDER THE STATE OF OREGON, AS AN ADDITIONAL CHOICE FOR THE EMPLOYEES AS A DEFERRED COMPENSATION PLAN**

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### **RECITALS:**

1. The city council of the city of Newberg (“city”), pursuant to the provisions of Oregon Revised Statutes (ORS) 243.474, which provides in part that: “A local government that establishes a deferred compensation plan may invest all or part of the plan’s assets through the deferred compensation investment program established by the Oregon Investment Council (OIC) under ORS 243.421.”
2. The city of Newberg has established a deferred compensation plan under Section 457 of the Internal Revenue Code to establish the city of Newberg Deferred Compensation Plan for the exclusive benefit of its employees and their beneficiaries.
3. Such benefits act as incentives to employees to voluntarily set aside and invest portions of their current income to meet their future financial requirements.

### **THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

1. The state of Oregon Deferred Compensation Investment Program, also known as the Oregon Savings Growth Plan, established by the OIC under ORS 243.421 and administered by the Public Employees Retirement System (“PERS”), according to ORS 243.435, be included in the deferred compensation investment plan choices for its eligible personnel.
2. The proper officers, city manager and finance director, are herewith authorized and directed to take all actions and make such reductions and submit such deferrals as are required pursuant to ORS 243.478 (1).
3. The city agrees to be bound by the terms and conditions of the contracts between the state, its investment providers and record keeping company, and the “Plan Document” as identified in ORS 243.401 to 243.507 and Third Party Administrator (“TPA” – third party services who establishes trust for funds to go into and run Website for online reporting, etc.) services as amended from time to time. Specifically, without limitation, employer agrees to appoint its governing body as Trustee of its Plan, as required by Section 457(g) of the Internal Revenue Code (IRC), 26 USC 457(g)(2). The Employer certifies it is an “eligible employer” under IRC Section 457(e) (1) and has received a copy of the Plan Document and TPA Services.
4. The city council and city recognize the PERS board’s responsibility for maintaining the integrity of the Plan and hereby agree to cooperate fully with the Plan Administrator in accordance with procedures established by PERS, including without limitation in processing

requests for withdrawal in case of an unforeseeable emergency as defined in IRC Sec. 457(b) (5) and Treasury Regulations 1.457-2(h) (4) and (5).

5. The city hereby designates the finance director as the designation agent.
6. The city approves of the additional deferred compensation plan with Oregon Savings Growth Plan.
7. The city council delegates the authority to the finance director to complete, sign, and enter into the plan trust declaration as set out in the forms, which are attached hereto as Exhibit A and by this reference incorporated.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 17, 2014.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 16<sup>th</sup> day of June 2014.

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of June, 2014.

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Bob Andrews, Mayor

# PLAN TRUST – DECLARATION

Local Government Entity

## ARTICLE I - PURPOSE

Employer, which is a local government entity in Oregon and an “eligible employer” under Section 457(e)(1) of the Internal Revenue Code (IRC), 26 USC 457(e)(1), desires to establish an “eligible deferred compensation plan” (“the Plan”), as defined in Section 457(b) of the Internal Revenue Code, for employees performing services for Employer (“Employer” or “Plan Sponsor”). Employer is the Plan Administrator, and its governing body is the Plan Trustee. The Plan is a “local government deferred compensation plan” as defined in ORS 243.401(9) that is administered by the Public Employees Retirement System. A Third Party Administrator (TPA) may be contracted to offer administrative services.

## ARTICLE II - ACCOUNTS HELD IN TRUST

All amounts of compensation deferred under the Plan, all property and rights purchased with such amounts and all income attributable to such amounts, property, or rights shall be held in trust for the exclusive benefit of Participants and their beneficiaries.

## ARTICLE III - INVESTMENT

Employer shall offer a diversified investment program(s) for employees participating (“Participants”) in the Plan. All or any portion of each Participant’s Account may be, but shall not be required to be, invested by Employer in the options designated by Participant. Employer shall have absolute and uncontrolled discretion with respect to the option or options, in which the Account as defined in Article IV, shall be invested.

## ARTICLE IV - DEFERRAL

The compensation that Participant would otherwise receive for the pay period shall be reduced by the amount specified by the Participant in the Plan and Agreement, or through instructions communicated via the PERS/OSGP Website, telephone, or other approved method(s) prescribed by the Deferred Compensation Office. The amount of the reduction shall be contributed to Participant’s Deferred Compensation Account (the “Account”).

## ARTICLE V - CHANGE IN AMOUNT OF DEFERRAL

The amount of compensation to be deferred under the Plan may be increased or decreased at any time in accordance with Plan procedures. Any such revision shall be effective for any calendar month by salary reduction only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

## ARTICLE VI - MAXIMUM DEFERRAL

Except as provided in Article XIV, the following limitations shall apply: In no event shall the amount deferred for any Participant’s taxable year exceed the lesser of (i) the certain amount specified by the Internal Revenue Service (\$16,500 in 2011, and as may be adjusted by the Internal Revenue Service from time to time), or (ii) 100 percent of Participant’s includible compensation for the taxable year for services performed for Employer.

## ARTICLE VII - TIMING OF DEFERRAL

Compensation may be deferred for any calendar month by salary reduction only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

## ARTICLE VIII - EMPLOYER'S OBLIGATION; FEES AND CHARGES

Employer's sole obligation to the Participant at any time shall be equal to the value of the Account at such time. The Participant's Account shall be reduced by any charges or fees incurred in liquidating any investment in which the Account is invested, including any interest penalty for early withdrawal of amounts deposited in any financial institution. In addition, the Plan may charge each Participant an annual administrative fee of up to two (2) percent of the Account.

**Loan:** If employer chooses to participate in the Plan's loan program, participants may be eligible to borrow funds from their OSGP account.

## ARTICLE IX - NON-ASSIGNMENT

Except as required by the terms of a domestic relations order as defined in IRS Private Letter Ruling 9145010, July 31, 1991, the Internal Revenue Code, as may be amended, and Plan provisions, Participant may not assign, anticipate, alienate, sell, transfer, pledge, or in any way encumber any of the rights Participant may have in the Employer's 457 Plan, as may be amended. Employer shall reject and refuse to honor any such purported action with respect to such rights. The interest of Participant or any beneficiary designated by Participant in Participant's Account or in any obligation established by this Plan-Trust Declaration shall not be subject to the claims of Participant's creditors or to legal process on behalf of Participant's creditors or be liable for the debts of any beneficiary.

## ARTICLE X - AVAILABILITY OF DEFERRED FUNDS

In no event will any amount payable under this Plan be paid or made available to Participant before the Participant incurs a Severance from Employment or is approved for an Unforeseeable Emergency or De Minimis distribution which are defined below. In no event may a Participant's Beneficiary or alternate payee under a QDRO receive a De Minimis distribution or a distribution for an Unforeseeable Emergency.

Severance from Employment shall be determined in the manner prescribed by the Internal Revenue Service. For purposes of this Plan, Participant will have a Severance from Employment on ceasing to render services for the Plan Sponsor, including services as a temporary employee. If a Participant returns to work with the Plan Sponsor, the Participant is no longer eligible for distributions except as otherwise expressly allowed under the Plan and the Internal Revenue Code. "Unforeseeable Emergency shall mean severe financial hardship to Participant resulting from a sudden and unexpected illness or accident of Participant or of Participant's dependent (as defined in Section 152(a) of the Internal Revenue Code), loss of Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond Participant's control. The circumstances that will constitute an Unforeseeable Emergency will depend upon the facts of each case, but in any case, payment may not be made to the extent that such hardship is or may be relieved: (i) through reimbursement of compensation by insurance or otherwise, (ii) by liquidation of Participant's assets, to the extent the liquidation would not itself cause severe financial hardship, or (iii) by cessation of deferrals under the Plan."

**De Minimis Distribution.** If a Participant's account has less than \$5,000 and the Participant has not contributed to the Plan for a minimum of two years, the Participant may request that the account balance be distributed to the Participant. A Participant may elect this option only once.

**Unforeseeable Emergency.** Upon the occurrence of an Unforeseeable Emergency, as defined above, Participant may submit an Unforeseeable Emergency Withdrawal Request on a form supplied by the Deferred Compensation Office. If the Deferred Compensation manager, or the manager's designee, approves the request, a distribution will be made in an amount consistent with the terms of this Plan and Agreement and reasonably needed to satisfy the emergency need.

**Loan.** If employer chooses to participate in the Loan Program, participants may be eligible to borrow funds from their OSGP account.

**Distribution After Severance from Employment.** Upon Participant's Severance from Employment, as defined above, Employer shall direct the record keeper to pay Participant the value of Participant's Account in the manner specified in Article XII.

## ARTICLE XI - PAYMENT UNDER THE PLAN

- (a) Upon Participant's Severance from Employment, as defined in Article X, Employer shall authorize payment to the Participant in accordance with Plan procedures; or
- (b) Upon the occurrence of an Unforeseeable Emergency, as defined in Article X. Participant may submit an Unforeseen Emergency Withdrawal Request on a form supplied by the Employer or TPA. The request, if approved, will be for only the amount of payment as is consistent with the terms of this Plan document and reasonably needed to satisfy the emergency need.

## ARTICLE XII - DISTRIBUTIONS

The Settlement Agreement, which must be completed by a Participant upon severance of employment when the Participant requests a distribution from the Plan, provides for the time and manner in which the value of the Participant's Account is to be paid following Severance from Employment. The Participant may make or change an election regarding the manner in which payments are to be made by completing and executing the "Manner of Payment" portion of the Settlement Agreement and delivering it to the Deferred Compensation Office at least 30 days before the payment commencement date. The "Payment Commencement Date" portion and the "Manner of Payment" portion of the Settlement Agreement shall become effective when executed by both Participant and Employer. The payment commencement date must be at least 30 days after the termination date. Notwithstanding the foregoing, however, the payment commencement date can be no later than April 1 following the calendar year in which Participant reaches age 70½ or incurs a Severance from Employment, whichever is later. The manner of payment selected must satisfy the requirements of Section 401(a)(9) of the Internal Revenue Code. If a Participant fails to elect a payment commencement date by the required beginning date as defined in OAR 459-050-0080, payments shall be made in accordance with IRC 401(a)(9). Account balances of less than \$1,000 shall be distributed as a lump sum within one year after the termination date.

