



TUALATIN CITY COUNCIL

Monday, OCTOBER 9, 2017

JUANITA POHL CENTER
8513 SW Tualatin Road
Tualatin, OR 97062

WORK SESSION - Cancelled
BUSINESS MEETING begins at 7:00 p.m.

Mayor Lou Ogden

Council President Joelle Davis

Councilor Robert Kellogg

Councilor Paul Morrison

Councilor Jeff DeHaan

Councilor Frank Bubenik

Councilor Nancy Grimes

Welcome! By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for your comments on its agenda, following Announcements, at which time citizens may address the Council concerning any item not on the agenda or to request to have an item removed from the consent agenda. If you wish to speak on a item already on the agenda, comment will be taken during that item. Please fill out a Speaker Request Form and submit it to the Recording Secretary. You will be called forward during the appropriate time; each speaker will be limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City website at www.tualatinoregon.gov/meetings, the Library located at 18878 SW Martinazzi Avenue, and on file in the Office of the City Manager for public inspection. Any person with a question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011. Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised *live* the day of the meeting through Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at www.tvctv.org. Council meetings can also be viewed by live *streaming video* on the day of the meeting at www.tualatinoregon.gov/meetings.

Your City government welcomes your interest and hopes you will attend the City of Tualatin Council meetings often.

PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A **legislative** public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *deny*, or *continue* the public hearing.

PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A **quasi-judicial** public hearing is typically held for annexations, planning district changes, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report.
3. Public testimony is taken:
 - a) In support of the application
 - b) In opposition or neutral
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *approve with conditions*, or *deny the application*, or *continue* the public hearing.

TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 minutes**, subject to the right of the Mayor to amend or waive the time limits.

EXECUTIVE SESSION INFORMATION

An Executive Session is a meeting of the City Council that is closed to the public to allow the City Council to discuss certain confidential matters. An Executive Session may be conducted as a separate meeting or as a portion of the regular Council meeting. No final decisions or actions may be made in Executive Session. In many, but not all, circumstances, members of the news media may attend an Executive Session.

The City Council may go into Executive Session for certain reasons specified by Oregon law. These reasons include, but are not limited to: ORS 192.660(2)(a) employment of personnel; ORS 192.660(2)(b) dismissal or discipline of personnel; ORS 192.660(2)(d) labor relations; ORS 192.660(2)(e) real property transactions; ORS 192.660(2)(f) information or records exempt by law from public inspection; ORS 192.660(2)(h) current litigation or litigation likely to be filed; and ORS 192.660(2)(i) employee performance of chief executive officer.



OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL MEETING FOR OCTOBER 9, 2017

A. CALL TO ORDER

Pledge of Allegiance

B. ANNOUNCEMENTS

1. Tualatin Youth Advisory Council Update for October 2017
2. West Coast Giant Pumpkin Regatta Announcement

C. CITIZEN COMMENTS

This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

1. Consideration of Approval of the Minutes for the Work Sessions and Regular Meetings of September 11 and 25, 2017
2. Consideration of **Resolution No. 5342-17** Awarding Fiscal Year 2017/2018 Outside Agency Grant Funds to Provide Social Services to the Citizens of Tualatin
3. Consideration of **Resolution No. 5341-17** Authorizing an Intergovernmental Agreement between the City of Tualatin and Washington County, Oregon for Fiscal Year 2016 Urban Areas Security Initiative (UASI) Grant Funds

E. GENERAL BUSINESS

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

1. Consideration of **Ordinance No. 1403-17** Regulating Mobile Food Units and Creating Tualatin Municipal Code Chapter 9-09.

2. Consideration of **Ordinance No. 1404-17** to Extend the Temporary Mobile Food Unit Regulations to December 31, 2018

F. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

G. COMMUNICATIONS FROM COUNCILORS

H. ADJOURNMENT

City Council Meeting

Meeting Date: 10/09/2017

ANNOUNCEMENTS: Tualatin Youth Advisory Council Update

ANNOUNCEMENTS

Tualatin Youth Advisory Council Update for October 2017

A. YAC Update

October 9, 2017

Tualatin Youth Advisory Council

Youth Participating in Governance



West Coast Giant Pumpkin Regatta

- Saturday, October 21
- Crafts, pumpkin carving, pumpkin bowling, face painting
- Proceeds help fund NLC trip in March!



Haunted House



- October 25-28
- Van Raden Community Center

Haunted House



- October 25-28
- 7:00-10:00pm
- Van Raden
Community Center
- \$4 youth/student
- \$5 adult



Haunted
Prison

City Council Meeting

Meeting Date: 10/09/2017

ANNOUNCEMENTS: West Coast Giant Pumpkin Regatta Announcement

ANNOUNCEMENTS

West Coast Giant Pumpkin Regatta Announcement

A. Pumpkin Regatta Announcement



14TH ANNUAL WEST COAST GIANT PUMPKIN REGATTA

Saturday, October 21, 2017
Lake of the Commons
10:00am-4:00pm

Giant Pumpkin Races * 5k
Regatta Run* Terminator
Weigh Off * Family
Entertainment * Pie Eating
Contests * Costume Contests
* Crafts * Food * and more!

SATURDAY, OCTOBER 21, 2017, 10AM-4PM

THE LAKE OF THE COMMONS • 8325 SW NYBERG STREET, TUALATIN, OREGON

**18TH ANNUAL TERMINATOR WEIGH OFF!
5K REGATTA RUN**



COMCAST



NEW SEASONS
MARKET



FREE ADMISSION • WWW.TUALATINOREGON.GOV

Free Admission!







STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Nicole Morris, Deputy City Recorder

DATE: 10/09/2017

SUBJECT: Consideration of Approval of the Minutes for the Work Sessions and Regular Meetings of September 11 and 25, 2017

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the Work Sessions and Regular Meetings of September 11 and 25, 2017.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

Attachments: [City Council Work Session Minutes of September 11, 2017](#)
[City Council Regular Meeting Minutes of September 11, 2017](#)
[City Council Work Session Minutes of September 25, 2017](#)
[City Council Regular Meeting Minutes of September 25, 2017](#)



Present: Mayor Lou Ogden; Councilor Frank Bubenik; Council President Joelle Davis; Councilor Nancy Grimes; Councilor Paul Morrison; Councilor Jeff DeHaan; Councilor Robert Kellogg

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Bill Steele; Community Services Director Paul Hennon; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; IS Director Bates Russell; Associate Planner Charles Benson

CALL TO ORDER

Mayor Ogden called the meeting to order at 5:03 p.m.

1. ***Regional Food Scraps Policy.***

Matt Korot, Metro Recycling Program Director, presented an overview on the Regional Food Scraps Policy. He stated food is the primary component for waste reduction efforts. Metro has decided to work on a resolution targeted at food scraps for businesses, to begin with. Metro gave direction to move forward with the following three objectives: require certain businesses to separate their food scraps for recovery, determine how to efficiently collect and deliver food scraps for processing, and to secure a local and stable processing facility. The policy would affect 3,000 businesses with 1,300 businesses already participating in the program. If the policy is passed it would require local governments inside the Metro boundary to implement collection programs. Local governments would have to adopt policy that would meet the regional requirements and performance standards associated with a food scraps program. Metro's policy would be implemented in phases. A breakdown of the 71 affected Tualatin businesses was presented. The policy process and public reach outline were presented.

Councilor Grimes asked where the current participant's food scraps are being taken. Mr. Korot stated most scraps are going to a transfer station in Wilsonville and then delivered to a compost facility in Benton County. Councilor Grimes asked if the current facility has enough capacity to have all the businesses come online. Mr. Korot stated Metro is working to acquire additional facilities that will bring stability to the processing side of food scraps.

Councilor Grimes asked if there was a cost benefit to businesses participating in the program. Mr. Korot stated it is difficult to predict numbers and the policy is more about the greater good for the public.

Councilor Bubenik asked if there is anticipated rate increases that come along with the program. Mr. Korot stated they can't estimate rates until a new processor is secured.

Mayor Ogden asked why the program is being implemented before there are enough processors in place. Mr. Korot stated the region has to demonstrate they are serious about the program in order to draw processors to the area.

Mayor Ogden asked who provides the technical staff assistance for the businesses. Mr. Korot stated staff will be provided through the cooperative agreement Tualatin has with Washington County.

2. *Mobile Food Unit Ordinance.*

Planning Manager Aquilla Hurd-Ravich and Associate Planner Charles Benson provided an update on the mobile food unit ordinance. Manager Hurd-Ravich stated the revisions from the July 10 meeting were made and sent to the interested party lists. A summary of the project timeline to date was provided. Planner Benson summarized the public outreach that has been conducted on the draft ordinance. Draft ordinance revisions to the purpose and applicability, permit requirements, location standards, site standards, and violations were reviewed. Manager Hurd-Ravich stated next steps include incorporating feedback from Council, holding a public hearing, and completing the plan text amendment process.

Councilor Kellogg asked when regulations for food pods would be discussed. Manager Hurd-Ravich stated the idea was discussed at the work group and was decided food pods would need to be a separate design discussion.

Mayor Ogden stated he doesn't feel the proposed ordinance solves the original problem the Council sought to fix. He stated in the two years the temporary ordinance has been in place there has not been any issues with food trucks. He would like to see the ordinance stand as it currently is today and not adopt any new regulations.

Councilor DeHaan joined the meeting at 6:08 p.m.

Councilor Bubenik stated Council listened to business owners who do not want food trucks in the downtown core area. He stated the PuPu Shack would still be able to operate just not in their current location.

Council President Davis stated she feels the restaurants concerns about the competition from the food trucks is unrealistic. She would like to see a permitting/waiver process put into place to allow trucks in the downtown core.

Councilor Grimes asked if the Council did not adopt the ordinance and later decided to implement a new ordinance if the current food trucks would be grandfathered in. City Attorney Brady stated if the temporary ordinance stayed in place the current food trucks would not have grounds to be grandfathered in.

Councilor Bubenik stated he likes the idea of providing waivers as long as the trucks are not in direct competition with brick and mortar establishments.

Councilor Morrison stated he would like to see the ordinance put in place so people feel comfortable making investments into businesses in Tualatin.

City Manager Lombos stated she has concerns about staff making decisions about who is competition with who in a waiver process.

Councilor DeHaan stated he is in favor of some sort of permitting process.

City Attorney Brady stated there could be constitutional restraints around a process regarding competition. The City would need to be careful in how a policy of that nature would be drafted.

Councilor Morrison stated he would like to pass the ordinance with an exclusion for the PuPu Shack or with a timeframe for the current trucks to move.

Manager Hurd-Ravich stated a potential solution could be to make food carts a conditional use in the central core.

Councilor Kellogg stated he would like to move this process forward and have the item placed on the next business meeting for further discussion.

Council consensus was reached to place the ordinance on the next meeting agenda.

3. *Council Rules.*

Mayor Ogden presented his written comments to the Council.

Councilor Morrison stated there may be some discrepancies when related to the charter. He requested clarifications on those from the City Attorney.

Councilor Kellogg requested this item be placed on the next regular council meeting agenda for further discussion.

Council consensus was reached to place the item on the regular meeting of September 25.

4. *Proclamation Request.*

The Council considered the request for Constitution Week. The proclamation will be placed on the regular meeting agenda of September 25.

5. *Council Meeting Agenda Review, Communications & Roundtable.*

None.

ADJOURNMENT

The work session adjourned at 7:08 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR SEPTEMBER 11, 2017

Present: Mayor Lou Ogden; Councilor Frank Bubenik; Council President Joelle Davis; Councilor Nancy Grimes; Councilor Paul Morrison; Councilor Jeff DeHaan; Councilor Robert Kellogg

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Bill Steele; Community Services Director Paul Hennon; Finance Director Don Hudson; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Teen Program Specialist Julie Ludemann; Parks and Recreation Manager Rich Mueller; IS Director Bates Russell; Associate Planner Charles Benson

A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:08 p.m.

B. ANNOUNCEMENTS

1. Tualatin Youth Advisory Council Update for September 2017

Members of the Youth Advisory Committee (YAC) presented a PowerPoint on their latest activities and upcoming events. Members have been selling concessions at the Movies on the Commons events. Proceeds raised will go towards attendance at the NLC Conference in March. New member recruitment will be happening through September. Park After Dark will be on September 15. Upcoming events include participation in the Pumpkin Regatta and the annual YAC Haunted House.

C. CITIZEN COMMENTS

This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

Fred Coopridger and Sahar Petri, Bahais of Tualatin, invited the Council to the Bahai Celebration on October 22, at the Juanita Pohl Center. They also noted the community is welcome to attend.