## ARTICLE XIII - DISTRIBUTION TO BENEFICIARIES

If the Participant dies after having begun to receive distributions, the distribution of benefits must continue to the designated beneficiary at least as rapidly as under the schedule of payments elected by Participant. If Participant dies before having begun to receive distributions, Participant's entire Account must be distributed by December 31 of the calendar year that contains the fifth anniversary of Participant's death, unless the designated beneficiary elects within 60 days after the date the Deferred Compensation Office is notified of the Participant's death to have one of the following special rules apply:

- (a) **IF THE BENEFICIARY IS PARTICIPANT'S SURVIVING SPOUSE:** Distribution commencement date is no later than December 31 of the year in which the Participant would have reached age 70½ or the year that contains the first anniversary of Participant's death, whichever is later. Payments must be made over the spouse's life or a period no longer than the spouse's life expectancy.
- (b) **IF THE BENEFICIARY IS A PERSON OTHER THAN THE SURVIVING SPOUSE:** If the beneficiary was designated by the Participant, distributions must begin no later than December 31 of the year that contains the first anniversary of Participant's death. The entire Account must be paid over a period which does not exceed the beneficiary's life expectancy.
- (c) **IF THE BENEFICIARY WAS NOT DESIGNATED BY THE PARTICIPANT:** As defined in section 401(a)(9) of the Internal Revenue Code, the Participant's entire interest must be distributed to the Estate.

Distributions to the beneficiary may not commence until at least 30 days after the Employer or TPA receives notification of Participant's death.

## ARTICLE XIV - CATCH-UP ELECTION

Participants nearing normal retirement age may make up some or all of any deferrals they did not make during previous years of eligibility. For purposes of this Article, "normal retirement age" shall have the meaning given to that term under the retirement system of the plan sponsor. A Participant may elect to make additional catch-up contributions using either of the options listed below. These options may not be exercised simultaneously.

- (a) The earliest a Participant may exercise this catch-up option is three years before the Participant reaches normal retirement age. Within one to three years prior to the Participant's normal retirement, the Participant may make additional contributions, such that the sum of normal contributions and catch-up contributions does not exceed the lesser of:
- (i) twice the dollar amount in effect under Internal Revenue Code section 457(b)(2)(A) (\$16,500 in 2011 and as may be adjusted from time to time), or
  - (ii) the sum of the maximum contribution level available to the employee (the lesser of 100% of eligible income or the applicable dollar amount which is \$16,500 in 2011) plus so much of the maximum contribution level as was not previously used.
- (b) A Participant who has attained age fifty (50) before the close of the pay year may defer an amount in addition to the maximum contribution level, not to exceed the lesser of:
- (i) the dollar amount stated by the Internal Revenue Service (\$5,500 in 2011 and as may be adjusted from time to time); or
  - (ii) compensation as defined in IRC 415(c) less any other elective deferrals for the year.

## ARTICLE XV - PLAN-TO-PLAN TRANSFERS OUT OF THE PLAN

If Participant has a Severance from Employment under this Plan, and becomes employed by another Employer that sponsors a plan that accepts eligible rollover distributions under the Internal Revenue Code, including but not limited to an "eligible deferred compensation plan" under Section 457, Participant may request a transfer of his or her Account to the new Employer's plan. Such a transfer is subject to the terms and conditions of the plan receiving the funds.

## ARTICLE XVI - ACCEPTANCE OF DEFERRALS FROM ANOTHER PLAN

Compensation deferred by a Participant pursuant to another eligible plan, including but not limited to plans established under sections 401(k) and 403(b) of the Internal Revenue Code, IRAs, and a governmental employer's "eligible deferred compensation plan" within the meaning of Section 457 of the Internal Revenue Code, may be accepted by this Plan. Such amounts shall be credited to the Participant's Account established pursuant to this Plan-Trust Declaration and shall be subject to all the terms and provisions of the Plan, Oregon Revised Statutes, and the Oregon Administrative Rules, as they may be amended from time to time.

## ARTICLE XVII - REVOCATION

Participant may revoke participation in the Plan by providing telephonic instructions, by issuing instructions via the PERS/OSGP Internet site, or any other method that is in accordance with Plan procedures. Any revocation shall be effective only for compensation earned after the last day of the calendar month in which the revocation is submitted. Revocation of participation in the Plan will not accelerate payment of amounts deferred. Payment will occur only upon the occurrence of one of the specific events detailed in this Plan document.

**ARTICLE XVIII - DOMESTIC RELATIONS ORDER**

The Plan will comply with domestic relation orders as defined in IRS Private Letter Ruling 9145010, July 31, 1991, and as required under Plan provisions, Oregon law, the Internal Revenue Code, rules and regulations, as they may be amended from time to time.

**ARTICLE XIX - COMPLIANCE WITH INTERNAL REVENUE CODE SECTION 457**

This Plan document is intended to comply with and to be administered in a manner consistent with Section 457 of the Internal Revenue Code. The provisions of this Plan documents shall be interpreted in accordance with this intent. If requested by the Employer, the Participant agrees to cooperate in correcting any inconsistency in the administration of the Plan and Agreement under Section 457 of the Internal Revenue Code. The Plan shall be administered in accordance with Oregon law, the Internal Revenue Code, and applicable rules and regulations, as they may be amended from time to time.

**ARTICLE XX - AMENDMENT OF PLAN-TRUST DECLARATION**

Subject to the requirements of ORS 243.474 through 243.478, the Employer may amend this Plan-Trust Declaration at any time and without the consent of any other person. Any amendment must be in writing, and may be required if necessary to maintain compliance with Oregon law, the Internal Revenue Code, rules and regulations, as they may be amended from time to time. However, any amendment that would diminish the protection of Article II, "Account Held in Trust" is absolutely void.

NOW THEREFORE, in recognition of the premises recited above, and in consideration of the provisions stated by this Plan-Trust Declaration, and intending to be legally bound by this written Plan-Trust Declaration, the Employer as the Plan Administrator and the Plan-Trustee signed below.

\_\_\_\_\_  
Employer's Signature (Do not print)

\_\_\_\_\_  
Plan Trustee's Signature (Do not print)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# RESOLUTION FOR INCLUSION UNDER THE STATE OF OREGON DEFERRED COMPENSATION PLAN



## LOCAL GOVERNMENT PROGRAM

The \_\_\_\_\_ (Governing Body) of \_\_\_\_\_  
\_\_\_\_\_ (Employer), pursuant to the provisions of Oregon Revised

Statutes (ORS) 243.474, which provides in part that:

"A local government that establishes a deferred compensation plan may invest all or part of the plan's assets through the deferred compensation investment program established by the Oregon Investment Council (OIC) under ORS 243.421,"

Hereby determines to be included in the State of Oregon Deferred Compensation Investment Program, also known as the Oregon Savings Growth Plan, established by the OIC under ORS 243.421 and administered by the Public Employees Retirement Board according to ORS 243.435 for its eligible personnel.

**Be it further resolved** that the proper officers are herewith authorized and directed to take all actions and make such reductions and submit such deferrals as are required by the Public Employees Retirement Board of the State of Oregon pursuant to ORS 243.478 (1), and

**Be it further resolved** that Employer agrees to be bound by the terms and conditions of the contracts between the State, its investment providers and record keeping company, and the "Plan Document" as identified in ORS 243.401 to 243.507 and TPA services as amended from time to time. Specifically, without limitation, Employer agrees to appoint its governing body as Trustee of its Plan, as required by Section 457(g) of the Internal Revenue Code (IRC), 26 USC 457(g)(2). The Employer certifies it is an "eligible employer" under IRC Section 457(e)(1) and has received a copy of the Plan Document and TPA Services.

**Be it further resolved** that Employer shall submit a certified copy of this resolution and "Notification Memo" to the State of Oregon, Public Employees Retirement System (PERS) as the Plan Administrator.

**Be it further resolved** that the Governing Body and Employer, recognize the PERS Board's responsibility for maintaining the integrity of the Plan and hereby agree to cooperate fully with the Plan Administrator in accordance with procedures established by PERS, including without limitation in processing requests for withdrawal in case of an unforeseeable emergency as defined in IRC Sec. 457(b)(5) and Treasury Regulations 1.457-2(h)(4) and (5).

## DESIGNATION OF AGENT

The person in the following position is hereby designated as the agent in matters pertaining to the State of Oregon Deferred Compensation Investment Program.

Title \_\_\_\_\_

Agent \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_

E-mail address \_\_\_\_\_

Office Hours \_\_\_\_\_

Alternate Agent \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

SL3

## CERTIFICATION

I hereby certify that the foregoing resolution is a true, correct and complete copy of the resolution duly and regularly passed by the \_\_\_\_\_ (Governing Body) of \_\_\_\_\_

(Employer Name) of \_\_\_\_\_ (County) on the \_\_\_\_\_ day of \_\_\_\_\_ and that this resolution has not been repealed or amended, and is now in full force and effect.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

X

\_\_\_\_\_  
Governing Body Authorized Signature

\_\_\_\_\_  
Title

Mailing Address

## NOTIFICATION MEMO

Employer Name	Daytime Phone
Address	County
City, State, Zip	Federal Identification Number
Number of Employees	PERS Employer Number
Employer Representative (Name)	

## PAYROLL DATA

1. Deferral will be submitted by: \_\_\_\_\_ Check \_\_\_\_\_ Wire. Back-up documentation containing the participants' demographic information and deferral amounts must be included.
2. Normal payday (i.e., every Thursday, every other Friday, etc): \_\_\_\_\_
  - a) Attach payday schedule for a calendar year
  - b) Number of employees on this pay mode: \_\_\_\_\_
3. Participants are able to indicate upon enrollment whether deferral amount shall be indicated in dollar amount or as percentage of salary per pay period. Please indicate your preference:  
\_\_\_\_ We will accept deferral indicated in dollars **or** percentage of salary.  
\_\_\_\_ We will accept deferral indicated in dollars **only**.
4. The initial and amended payroll reduction authorization, forms and Letters of Transmittal should be sent to:

Name	Title
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5. Payroll Reduction Listing that will be sent prior to each pay day should be sent to:

Name	Title
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# *REQUEST FOR COUNCIL ACTION*

**DATE ACTION REQUESTED: June 16, 2014**

<b>Order</b> ___	<b>Ordinance</b> ___	<b>Resolution</b> <u>XX</u>	<b>Motion</b> ___	<b>Information</b> ___
<b>No.</b>	<b>No.</b>	<b>No. 2014-3147</b>		

**SUBJECT: A resolution to affirm the bids received by the Oregon Department of Transportation for the N. College Street Sidewalk and Bike Lanes Improvement Project.**

**Contact Person (Preparer) for this Motion: Paul Chiu, P.E., Senior Engineer  
Dept.: Engineering Services Department  
File No.:**

**RECOMMENDATION:**

Adopt Resolution No. 2014-3147 to affirm the bids received by the Oregon Department of Transportation (ODOT) on May 22, 2014.

**EXECUTIVE SUMMARY:**

The proposed N. College Street westside sidewalk and bike lanes improvement project begins at Deskins Street, north of the Illinois Street intersection, and ends at the Aldercrest Drive intersection. ODOT advertised this project (that was designed by their consultant, OTAK, Inc.) and four bids were received by ODOT on May 22, 2014. The four qualified bid results are listed below in ascending values:

R&R General Contractors, Inc. ....	\$ 973,500.00
Nutter Corporation .....	\$1,059,909.00
Subcom Excavation & Utilities, LLC. ....	\$1,221,000.00
E & E Excavating .....	\$1,229,450.00

Resolution No. 2013-3052, adopted by Council on June 17, 2013, stated that the cost for the construction of this project will be re-evaluated to affirm or modify the project limits and/or adjust the funding commitments from ODOT and the city.

The lowest qualified bidder is R&R General Contractors, Inc. However, their bid was \$119,000.00 over the engineer's (OTAK, Inc.) construction estimate.

On May 28, 2014, ODOT indicated that they will provide additional funding (an increased proportional share by the ODOT Transportation Enhancement grant funding), to cover the increase project cost. ODOT is expected to provide a response to the city within the next few weeks. Note that additional funding from ODOT would not be subject to additional city's matching funds.

**FISCAL IMPACT:**

The required construction funds are budgeted in the current fiscal year 2013/14 budget under account number 18-5150-702165. The city has paid the required contribution to ODOT. A final assessment will also be prepared for the College Street Local Improvement District, approved by Ordinance No. 2013-2769, after the construction is completed by the end of this year.

**STRATEGIC ASSESSMENT:**

This project provides an essential pedestrian and bicyclist connection along a major state and city transportation corridor in accordance with the city's Transportation System Plan.



# RESOLUTION No. 2014-3147

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**A RESOLUTION AFFIRMING THE BIDS RECEIVED BY THE OREGON DEPARTMENT OF TRANSPORTATION FOR THE NORTH COLLEGE STREET SIDEWALK AND BIKE LANES IMPROVEMENT PROJECT**

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**RECITALS:**

1. On May 22, 2014, the Oregon Department of Transportation (ODOT) received four bids for the construction of the N. College Street Sidewalk and Bike Lanes Improvement Project. The project is located along North College Street, or State Highway 219, from Illinois Street to Aldercrest Drive.

2. The four qualified bid results are listed below in ascending values:

R&R General Contractors, Inc. ....	\$ 973,500.00
Nutter Corporation .....	\$1,059,909.00
Subcom Excavation & Utilities, LLC. ....	\$1,221,000.00
E & E Excavating .....	\$1,229,450.00

The lowest bid is \$119,000.00 over the engineer's (OTAK, Inc.) construction estimate.

3. Resolution No. 2013-3052, adopted by council on June 17, 2013, stated that the cost for the construction of this project will be re-evaluated to affirm or modify the project limits and/or adjust the funding commitments from ODOT and the city.

4. ODOT indicated that the city may receive additional ODOT Transportation Enhancement grant funding which is not subject to additional city's matching funds. The required construction funds are budgeted in this current fiscal year budget under account number 18-5150-702165.

5. Construction of over 2,000 linear feet of half street improvements (including curbs and gutters, concrete sidewalk, stormwater retention facilities, street trees and related items) on North College Street will begin in July and will be completed in October, 2014.

6. A final assessment will also be prepared for the College Street Local Improvement District under Ordinance No. 2013-2769 after the construction is completed by the end of this year.

**THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

The city council, acting as contract review board for the city, does hereby affirm the bids received by the Oregon Department of Transportation for the North College Street Sidewalk and Bike Lanes Improvement Project, which is administered through an ODOT construction contract.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 17, 2014.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 16<sup>th</sup> day of June, 2014.

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of June, 2014.

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Bob Andrews, Mayor

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# REQUEST FOR COUNCIL ACTION

**DATE ACTION REQUESTED: June 16, 2014**

<b>Order ___ No.</b>	<b>Ordinance ___ No.</b>	<b>Resolution <u>XX</u> No. 2014-3148</b>	<b>Motion ___</b>	<b>Information ___</b>
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**SUBJECT: To authorize the City Manager to execute Amendment No. 3 to the Professional Services Agreement with Parametrix, Inc. to complete additional relocation design work as requested by the Oregon Department of Transportation for the Wynooski to Riverfront Utilities Project in the amount of \$80,627.00, and to negotiate and approve any future contract amendments as needed not to exceed an additional 15 percent of the revised contract amount of \$971,397.00.**

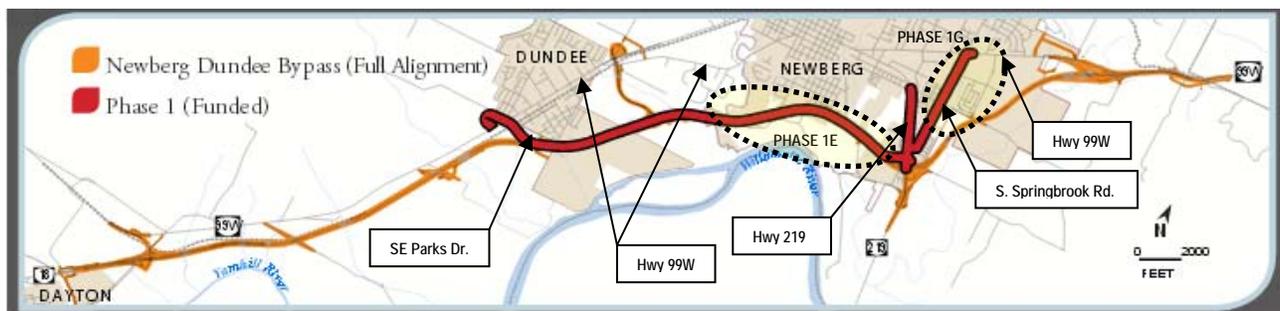
Contact Person (Preparer) for this Motion: Paul Chiu, P.E., Senior Engineer  
Dept.: Engineering Services Department  
File No.:

**RECOMMENDATION:**

Adopt Resolution No. 2014-3148 authorizing the City Manager Pro Tem to execute Amendment No. 3 to the Professional Services Agreement with Parametrix, Inc. to complete additional relocation design work as requested by the Oregon Department of Transportation (ODOT) for the Wynooski to Riverfront Utilities Project in the amount of \$80,627.00, and to negotiate and approve any future contract amendments as needed not to exceed an additional 15 percent of the revised contract amount of \$971,397.00.

**EXECUTIVE SUMMARY:**

On October 24, 2013, the city executed a professional services agreement with Parametrix, Inc., as authorized by Resolution No. 2013-3083 in the amount of \$678,394.00, passed by Council on October 7, 2013, to complete the design for the utilities relocation on S. Springbrook Road (known as Phase 1G of the ODOT Newberg-Dundee Bypass Project), and for the Wynooski to Riverfront Utilities Project (known as Phase 1E of the ODOT Newberg-Dundee Bypass Project).



On January 24, 2014, ODOT authorized the city to perform additional utility relocation work (design and construction) to resolve the Avalon Mobile Home Park wastewater force main conflicts in Sandoz Road, and agreed that this additional work is fully reimbursable by ODOT. The design for the needed work by Parametrix, Inc. resulted in the first contract amendment for \$52,296.00.

On February 20, 2014, ODOT identified new utility conflicts with the city’s existing wastewater conveyance system in River Street due to the proposed bridge shoring for the bypass structure over River Street, and other related issues created by the bypass project. These additional conflicts for Phase 1E of the Newberg-

Dundee Bypass Project created the need for a second contract amendment in the amount of \$160,080.00 with Parametrix, Inc., which was authorized by Resolution No. 2014-3120, passed by Council on March 17, 2014.

On May 20, 2014, ODOT approved a complete relocation of the city's existing 30 inch diameter wastewater trunk line in 12th Street between Pacific Street and River Street. The proposal is to reroute it into 11th Street from Pacific to River, thence down River Street, passing under the elevated portion of the proposed bypass bridge structure. This creates the need for a new contract amendment with Parametrix, Inc. that will exceed 10 percent of the original contract amount. Therefore, staff is requesting the Council to authorize the City Manager Pro Tem to execute Amendment No. 3 for the professional services agreement with Parametrix, Inc., and to further authorize any future contract negotiations and amendments as needed not to exceed an additional 15 percent of the revised total contract amount of \$971,397.00.

**FISCAL IMPACT:**

Parametrix, Inc. submitted a detailed amendment outlining the scope of work for the proposed Amendment No. 3 with a justifiable phase-by-phase cost breakdown, which is attached as Exhibit "A" and by this reference incorporated.

The original contract (\$678,394.00), the executed Amendment No. 1 (\$52,296.00), and Amendment No. 2 (\$160,080.00) totaled \$890,770.00. The proposed Amendment No. 3 (\$80,627.00) will increase the consultant contract to a total of \$971,397.00, which exceeds 10 percent of the original contract amount. The additional work to mitigate the conflicts in 11th/12th Street is fully reimbursable by ODOT. Contract Amendment No. 3 is funded by account number 04-5150-706414 (wastewater).

**STRATEGIC ASSESSMENT:**

Amendment No. 3 for the professional services agreement with Parametrix, Inc. is needed by the city to meet ODOT's request to resolve additional utility conflicts created by the bypass project in the southern portions of the city. The city's design for the next phase (Phase 1G) of the bypass related project by the consultant has just started. Therefore, it is prudent for staff to seek Council approved flexibility to negotiate and expedite any future contract amendments with the consultant when needs arise.