Linda Moholt, Director of the Tualatin Chamber of Commerce, announced the Strive to Thrive Workshop on September 21 at the Wilsonville Holiday Inn.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

MOTION by Council President Joelle Davis, SECONDED by Councilor Nancy Grimes to adopt the consent agenda.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Nancy Grimes, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

MOTION CARRIED

1. Consideration of Approval of the Minutes for the Work Session and Regular Meeting of August 28, 2017

E. SPECIAL REPORTS

1. Update on Programs and Activities Offered This Summer by the City of Tualatin and Partners, and a Preview of Fall Programs.

Recreation Supervisor Julie Ludemann and Public Services Manager Sarah Jesudason presented the summer recap and fall preview. The library hosted a variety of activities this summer including the annual Summer Reading program and a revamped Summer Teen Volunteer Program. Summer reading at the Commons hosted events June through August with over 2,000 attendees. The summer camp program hosted 1,560 kids ages four through eleven. The teen adventure camp program hosted 648 teens over nine weeks. Concerts and Movies on the Commons ran July through August and were up nearly 15% in attendance. ArtSplash was held in July and allowed 52 artists to showcase their work. Teen volunteers participated in TEAM Tualatin, assisted in the library, and served on the Youth Advisory Council. The Police Department held National Night Out in August and hosted 212 students in the Gang Resistance Education and Training (GREAT) Camp. The Juanita Pohl center hosted over 3,300 participants in fitness, enrichment, and wellness programs while also serving 4,500 meals. Recreation partners over the summer included the Tualatin Crawfish Festival, Tualatin Heritage Center, Browns Ferry Park Kayak and Canoe Rentals, Willowbrook Arts Camps, the Tigard-Tualatin Summer Lunch Program, and the YMCA and Skyhawks Camps. Current work on the Parks and Recreation Master Plan is under way and over 900 people have participated in pop-up activities.

Upcoming fall activities at the Library include the One Thousand Books Before Kindergarten Launch, homework help with Brainfuse, STEAM after-school program, Hispanic Heritage Month, music programs, and an Adulting 101 Series. Volunteer Services will be offering volunteer opportunities with the Put Down Roots in Tualatin event and other library programs including Spruce up the Library and the Tween Takeover. The Juanita Pohl Center will be hosting the Annual

Veterans' Recognition Breakfast, Commit to be Fit!, and Active Aging Week. Community Services will be hosting the West Coast Giant Pumpkin Regatta and the YAC Haunted House. Look for more information about all of these events on the city's website.

2. Vision Action Network Presentation

Glen Montgomery, Executive Director of Vision Action Network (VAN) and Washington County Thrives presented and update. Mr. Montgomery spoke to the goals of Washington County Thrives. He stated they feel people need three things to succeed: a home, a job, and opportunities for early learning. Washington County currently is lacking some of the essential resources to help people in these areas. The organization is currently focuses on providing affordable housing. When families have a stable living situation they are then able to seek out learning opportunities and in turn boost the local economy. Thrives strategy aims to increase the return on investment in communities by building on a comprehensive approach of stable housing, career-track employment, and early learning employment. Currently the organization is raising awareness of key community leaders, engaging the county, cities, and businesses, and identifying new resources the community needs.

Mayor Ogden asked what the Council could do to help the organization in its mission. Mr. Montgomery stated they are seeking increased awareness from the Council and City on these issues.

F. COMMUNICATIONS FROM COUNCILORS

Councilor Bubenik invited everyone to the Tualatin Historical Society Wine Tasting and Auction on Friday, September 15, at 6pm. Tickets are available on their website.

Mayor Ogden requested to have a discussion regarding a contribution to the League of Oregon Cities Foundation placed on a future work session.

Mayor Ogden reminded everyone of the significance of 9/11.

G. ADJOURNMENT

Mayor Ogden adjourned the meeting at 8:24 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



Present: Mayor Lou Ogden; Councilor Frank Bubenik; Council President Joelle Davis; Councilor Paul Morrison; Councilor Jeff DeHaan; Councilor Robert Kellogg

Absent: Councilor Nancy Grimes

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Bill Steele; Finance Director Don Hudson; Deputy City Recorder Nicole Morris; Assistant to the City Manager Tanya Williams; Assistant City Manager Alice Cannon; Management Analyst II Zoe Monahan; Project Engineer Dominique Huffman

CALL TO ORDER

Mayor Ogden called the meeting to order at 5:32 p.m.

1. *Sustainable City Year Program.*

Management Analyst Zoe Monahan presented information on the Sustainable Cities Year Program presented by the University of Oregon. Analyst Monahan stated the program seeks to apply students' innovation, ingenuity, and fresh perspectives, to local governments and agencies seeking a transition to a more sustainable future. This year the University has partnered with Tri-Met to coordinate several multidisciplinary projects focusing on the Southwest Corridor Light Rail Project. For Tualatin the Bridgeport Connection Project will be their focus. They will explore sustainable transportation methods for this connection into Tualatin. The group's final presentation will be conducted at an open house in Tualatin in early December.

2. *Transient Lodging Tax.*

Finance Director Don Hudson presented information on a local Transient Lodging Tax (TLT) rate for consideration. He provided background on the tax stating it is currently a county-wide tax on hotel-motel occupancy originally adopted in 1974 and is currently at a rate of 9%. Director Hudson explained the breakdown of tax disbursement noting 1% goes to the County Fair, 3% to Tourism Promotion, and a 5% split between the county and the city. Recently the County code has changed and now allows cities to pass a local TLT rate that would stack on top of the County's 9% rate without losing their current allocation. Director Hudson explained the state statutes, rates, and definitions associated with TLT tax. He noted three cities including Beaverton, Hillsboro, and Tigard have all adopted their own rates. Projected local revenue rates were shared. Potential uses of the additional revenues could include trail projects, Tualatin Historical Society programs, the Tualatin Art Walk, Chamber of Commerce activities, and other special events.

Councilor Bubenik asked if a tourism facility could be enclosed in another facility.

Director Hudson stated it could but the specified dollars would have to only fund that portion of the facility.

Councilor Kellogg asked what the average nightly room rate is in Tualatin. Director Hudson stated staff would need to complete further research.

Mayor Ogden asked for clarification on the definition of tourist and tourist activities. Director Hudson explained the definition is vague but there is a challenge process for citizens if concerns arise.

Council President Davis asked if the hoteliers had been talked to about the potential of a tax. Director Hudson stated that would be the next step if Council decides to move forward.

Director Hudson stated next steps if the Council wants to move forward would include meeting with hoteliers and the Washington County Visitors Association, development of potential uses, and adoption of an ordinance.

Council President Davis asked what the process would be for choosing projects to fund. Director Hudson stated the Council would have to outline that process.

Councilor DeHaan asked if Washington County has any plans of increasing their rate. Director Hudson stated he has not heard anything at this time.

Council consensus was reached further explore the implementation of a local TLT tax rate.

3. *Allocation of Funds to Outside Agencies.*

Assistant to the City Manager Tanya Williams presented the Outside Agency Grant applications. She noted \$30,000 has been allocated in the budget this year for grant awards.

Councilor Morrison stated he would like to see guidelines put into place on how funds get allocated. He specifically would like to see no more than 10% of the overall funding go to one organization.

Councilor DeHaan would like to consider increasing the overall outside agency grant funding in the future.

After review and discussion, Council determined the award amounts to come forward in a resolution at the next Council meeting.

4. *Request from the League of Oregon Cities Foundation.*

Mayor Ogden presented a request from the League of Oregon Cities (LOC) Foundation. He stated the LOC Foundation is an arm of the League that provides scholarships for elected officials from small cities in Oregon to attend conferences and trainings that they otherwise would not be able to attend. They are seeking donations in the amount of five cents per capita. The Mayor suggested the City donate \$1,500 from the Council training budget to go to the LOC Foundation.

Council consensus was reached to make the \$1,500 donation.

5. Council Meeting Agenda Review, Communications & Roundtable.

Councilor Morrison announced that Tualatin Together and Tigard Turns the Tide will be hosting a Marijuana Initiative event on October 11.

ADJOURNMENT

The work session adjourned at 6:24 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR SEPTEMBER 25, 2017

Present: Mayor Lou Ogden; Councilor Frank Bubenik; Council President Joelle Davis;
Councilor Paul Morrison; Councilor Jeff DeHaan; Councilor Robert Kellogg

Absent: Councilor Nancy Grimes

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Bill Steele;
Finance Director Don Hudson; Planning Manager Aquilla Hurd-Ravich; Deputy City
Recorder Nicole Morris; Assistant to the City Manager Tanya Williams; Assistant City
Manager Alice Cannon; Management Analyst II Zoe Monahan; Associate Planner
Charles Benson

A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:04 p.m.

B. ANNOUNCEMENTS

1. Proclamation Declaring September 21-27, 2017 as Constitution Week in the City of Tualatin

Councilor Bubenik read the proclamation declaring September 21-27, 2017 as Constitution Week in the City of Tualatin.

C. CITIZEN COMMENTS

This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

Cathy Holland, Tualatin Community Police Foundation Board Member, announced a Rubber Duck Raffle to be held at the Pumpkin Regatta. Tickets are available on their website. In addition to the raffle they will be selling Tony Dogs to raise funds for Tony's Retirement Fund.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire

Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

MOTION by Councilor Robert Kellogg, SECONDED by Council President Joelle Davis to adopt the consent agenda.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

Other: Councilor Nancy Grimes (Absent)

MOTION CARRIED

1. Consideration of **Resolution No. 5338-17** Authorizing the City Manager to Execute a Revocable Permit to Allow a Fiber Optic Network Connection to Cross SW Leveton Drive for LAM Research

E. GENERAL BUSINESS

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

1. Consideration of **Resolution No. 5340-17** a Resolution Authorizing The City Manager to Apply For and Accept Community Development Block Grant Funds to Complete Project Design and Construction For the Sagert Street Pedestrian Connectivity and Enhancement Project

Assistant City Manager Alice Cannon, Management Analyst Zoe Monahan, and Assistant City Engineer Dominique Huffman presented a request for a Community Development Block Grant (CDBG). Analyst Monahan provided background information on the CDBG grant. She explained the three competitive program categories including public facilities, infrastructure improvements, and public service. The City's proposal falls under the Infrastructure Improvements category where there is an estimated \$366,129 in funding available. The project falls into two qualifying census tracts. Engineer Huffman explained the Sagert Street Pedestrian Connectivity Enhancement project proposal includes designing construction documents, removal and replacement of sidewalks to standard, removal and replacement of ADA curb ramps to standard, and the installation of a rapid flashing beacon. The project is estimated to cost \$336,000. MSTIP will match \$50,000, the City will match \$75,000, with the CDBG grant total being \$211,000. Analyst Monahan stated staff will present the project in January and a decision will be made by the committee in February.

Councilor Kellogg asked if the City's match is cash or in-kind. Engineer Huffman stated it is in cash from the Road Operating Fund.

Council President Davis asked how many flashing beacons would be installed. Engineer Huffman stated two beacons would be installed, one facing in each direction.

Councilor Bubenik explained some of the details the selection committee will be

looking for. He offered his insights to staff.

MOTION by Council President Joelle Davis, SECONDED by Councilor Jeff DeHaan to adopt Resolution No. 5340-17 authorizing the City Manager to apply for and accept Community Development Block Grant Funds to complete project design and construction for the Sagert Street Pedestrian Connectivity and Enhancement Project.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

Other: Councilor Nancy Grimes (Absent)

MOTION CARRIED

2. Consideration of Recommendations from the Council Committee on Advisory Appointments

Mayor Ogden thanked the applicant for her service to the committee.

MOTION by Councilor Paul Morrison, SECONDED by Councilor Robert Kellogg motion to approve the recommendations for the Tualatin Tomorrow Advisory Committee.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

Other: Councilor Nancy Grimes (Absent)

MOTION CARRIED

3. Consideration of Ordinance No. 1403-17 City of Tualatin Mobile Food Unit Regulations.

Planning Manager Aquilla Hurd-Ravich and Associate Planner Charles Benson presented an ordinance to adopt mobile food unit regulations. Manager Hurd-Ravich recapped the project timeline and public outreach to date. She noted the proposed ordinance would not go into effect until January 1, 2019 to allow staff time to create the program and go through the appropriate plan text amendment process. Planner Benson presented the ordinance provisions and draft components. He spoke to the purpose and applicability, definitions, permit requirements, operating requirements, location standards, and site standards.

PUBLIC COMMENT

Cathy Holland, President of the Commercial CIO, spoke in favor of the ordinance. She stated the current ordinance provides an amenable solution for brick and mortar restaurants while providing good public policy for mobile food units.

Linda Moholt, Chamber of Commerce Director, spoke in favor of the ordinance as presented.

Joseph Hall, owner of the PuPu Shack, spoke in opposition of the ordinance. He would like to see the temporary ordinance continue to remain in place. He stated the proposed ordinance places too heavy of restrictions on mobile food vendors in Tualatin.

COUNCIL QUESTIONS

Councilor Kellogg asked if there is a county rule that states food units have to operate on developed lots. Manager Hurd-Ravich stated the main consideration for developed lots is due to storm water issues.

Councilor Kellogg proposed a changed to Section 9.9.050 1.A to read location “of the mobile food unit.”

Councilor DeHaan asked why a food truck could not be located within a 100 feet of a gas station. Manager Hurd-Ravich stated it is due to concerns with propane and open flames.

Councilor DeHaan asked what the Planning Commission’s recommendations was on the ordinance. Manager Hurd-Ravich stated a vote on the ordinance is not under the commission’s purview. Staff has been keeping them updated as the plan text amendment would go through them.

Council President Davis asked Mr. Hall if he was in favor of the 200 foot buffer. Mr. Hall stated he is not in favor of the buffer as it is proposed in the ordinance.

COUNCIL DELIBERATION

None.

MOTION by Council President Joelle Davis, SECONDED by Councilor Paul Morrison for first reading by title only.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

Other: Councilor Nancy Grimes (Absent)

MOTION CARRIED

MOTION by Council President Joelle Davis, SECONDED by Councilor Frank Bubenik for second reading by title only.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

Other: Councilor Nancy Grimes (Absent)

MOTION CARRIED

MOTION by Council President Joelle Davis, SECONDED by Councilor Paul Morrison to adopt Ordinance No. 1403-17 City of Tualatin Mobile Food Unit Regulations.

DISCUSSION ON MOTION

Councilor Kellogg thanked the community and business for their work on the ordinance.

Mayor Ogden stated the ordinance addresses the issues and creates balance, but he can't support it because the original intent of the review is not being met and would eliminate the PuPu Shack from operating in its current location.

Councilor DeHaan stated he can't vote in support of the ordinance because he doesn't feel food trucks are an issue in Tualatin.

Councilor Bubenik stated he is favor of the ordinance. He noted since it will not go into effect until January 1, 2019 it gives current food trucks plenty of time to relocate and do the appropriate advertising of their new locations.

Councilor Morrison is in favor of the ordinance as it provides certainty to brick and mortar restaurants and provides a good compromise for both types of businesses.

Aye: Councilor Frank Bubenik, Council President Joelle Davis, Councilor Paul Morrison, Councilor Robert Kellogg

Nay: Mayor Lou Ogden, Councilor Jeff DeHaan

Other: Councilor Nancy Grimes (Absent)

MOTION CARRIED

4. Consideration of Council Rules

Discussion on this item began at 6:32 p.m.

Mayor Ogden briefly recapped previous discussion on the Council Rules. He presented his track changes as attached to the staff report. Discussion amongst the items was held by the Council and are reflected in the final draft.

Discussion was paused at 6:55 p.m. to begin the official meeting. Discussion continued at 8:41 p.m.

Due to lack of time, consensus was reached to continue the discussion on the Mayor's track changes on November 1.

F. COMMUNICATIONS FROM COUNCILORS

Councilor DeHaan stated Rotary is raising funds for a dental van.

Mayor Ogden stated he attended the GPI Conference last week.

G. ADJOURNMENT

Mayor Ogden adjourned the meeting at 9:30 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Nicole Morris, Deputy City Recorder

DATE: 10/09/2017

SUBJECT: Consideration of **Resolution No. 5342-17** Awarding Fiscal Year 2017/2018 Outside Agency Grant Funds to Provide Social Services to the Citizens of Tualatin

ISSUE BEFORE THE COUNCIL:

The City Council will consider Resolution No. 5342-17 that would award the fiscal year 2017/18 Outside Agency Grant funds to provide social services to the citizens of Tualatin.

RECOMMENDATION:

Staff recommends that the City Council approve Resolution No. 5342-17 awarding the 2017/18 Outside Agency Grants.

EXECUTIVE SUMMARY:

On September 25, 2017, the City Council discussed in work session the disbursements of the fiscal year 2017/18 Outside Agency Grant funds. Consensus was reached at that meeting to disperse the funds as follows:

<u>Outside Agency</u>	<u>Amount Awarded</u>
Caring Closet	\$2,500
Community Action Organization	\$5,000
Community Warehouse	\$2,500
Family Justice Center of Washington County	\$3,500
Good Neighbor Center	\$4,500
Neighbors Nourishing Communities	\$2,500
Sexual Assault Resource Center	\$1,000
Tigard-Tualatin Compassion Clinic	\$1,500
Tigard-Tualatin Family Resource Center	\$4,000
Tualatin School House Food Pantry	\$3,000

FINANCIAL IMPLICATIONS:

Grant funds for the Outside Agency Grants were budgets for Fiscal Year 2017/18 in the amount of \$30,000.

Attachments: [Resolution 5342-17](#)

RESOLUTION NO. 5342-17

RESOLUTION AWARDING FISCAL YEAR 2017/2018 OUTSIDE AGENCY GRANT FUNDS TO PROVIDE SOCIAL SERVICES TO THE CITIZENS OF TUALATIN

WHEREAS, the City Council finds that providing social services is an important governmental function; and

WHEREAS, the City does not provide social services directly; and

WHEREAS, other non-profit entities exist that provide social services that serve the citizens of the City of Tualatin; and

WHEREAS, the City finds it is most efficient for the City to utilize these entities to provide social services to the citizens of Tualatin; and

WHEREAS, the City finds it is in the public interest for the City to grant funds directly to non-profit entities in order to provide needed social services;

WHEREAS, the City Council finds the City will receive a direct public benefit from the expenditure of these funds.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Council awards the following amounts to the following entities as a grant to provide social services to the citizens of the City of Tualatin:

<u>Outside Agency</u>	<u>Amount Awarded</u>
Caring Closet	\$2,500
Community Action Organization	\$5,000
Community Warehouse	\$2,500
Family Justice Center of Washington County	\$3,500
Good Neighbor Center	\$4,500
Neighbors Nourishing Communities	\$2,500
Sexual Assault Resource Center	\$1,000
Tigard-Tualatin Compassion Clinic	\$1,500
Tigard-Tualatin Family Resource Center	\$4,000
Tualatin School House Food Pantry	\$3,000

Section 2. The City Manager is authorized to execute grant agreements with the entities and amounts established in Section 1 of this resolution.

Section 3. This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 9th day of October, 2017.

CITY OF TUALATIN, OREGON

BY _____
Mayor Pro Tem

APPROVED AS TO LEGAL FORM

BY _____
City Attorney

ATTEST:

BY _____
City Recorder



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Bates Russell, IS Director

FROM: Clayton Reynolds, Maintenance Services Div Manager

DATE: 10/09/2017

SUBJECT: Consideration of **Resolution No. 5341-17** Authorizing an Intergovernmental Agreement between the City of Tualatin and Washington County, Oregon for Fiscal Year 2016 Urban Areas Security Initiative (UASI) Grant Funds

ISSUE BEFORE THE COUNCIL:

This IGA between Washington County and the City of Tualatin is related to the use of UASI Grant Program funds for addressing the unique planning, organization, equipment, training, and exercise needs of high-density urban areas to assist in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism.

This grant supports regional urban area projects selected by the Regional Disaster Preparedness Organization (RDPO) as vital to the regional preparedness and recovery efforts. A portion of these grant funds were earmarked for CERT equipment and supplies.

RECOMMENDATION:

Staff seeks City Council approval of the resolution authorizing the City Manager to execute the Intergovernmental Agreement (IGA) as it is vital to continuing support of the Tualatin CERT team endeavors in pursuit of the emergency readiness and response for the City residents and businesses.

FINANCIAL IMPLICATIONS:

The UASI grant funding for the Portland Urban Area (PUA) was in the amount of \$2,822,000.00. Exhibit A includes the complete budget outline.

Attachments: Reso 5341-17 - IGA WashCo UASI
IGA

RESOLUTION NO. 5341-17

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH WASHINGTON COUNTY TO RECEIVE URBAN AREAS SECURITY INITIATIVE (UASI) GRANT FUNDS.

WHEREAS, the United States Department of Homeland Security's Urban Areas Security Initiative (UASI) program provides grant funds to address the unique planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas to assist in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism;

WHEREAS, Washington County has received UASI grant funds; and

WHEREAS, this Intergovernmental Agreement (IGA) is made under ORS 190 with Washington County for the coordination of activities with Washington County consistent with the UASI grant program.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager is authorized to execute an IGA with Washington County relating to Urban Areas Security Initiative (UASI) Grant Funds, which is attached as Exhibit 1 and incorporated by reference.

Section 2. This resolution is effective upon adoption.

INTRODUCED AND ADOPTED by the City Council this ___ day of October, 2017.

CITY OF TUALATIN, OREGON

BY _____
Mayor Pro Tem

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

INTERGOVERNMENTAL AGREEMENT

Between

WASHINGTON COUNTY, OREGON

and

THE CITY OF TUALATIN, OREGON

THIS IS an intergovernmental agreement (Agreement) between Washington County (County) and the city of Tualatin (City) entered into pursuant to the authority granted in Oregon Revised Statutes (ORS) Chapter 190 for the coordination of activities related to use of the United States Department of Homeland Security's Urban Areas Security Initiative (UASI) grant program funds for addressing the unique planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas to assist in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism.

Recitals

WHEREAS, the United States Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) Grant Programs Directorate, provided UASI grant funding in the amount of \$2,962,000 in Fiscal Year 2016 to the state of Oregon ("State"), acting by and through the Oregon Military Department, Office of Emergency Management (OEM), for distribution of \$2,822,000 to the Portland Urban Area (PUA); and

WHEREAS, the State awarded UASI Grant #16-170 to the city of Portland, Bureau of Emergency Management (PBEM), for Fiscal Year 2016 in the amount of \$2,822,000, a copy of which is attached to this Agreement and incorporated herein as Attachment 1 and Exhibits A, B, C and D; and

WHEREAS, UASI Grant #16-170 is intended to increase the capabilities of the PUA, which includes jurisdictions in Multnomah, Clackamas, Columbia and Washington counties in Oregon and Clark County in Washington, as well as the Port of Portland and TriMet, to build an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism; and

WHEREAS, a list of equipment, supplies, professional services, training and exercise events to be grant funded has been developed through the application process and coordination with the State; and

WHEREAS, PBEM, as Grant Administrator, is required to oversee and coordinate the expenditure of the UASI grant funds and has developed procedures to guide the procurement, delivery, and reimbursement processes; and

WHEREAS, PBEM, as Grant Administrator, is required to make periodic reports to the State regarding the expenditure of the UASI grant funds and has developed procedures to coordinate the collection and submission of information and documents needed to support the reporting process; and

WHEREAS, the city of Portland and all other PUA jurisdictions that receive direct benefit from UASI grant purchases are required to comply with all terms of the U.S. Department of Homeland Security, UASI Grant CFDA # 97.067, Grant #16-170 award including, but not limited to, obligations regarding reporting, access to records, financial tracking and procurement, and supplanting of funds; and

WHEREAS, the Regional Disaster Preparedness Organization (RDPO) is the designated organization in the PUA that serves in the capacity of Urban Area Work Group (UAWG) to coordinate program development and decision-making processes for allocating UASI sub-grants, as specified in the "Standard Operating Procedure Urban Areas Security Initiative (UASI) Program Management Under the Regional Disaster Preparedness Organization (RDPO)," (Attachment 2); and

WHEREAS, the city of Portland has entered into an agreement with Washington County to secure the County's commitment to follow the city of Portland-developed procurement, delivery, reimbursement, and reporting procedures, to ensure its compliance with all terms of the grant, and to obligate it to coordinate with and obtain similar assurances from directly benefiting jurisdictions, agencies, and organizations within the County.

NOW, THEREFORE, the parties agree as follows:

1. The County agrees:

- a) To coordinate grant-related procurement, reimbursement, and reporting activities with directly benefiting jurisdictions, agencies, and organizations in the County consistent with the processes developed by the city of Portland to manage those activities.
- b) To serve as the point of contact for all requests made by the City and to be responsible for submitting all purchase requests to the city of Portland on behalf of the City.
- c) To maintain a sub-recipient monitoring plan in compliance with the requirements set forth in the most recent versions of applicable federal regulations and Office of Management and Budget (OMB) circulars.