## RESOLUTION No. 2014-3148

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**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARAMETRIX, INC. TO COMPLETE ADDITIONAL RELOCATION DESIGN WORK AS REQUESTED BY THE OREGON DEPARTMENT OF TRANSPORTATION FOR THE WYNOOSKI TO RIVERFRONT UTILITIES PROJECT IN THE AMOUNT OF \$80,627.00, AND TO NEGOTIATE AND APPROVE ANY FUTURE CONTRACT AMENDMENTS AS NEEDED NOT TO EXCEED AN ADDITIONAL 15 PERCENT OF THE REVISED CONTRACT AMOUNT OF \$971,397.00.**

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### RECITALS:

1. On October 24, 2013, the city executed a professional services agreement with Parametrix, Inc. in the amount of \$678,394.00, as authorized by Resolution No. 2013-3083 passed by council on October 7, 2013, to complete the city's utilities design on S. Springbrook Road (known as Phase 1G of the Oregon Department of Transportation (ODOT) Newberg-Dundee Bypass Project) and the utilities relocation design for the Wynooski to Riverfront Utilities Project (known as Phase 1E of the ODOT Newberg-Dundee Bypass Project).
2. On January 24, 2014, ODOT authorized the city to perform additional work (design and construction) to resolve the Avalon Mobile Home Park sewer force main conflicts on Sandoz Road, resulted in the first contract amendment with Parametrix, Inc. for \$52,296.00.
3. On February 20, 2014, ODOT identified new utility conflicts for the city's existing wastewater conveyance system due to the proposed bridge shoring for the bypass structure over River Street, and required the city to also evaluate the structural integrity for the city's Pacific Street wastewater conveyance system that will be impacted by the bypass project. Contract Amendment No. 2 for \$160,080.00 was approved by Council by Resolution No. 2014-3120.
4. On May 20, 2014, after a careful review of the facts provided by the city for the Pacific Street wastewater conveyance system, ODOT determined that it is in ODOT's best interest long term to relocate the trunk line in 12<sup>th</sup> Street between Pacific Street and River Street. The selected option is to reroute it into 11th Street from Pacific to River, thence down River Street, passing under the elevated portion of the proposed bypass bridge structure. This option has the compelling advantage of resolving not only the immediate Phase 1E conflict but also will resolve potential future conflicts with the full build out bypass project.
5. The above mitigation for the wastewater system conflicts creates the need for additional consultant design work, increasing the total contract over 10 percent of the original contract amount. Therefore, staff is requesting the council to authorize the City Manager Pro Tem to execute Amendment No. 3 for the professional services agreement with Parametrix, Inc., and to further authorize future contract negotiations and amendments as needed not to exceed an additional 15 percent of the revised contract amount of \$971,397.00.

6. Parametrix, Inc. submitted a detailed amendment outlining the scope of work for the proposed Amendment No. 3 with a justifiable phase-by-phase cost breakdown, which is attached as Exhibit A, and hereby adopted and by this reference incorporated. The existing trunk line will be upsized from 30 inch diameter to 36 inch diameter per current wastewater conveyance master plan.
7. ODOT will reimburse the city for all eligible costs for the additional work requested by ODOT. However, the cost difference between the 30 inch and the 36 inch diameter trunk line is not reimbursable. The reimbursements are subject to ODOT's final review and approval.

**THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

1. The city council, acting as contract review board for the city, does hereby authorize the city manager to execute Amendment No. 3 for the professional services agreement with Parametrix, Inc. to complete additional utilities relocation design work requested by ODOT for the Wyooski to Riverfront Utilities Project in the amount of \$80,627.00.
2. The city council, acting as contract review board for the city, does hereby authorize staff to enter contract negotiations and execute amendments as needed in future, not to exceed an additional 15% of the revised contract amount of \$971,397.00.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 17, 2014.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 16<sup>th</sup> day of June, 2014.

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of June, 2014.

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Bob Andrews, Mayor

700 NE MULTNOMAH, SUITE 1000  
PORTLAND, OR 97232-4110  
T. 503.233.2400 T. 360.694.5020 F. 503.233.4825  
www.parametrix.com

May 28, 2014  
PMX No. 276-2253-003

Mr. Paul Chiu  
Senior Engineer  
City of Newberg  
414 E. First Street  
Newberg, OR 97132

Re: NSU - Amendment 3

Dear Mr. Chiu:

As discussed, enclosed are the following documents related to Amendment 3 for the Springbrook Road Utility Project:

- 1) Scope of Work
- 2) Cost Estimate

Feel free to give me a call at 503-416-6075 if you have any questions.

Best Regards,



Derik Vowels

Sr. Project Manager

CC: Tom Nielsen, Erik Dee-Olsen

SENT VIA EMAIL

## SCOPE OF WORK

### City of Newberg

### The Springbrook Road Utility Design Project

### Amendment 3 – 11th/12th Street Sewers, Additional Construction Phase Services

#### Phase 23 – Task V008 – 11th and 12th Street Sewer Conflicts

##### Subtask V0082 Geotechnical Support

This scope involves reviewing existing geotechnical data from ODOT for the Newberg Dundee Bypass Project, conducting a site visit, assessing potential pipeline settlement, evaluating mitigation approach, and participating in design meetings. This subtask consists of the following elements:

- Review Geotechnical Information. Shannon and Wilson, Inc. (SWI) will review available ODOT geotechnical data in the project vicinity and an existing geotechnical report issued by SWI, dated January 15, 2014. No site visit or field explorations are required.
- Engineering Evaluation and Construction Considerations. Based on the review of the previous borings and geotechnical report, SWI will perform engineering evaluations and provide construction considerations for the following:
  - Suitability of on-site materials for use as trench backfill;
  - A potential shallow aquifer in the area;
  - Estimated depths to groundwater;
  - Permeability of the native soil for dewatering;
  - Conceptual recommendations for dewatering and shoring; and
  - Recommendations for settlement monitoring for nearby structures related to dewatering and shoring, if needed.
- Geotechnical Letter Report. SWI will summarize our review information, the subsurface conditions, our engineering evaluation, and our recommendations for construction considerations in a geotechnical letter report. Draft and final letter reports will be prepared and delivered as electronic files.
- Review and Respond to Contractor's Submittals. SWI will review and address geotechnical-related contractor's submittals for the pipeline. Based upon our previous experience on similar projects, SWI may have to review and respond to each submittal two to three times. At the present time, the anticipated submittals will include the following items:
  - Shoring
  - Dewatering
  - Fill materials

##### **Assumptions:**

- ODOT will provide its geotechnical report and supporting boring logs.

- The ODOT geotechnical engineer will be available for discussions of existing subsurface conditions and design criteria.
- No additional subsurface borings, test pits, or testing are needed. The existing subsurface data are available from ODOT and those will be satisfactory to complete the designs described in Amendment 3.
- Parametrix will coordinate with geotechnical engineer during the review process.
- No site visits will be conducted.
- Designs for dewatering and shoring are not included in the scope.
- SWI will participate in conference calls for consultation during construction.

**Deliverables:**

- A concise draft and final geotechnical memorandum in electronic format.

**Subtask V0083 Design**

This subtask consists of the following elements:

- Conduct site visits to review existing field conditions.
- Meet with City of Newberg to discuss the following:
  - Review the scope of work.
  - Review of record drawings and compare to know differences from existing conditions.
  - Summarize Sewer Master Plan flows and anticipated sewer sizes in the project area.
  - Identify city preferences.
  - Existing service connections to be relocated.
  - Methods of redirecting existing flows from the sewers entering the 11th Street sewer from the north.
  - Removal and replacement of one manhole, redirecting flows, and connecting to the existing manholes in 12th and River Street.
  - Maintaining existing flow and sewer service.
- Meet with construction contractor to review the issues discussed with City, constructability, shoring, dewatering, temporary flow needs, schedule, and needed submittals.
- Prepare design drawings and details to implement the Option G as outlined in the *Mitigation of Conflicts with ODOT Newberg Dundee Bypass Phase 1E and 11th and 12th Street Sewers in the City of Newberg, April 2014, Parametrix.*
  - Relocate the manhole to the west on 12th Street west of S. River.
  - Abandon the 8" clay sewer in 12th Street. The houses and services to it are being removed for the bypass construction.

- Reroute the existing 27" sewer to the new 36" sewer at the intersection of 11th St and River St; abandon the remaining portion of the 27" sewer between 11th St and 12th St.
- Install 1,350 feet of new 36" sewer from 12th St and River, north to 11th and east to Pacific St.
- Address temporary pumping, dewatering, and shoring for proposed construction.
- Prepare Erosion & Sediment Control Plans and details.
- Prepare construction cost estimate.

***Assumptions:***

- The drawings will be prepared in three phases: (1) conceptual draft form, (2) first draft form (90%) for City and MSA review, and (3) PE stamped ready for construction based on City and MSA comments.
- Up to two Parametrix staff will attend each of the following four meetings. Up to 6 hours per meeting has been allocated and includes time for travel, meetings, and preparation. All meetings will be in Newberg unless otherwise indicated. The four meetings include:
  - With City to discuss scope of work, preferences, and approaches.
  - With construction contractor at Parametrix office.
  - With City to review conceptual draft design.
  - With City and MSA to review 90% draft design.
- Parametrix staff will conduct three site visits to assess the site conditions and compare data to field conditions during design. Up to 8 hours per visit have been allocated, and this includes time for travel, on-site activity, and follow-up.
- The feasibility of sewer relocations is dependent on existing manhole inverts.
- Existing sewer services to be retained is fixed.
- City standard details will be used for sewer services and manholes.
- The design will be based on ODOT's proposed design for near-term and the future lanes for Phase 1E.
- The construction work will be conducted as part of a change order executed under the existing contract between the City and Nutter Construction. The specifications, special provisions, and standard details included in that contract will be used for the proposed work. No work is anticipated for preparing bidding, contract, and material procurement-type documents.

***Deliverables:***

- Three plan and profile design drawings and two drawings of details will be prepared.
- Special Provisions addressing protective measures, dewatering, and shoring.
- Erosion & Sediment Control Plans.
- Construction cost estimate.

### **Subtask V0084 Construction Phase Support**

This subtask consists of the following additional elements not outlined in Amendment 2:

- Coordinate with the City staff and the contractor on design clarifications during construction.
- Review construction submittals.
- Conduct site visits to observe construction progress, attend progress meetings, and “punchlist” visits.

#### ***Assumptions:***

- Construction duration is 6 weeks, commencing in August 2014.
- An additional allowance of 15 hours has been allocated for submittal processing.
- An allowance of six technical staff hours per week for coordination with the City and contractor on design intent and minor revisions. Administrative support is 2 hours per week to maintain submittal and RFI logs, project filing, and process invoices.
- Up to six site visits will be conducted assuming 8 hours per visit which includes time for preparation, attendance, travel, and preparation of a site visit report.

#### ***Deliverables:***

- Email responses to contractor submittals and RFIs.
- Site visit reports delivered by email.

### **Phase 4 Bid & Construction Phase Assistance / Task 4222 Office Engineering Support**

An additional 70 hours have been allocated for reviewing and responding to technical submittals, test results, RFIs, and any other general technical support requested by the City.

### **Phase 5 Additional Support / Task 5200 – Added Design**

Transfer \$10,679, balance of Added Design budget from Phase 23 (1E) / Task V003, to Task 5200 as an allowance to be applied to future additional design requests from the City.

City of Newberg Utility Improvements Ahead of ODOT Bypass Project  
 Amendment 3 - Design 11/12th St Sewer  
 Estimate of Effort

Phase/Task	Phase and Task Description	Labor Classification:	HOURS	Parametrix Labor	Sub-Consultant Shannon & Wilson	Expenses	Total
<b>23</b>	<b>1E Design</b>						
V003	Added Design		-80	-\$10,530		-\$149	-\$10,679
V082	Geotechnical Support - 11th and 12th Street Sewer Conflicts		13	\$1,945	\$5,500	\$200	\$7,645
V083	Design - 11th and 12th Street Sewer Conflicts		331	\$40,908		\$4,100	\$45,008
V084	Construction Phase Support - 11th and 12th Street Sewer Conflicts		123	\$16,200		\$1,630	\$17,830
<b>4</b>	<b>Bidding and Construction Phase Support</b>						
4222	Office Engineering		70	\$9,214		\$930	\$10,144
<b>5</b>	<b>Additional Support</b>						
5200	Added Design		80	\$10,530		\$149	\$10,679
<b>TOTALS</b>			<b>617</b>	<b>\$68,267</b>	<b>\$5,500</b>	<b>\$6,860</b>	<b>\$80,627</b>

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 16, 2014

Order \_\_\_      Ordinance \_\_\_      Resolution XX      Motion \_\_\_      Information \_\_\_  
No.              No.              No. 2014-3150

**SUBJECT: Adopt Resolution 2014-3150 revising existing alcohol usage on City of Newberg owned property within the Newberg Cultural District.**

Contact Person (Preparer) for this Motion:  
Leah M. Griffith, Library Director & Newberg Cultural District Executive Board Chair and Truman Stone, City Attorney

Dept.: Library/Newberg Cultural District  
File No.:

## RECOMMENDATION:

Adopt Resolution No. 2014-3150 revising existing alcohol policies on City of Newberg owned property to be consistent with the rest of the Newberg Cultural District.

## EXECUTIVE SUMMARY:

On May 18, 2009, the City Council adopted an Alcohol Use Policy for the Newberg Public Library and the Library's Carnegie Court. That policy only allows wine and requires the city manager and library director to directly sign off on the applications and requires the city manager or library director to be present at all functions where alcohol is served. This policy was appropriate at the time as the area had not been developed.

Now the Library's Carnegie Court as well as Howard and Sheridan Streets are part of the Newberg Cultural District and events are being held in the entirety of the core of the District which includes property owned by Chehalem Park and Recreation District and managed by the Chehalem Cultural Center. The CPRD and CCC rules allow for alcoholic beverages and do not limit to just wine. Having the City and Library areas under different rules makes it very difficult for events to operate and was one of the reasons that the Oktoberfest moved to Memorial Park.

This change in policy would allow the serving of alcoholic beverages on city owned property (outside only) within the Newberg Cultural District. Any organization desiring to serve alcohol would be required to comply with all OLCC regulations and include the City on an insurance liquor rider for \$1,000,000.

This policy will be included in the general rules for the Newberg Cultural District that will come before Council later in August or September; however the change in the alcohol policy needs to take effect before Tunes on Tuesday starts on July 8<sup>th</sup>.

## FISCAL IMPACT:

No fiscal impact is expected should the Council pass this resolution.



## RESOLUTION No. 2014-3150

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**A RESOLUTION REVISING THE CITY'S ALCOHOL USE POLICY  
RELATING TO CITY OWNED PROPERTY IN THE CENTER OF THE  
NEWBERG CULTURAL DISTRICT**

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### RECITALS:

1. The city of Newberg is responsible for protecting the health, safety and welfare of its citizens.
2. The city of Newberg has signed an intergovernmental agreement delegating operations of the Newberg Cultural District to an executive board made up of members representing the city, Chehalem Park and Recreation District, Chehalem Cultural Center, Newberg Public Library and neighbors of the district.
3. The Newberg Cultural District is an important area within the community and the city of Newberg needs to occasionally revise policies to make the most efficient and effective use of the area in conjunction with the other property owners in the District.
4. This resolution modifies the city's Alcohol Use Policy that was adopted by motion of the council on May 18, 2009.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The city of Newberg shall allow spirits to be dispensed and consumed on city owned outdoor property within the Newberg Cultural District and delegate to the Newberg Cultural District Executive Board or designees, the management of those permits, which will include following all OLCC requirements as well as the requirement that any renter/user have an insurance rider of \$1,000,000.00 specifically naming the city of Newberg.
2. The Newberg-Dundee Police Reserves, or an acceptable equivalent to the chief of police, will be present at all events which include alcohol.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 17, 2014.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 16<sup>th</sup> day of June, 2014.

\_\_\_\_\_  
Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of June, 2014.

\_\_\_\_\_  
Bob Andrews, Mayor

# REQUEST FOR COUNCIL ACTION

**DATE ACTION REQUESTED: June 16, 2014**

<b>Order ___ No.</b>	<b>Ordinance ___ No.</b>	<b>Resolution <u>XX</u> No. 2014-3152</b>	<b>Motion ___</b>	<b>Information ___</b>
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**SUBJECT: Resolution approving the purchase of a replacement 280 HP wastewater influent pump from Xylem Water Solutions for \$79,029.03**

**Contact Person (Preparer) for this Motion: Russ Reed, Interim Superintendent  
Dept.: Public Works Operations Division  
File No.:**

**RECOMMENDATION:**

Adopt Resolution No. 2014-3152 approving the purchase of a replacement 280 HP influent pump in the amount of \$79,029.03 from Xylem Water Solutions.

**EXECUTIVE SUMMARY:**

The City currently owns and operates an influent pump station at the Wastewater Treatment Plant. The pump station consists of two 4.5 million-gallon-day (MGD) pumps and two 9.0 MGD pumps. Influent pump #4, one of the larger 9.0 MGD pumps has failed and needs to be replaced.

Influent pump #4 provides 33% of maximum pumping capacity into the Wastewater Treatment Plant and must be replaced before winter 2014. In the past five years, influent pumps #1, #2 and #3 have been replaced. During this same period, influent pump #4 has been pulled and reconditioned several times. However, at this juncture, it can no longer be dependably rehabilitated.

Influent pump #4 uses an older, obsolete impeller design, which does not allow it to chop and/or shred debris as it enters the pump station. Thus, it is prone to clogging up and requiring it to be pulled from the pump station and cleaned frequently. This obsolete design also impairs its capacity, even when not clogged. This pump has required removal twice during the past winter season of high flows. None of the other three newer pumps were required to be removed during last winters the high flow periods. The seals on the aging influent pump #4 are also failing and cannot be repaired due to the age and unavailability of parts for this model of pump.

The replacement Flygt 280 HP pump being considered for purchase has numerous safety and operational improvements that will increase the pumps efficiency, reduce operations and maintenance costs, enhance safety, and provide the city with a level of reliability that is not available with the current equipment.

**FISCAL IMPACT:**

The purchase of the new replacement pump is proposed to be funded from the FY 2014-2015 budget, from the equipment replacement reserve account 06-5131-610000. The lead time for the manufacturing and delivery of the new replacement pump is estimated to be four months.

**STRATEGIC ASSESSMENT:**

This purchase of the replacement pump will allow the Public Works Operations Division to meet existing flow requirements at the existing wastewater treatment plant influent pump station, allowing for lower future operation and maintenance costs, increase operator safety, and will improve overall plant efficiency.



## RESOLUTION No. 2014-3152

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**A RESOLUTION APPROVING THE PURCHASE OF A REPLACEMENT  
280 HP WASTEWATER INFLUENT PUMP FROM XYLEM WATER  
SOLUTIONS FOR \$79,029.03**

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### RECITALS:

1. The city of Newberg Public Works Operations Department operates an influent pump station at the wastewater treatment plant.
2. One of the 9.0 MGD pumps within this pump station has failed repeatedly and outlived its normal life expectancy. The city now runs the risk of not pumping wintertime wastewater flows into the wastewater treatment plant with this failing equipment.
3. Replacement of the influent pump will allow staff to maintain the flow into the wastewater treatment plant and continue to meet the safety and state permit needs of the City.
4. The city selects Xylem Water Solutions to provide a new 280 HP submersible pump at a cost of \$79,029.03.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The city council, acting as the contract review board, authorizes the city manager to enter into all contracts and agreements for the purchase of a replacement 280 HP submersible influent pump.
2. The city attorney will modify and approve all contracts and agreements as to form and content.
3. The city will purchase the new 280 HP submersible pump by using funds from the wastewater equipment replacement account 06-5131-610000 from the FY 2014/2015 budget.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 17, 2014

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 16<sup>th</sup> day of June 2014.

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Norma Alley, MMC, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of June 2014.

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Bob Andrews, Mayor

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 16, 2014

Order ___ No.	Ordinance ___ No.	Resolution <u>XX</u> No. 2014-3153	Motion ___	Information ___
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**SUBJECT:** Canvass of Votes for the May 20, 2014, Primary Election.

Contact Person (Preparer) for this Motion: Norma Alley, City Recorder  
Dept.: Administration

## RECOMMENDATION:

Adopt Resolution No. 2014-3153 accepting the canvass of votes for the May 20, 2014, Primary Election.

## EXECUTIVE SUMMARY:

At the May 20, 2014, Primary Election, the city placed on the ballot before the voters of the city the following item:

### MEASURE

#### *Annexation:*

- Annexing 7.2 acres at 108 S. Springbrook Road into Newberg – (Measure No. 36-163) **PASSED**

On June 5, 2014, the City received from Yamhill County Clerk Brian Van Bergen, a certificate certifying the true, actual, and final results (Canvass Report) of the May 20, 2014, Primary Election.

In accordance with the Newberg Municipal Code and state law, the city should accept the results as presented by the county clerk.

## FISCAL IMPACT:

The annexation will add new property to the city's tax rolls.

## STRATEGIC ASSESSMENT:

There were no election violations, all deadlines and requirements were met in a timely manner by the city recorder, and the annexation passed. The property met the land use criteria for annexation.