- d) To ensure the City maintains compliance with the terms of this Agreement and UASI Grant #16-170.

2.

The City agrees:

- a) That it has read the award conditions and certifications for UASI Grant #16-170, including Exhibits A, B, C and D, and that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the city of Portland, as grantee, under those grant documents.
- b) To comply with all city of Portland and State financial management processes, and to maintain accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP) and financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations and Office of Management and Budget Circulars. A nonexclusive list of regulations commonly applicable to DHS grants includes:
 - i. Administrative Requirements: 2 CFR 200 (State and Local Governments) and 2 CFR Part 215 (Non-Profit Organizations)
 - ii. Cost Principles: 2 CFR 200 Subpart E
 - iii. Audit Requirements: 2 CFR 200 Subpart F-Audit Requirements
- c) To comply with all city of Portland and State procurement requirements, including competitive bid processes as outlined in Portland City Code (PCC) and Oregon Revised Statutes (ORS). A nonexclusive list of codes and statutes commonly applicable to procurement include:
 - i. PCC Chapter 5.33 (Goods and Services) and PCC Chapter 5.68 (Professional, Technical and Expert Service Contracts)
 - ii. ORS 279A (Public Contracting – General Provisions) and ORS 279B (Public Contracting – Public Procurements)
- d) That all equipment, supplies, and services provided by the city of Portland are as described in the approved grant budget documents, which the City has seen.
- e) That regardless of how it is procured, all equipment and supplies purchased shall be owned by the City until disposition takes place. The City shall be responsible for inventory tracking, maintenance and storage while in possession of such equipment and supplies.
- f) That regardless of who the owner is, all equipment purchased with grant funds will be made available to all eligible regional partners per 44 CFR 13.32(c)(2). All reasonable requests must be met when sufficient notice is

given and no reasonable conflict exists. Owners may not charge "rental" fees for equipment, but may seek reimbursement for normal expendables (not already covered by grant funds) such as fuel, vehicle damage, maintenance for wear and tear, etc., when appropriate.

- g) To comply with all property and equipment tracking and monitoring processes required by the grants, this Agreement, the city of Portland and the State and to treat all single items of equipment valued over \$5,000 as fixed assets and provide the city of Portland with a list of such equipment on a biennial basis, using PBEM's Equipment Inventory Report, and completing and returning the report to PBEM on or before June 30 of the reporting year. The list should include, but is not limited to, status, asset number, funding source, date of purchase, equipment description, serial number, and location where the equipment is housed or stored. Additionally, all fixed assets must have a sticker affixed that visibly states: "Purchased with funds provided by the U.S Department of Homeland Security." All requirements for the tracking, monitoring, disposition, and transfer of fixed assets are set forth in 2 CFR 200.313, which can be found here: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8d75f90044e30262070fe0bc233c337f&mc=true&n=pt2.1.200&r=PART&ty=HTML#_top

The City shall maintain and store all equipment and supplies, provided or purchased, in a manner that will keep it safe, prolong its useful life and be ensure it is in good working condition at all times.

- h) That any request or invoice it submits for reimbursement of costs is consistent with the items identified in the approved grant budget documents.
- i) That it understands and accepts full financial responsibility and may not be reimbursed for costs incurred which have not been approved by the State and/or the U.S. Department of Homeland Security, FEMA Grant Programs Directorate.
- j) That it will not deviate from the items listed in the approved grant budget documents without first securing written approval from the city of Portland.
- k) That all publications created with funding under this grant shall prominently contain the following statement: "This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security."

- l) That all financial records, supporting documentation and all other records pertinent to this grant or agreements under this grant shall be retained by the City following termination, completion or expiration of this Agreement for purposes of state of Oregon or federal examination and audit, as established by federal, state or city of Portland retention schedules (whichever is longer). Currently, the city of Portland's retention requirement for these documents is 10 years. A nonexclusive list of codes and statutes commonly applicable to retention include:
 - i. City of Portland Retention Schedules, Section 4808
<http://www.portlandonline.com/auditor/index.cfm?c=27183&a=7949>
 - ii. OAR 166-200-0050(17)
 - iii. 2 CFR 200.333-337
- m) To obtain a copy of 2 CFR 200 Subparts A-F, and to apprise itself of all rules and regulations set forth.
- n) Not to supplant its local funds with federal funds but rather use the federal funds to increase the amount of funds that, in the absence of federal aid, would be made available to fund programs within the UASI grant program guidelines.
- o) To comply with National Incident Management System (NIMS) objectives identified as requirements by the State and certify that the City is registered with the State as being NIMS compliant.
- p) To comply with all applicable federal, state, and local environmental and historic preservation (EHP) requirements and provide information requested to ensure compliance with applicable laws.
- q) To comply with federal guidelines concerning exclusions for contractors by verifying that a contractor is not excluded from receiving federal funds prior to making any expenditures and maintaining a record of verification. Currently, verification can be made at the System for Award Management site – www.sam.gov. A copy of this report must be submitted to the city of Portland, as part of the documents required for reimbursement requests.
- r) To provide timely compliance with all reporting obligations required by the grant's terms and the city of Portland.
- s) To provide the city of Portland and the County with Performance and Program Reports, Financial Reimbursement Reports, Asset / Inventory Reports and Audit Reports when required by the city of Portland and in the form required by the city of Portland.

- i. Performance reports are due to the city of Portland and the County on a quarterly basis: April 15, July 15, October 15, and January 15 during the term of the grant agreement. Late Performance Reports could result in the suspension and/or termination of the grant.
 - ii. Asset / Inventory Reports are due to the city of Portland and the County on a biennial basis, on June 30 every two years.
 - iii. Results of the City's audit report that complies with 2 CFR 200 are due to the city of Portland and the County fifteen (15) days after the City's receipt of the report, along with a corrective action plan (if applicable). Agencies expending \$750,000 or more in federal awards during their fiscal year are required to have an audit. 2 CFR 200.21 (including Subpart F and Appendix XI audit requirements can be found here: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=8d75f90044e30262070fe0bc233c337f&mc=true&n=pt2.1.200&r=PART&ty=HTML#_top)
 - iv. Financial Reimbursement Reports are due no less frequently than quarterly during the term of the grant agreement. Late Financial Reimbursement Reports could result in the suspension and/or termination of the grant.
 - v. Per UASI Grant #16-170, Section 5b, Financial Reimbursement Reports, Paragraph ii, reimbursement for expenses will be withheld if Performance Reports are not submitted by the specified dates or are incomplete.
- t) To follow the travel expense and per diem guidelines as set forth by the U.S. General Services Administration (GSA) as well as the guidelines of the city of Portland and State. Per UASI Grant #16-170, Section 5b, Financial Reimbursement Reports, Paragraph iii, reimbursement rates for travel expenses shall not exceed those allowed by the state of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expenses or authorized rates incurred.

GSA per diem rates can be found on the GSA website:
<http://www.gsa.gov/portal/content/104877>

The city of Portland's guidelines can be found on the Office of the City Auditor's website:

BCP-FIN-6.13 Travel:
<http://www.portlandonline.com/auditor/index.cfm?c=34747&a=160271>

BCP-FIN-6.14 Non-travel Meals, Light Refreshments and Related
Miscellaneous Expenses:

<http://www.portlandonline.com/auditor/index.cfm?&a=160283&c=34747>

- u) To comply with all applicable laws, regulations, program guidance and guidelines of the Federal Government, the state of Oregon, and OEM in the performance of this Agreement, including but not limited to those listed in UASI Grant #16-170, Attachment 1, Exhibit B, Federal Requirements and Certifications, Exhibit C, Subagreement Insurance Requirements, and Exhibit D, Information Required by 2 CFR 200.331(a).
 - v) To comply with all of its obligations under this Agreement and any applicable, incorporated document or documents.
- 3. Effective Date and Duration.** This Agreement shall be effective from the date both parties have signed and shall be terminated upon the end date of the agreement between the city of Portland and the State (Grant #16-170), unless otherwise extended by the parties in writing or this IGA is terminated due to failure of one of the Parties to perform.
- 4. Amendment.** This Agreement may be modified or amended only by the written agreement of both parties but must remain consistent with the requirements of the UASI program grant, the agreement between the State and the city of Portland, and the city of Portland's UASI grant agreement with the County.
- 5. Termination.** Either party may terminate this Agreement in the event the other fails to comply with its obligations under the Agreement. If the Agreement is terminated due to the City's failure or inability to comply with the provisions of the grant or the Agreement, the City will be liable to the city of Portland for the full cost of any equipment, materials, or services provided by the city of Portland to the City, and any penalties imposed by the State or Federal Government. Each party will notify the other, in writing, of its intention to terminate this Agreement and the reasons therefore. The other party shall have fourteen days, or such other time as the parties may agree, from the date of the notice in which to correct or otherwise address the compliance failure which is the subject of the notice.
- 6. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State, without regard to principles of conflicts of law. Any claim, action, suit or proceeding that arises from or relates to this Agreement shall be brought and conducted exclusively within the Circuit Court of Washington County for the state of Oregon. In the event a claim is brought in a federal forum, then it shall be brought and conducted solely and exclusively in the United States District Court for the District of Oregon.

7. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument.
8. **Survival.** The terms, conditions, representations, and all warranties in this Agreement shall survive the termination or expiration of this Agreement.
9. **Force Majeure.** Neither party shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond reasonable control. Each party shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Agreement.

10. Indemnification.

- a) Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the City shall indemnify, defend and hold harmless the County, its commissioners, employees and agents from and against any and all liability, claims, damages, losses, and expenses, including but not limited to reasonable attorney's fees arising out of or resulting from the acts of the City, its officers, employees and agents in the performance of this agreement. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the County shall indemnify, defend and hold harmless the City from and against all liability, loss and costs arising out of or resulting from the acts of the County, its officers, employees and agents in the performance of this agreement.
- b) The City shall take all reasonable steps to cause its contractor(s) or subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless OEM and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the City's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims
- c) The City shall require its contractor(s) or subcontractor(s) to obtain insurance in amounts required by OEM, not to exceed OEM's limits of liability under the Oregon Tort Claims Act, and shall provide that the state of Oregon, OEM, and their officers, employees and members are named

as Additional Insureds, but only with respect to the contractor's or subcontractor's services performed under this grant.

- 11. Third Party Beneficiaries.** The County and the City are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such persons are individually identified by name herein.
- 12. Successors in Interest.** The terms of this Agreement shall be binding upon the successors and assigns of each party hereto.
- 13. Entire Agreement.** The parties agree and acknowledge that this Agreement is a complete, integrated agreement that supersedes any prior understandings related to implementation of the FY 2016 UASI program grant (Grant #16-170) and that it is the entire agreement between them relative to that grant.
- 14. Worker's Compensation.** Each party shall be responsible for providing worker's compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027). Neither party shall be required to provide or show proof of any other insurance coverage.
- 15. Nondiscrimination.** Each party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
- 16. Human Trafficking (2 CFR Part 175).** The City, employees, contractors and sub-recipients under this Agreement and their respective employees may not:
- o Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
 - o Procure a commercial sex act during the period of time the award is in effect;
 - or
 - o Use forced labor in the performance of the subgrant or subgrants under the award.

The City must inform the city of Portland and OEM immediately of any information the City receives from any source alleging a violation of any of the above prohibitions in the terms of this IGA. OEM may terminate Grant #16-170, without penalty, for violation of these provisions. OEM's right to terminate Grant #16-170 unilaterally, without penalty, is in addition to all other remedies under Grant #16-170.

- 17. Access to Records.** Each party shall maintain, and shall have access to the books, documents, papers, and other records of the other party which are related

Attachment I

OREGON MILITARY DEPARTMENT
OFFICE OF EMERGENCY MANAGEMENT
HOMELAND SECURITY GRANT PROGRAM
URBAN AREA SECURITY INITIATIVE
CFDA # 97.067
CITY OF PORTLAND
\$2,822,000
Grant No: 16-170

This Agreement is made and entered into by and between the State of Oregon, acting by and through the Oregon Military Department, Office of Emergency Management, hereinafter referred to as "OEM," and the City of Portland hereinafter referred to as "Subrecipient," and collectively referred to as the "Parties."

1. **Effective Date.** This Agreement shall become effective on the date this Agreement is fully executed and approved as required by applicable law. Reimbursements will be made for Project Costs incurred beginning on September 15, 2016 and ending, unless otherwise terminated or extended, on May 30, 2019 (Expiration Date). No Grant Funds are available for expenditures after the Expiration Date. OEM's obligation to disburse Grant Funds under this Agreement shall end as provided in Section 6.b.iv of this Agreement.
 2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:
 - Exhibit A: Project Description and Budget
 - Exhibit B: Federal Requirements and Certifications
 - Exhibit C: Subcontractor Insurance
 - Exhibit D: Information required by 2 CFR 200.331(a)
- In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit B; this Agreement without Exhibits; Exhibit A; Exhibit C.
3. **Grant Funds.** In accordance with the terms and conditions of this Agreement, OEM shall provide Subrecipient an amount not to exceed \$2,822,000 in Grant Funds for eligible costs described in Section 6 hereof. Grant Funds for this Program will be from the Fiscal Year 2016 Urban Area Security Initiative (UASI) grant.
 4. **Project.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by OEM by amendment pursuant to Section 11.d hereof.
 5. **Reports.** Failure of Subrecipient to submit the required program, financial, or audit reports, or to resolve program, financial, or audit issues may result in the suspension of grant payments, termination of this Agreement, or both.

a. Performance Reports.

- i. Subrecipient agrees to submit performance reports, using a form provided by OEM, on its progress in meeting each of the agreed upon milestones. The narrative reports will address specific information regarding the activities carried out under the FY 2016 Urban Area Security Initiative program.
- ii. Reports are due to OEM on or before the 30th day of the month following each subsequent calendar quarter (ending on March 31, June 30, September 30, and December 31).
- iii. Subrecipient may request from OEM prior written approval to extend a performance report requirement past its due date. OEM, in its sole discretion, may approve or reject the request.

b. Financial Reimbursement Reports.

- i. To receive reimbursement, Subrecipient must submit a signed Request for Reimbursement (RFR), using a form provided by OEM that includes supporting documentation for all grant expenditures. RFRs may be submitted monthly but no less frequently than quarterly during the term of this Agreement. At a minimum, RFRs must be submitted on or before 30 days following each subsequent calendar quarter (ending on March 31, June 30, September 30, and December 31), and a final RFR must be submitted no later than 30 days following the end of the grant period.
- ii. Reimbursements for expenses will be withheld if performance reports are not submitted by the specified dates or are incomplete.
- iii. Reimbursement rates for travel expenses shall not exceed those allowed by the State of Oregon. Requests for reimbursement for travel must be supported with a detailed statement identifying the person who traveled, the purpose of the travel, the dates, times, and places of travel, and the actual expenses or authorized rates incurred.
- iv. Reimbursements will only be made for actual expenses incurred during the Grant Award Period provided in Section 1. Subrecipient agrees that no grant may be used for expenses incurred before or after the Grant Award Period.

6. Disbursement and Recovery of Grant Funds.

- a. **Disbursement Generally.** OEM shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements shall be made by OEM upon approval by OEM of an RFR. Eligible costs are the reasonable and necessary costs incurred by Subrecipient for the Project, in accordance with the Urban Area Security Initiative program guidance and application materials, including without limitation the United States Department of Homeland Security Notice of Funding Opportunity (NOFO), that are not excluded from reimbursement by OEM, either by this Agreement or by exclusion as a result of financial review or audit. The guidance, application materials and NOFO are available at http://www.oregon.gov/OMD/OEM/Pages/plans_train/grant_info.aspx.
- b. **Conditions Precedent to Disbursement.** OEM's obligation to disburse Grant Funds to Subrecipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
 - i. OEM has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to make the disbursement.

- ii. Subrecipient is in compliance with the terms of this Agreement including, without limitation, Exhibit B and the requirements incorporated by reference in Exhibit B.
 - iii. Subrecipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
 - iv. Subrecipient has provided to OEM a RFR in accordance with Section 5.b of this Agreement.
- c. **Recovery of Grant Funds.** Any funds disbursed to Subrecipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement ("Unexpended Funds") must be returned to OEM. Subrecipient shall return all Misexpended Funds to OEM promptly after OEM's written demand and no later than 15 days after OEM's written demand.

7. **Representations and Warranties of Subrecipient.** Subrecipient represents and warrants to OEM as follows:

- a. **Organization and Authority.** Subrecipient is a political subdivision of the State of Oregon and is eligible to receive the Grant Funds. Subrecipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Subrecipient of this Agreement (1) have been duly authorized by all necessary action of Subrecipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is a party or by which Subrecipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement.
- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. **No Solicitation.** Subrecipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
- d. **NIMS Compliance.** By accepting FY 2016 funds, Subrecipient certifies that it has met National Incident Management System (NIMS) compliance activities outlined in the Oregon NIMS Requirements located through OEM at http://www.oregon.gov/OMD/OEM/Pages/plans_train/NIMS.aspx#Oregon_NIMS_Requirements.

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

8. **Records Maintenance and Access; Audit.**

- a. **Records, Access to Records and Facilities.** Subrecipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement

and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Subrecipient acknowledges and agrees, and Subrecipient will require its contractors, subcontractors, sub-recipients (collectively hereafter "contractors"), successors, transferees, and assignees to acknowledge and agree, to provide OEM, Oregon Secretary of State (Secretary), Office of Inspector General (OIG), Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), or any of their authorized representatives, access to records, accounts, documents, information, facilities, and staff. Subrecipient and its contractors must cooperate with any compliance review or complaint investigation by any of the above listed agencies, providing them access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary. The right of access is not limited to the required retention period but shall last as long as the records are retained.

b. **Retention of Records.** Subrecipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for until the latest of (a) six years following termination, completion or expiration of this Agreement, (b) upon resolution of any litigation or other disputes related to this Agreement, or (c) as required by 2 CFR 200.333. It is the responsibility of Subrecipient to obtain a copy of 2 CFR Part 200, and to apprise itself of all rules and regulations set forth.

c. **Audits.**

- i. If Subrecipient expends \$750,000 or more in Federal funds (from all sources) in its fiscal year, Subrecipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR 200 Subpart F. Copies of all audits must be submitted to OEM within 30 days of completion. If Subrecipient expends less than \$ 750,000 in its fiscal year in Federal funds, Subrecipient is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials as provided in Section 8.a. herein.
- ii. Audit costs for audits not required in accordance with 2 CFR 200 Subpart F are unallowable. If Subrecipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the grant.
- iii. Subrecipient shall save, protect and hold harmless the OEM from the cost of any audits or special investigations performed by the Secretary or any federal agency with respect to the funds expended under this Agreement. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subrecipient and the State of Oregon.

9. **Subrecipient Procurements; Property and Equipment Management and Records; Subcontractor Indemnity and Insurance**

- a. **Subagreements.** Subrecipient may enter into agreements (hereafter "subagreements") for performance of the Project. Subrecipient shall use its own procurement procedures and regulations, provided that the procurement conforms to applicable Federal and State law (including without limitation ORS chapters 279A, 279B, 279C, and that for contracts for more than \$150,000, the contract shall address administrative, contractual or legal remedies for violation or breach of contract terms and provide for sanctions and penalties as appropriate, and for

contracts for more than \$10,000 address termination for cause or for convenience including the manner in which termination will be effected and the basis for settlement).

- i. Subrecipient shall provide to OEM copies of all Requests for Proposals or other solicitations for procurements anticipated to be for \$100,000 or more and to provide to OEM, upon request by OEM, such documents for procurements for less than \$100,000. Subrecipient shall include with its RFR a list of all procurements issued during the period covered by the report.
 - ii. All subagreements, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner that encourages fair and open competition to the maximum practical extent possible. All sole-source procurements in excess of \$100,000 must receive prior written approval from OEM in addition to any other approvals required by law applicable to Subrecipient. Justification for sole-source procurement in excess of \$100,000 should include a description of the program and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
 - iii. Subrecipient shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to OEM.
 - iv. Subrecipient agrees that, to the extent it uses contractors, such contractors shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.
- b. Purchases and Management of Property and Equipment; Records.** Subrecipient agrees to comply with all applicable federal requirements referenced in Exhibit B, Section II.C.1 to this Agreement and procedures for managing and maintaining records of all purchases of property and equipment will, at a minimum, meet the following requirements:
- i. All property and equipment purchased under this agreement, whether by Subrecipient or a contractor, will be conducted in a manner providing full and open competition and in accordance with all applicable procurement requirements, including without limitation ORS chapters 279A, 279B, 279C, and purchases shall be recorded and maintained in Subrecipient's property or equipment inventory system.
 - ii. Subrecipient's property and equipment records shall include: a description of the property or equipment; the manufacturer's serial number, model number, or other identification number; the source of the property or equipment, including the Catalog of Federal Domestic Assistance (CFDA) number; name of person or entity holding title to the property or equipment; the acquisition date; cost and percentage of Federal participation in the cost; the location, use and condition of the property or equipment; and any ultimate disposition data including the date of disposal and sale price of the property or equipment.
 - iii. A physical inventory of the property and equipment must be taken and the results reconciled with the property and equipment records at least once every two years.
 - iv. Subrecipient must develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property and equipment. Subrecipient shall investigate any loss, damage, or theft and shall provide the results of the investigation to OEM upon request.

- v. Subrecipient must develop, or require its contractors to develop, adequate maintenance procedures to keep the property and equipment in good condition.
 - vi. If Subrecipient is authorized to sell the property or equipment, proper sales procedures must be established to ensure the highest possible return.
 - vii. Subrecipient agrees to comply with 2 CFR 200.313 pertaining to use and disposal of equipment purchased with Grant Funds, including when original or replacement equipment acquired with Grant Funds is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency.
 - viii. Subrecipient shall require its contractors to use property and equipment management requirements that meet or exceed the requirements provided herein applicable to all property and equipment purchased with Grant Funds.
 - ix. Subrecipient shall, and shall require its contractors to, retain, the records described in this Section 9.b. for a period of six years from the date of the disposition or replacement or transfer at the discretion of OEM. Title to all property and equipment purchased with Grant Funds shall vest in Subrecipient if Subrecipient provides written certification to OEM that it will use the property and equipment for purposes consistent with the State Homeland Security Program.
- c. **Subagreement indemnity; insurance.** Subrecipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless OEM and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Subrecipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that OEM shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of OEM, be indemnified by the other party to Subrecipient's subagreement(s) from and against any and all Claims.

Any such indemnification shall also provide that neither Subrecipient's contractor(s) nor any attorney engaged by Subrecipient's contractor(s) shall defend any claim in the name of OEM or any agency of the State of Oregon (collectively "State"), nor purport to act as legal representative of the State or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Subrecipient's contractor is prohibited from defending State or that Subrecipient's contractor is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Subrecipient's contractor if State elects to assume its own defense.

Subrecipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

10. Termination

- a. **Termination by OEM.** OEM may terminate this Agreement effective upon delivery of written notice of termination to Subrecipient, or at such later date as may be established by OEM in such written notice, if:
- i. Subrecipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Subrecipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. OEM fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow OEM, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
 - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - iv. The Project would not produce results commensurate with the further expenditure of funds; or
 - v. Subrecipient takes any action pertaining to this Agreement without the approval of OEM and which under the provisions of this Agreement would have required the approval of OEM.
 - vi. OEM determines there is a material misrepresentation, error or inaccuracy in Subrecipient's application.
- b. **Termination by Subrecipient.** Subrecipient may terminate this Agreement effective upon delivery of written notice of termination to OEM, or at such later date as may be established by Subrecipient in such written notice, if:
- i. The requisite local funding to continue the Project becomes unavailable to Subrecipient; or
 - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days notice to the other Party and failure of the other Party to cure within the ten days, if the other Party fails to comply with any of the terms of this Agreement.
- d. **Settlement upon Termination.** Immediately upon termination under Sections 10.a.i, v. or vi, no Grant Funds shall be disbursed by OEM and Subrecipient shall return to OEM Grant Funds previously disbursed to Subrecipient by OEM in accordance with Section 6.c and the terminating party may pursue additional remedies in law or equity. Termination of this Agreement does not relieve Subrecipient of any other term of this Agreement that may survive termination, including without limitation Sections 11.a and c.

11. GENERAL PROVISIONS

- a. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against OEM or Subrecipient with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party

Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which OEM is jointly liable with Subrecipient (or would be if joined in the Third Party Claim), OEM shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Subrecipient in such proportion as is appropriate to reflect the relative fault of OEM on the one hand and of Subrecipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of OEM on the one hand and of Subrecipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. OEM's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if OEM had sole liability in the proceeding.