## RESOLUTION No. 2014-3153

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**A RESOLUTION ACCEPTING THE CANVASS OF VOTES (CANVASS REPORT) FOR THE MAY 20, 2014, PRIMARY ELECTION, AS PROVIDED BY YAMHILL COUNTY CLERK BRIAN VAN BERGEN FOR ONE MEASURE (ANNEXATION) – MEASURE 36-163**

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### RECITALS:

1. At the May 20, 2014, Primary Election, the city placed on the ballot before the voters of the city a measure annexing 7.2 acres at 108 S. Springbrook Road into Newberg – (Measure No. 36-163).
2. On June 5, 2014, the city received from Yamhill County Clerk Brian Van Bergen, a certificate certifying the true, actual, and final results (Canvass Report) of the May 20, 2014, Primary Election.
3. In accordance with the Newberg Municipal Code and state law, the city should accept the results as presented by the county clerk.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The city accepts the Canvass Report of the Yamhill County Clerk certifying the true, actual, and final results (canvass of votes) for the May 20, 2014, Primary Election. A copy of the Canvass Report showing the final results is attached as Exhibit A, which is hereby adopted and by this reference incorporated.
2. Based upon these results, the city declares the following measure to have passed.

#### **MEASURE**

##### *Annexation:*

- Annexing 7.2 acres at 108 S. Springbrook Road into Newberg – (Measure No. 36-163) **PASSED**

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 16, 2014.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 16<sup>th</sup> day of June, 2014.

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of June, 2014.

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Bob Andrews, Mayor

**City of Newberg Canvass Report — Total Voters — Official  
Yamhill County, Oregon — || May 20, 2014 Primary Election — May 20, 2014**

06/04/2014 04:22 PM  
Precincts Reporting 21 of 21 = 100.00%  
District Precincts Reporting 3 of 3 = 100.00%

Page 1 of 1

Total Number of Voters : 21,302 of 51,203 = 41.60%  
Number of District Voters: 3,926 of 10,916 = 35.9

**Measure 36-163 ANNEXING 7.2 ACRES AT 108 S. SPRINGBROOK ROAD INTO NEWBERG. - || Non Partisan**

Precinct	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	YES	NO	Totals
PRE0002	0	1161	1161	3572	32.50%	683	383	1066
PRE0003	0	1545	1545	4210	36.70%	973	461	1434
PRE0004	0	1220	1220	3134	38.93%	744	349	1093
<b>Totals</b>	<b>0</b>	<b>3926</b>	<b>3926</b>	<b>10916</b>		<b>2400</b>	<b>1193</b>	<b>3593</b>

  
 I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE TALLY OF VOTES CAST AT THE ELECTION INDICATED.  
 SIGNATURE OF COUNTY CLERK: *[Signature]*  
 DATE OF ABSTRACT: 6.4.14

**City of Newberg Cumulative Report — Official  
Yamhill County, Oregon — || May 20, 2014 Primary Election — May 20, 2014**

Page 1 of 1

06/04/2014 04:22 PM

Precincts Reporting 21 of 21 = 100.00%  
District Precincts Reporting 3 of 3 = 100.00%

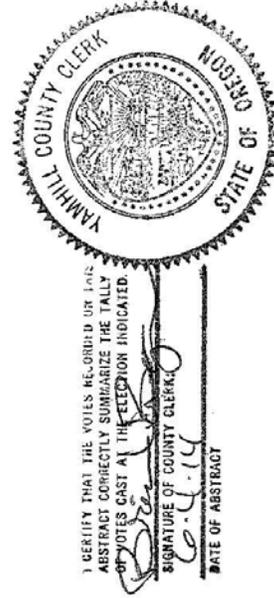
Total Number of Voters : 21,302 of 51,203 = 41.60%  
Number of District Voters: 3,926 of 10,916 = 35.97%

Party	Candidate	Early	Election	Total
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Measure 36-163 ANNEXING 7.2 ACRES AT 108 S. SPRINGBROOK ROAD INTO NEWBERG., Vote For 1 || Non Partisan

YES	0	0.00%	2,400	66.80%	2,400	66.80%
NO	0	0.00%	1,193	33.20%	1,193	33.20%
	0	0.00%	3,593	91.52%	3,593	91.52%
Cast Votes:	0	0.00%	0	0.00%	0	0.00%
Over Votes:	0	0.00%	333	8.48%	333	8.48%
Under Votes:	0	0.00%				

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
3	3	100.00%	3,926	10,916	35.97%



# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 19, 2014

Order \_\_\_ Ordinance XX Resolution \_\_\_ Motion \_\_\_ Information \_\_\_  
No. No. 2014-2771 No.

**SUBJECT: Increase transient lodging tax from 6% to 7.5% effective October 1, 2014 and then to 9% on July 1, 2015.**

Contact Person (Preparer) for this  
Motion: Janelle Nordyke  
Dept.: Finance  
File No.:

HEARING TYPE:  LEGISLATIVE  QUASI-JUDICIAL  NOT APPLICABLE

## RECOMMENDATION:

Adopt Ordinance No. 2014-2771 to Increase transient lodging tax from 6% to 9%.

## EXECUTIVE SUMMARY:

In 1976, Ordinance 1976-1835A established the Transient Room Tax for the purpose of collecting revenues, by providing for a 6% transient room tax, outlining the method of collecting room taxes and providing penalties for violations.

In 1989, Ordinance 1989-2262 clarified the definition of “transient”.

In 1996, Ordinance 1996-2433 clarified how the revenues collected were to be used by amending Section 1(h) and Section 2, compilation designation 7.16, to allocate 50% of monies collected to be used to fund a visitor center for the City of Newberg.

In 1997, Ordinance 1997-2478 amended Ordinance 1996-2433 Section 2, Compilation designation 7.16: Expenditure of Funds and Collection Fee, stating all monies collected through the transient room tax shall be the general funds of the City of Newberg and may be used in any lawful manner that the City deems necessary and appropriate. The City Council shall approve by resolution specific expenditures for services or programs to be funded from the proceeds of the transient room tax.

In 1998, Ordinance 1998-2498 reduced the amount that the City has allowed motel and hotel operators to keep for collecting from 15% to 5%, with the difference going towards the Visitor’s Center.

During the Oregon Legislative session in 2013, House Bill 2656 was adopted and incorporated into ORS 320.300 to 320.350 creating new provisions relating to the Transient Lodging Tax. One of the new provisions was allowing jurisdictions to increase their transient lodging tax but with certain limitations, the most important limitation “to use at least 70% of net revenue from a new or increased local transient lodging tax for purposes described in subsection (5(a) of (c) of section 320.350 (6)”. In other words, 70% of the revenue collected must be used for tourism-related facilities and/or tourism promotion. Only 30% can be used for general fund purposes.

The cost of providing public safety services has increased. The portion of the increase in the transient lodging tax that is eligible to be spent for general purposes will help fund existing public safety services.





## ORDINANCE NO. 2014-2771

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**AN ORDINANCE AMENDING ORDINANCE NO. 1976-1835A, AN ORDINANCE IMPOSING A TRANSIENT ROOM TAX FOR THE PURPOSE OF REVENUE, PROVIDING FOR THE METHOD OF COLLECTING ROOM TAX; PROVIDING PENALTIES FOR VIOLATION THEREOF, AND INCREASING THE TRANSIENT LODGING TAX FROM 6% TO 7.5% ON OCTOBER 1, 2014, AND THEN TO 9% ON JULY 1, 2015**

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### RECITALS:

1. Transient Room Tax was established in 1976 by Ordinance No. 1976-1835A for the purpose of collecting additional revenues for operating the city of Newberg, effective January 1, 1977.
2. Ordinance No. 1989-2262 clarified the definition of “transient”.
3. Ordinance No. 1996-2433 clarified how the revenues collected were to be used and allocated 50% of the revenues to be used to fund a visitor center for the city of Newberg.
4. Ordinance No. 1997-2478 amended Ordinance No. 1996-2433 allowing revenues collected through the transient room tax to be used as the city council deems necessary and appropriate. The city council shall approve, by resolution, expenditures for services and/or programs to be funded by the proceeds from transient lodging tax.
5. House Bill 2656 was passed in 2013 creating new provisions for transient lodging tax.
6. Tourism uses public safety services. Newberg and Dundee are ranked 4<sup>th</sup> safest cities in Oregon, according to Movoto.com, an on-line real estate brokerage based in California. The cost to provide public safety services has increased.

### THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. Section 2. 7.2 of Ordinance No. 1976-1835A is hereby amended to read as follows:
  - 7.2 Transient Room Tax (Transient Lodging Tax) – Levy. For the privilege of occupancy in any hotel each transient shall pay a tax of **seven and one-half percent (7.5%)** from October 1, 2014 through June 30, 2015, increasing to **nine percent (9%)** effective July 1, 2015, of the rent collected by the operator for the occupancy. The tax shall constitute a debt owed by the transient to the city and be extinguished only by payment to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when the rent is collected. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that the tax be paid directly to the city. In all cases the rent paid or charged for occupancy shall exclude amounts received for

the sale of goods, services or commodities, other than the furnishing of rooms, accommodations, and parking space in mobile home parks or trailer parks.

2. Effective date of this amendment is the reporting period beginning October 1, 2014.
3. Effective date of the second increase from 7.5% to 9% will be the reporting period beginning July 1, 2015.
4. All other provisions of Ordinance No. 1976-1835A shall remain in full force and affect.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: June 17, 2014.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 16<sup>th</sup> day of June, 2014, by the following votes: **AYE:**      **NAY:**      **ABSENT:**      **ABSTAIN:**

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of June, 2014.

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Bob Andrews, Mayor

## Jenn Nelson

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**From:** Bob Andrews  
**Sent:** Monday, May 19, 2014 10:22 AM  
**To:** Norma Alley; Jenn Nelson  
**Subject:** FW: Message from ORLA on Proposed Lodging Tax Increase - Ordinance 2014-2771  
**Attachments:** Letter to Newberg Mayor & Council - Lodging Tax Increase 5-19-14.pdf; SB 541 - 2011 Legislative Session.pdf

For the record...

### **Bob Andrews, Mayor**

City of Newberg  
 414 E. First St.  
 PO Box 970  
 Newberg, OR 97132  
**Ph: 503.537.1276**  
 Fax: 503.537.5013

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**From:** Glenda Hamstreet [mailto:[ghamstreet@oregonrla.org](mailto:ghamstreet@oregonrla.org)]  
**Sent:** Monday, May 19, 2014 10:12 AM  
**To:** Bob Andrews; Denise Bacon; Mike Corey; Ryan Howard; Stephen McKinney; Bart Rierson; Lesley Woodruff  
**Cc:** [ryan@ryanhowardlaw.com](mailto:ryan@ryanhowardlaw.com); Bill Perry  
**Subject:** Message from ORLA on Proposed Lodging Tax Increase - Ordinance 2014-2771

Hello Mayor Andrews and Newberg City Council Members,

Bill Perry, Vice President of Government Affairs for the Oregon Restaurant & Lodging Association, asked that I forward you the attached letter regarding the proposed ordinance to increase transient lodging taxes in the City of Newberg. Also attached is Senate Bill 541 (from a previous legislative session on this subject).

If you have any questions regarding these comments, please contact Bill Perry at ORLA at 503.682.4422. Thank you for your consideration of this important matter.

*Sent by Glenda Hamstreet on behalf of*  
[Bill Perry](#)  
 Vice President of Government Affairs

[Oregon Restaurant & Lodging Association](#)  
 8565 SW Salish Lane, Suite 120 | Wilsonville | Oregon 97070  
 Office: 503.682.4422  
 Email: [BPerry@OregonRLA.org](mailto:BPerry@OregonRLA.org)



**Date:** May 19, 2014

**To:** Mayor Bob Andrews; Newberg City Council Members Denise Bacon, Mike Corey, Ryan Howard, Stephen McKinney, Bart Rierson and Lesley Woodruff

**From:** Bill Perry, Vice President of Government Affairs  
Oregon Restaurant & Lodging Association

**Subject:** Newberg Transient Lodging Tax Increase (Ordinance No. 2014-2771)

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Dear Mayor and Councilors,

On behalf of the members of the Oregon Restaurant & Lodging Association, I would like to begin this message by saying that our members sincerely understand the budget constraints that cities are currently facing. Many lodging and restaurant operators have also had to go through some difficult budgetary decisions recently as well.

It has come to my attention that your council is engaging in discussions about increasing lodging taxes in Newberg an additional three percent. Please allow me to add a few points for informational purposes.

First, the consideration of what the City of Newberg uses their tax dollars for is not relevant to this discussion. Lodging taxes passed before the year 2003 are grandfathered in. Under this provision, Newberg gets to use their taxes for the same programs and expenditures that they were used for in 2003. Lodging taxes passed after 2003 are required to be spent with at least 70 percent towards tourism-related activities, whether those taxes were passed today or five years ago.

Secondly, whether you are talking about tourism promotion, tourism facilities or general tourism activities, the statute ties all of those back to "tourists." The definition of such is people traveling a distance of more than 50 miles from their home and staying overnight. If the money spent is not intended for the purpose of accomplishing that goal, it should not come from the 70 percent funds, but rather should be used from the 30 percent portion of the equation.

I have included Senate Bill 541 from the 2011 Legislative Session, where local governments tried to add the types of expenditures you are discussing to the law. The legislature **did not** add "tourist related services" or expand "tourism facilities" to include police, fire, roads, jails or restrooms. Clearly the legislature did not intend for these services to be added to the 70 percent portion of the new taxes. Those are general fund expenditures and should come from broad-based tax revenues.

The existing statute also addresses local governments that try to lower current expenditures and backfill the budget with new lodging taxes.

**320.350 Tax moratorium; exceptions; uses of revenues.**

*(3) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not decrease the percentage of total local transient lodging tax revenues that are actually expended to fund tourism promotion or tourism-related facilities on or after July 2, 2003. A unit of local government that agreed, on or before July 1, 2003, to increase the percentage of total local transient lodging tax revenues that are to be expended to fund tourism promotion or tourism-related facilities, must increase the percentage as agreed.*

Therefore, by either directly or indirectly using new lodging tax dollars for public safety, a local government is in essence attacking the intent of the law. Taking money away from tourism promotion for other purposes, and then replacing it with new tax dollars, brings up a serious legal question.

Lastly, on behalf of the restaurant and lodging industry, I ask that instead of trying to find a way around the tourism promotion language, you concentrate on the intent of the law. If you want to promote the area and attract tourists, work with lodging property operators and develop a marketing plan. Tourists on average spend only 25 percent of their dollars at lodging businesses; the other 75 percent is spent in other local businesses. So attracting tourists benefits the entire community, as well as the local economy.

At a critical time when market share for tourism and travel is at stake, this proposed action would take more money out of the tourism industry, with no additional benefit to promotional activities. This action does not benefit business through increased consumer spending; it actually flies in the face of the intent of the law. In reality, by using funds to promote economic development, an increase could help your community build business for the long haul – hopefully for years to come.

ORLA is not asking you to make a choice between tourism and other services; that's not fair or wise. But we are asking that you partner with us to find ways to build the local economy and sustain the achieved growth. While everyone – public and private sectors alike – are exhausted from budget cuts and tough decisions, the bigger question is how do we move forward in today's economy, and how do we ensure that the future will be successful and profitable for both private industry and local government?

If you want to add promotional dollars to the system, please work with local operators to achieve that goal. Please do not take this proposed tax increase and simply use it to replace diverted funds from other programs. If you have any questions regarding my comments, please contact me at 503.682.4422 or at [bperry@oregonrla.org](mailto:bperry@oregonrla.org) via email.

Sincerely,



Bill Perry

# Senate Bill 541

Sponsored by Senator JOHNSON (at the request of League of Oregon Cities) (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

For purposes of local transient lodging taxes, expands definition of "tourism promotion" to include maintaining public health, safety and welfare of residents and tourists in connection with tourism and of "tourism-related facility" to include improvements on or adjacent to unimproved scenic and historic areas and open spaces intended substantially for use by tourists.

## A BILL FOR AN ACT

1  
2 Relating to local transient lodging taxes; creating new provisions; and amending ORS 320.300.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 320.300 is amended to read:

5 320.300. As used in ORS 320.300 to 320.350:

6 (1) "Collection reimbursement charge" means the amount a transient lodging provider may re-  
7 tain as reimbursement for the costs incurred by the provider in collecting and reporting a transient  
8 lodging tax and in maintaining transient lodging tax records.

9 (2) "Conference center" means a facility that:

10 (a) Is owned or partially owned by a unit of local government, a governmental agency or a  
11 nonprofit organization; and

12 (b) Meets the current membership criteria of the International Association of Conference Cen-  
13 ters.

14 (3) "Convention center" means a new or improved facility that:

15 (a) Is capable of attracting and accommodating conventions and trade shows from international,  
16 national and regional markets requiring exhibition space, ballroom space, meeting rooms and any  
17 other associated space, including but not limited to banquet facilities, loading areas and lobby and  
18 registration areas;

19 (b) Has a total meeting room and ballroom space between one-third and one-half of the total size  
20 of the center's exhibition space;

21 (c) Generates a majority of its business income from tourists;

22 (d) Has a room-block relationship with the local lodging industry; and

23 (e) Is owned by a unit of local government, a governmental agency or a nonprofit organization.

24 (4) "Local transient lodging tax" means a tax imposed by a unit of local government on the sale,  
25 service or furnishing of transient lodging.

26 (5) "State transient lodging tax" means the tax imposed under ORS 320.305.

27 (6) "Tourism" means economic activity resulting from tourists.

28 (7) "Tourism promotion" means any of the following activities:

29 (a) Advertising, publicizing or distributing information for the purpose of attracting and wel-  
30 coming tourists;

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

LC 2900

1 (b) Conducting strategic planning and research necessary to stimulate future tourism develop-  
2 ment;

3 (c) Operating tourism promotion agencies; [and]

4 (d) Marketing special events and festivals designed to attract tourists; **and**

5 **(e) Maintaining the public health, safety and welfare of residents and tourists in con-**  
6 **nection with tourism.**

7 (8) "Tourism promotion agency" includes:

8 (a) An incorporated nonprofit organization or governmental unit that is responsible for the  
9 tourism promotion of a destination on a year-round basis.

10 (b) A nonprofit entity that manages tourism-related economic development plans, programs and  
11 projects.

12 (c) A regional or statewide association that represents entities that rely on tourism-related  
13 business for more than 50 percent of their total income.

14 (9) "Tourism-related facility" means:

15 (a) [Means] A conference center, convention center or visitor information center; [and]

16 **(b) An improvement located on or adjacent to unimproved scenic and historic areas and**  
17 **open spaces that is intended substantially for use by tourists; and**

18 [(b)] (c) [Means] Other improved real property that has a useful life of 10 or more years and has  
19 a substantial purpose of supporting tourism or accommodating tourist activities.

20 (10) "Tourist" means a person who, for business, pleasure, recreation or participation in events  
21 related to the arts, heritage or culture, travels from the community in which [that] **the** person is a  
22 resident to a different community that is separate, distinct from and unrelated to the person's com-  
23 munity of residence[, and that trip] **on a trip that:**

24 (a) Requires the person to travel more than 50 miles from the **person's** community of residence;  
25 or

26 (b) Includes an overnight stay.

27 (11) "Transient lodging" means:

28 (a) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;

29 (b) Spaces used for parking recreational vehicles or erecting tents during periods of human oc-  
30 cupancy; or

31 (c) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of [any  
32 of] these dwelling units, that are used for temporary human occupancy.

33 (12) "Unit of local government" has the meaning given that term in ORS 190.003.

34 (13) "Visitor information center" means a building, or a portion of a building, the main purpose  
35 of which is to distribute or disseminate information to tourists.

36 **SECTION 2. The amendments to ORS 320.300 by section 1 of this 2011 Act apply to local**  
37 **transient lodging taxes imposed or increased on or after the effective date of this 2011 Act.**

38

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# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 16, 2014

Order \_\_\_      Ordinance \_\_\_      Resolution XX      Motion \_\_\_      Information \_\_\_  
No.              No.              No. 2014-3145

**SUBJECT:**

1. Hold Legislative Public Hearings on the 2014-2015 City Budget & State Revenue Sharing
2. Adopt Resolution No. 2014-3145, adopting the 2014-2015 City Budget

Contact Person (Preparer) for this  
Motion: Janelle Nordyke  
Dept.: Finance  
File No.:

HEARING TYPE:              ADMINISTRATIVE

**RECOMMENDATION:**

Adopt Resolution No. 2014-3145 adopting the 2014-2015 Budget, and appropriating as recommended by the Budget Committee on May 27, 2014, and including the election to participate in the State Revenue Sharing Program.

**EXECUTIVE SUMMARY:**

The Budget Committee met on April 29<sup>th</sup>, May 6<sup>th</sup>, May 13<sup>th</sup>, May 20<sup>th</sup> and May 27<sup>th</sup>, 2014, to deliberate on the proposed 2014-2015 City Budget prepared by staff.

The Budget Committee made the following amendments to the proposed 2014-2015 Budget, which resulted in a net reduction of \$5,772.00 to total appropriations:

1. General Fund (Fund 01)
  - Reduced the estimated Transient Lodging Tax Revenue from the anticipated Transient Lodging Tax percent increase in the amount of \$57,500.00, with a reduction in the expenditures for tourism in the amount of \$40,250.00, with a net reduction in Contingency of \$17,250.00.
  - Added the appropriations for the MDTs Debt Financing as a transfer to the Equipment Replacement Reserve (Fund 32) in the amount of \$17,128.00, with a corresponding reduction in Contingency. The Equipment Replacement Reserve will appropriate the debt payments over the next five (5) years, beginning with the 2014-2015 Fiscal Year.
  - Increased the Judge's pay to include a 2% COLA as budgeted for the rest of the City employees, in addition to a merit increase of 2% for a total of 4% increase in the amount of \$1,408.

2. Multiple Funds

- The adjustment to the IT Secretary's Health Insurance as it was missed in the calculation of the position, in the amount of \$9,600.00, to be taken from the corresponding contingencies in the following funds:

i.	General Fund (01)	\$ 7,681.00
ii.	Street Fund (02)	\$ 182.00
iii.	Wastewater Fund (06)	\$ 691.00
iv.	Water Fund (07)	\$ 691.00
v.	Building Fund (08)	\$ 96.00
vi.	Stormwater Fund (17)	\$ 259.00

- The adjustment to increase the Contingency in the Admin Support Services Fund (31) to cash flow the Liability Insurance payment in July for the new fiscal year, in the amount of \$25,000.00, to be taken from the contingencies in the following funds:

i.	General Fund (01)	\$ 20,000.00
ii.	Street Fund (02)	\$ 475.00
iii.	Wastewater Fund (06)	\$ 1,800.00
iv.	Water Fund (07)	\$ 1,800.00
v.	Building Fund (08)	\$ 250.00
vi.	Stormwater Fund (17)	\$ 675.00

3. This will result in a net reduction to the contingencies in the following funds:

i.	General Fund (01)	\$ 62,059.00
ii.	Street Fund (02)	\$ 657.00
iii.	Wastewater Fund (06)	\$ 2,491.00
iv.	Water Fund (07)	\$ 2,491.00
v.	Building Fund (08)	\$ 346.00
vi.	Stormwater Fund (17)	\$ 934.00

**FISCAL IMPACT:** The 2014-2015 Budget equals **\$86,960,251.00** with **158.45** FTE. The permanent property tax rate remains at \$4.3827 per \$1,000.00 assessed value. The City estimates it will collect \$7,125,334.00.

The Debt Service property tax levy equals \$425,000.00 for payments on the Public Safety Building and Fire Stations.

**STRATEGIC ASSESSMENT:** This is a balanced budget and reflects the direction and priorities of the City Council to meet the needs of this community.



## *RESOLUTION NO. 2014-3145*

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**A RESOLUTION ADOPTING THE CITY OF NEWBERG, OREGON  
BUDGET FOR THE 2014-2015 FISCAL YEAR, MAKING  
APPROPRIATIONS, LEVYING A PROPERTY TAX, AND APPROVING THE  
CITY OF NEWBERG'S PARTICIPATION IN THE STATE REVENUE  
SHARING PROGRAM**

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### **RECITALS:**

1. Starting April 29, 2014, and ending May 27, 2014, the city budget committee met and reviewed the city manager pro tem's proposed 2014-2015 city budget.
2. The city of Newberg provides seven of the seven municipal services enumerated in ORS 221.760.
3. The city budget committee and city council held public hearings on the uses of state revenue sharing funds pursuant to ORS 221.770 and on the proposed budget.

### **THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

1. Pursuant to ORS 221.770, the city of Newberg elects to participate in the State Revenue Sharing Program for the fiscal year beginning July 1, 2014 and ending June 30, 2015 by allocating the funds received on a 50/50 percent basis to Police and Fire. The city finance director is directed to file a certified copy of this resolution with the state of Oregon Department of Administrative Services, prior to July 31, 2014.
2. The city council adopts the city of Newberg budget for the fiscal year beginning July 1, 2014, and ending June 30, 2015, as approved by the city budget committee and as adjusted by the city council, in the aggregate amount of \$86,960,251.00.
3. That the amounts for the fiscal year beginning July 1, 2014, and for the purposes shown below are hereby appropriated:

<u>General Fund</u>		
General Government		543,314.00
Municipal Court		364,698.00
Police		5,682,181.00
Fire		3,354,089.00
Communications		1,041,640.00
Library		1,182,802.00
Planning		586,154.00
Transfers		39,068.00
Contingency		752,042.00
	Total General Fund	13,545,988.00
<u>Street Fund</u>		
Public Works		1,026,666.00
Transfers		198,053.00
Contingency		764,172.00
	Total Street Fund	1,988,891.00
<u>Civil Forfeiture Fund</u>		
Police		5,045.00
	Total Civil Forfeiture Fund	5,045.00
<u>Capital Projects Fund</u>		
Capital Projects		4,705,000.00
	Total Capital Projects Fund	4,705,000.00
<u>Emergency Medical Services Fund</u>		
Fire		1,829,741.00
Contingency		289,325.00
	Total Emergency Medical Services Fund	2,119,066.00
<u>Wastewater Fund</u>		
Public Works		4,515,867.00
Debt Service		1,405,088.00
Transfers		1,000,000.00
Contingency		4,298,214.00
	Total Wastewater Fund	11,219,169.00

<u>Water Fund</u>		
Public Works		3,075,652.00
Debt Service		409,082.00
Transfers		1,443,852.00
Contingency		2,704,575.00
	Total Water Fund	7,633,161.00
<u>Building Inspection Fund</u>		
Building Inspection		427,956.00
Contingency		253,527.00
	Total Building Inspection Fund	681,483.00
<u>Debt Service Fund</u>		
Debt Service		889,332.00
	Total Debt Service Fund	889,332.00
<u>City Hall Fund</u>		
Transfers		108,342.00
	Total City Hall Fund	108,342.00
<u>9-1-1 Emergency Fund</u>		
Communications		223,409.00
Contingency		30,481.00
	Total 9-1-1 Emergency Fund	253,890.00
<u>Economic Development Fund</u>		
Planning		512,559.00
Transfers		1,870.00
Contingency		281,894.00
	Total Economic Development Fund	796,323.00
<u>Public Safety Fee Fund</u>		
Police		337,815.00
Communications		169,376.00
Contingency		181,485.00
	Total Public Safety Fee Fund	688,676.00
<u>Stormwater Fund</u>		
Public Works		986,113.00
Transfer		50,000.00
Contingency		297,757.00
	Total Stormwater Fund	1,333,870.00

<u>Street Capital Projects Fund</u>		
Capital Projects		1,180,000.00
Contingency		158,493.00
	Total Street Capital Projects Fund	1,338,493.00
<u>Library Gift &amp; Memorial Fund</u>		
Library		135,500.00
Contingency		23,662.00
	Total Library Gift & Memorial Fund	159,162.00
<u>Cable TV Trust Fund</u>		
General Government		15,000.00
Contingency		12,045.00
	Total Cable TV Trust Fund	27,045.00
<u>Wastewater CIP Reserve Fund</u>		
Public Works		-
Transfers		1,468,500.00
	Total Wastewater Replacement Fund	1,468,500.00
<u>Water CIP Reserve Fund</u>		
Public Works		-
Transfers		707,500.00
	Total Water Replacement Fund	707,500.00
<u>Stormwater Replacement Fund</u>		
Public Works		
Transfers		217,500.00
	Total Stormwater Replacement Fund	217,500.00
<u>Admin / Support Services Fund</u>		
City Manager's Office		584,326.00
Finance		807,525.00
General Office		155,000.00
Information Technology		882,357.00
Legal		431,011.00
Public Works		512,413.00
Insurance		295,000.00
Transfers		500,000.00
Contingency		200,823.00
	Total Admin / Support Services Fund	4,368,455.00

<u>Vehicles / Equipment Replacement Fund</u>		
	Information Technology	384,172.00
	Police	123,017.00
	Fire	543,111.00
	Communications	15,000.00
	Planning	11,548.00
	Public Works	175,051.00
	Facilities Repair / Maintenance	75,000.00
	Contingency	1,049,275.00
	Total Vehicle / Equipment Replacement Fund	2,376,174.00
<u>Fire &amp; EMS Equipment Fee Fund</u>		
	Capital Outlay	23,179.00
	Contingency	218,192.00
	Total Fire & EMS Equipment Fee Fund	241,371.00
<u>Wastewater Financed CIP's Fund</u>		
	Capital Projects	21,088,728.00
	Total Wastewater Financed CIPs Fund	21,088,728.00
<u>Street System Development Fund</u>		
	Transfers	1,005,000.00
	Contingency	1,964,554.00
	Total Street System Development Fund	2,969,554.00
<u>Stormwater System Development Fund</u>		
	Transfers	102,500.00
	Contingency	131,222.00
	Total Stormwater System Development Fund	233,722.00
<u>Wastewater System Development Fund</u>		
	Debt Service	283,279.00
	Transfers	1,396,500.00
	Contingency	2,231,442.00
	Total Wastewater System Development Fund	3,911,221.00
<u>Water System Development Fund</u>		
	Debt Service	843,852.00
	Transfers	1,037,500.00
	Contingency	3,238.00
	Total Water System Development Fund	1,884,590.00
	<b>Total Appropriated Budget</b>	<b>86,960,251.00</b>

	Unappropriated Fund Balance - General Fund	1,100,000.00
	Unappropriated Fund Balance - Debt Service	200,684.00
	Unappropriated Fund Balance - City Hall Fund	527,095.00
	Reserves	10,330,478.00
	<b>Total Budget</b>	<b>99,118,508.00</b>

5. The city council of the city of Newberg imposes the taxes provided for in the adopted budget at the rate of \$4.3827 per \$1,000.00 of assessed value for general operating purposes and \$425,000.00 for Debt Service, and that these taxes are hereby imposed and categorized for the tax year 2014-2015 upon the assessed value of all taxable property within the City.

	<u>General Government Limitation</u>	<u>Excluded from the Limitation</u>
General Fund	\$4.3827 per \$1,000.00 AV	
Debt Service Fund		\$425,000.00

6. The finance director is authorized and directed to certify the levy with the Yamhill county assessor and Yamhill county clerk.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is June 17, 2014.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 16<sup>th</sup> day of June, 2014.

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of June, 2014.

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Bob Andrews, Mayor