With respect to a Third Party Claim for which Subrecipient is jointly liable with OEM (or would be if joined in the Third Party Claim), Subrecipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by OEM in such proportion as is appropriate to reflect the relative fault of Subrecipient on the one hand and of OEM on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Subrecipient on the one hand and of OEM on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Subrecipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

- b. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each party shall bear its own costs incurred under this Section 11.b.
- c. **Responsibility for Grant Funds.** Any Subrecipient of Grant Funds, pursuant to this Agreement with OEM, shall assume sole liability for that Subrecipient's breach of the conditions of this Agreement, and shall, upon such recipient's breach of conditions that requires OEM to return funds to the FEMA, hold harmless and indemnify OEM for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the Subrecipient of Grant Funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- d. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.

- e. **Duplicate Payment.** Subrecipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- f. **No Third Party Beneficiaries.** OEM and Subrecipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Subrecipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to Subrecipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

- g. **Notices.** Except as otherwise expressly provided in this Section, any communications between the parties hereto or notice to be given hereunder shall be given in writing by personal delivery, facsimile, email or mailing the same by registered or certified mail, postage prepaid to Subrecipient or OEM at the appropriate address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and sent by registered or certified mail shall be deemed delivered upon receipt or refusal of receipt. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. The parties also may communicate by telephone, regular mail or other means, but such communications shall not be deemed Notices under this Section unless receipt by the other party is expressly acknowledged in writing by the receiving party.
- h. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between OEM (or any other agency or department of the State of Oregon) and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
- i. **Compliance with Law.** Subrecipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation as described in Exhibit B.
- j. **Insurance; Workers' Compensation.** All employers, including Subrecipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must

be included. Subrecipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.

- k. **Independent Contractor.** Subrecipient shall perform the Project as an independent contractor and not as an agent or employee of OEM. Subrecipient has no right or authority to incur or create any obligation for or legally bind OEM in any way. Subrecipient acknowledges and agrees that Subrecipient is not an "officer", "employee", or "agent" of OEM, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- l. **Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- m. **Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- n. **Integration and Waiver.** This Agreement, including all Exhibits and referenced documents, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Subrecipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

THE PARTIES, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

SIGNATURE PAGE TO FOLLOW

CITY OF PORTLAND

By

Name
(printed)

Date

APPROVED AS TO LEGAL SUFFICIENCY

(If required for Subrecipient)

APPROVED AS TO FORM

By

Subrecipient's Legal Counsel

CITY ATTORNEY

Date

Subrecipient Program Contact:

Carmen Merlo
Bureau Director
Portland Bureau of Emergency Management
9911 SE Bush St
Portland, OR 97266
503-823-2691
carmen.merlo@portlandoregon.gov

Subrecipient Fiscal Contact:

Keren Ceballos
Finance Manager
Portland Bureau of Emergency Management
9911 SE Bush St
Portland, OR 97266
503-823-4187
keren.ceballos@portlandoregon.gov

OEM

By

Matthew T. Marheine

Operations and Preparedness Section Manager, OEM

Date

APPROVAL FOR LEGAL SUFFICIENCY

By Marvin D. Fjordbeck

Senior Assistant Attorney General

Date February 27, 2017

OEM Program Contact:

Sidra Metzger-Hines
Grants Coordinator
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
503-378-3661
sidra.metzgerhines@state.or.us

OEM Fiscal Contact:

Angela Creasey
Senior Grants Accountant
Oregon Military Department
Office of Emergency Management
PO Box 14370
Salem, OR 97309-5062
503-378-3316
angela.creasey@state.or.us

Exhibit A
Grant No: 16-170
Subrecipient: City of Portland

I. Project Description

Project Title: Urban Area Security Initiative

This grant supports regional urban area projects selected by the Regional Disaster Preparedness Organization (RDPO) as vital to the regional preparedness, response and recovery efforts.

II. Investments/Projects

Management and Administration	\$ 138,100
Planning - Collaborative and Regional	
• Program Delivery Costs	\$ 129,500
• Regional Staffing	\$ 189,208
• Regional Citizen Corps Programming	\$ 12,780
• Recovery Planning	\$ 240,000
• Hazard Mitigation Public Outreach	\$ 75,000
Training	
• Regional Citizen Corps Training	\$ 48,715
• Tactical Medical Training	\$ 77,159
• USAR Operations Training	\$ 369,947
Exercise	
• Fuel Management Exercise	\$ 50,000
• Shipboard Security Threat & Emergency Response	\$ 100,000
Information Technology	
• Regional Information Sharing Enhancements	\$ 500,000
• MCSO Map-Downlink System	\$ 579,000
• WCSO Video Downlink for Air Support	\$ 55,000
Other Authorized Equipment	
• Misc. CERT Equipment & Supplies	\$ 90,591
• Regional Mass Fatality Morgue Operations &	
• Field Equipment	\$ 167,000
Total	\$2,822,000

EXHIBIT B

Federal Requirements and Certifications

I. General. Subrecipient agrees to comply with all federal requirements applicable to this Agreement, including without limitation financial management and procurement requirements and maintain accounting and financial records in accordance with Generally Accepted Accounting Principles (GAAP) and financial, administrative, and audit requirements as set forth in the most recent versions of the Code of Federal Regulations (CFR), Department of Homeland Security (DHS) program legislation, and DHS/Federal Emergency Management Agency (FEMA) program regulations and requirements.

II. Specific Requirements and Certifications

- A. Debarment, Suspension, Ineligibility and Voluntary Exclusion.** Subrecipient certifies by accepting funds under this Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any Federal department or agency (2 CFR 200.213).
- B. Standard Assurances and Certifications Regarding Lobbying.** Subrecipient is required to comply with 2 CFR 200.450 and the authorities cited therein, including 31 USC § 1352 and *New Restrictions on Lobbying* published at 55 Federal Register 6736 (February 26, 1990).
- C. Compliance with Applicable Federal Law.** Subrecipient agrees to comply with all applicable laws, regulations, program guidance, the Federal Government in the performance of this Agreement, including but not limited to:
1. Administrative Requirements set forth in 2 CFR Part 200, including without limitation:
 - a. Using Grant Funds only in accordance with applicable cost principles described in 2 CFR Subpart E, including that costs allocable to this Grant may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations or the terms of federal awards or other reasons;
 - b. Subrecipient must establish a Conflict of Interest policy applicable to any procurement contract or subawards made under this Agreement in accordance with 2 CFR 200.112. Conflicts of Interest must be disclosed in writing to the OEM within 5 calendar days of discovery including any information regarding measures to eliminate, neutralize, mitigate or otherwise resolve the conflict of interest.
 2. USA Patriot Act of 2001, which amends 18 USC §§ 175-175c.
 3. Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 USC 2225(a).
 4. False Claims Act & Program Fraud Civil Remedies, 31 USC 3729, prohibiting recipients of federal payments from submitting a false claim for payment. See 38 USC 3801-3812 detailing administrative remedies for false claims and statements made.
 5. Whistleblower Protection Act, 10 USC §§ 2409 and 2324 and 41 USC §§ 4712, 4304 and 4310 requiring compliance with whistleblower protections, as applicable.
 6. No supplanting. Grant Funds under this Agreement shall not replace funds that have been budgeted for the same purposes through non-Federal sources. Subrecipient may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than receipt or expected receipt of Federal funds. Any project cost allocable to this Agreement

may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons.

D. Non-discrimination and Civil Rights Compliance, Equal Employment Opportunity Program, and Services to Limited English Proficient (LEP) Persons.

1. **Non-discrimination and Civil Rights Compliance.** Subrecipient, and all its contractors and subcontractors, assures compliance with all applicable nondiscrimination laws, including but not limited to:
 - a. Title VI of the Civil Rights Act of 1964, 42 USC § 2000d et seq., as amended, and related nondiscrimination regulations in 6 CFR Part 21 and 44 CFR Part 7.
 - b. Title VIII of the Civil Rights Act of 1968, 42 USC § 3601, as amended, and implementing regulations at 6 CFR Part 21 and 44 CFR Part 7.
 - c. Titles I, II, and III of the Americans with Disabilities Act of 1990, as amended, 42 USC §§ 12101 – 12213.
 - d. Age Discrimination Act of 1975, 42 USC § 6101 et seq.
 - e. Title IX of the Education Amendments of 1972, as amended, 20 USC § 1681 et seq.
 - f. Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794, as amended.
 - g. If, during the past three years, Subrecipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, Subrecipient must provide a letter certifying that all documentation of such proceedings, pending or completed, including outcome and copies of settlement agreements will be made available to OEM upon request. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against Subrecipient, or Subrecipient settles a case or matter alleging such discrimination, Subrecipient must forward a letter to OEM summarizing the finding and making a copy of the complaint and findings available to OEM.
2. **Services to Limited English Proficient (LEP) Persons.** Subrecipient, and any of its contractors and subcontractors agrees to comply with the requirements Title VI of the Civil Rights Act of 1964 and Executive Order 13166, improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin and resulting agency guidance, national origin discrimination includes discrimination on the basis of LEP. To ensure compliance with Title VI, Subrecipient must take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Subrecipient is encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance additional information regarding LEP obligations, please see <http://www.lep.gov>.

- F. Procurement of Recovered Materials.** Subrecipient must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Recovery and Conservation Act and in accordance with Environmental Protection Agency guidelines at 40 CFR Part 247.
- G. SAFECOM.** If the Grant Funds are for emergency communication equipment and related activities, Subrecipient must comply with SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.
- H. Drug Free Workplace Requirements.** Subrecipient agrees to comply with the requirements of the Drug-Free Workplace Act of 1988, 41 USC § 701 et seq., as amended, and implementing regulations at 2 CFR Part 3001 which require that all organizations receiving grants (or subgrants) from any Federal agency agree to maintain a drug-free workplace. Subrecipient must notify this office if an employee of Subrecipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment.
- I. Human Trafficking (2 CFR Part 175).** Subrecipient must comply with requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, 22 USC § 7104, as amended and 2 CFR § 175.15.
- J. Fly America Act of 1974.** Subrecipient agrees to comply with the requirements of the Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 USC § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, (49 USC § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to the Comptroller General Decision B138942.
- K. Activities Conducted Abroad.** Subrecipient agrees to comply with the requirements that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.
- L. Acknowledgement of Federal Funding from DHS.** Subrecipient agrees to comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.
- M. Copyright.** Subrecipient shall affix the applicable copyright notices of 17 USC § 401 or 402 and an acknowledgement of Government sponsorship (including Subgrant number) to any work first produced under an award unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations). For any scientific, technical, or other copyright work based on or containing data first produced under this Agreement, including those works published in academic, technical or professional journals, symposia proceedings, or similar works, Subrecipient grants the Government a royalty-free, nonexclusive and irrevocable license to reproduce, display, distribute copies, perform, disseminate, or prepare derivative works, and to authorize others to do so, for Government purposes in all such copyrighted works.

- N. Patents and Intellectual Property Rights.** Unless otherwise provided by law, Subrecipient is subject the Bayh-Dole Act, 35 USC § 200 et seq., as amended, including requirements governing the development, reporting and disposition of rights to inventions and patents resulting from financial assistance awards, 37 CFR Part 401, and the standard patent rights clause in 37 CFR § 401.14.
- O. Use of DHS Seal, Logo and Flags.** Subrecipient agrees to obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.
- P. Personally Identifiable Information (PII).** Subrecipient, if it collects PII, is required to have a publically available privacy policy that described what PII they collect, how they use it, whether they share it with third parties and how individuals may have their PII corrected where appropriate.
- Q. Federal Debt Status.** Subrecipient shall be non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, benefit overpayments and any amounts due under Section 11.c of this Agreement. See OMB Circular A-129 for additional information and guidance.
- R. Energy Policy and Conservation Act.** Subrecipient must comply with the requirements of 42 USC § 6201 which contains policies relating to energy efficiency that are defined in the state energy conservation plan issues in compliance with the Act.
- S. Lobbying Prohibitions.** Subrecipient must comply with 31 USC §1352, which provides that none of the funds provided under an award may be expended by the subrecipient to pay any person to influence, or attempt to influence and officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.
- T. Terrorist Financing.** Subrecipient must comply with US Executive Order 13224 and US law that prohibits transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of Subrecipients to ensure compliance with the EO and laws

EXHIBIT C

Subagreement Insurance Requirements

GENERAL.

Subrecipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Subrecipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Subrecipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Subrecipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Subrecipient permit work under a subagreement when Subrecipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which Subrecipient is a Party.

TYPES AND AMOUNTS.

i. WORKERS COMPENSATION. Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers' liability insurance with coverage limits of not less than \$500,000 must be included.

ii. COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to State. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

\$500,000 per occurrence, (for all claimants for claims arising out of a single accident or occurrence).

iii. AUTOMOBILE Liability Insurance: Automobile Liability.

Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by OEM:

Bodily Injury, Death and Property Damage:

\$500,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

ADDITIONAL INSURED. The Commercial General Liability Insurance and Automobile Liability insurance must include OEM, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and Subrecipient's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and OEM may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If OEM approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE. The contractor or its insurer must provide 30 days' written notice to Subrecipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. Subrecipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

Exhibit D

Information required by 2 CFR 200.331(a)

- I. Federal Award Identification:
 - (i) Sub-recipient name (which must match registered name in DUNS): City of Portland
 - (ii) Sub-recipient's DUNS number: 054971197
 - (iii) Federal Award Identification Number (FAIN): EMW-2016-SS-00089-S01
 - (iv) Federal Award Date: September 01, 2016
 - (v) Sub-award Period of Performance Start and End Date: From September 15, 2016 to May 30, 2019
 - (vi) Amount of Federal Funds Obligated by this Agreement: \$2,822,000
 - (vii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this agreement *: \$3,248,017
 - (viii) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: \$2,958,536
 - (ix) Federal award project description: The Urban Area Security Initiative Grant plays an important role in the implementation of the National Preparedness System by supporting the building, sustainment, and delivery of core capabilities in the Portland regional area essential to achieving the National Preparedness Goal of a secure and resilient Nation.
 - (x)
 - (a) Name of Federal awarding agency: U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA)
 - (b) Name of Pass-through entity: Oregon Military Department, Office of Emergency Management
 - (c) Contact information for awarding official: Andrew Phelps, Director – Oregon Office of Emergency Management, PO Box 14370, Salem, OR 97309-5062
 - (xi) CFDA Number and Name: 97.067 Homeland Security Grant Program
Amount: \$6,799,000
 - (xii) Is Award R&D? No
 - (xiii) Indirect cost rate for the Federal award: 0%
2. Subrecipient's indirect cost rate: 0%

*The Total amount of Federal Funds Obligated to the Subrecipient by the pass-through entity is the Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity during the current fiscal year.

ATTACHMENT 2

Final: Approved at April 11, 2012 Steering Committee Meeting

Standard Operating Procedure Urban Areas Security Initiative (UASI) Program Management Under the Regional Disaster Preparedness Organization (RDPO)

The Portland Urban Area (PUA) includes the City of Portland, Clackamas, Columbia, Multnomah and Washington Counties in Oregon, and Clark County in Washington. The federal Urban Areas Security Initiative (UASI) was established in 2003 and awarded grant funds to the PUA to enhance the regional capability to prevent and reduce its vulnerability to a range of hazards.

The Regional Disaster Preparedness Organization (RDPO) serves as the Urban Area Working Group (UAWG), the governance structure to set direction and oversee implementation of the UASI Program in the PUA. The fiscal agent for the Portland UASI Program is the City of Portland and the assigned Point of Contact (POC) is the Director of the Portland Bureau of Emergency Management (PBEM).

These standard operating procedures govern the coordination, development and implementation of all UASI program initiatives.

I. Composition, Roles and Responsibilities

The RDPO/UAWG is comprised of six organizational components:

- Policy Committee (PC)
- Steering Committee (SC)
- Program Committee (PrC)
- Grants and Finance Committee (GFC)
- Working Groups (WG)
- Grant Administrator/Point of Contact (GA/POC)

A. Policy Committee (PC) — Composition includes 17 elected officials: one representative from each of the five counties, the City of Portland, Metro, and 10 Cities (two per county). The PC is responsible for:

- Endorsing and supporting the Portland Urban Area Homeland Security Strategy (PUAHSS) and priorities, as developed by the Steering Committee.
- Providing political leadership to develop and pursue regional disaster preparedness policies and future vision for the PUA influenced in part by the UASI grant program outcomes and experience (e.g., Program Review).
- Providing oversight to the UASI evaluation process to determine the effectiveness and impact of the UASI program in meeting its goals and objectives.
- Advising on issues brought forward by the Steering Committee.

B. The Steering Committee (SC) — Composition includes up to 18 executive level members: one representative from each of the five counties and the City of Portland, the Chair of the PrC, one representative each for law enforcement, fire/EMS, public

S:\RDPO\RDPO Governance & Organization\SOP\Program Management\UASI Prgm Mgmt in RDPO_SOP_Approved040212.doc

safety communications, and public health, two representatives for public works and up to five at-large representatives (private and non-profit sector representatives, as well as additional public sector representation). The SC is responsible for:

- Informing the PC on UASI grant matters.
- Reviewing, managing and updating the RDPO strategy and PUAHSS, as needed.
- Adopting and maintaining grant management policies and procedures.
- Providing the PrC with strategic direction (priorities) for project development and funding allocations.
- Giving final approval of grant applications.
- Ensuring grant funds are utilized strategically, efficiently and effectively (i.e., maximum program impact, sound utilization of resources).
- Approving reallocation and reprogramming requests that involve a major change of scope from the original project or an entirely new project of \$20,000 or more.
- Resolving grant issues forwarded by the PrC.

C. The Program Committee (PrC) — Composition includes the chairs of the WGs or their designees. The PrC is responsible for:

- Vetting project proposals from all WGs for applications and reprogramming processes.
- Determining the package of projects and initiatives to recommend to the SC for approval—i.e., inclusion in the UASI grant application (new funding cycle).
- Making decisions on funding allocations, reallocations and reprogramming requests greater than \$10,000.
- Implementing the RDPO strategy and PUAHSS.
- Providing progress reports to the SC.

D. Grants and Finance Committee (GFC) — Composition includes one representative each from the City of Portland's Office of Management and Finance, PBEM grants and finance and the Oregon State Administrative Agency (SAA), and two to three selected regional staff representatives. The GFC is responsible for:

- Ensuring that all proposals align with the RDPO strategy and the PUAHSS.
- Reviewing all project proposals for compliance with regional, state and federal program guidance.
- Reviewing all budgets for compliance with city, state and federal requirements.
- Providing financial expenditure reports, including grant burn rates, to the Program Committee, Steering Committee, et al. (Note: the GFC Chair will provide support on questions of a financial data or compliance nature.)
- Making decisions on funding allocations less than \$10,000.

E. Work Group (WG) — Composition includes representatives from all interested/participating jurisdictions/disciplines. Some WGs are discipline focused while others may be capability or project focused. The WGs are responsible for:

- Developing project proposals for recommendation to the PrC.
- Managing projects.
- Providing progress reports to the PrC and GFC.
- Implementing the RDPO strategy and PUAHSS.

- F. Grant Administrator/Point of Contact (GA/POC)** — The UASI GA/POC represents the fiscal agent, the City of Portland, and is responsible for communication and coordination with the SAA, Oregon Emergency Management (OEM). The GA/POC does not have decision-making authority over the contents of grant applications, including which projects are contained within, but is responsible for ensuring grant compliance and sound fiduciary performance. Specifically, the GA/POC is responsible for:
- Liaising between the RDPO and the SAA on all UASI matters, and submitting proposals and reports to the SAA.
 - Supporting the Grants and Finance Committee in the discharge of its duties.

II. Decision Making Process

- A. Decisions are made using a consensus model that assumes all members can and will support decisions made by the group.
- B. Before a committee/group decision is considered final, the chair of the committee/group tests consensus by asking if any member is unable to support the decision.
- C. If consensus cannot be reached, a vote occurs. Each member in attendance is entitled to one vote. WG co-chairs must select one person to represent their working group's vote on the PrC. (Additional details for each committee/group are available in their specific SOPs).
- D. The decision whether or not to vote on an issue is generally at the discretion of the chair. However, any member may request a vote.
- E. The results of the vote are documented in the notes from the meeting.
- F. In some situations, it may not be possible to hold a meeting to decide an issue. For example, a decision on a grant application may require a quick assessment to meet a deadline. In these cases, group members may be asked to vote by other means such as an online survey or email. When a vote is taken in this manner the chair shares the results of the vote – and how each member voted –with the committee/group members.

III. Funding Methodology

A. Background

1. UASI grant funds are awarded by the U.S. Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) on an annual basis.
2. The awards are made based on applications consisting of investment justifications (initiatives) submitted by the PUA. Each investment justification represents one or more related projects.
3. All projects must be supported by the Portland Urban Area Homeland Security Strategy (PUAHSS) and be consistent with the purpose and specific requirements of the UASI grant program.
4. All UASI grant sub-recipients are bound by contracts or intergovernmental agreements that require compliance with all grant terms and conditions.
5. Awarded grant funds are managed by the RDPO/UAWG consistent with investment justifications.

6. Grant funds may be reallocated or reprogrammed to other projects (new or existing), when appropriate, if the projects are consistent with the PUA's investment justifications, support the PUAHSS and are approved by the RDPO/UAWG and, when required, the State Administrative Agency (SAA).

B. Guiding Principles

1. All WGs and standing committees have equal access and opportunity to seek UASI grant funding.
2. All jurisdictions that seek funding through the UASI grant program must be National Incident Management System (NIMS) compliant.
3. Projects that provide multi-jurisdictional or multi-disciplinary benefit are given preference over single agency or single jurisdiction requests.
4. Whenever possible, projects should provide regional benefit by reducing risk, developing/supporting regional plans or developing/enhancing regional capabilities.
5. As the UASI administrative agency, all questions to state or federal government partners about the eligibility of grant-funded projects or items shall be coordinated by PBEM.
6. All projects are subject to FEMA's Environmental Planning and Historic Preservation (EHP) review. No funds will be allocated to or expended on a project until the required EHP review has been completed and approved.

C. Allocation Process

1. Annual Grant Application and Award
 - a. Steering Committee
 - i. Develops priorities for the annual application (investment justifications) based on the grant guidance, the RDPO Strategy, the PUAHSS, and ongoing initiatives and projects.
 - ii. Develops the application timeline and assigns work to ensure completion of the application by the grant submission deadline.
 - iii. Reviews and approves the application (narrative and budget) prior to submission to the SAA and DHS/FEMA.
 - b. Program Committee
 - i. Vets all project proposals based on their benefit to the region, linkage to the PUAHSS and ability to be completed during the grant performance period.
 - ii. May develop proposals (including a narrative and budget) for projects that overlap multiple WGs or for which there is no responsible WG.
 - iii. Decides which projects and associated funding levels will be recommended to the SC for inclusion in the application.
 - iv. Works with the GFC and regional staff to draft investment justifications for submittal to the SC.

- v. Following the grant award, adjusts the budget if necessary and submits it to the SC and GFC for review and submission to the SAA.
- c. WGs/Standing Committees
 - i. Develop and prioritize committee or discipline-specific project proposals, including project descriptions and budgets.
 - ii. Work with other WGs/standing committees to develop capability-specific project proposals including project descriptions and budgets.
 - iii. Submit project proposals to the PrC for consideration.
 - iv. Following final grant award and budget approval by the SAA, develop more detailed budgets and submit them to the GFC for review and approval.
- d. UASI Regional Staff
 - i. Support the WGs/standing committees with development of project proposals.
 - ii. Work with the GFC to confirm the grant eligibility of project proposals before submittal to the PrC.
 - iii. Draft investment justifications consistent with PrC and SC tasking.
 - iv. Combine individual investment justification budgets into a draft overarching budget for the GFC to review.

D. Reallocation/Reprogramming Processes

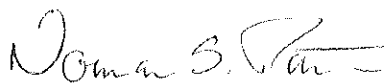
1. Process for a funding reallocation request with no major change to the original project scope (funds added to an approved project or moved from one approved project to another approved project):
 - a. WGs identify budget shortfalls and overages and complete amendment forms to request administrative movement of funds from one budget line to another based on project requirements and activity.
 - b. The GFC acts on reallocation requests with no major change of scope under \$10,000. The GFC submits reallocation requests of \$10,000 or greater to the Program Committee for consideration.
 - c. The Program Committee takes action on reallocation requests of \$10,000 and above.
 - d. The GA/POC submits approved reallocation requests above \$10,000 to the SAA for approval.
2. Process for a funding reallocation requests with a major change to the original project scope (a request is made to use funding for a purpose other than originally approved or a new project is proposed outside of the regular reprogramming process):
 - a. WGs identify budget changes that are a result of a new project proposal or a change of scope to the originally approved project.


Final: Approved at April 11, 2012 Steering Committee Meeting

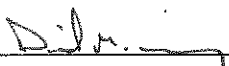
- b. The GFC vets the proposal to ensure the project is eligible and the budget is accurate. The GFC also reviews for compliance with city, state and federal requirements. The GFC submits allowable proposals to the PrC for review and approval.
 - c. The PrC takes action on reallocation requests below \$20,000 and submits requests above \$20,000 to the SC for review.
 - d. The Steering Committee notifies the GFC of approved/denied requests.
 - e. The GA/POC submits approved reallocation requests above \$10,000 to the SAA for approval.
3. Process for reprogramming grant funding (the reassignment of funds to a newly identified project consistent with the investment justification):
- a. PrC Chair calls for all WGs to submit reprogramming project proposals and detailed budgets.
 - b. The PrC reviews and acts on the reprogramming proposals and prioritizes approved proposals for funding. Regional staff provides support in the tracking of these projects and in completing and maintaining paperwork.
 - c. The GFC reviews all projects for eligibility and budgets for accuracy.
 - d. The PrC submits a summary report of the recommended proposals to the SC for review and approval.
 - e. The GA/POC submits reprogramming requests approved by the SC to the SAA for final approval.

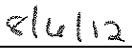
Adopted: April 11, 2012

Approved: April 11, 2012


Steering Committee Chair


Date


Steering Committee Vice-Chair


Date



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Sean Brady, City Attorney

DATE: 10/09/2017

SUBJECT: Consideration of **Ordinance No. 1403-17** Regulating Mobile Food Units and Creating Tualatin Municipal Code Chapter 9-09.

ISSUE BEFORE THE COUNCIL:

Consideration of Ordinance No. 1403-17 Regulating Mobile Food Units and Creating Tualatin Municipal Code Chapter 9-09.

RECOMMENDATION:

Staff recommends Council consider Ordinance No. 1403-17.

EXECUTIVE SUMMARY:

Ordinance No. 1403-17 would create new Tualatin Municipal Code Chapter 9-09 to regulate mobile food units, including food trucks and food carts,

On September 25, 2017, Council considered adopting Ordinance No. 1403-17 to enact Mobile Food Unit regulations. Council heard testimony from the public and deliberated on the Ordinance. Council amended the Ordinance in proposed TMC 9-9-050. First and second readings of the Ordinance were then conducted. A motion to adopt Ordinance No. 1403-17 was made and seconded and the Council voted 4 to 2 in favor of adoption. Because the vote was not unanimous, Ordinance No. 1403-17 could not be adopted that night.

Tualatin Charter Section 35 allows an ordinance to be adopted at one Council meeting if the ordinance receives the unanimous vote of all Council members present. Otherwise, an ordinance must be read at two separate Council meetings before being adopted.

As a result, in accordance with Charter Section 35, Ordinance No. 1403-17 is being presented for reading at a second Council meeting and consideration for final adoption. As presented, Ordinance No. 1403-17 contains the amendment in proposed TMC 9-9-050 approved by Council at the September 25, 2017, meeting. If adopted, Ordinance No. 1403-17 would become effective January 1, 2019.

Attachments: Ord 1403-17 - Mobile Food Unit Ordinance

ORDINANCE NO. 1403-17

AN ORDINANCE RELATING TO MOBILE FOOD UNITS AND CREATING TUALATIN MUNICIPAL CODE CHAPTER 9-09.

WHEREAS, Mobile Food Units allow individual entrepreneurship at a small scale and provide unique eating establishments within the City;

WHEREAS, Council duly considered the impacts of Mobile Food Units on City businesses; and

WHEREAS, the City finds it is in the public interest to enact changes to the Tualatin Municipal Code to allow Mobile Food Units to operate in the City, consistent with this Ordinance.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Tualatin Municipal Code Chapter 9-09 is created as follows:

9-9-010 Purpose and Applicability.

(1) The purpose of this Chapter is to permit mobile food units to operate on private property within the City and establish regulations to protect the health, safety, and welfare of the public.

(2) The requirements of this Chapter do not apply to a mobile food unit that operates:

- (a) as a vendor under an approved City event permit;
- (b) under a street closure permit granted by the City;
- (c) on private property authorized by a Special Event Permit issued under TMC 5-5;
- (d) on private property authorized by a Special Assembly permit issued under TMC 6-2;
- (e) under the authority of any other permit issued by the City where the City indicates approval of a mobile food unit; or
- (f) at private catering events where the sale or distribution of food is not open to the public.

9-9-020 Definitions.

(1) "Mobile Food Unit" means a vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway, or water on which food is prepared, processed, or

converted, or which is used in selling and dispensing food to the public. Mobile Food Units include, but are not limited to, food trucks, food carts, and pushcarts.

(2) "Person" means individuals, corporations, associations, firms, partnerships, limited liability companies, and joint stock companies.

(3) "Pushcart" means a non-motorized cart designed to be pushed or pulled by a person.

(4) "Site" means a lot or parcel of property on which a mobile food unit is permitted to operate.

9-9-030 Mobile Food Unit Permit Required.

(1) Any person wanting to operate a mobile food unit must obtain a City of Tualatin Mobile Food Unit Permit prior to operating a mobile food unit within the City.

(2) An applicant for a Mobile Food Unit Permit must provide the following information to the City:

(a) the name and contact information of the mobile food unit owner;

(b) the name and contact information of the mobile food unit operator;

(c) the specific location of where the mobile food unit intends to operate and the intended duration of operation;

(d) the name, contact information, and proof of consent from the owner of the property where the mobile food unit intends to operate;

(e) proof of a City of Tualatin business license; and

(f) proof that establishes the person has obtained all required health and sanitary licenses from the State of Oregon and Washington or Clackamas Counties, as applicable.

(3) If the applicant shows proof satisfactory to the City that the application criteria have been met, the City will grant the Mobile Food Unit Permit.

(4) If the City denies the Mobile Food Unit Permit, the City will notify the applicant in writing of the reasons for the denial. An applicant may correct the deficiency or appeal the denial.

(5) An applicant may appeal a denial of a Mobile Food Unit Permit to the City Manager by filing a request for review. The request for review must contain a copy of the denial notice, a request for a hearing or request for written review without a hearing, and a statement setting forth the reason(s) that the denial of the Mobile Food Permit was in error. The City Manager, or designee, will set the matter for a hearing and allow the applicant to present evidence and argument to support the applicant's position. The City Manager must make a written decision

within 30 days of the conclusion of the hearing. The City Manager's decision is final on the matter.

(6) A person granted a Mobile Food Unit Permit must notify the City of any changes in the information provided in the Mobile Food Unit application within 30 days of the change, and update such information annually.

9-9-040 Operating Requirements.

(1) A person operating a mobile food unit must comply with all applicable policies and regulations set forth by the Tualatin Municipal Code and the Tualatin Development Code, including but not limited to all traffic laws and parking regulations.

(2) A person operating a mobile food unit must comply with all health, safety, and environmental laws, including but not limited to proper disposal of cooking waste and wastewater.

(3) A mobile food unit must have wheels and the wheels must not be removed.

9-9-050 Location Standards.

(1) Mobile food units are allowed to operate in the following planning districts:

(a) CO – Commercial Office – except a mobile food unit cannot operate in the CO planning district if the location of the mobile food unit is within 200 feet of the Central Commercial (CC) planning district;

(b) CR - Recreational Commercial;

(c) MC - Medical Center;

(d) ML - Light Manufacturing;

(e) MG - General Manufacturing;

(f) MP - Manufacturing Park;

(g) MBP - Manufacturing Business Park; and

(h) IN – Institutional.

(2) Mobile food units are prohibited to operate within 100 feet of a gas station.

9-9-060 Site Standards.

(1) Mobile food units, including all items associated with the operation, must not obstruct

pedestrian pathways, driveways, drive aisles, sidewalks, streets, or public rights of way, or otherwise create a traffic or safety hazard.

(2) Mobile food unit operators must provide garbage and recycling for patrons.

(3) Mobile food units must have self-contained water, sewer, and electrical systems, as applicable.

(4) Mobile food units are prohibited from connecting to public or private water, sewer, and electrical utilities.

(5) Mobile food units must operate and park only within an existing paved parking lot or other hard-surfaced area.

(6) Only one mobile food unit is allowed to be present at a site at any one time.

9-9-070 Pushcarts.

(1) Pushcarts are allowed to operate in the following planning districts:

- (a) CC- Central Commercial;
- (b) CG - General Commercial;
- (c) ML - Light Manufacturing;
- (d) MG - General Manufacturing; and
- (e) MP - Manufacturing Park.

(2) Pushcarts must comply with the following standards:

- (a) be no larger than six feet in length;
- (b) not locate within 200 feet of a restaurant or fruit and vegetable market without written consent from the proprietor of the restaurant or market;
- (c) not conduct business on public sidewalks without obtaining a permit from the City;
- (d) not operate on a private sidewalk, except by permission of the property owner; and
- (f) comply with the Site Standards in TMC 9-9-060.

9-9-080 Joint and Several Liability.

Any person who owns a mobile food unit will be held jointly and severally liable with any person that operates the mobile food unit for any violation of this Chapter.

9-9-090 Violations.

(1) Any person who violates any provision of this Chapter commits a civil infraction and is subject to a fine of up to \$1,000. Each violation, and each day that a violation continues, is a separate civil infraction.

(2) The civil infraction procedures in TMC Chapter 7-01 apply to the prosecution of any violation of this Chapter.

(3) In addition to prosecution for a civil infraction, a person found in violation of any provision of this Chapter may have a Mobile Food Unit Permit revoked.

(a) Prior to revocation, the City Manager, or designee, must provide the person with written notice of the alleged violation and an opportunity to rebut the allegations.

(b) The City Manager, or designee, will set the matter for a hearing and allow the applicant to present evidence and argument.

(c) Upon conclusion of the hearing, the City Manager, or designee, must make a written decision within 30 days of the conclusion of the hearing. The City Manager's, or designee's, decision is final on the matter.

Section 2. Severability. Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance remains in full force and effect.

Section 3. Effective Date. This ordinance is effective January 1, 2019.

Adopted by the City Council this ____ day of October, 2017.

CITY OF TUALATIN, OREGON

BY _____
Mayor Pro Tem

APPROVED AS TO FORM

ATTEST

BY _____
City Attorney

BY _____
City Recorder



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Sean Brady, City Attorney

DATE: 10/09/2017

SUBJECT: Consideration of **Ordinance No. 1404-17** to Extend the Temporary Mobile Food Unit Regulations to December 31, 2018

ISSUE BEFORE THE COUNCIL:

Consideration of Ordinance No. 1404-17 to Extend the Temporary Mobile Food Unit Regulations to December 31, 2018.

RECOMMENDATION:

Staff recommends Council consider Ordinance No. 1404-17.

EXECUTIVE SUMMARY:

On June 13, 2016, Council adopted Ordinance No. 1393-16 to temporarily allow mobile food units to operate in the City. On December 12, 2016, Council adopted Ordinance No. 1398-16 to extend the expiration date of the temporary regulations to December 31, 2017. Ordinance No. 1404-17 would extend the mobile food unit temporary regulations to December 31, 2018.

On this same night, Council is considering adopting permanent mobile food unit regulations, which, if adopted, will go into effect on January 1, 2019. Adopting Ordinance No. 1404-17 would allow the temporary regulations to remain until the permanent regulations go into effect.

Attachments: Ord 1404-17 - Temp Food Cart Regulation Extension

ORDINANCE NO. 1404-17

AN ORDINANCE AMENDING ORDINANCE NO. 1393-16 TO CONTINUE TO TEMPORARILY ALLOW MOBILE FOOD UNITS TO OPERATE IN THE CITY OF TUALATIN.

WHEREAS, on June 13, 2016, Council adopted Ordinance No. 1393-16 to temporarily allow mobile food units to operate in the City;

WHEREAS, Section 6 of Ordinance No. 1393-16 provided for expiration of the ordinance on December 31, 2016, unless the Council repealed or extended the date;

WHEREAS, on December 12, 2016, Council adopted Ordinance No. 1398-16 to extend the expiration date to December 31, 2017; and

WHEREAS, Council wishes to extend the expiration date of Ordinance No. 1393-16 to December 31, 2018.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Expiration Date Extended. Section 6 of Ordinance No. 1393-16, adopted June 13, 2016, is amended to read as follows:

This ordinance automatically expires and is to be deemed repealed on December 31, 2018, unless sooner repealed or extended by Council ordinance.

Section 2. Ordinance Not Codified. Ordinance No. 1393-16 and this ordinance are known as Tualatin's Temporary Mobile Food Unit Regulations and, being temporary, will not be codified in the Tualatin Municipal Code.

ADOPTED by the City Council this ___ day of October, 2017.

CITY OF TUALATIN, OREGON

BY _____
Mayor Pro Tem

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder