

Jim Trett, Mayor
Greg Sheppard, City Councilor
Eric Page, City Councilor
Tim Luke, City Councilor
Michele Tesdal, City Councilor
Todd Smith, City Councilor
Denny Nielsen, City Councilor

Michelle Connor, City Recorder



City of Detroit, Oregon
City Council Reg Session
Agenda

October 10, 2023
6:30 p.m.
345 Santiam Ave W.
Detroit, Oregon

Streaming on YouTube &
Facebook (if available)

Mailing Address:
P.O. Box 589
Detroit, Oregon 97342

(503) 854-3496
(503) 769-2947 fax

Email: detroit@wvi.com

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Meetings of the City Council of Detroit will be broadcast via Zoom, as well as on other form(s) of electronic media as they become available. If you require additional assistance to participate in this public meeting, please contact the City of Detroit at least 48 business hours prior to the meeting (503) 854-3496 or by email at detroit@wvi.com.

- I. Call to Order**
- II. Council Roll Call**
- III. Pledge of Allegiance**
- IV. Approval of the Agenda**
- V. Special Orders of Business**
- VI. Committee Reports**

This time is set aside for committees established by law, ordinance or other authority to report to the City Council on the committee's ongoing work.

VII. Public Comments

This is the time set aside for comments from the public on matters not on the agenda. Commenters are limited to three (3) minutes. Time may not be yielded. Questions from the Council or staff to commenters shall not be counted against the allotted three (3) minutes.

- VIII. Resolutions, Orders and Administrative Action**
- a. Septic Update – Marion County Public Works – Chris Einmo
 - b. New City Truck – Eric Page
 - c. Planning Commission Terms Discussion – Mayor Trett
 - d. Detroit Flats Day Use Area Agreement – Michele Tesdal
 - e. Review & Approval of Detroit Lake Foundation Lease Agreement – Denny Nielsen
 - f. LA 22-01 Development Code Reading and Vote
- IX. Consent Calendar**
- a. Approval of the Minutes of the City Council Regular Session September 12, 2023.
 - b. Approval to Pay Bills
- X. Staff Reports**
- a. HBH Engineering
 - b. City Recorder
 - c. Planning
 - d. Marion County Sheriff
 - e. USFS – Michelle King
 - f. Idanha-Detroit Rural Fire Protection District
 - g. North Santiam Sewer Authority
 - h. City Clerk
- XI. Unfinished Business**
- a. City Street Signs – Greg Sheppard
 - b. Ziply/CPI Franchise Fee – Matt Del Moro/Laura Conroy
 - c. CIS Negotiations
 - d. ORD 251 – Parking – Todd Smith
 - e. Camping Ordinance
- XII. Council Reports**
- XIII. Mayor’s Report**
- XIV. Other Business**
- XV. Upcoming Meetings.**
- a. Regular Council Meeting – October 24, 2023 – Detroit City Hall 6:30 PM.
- XVI. Adjourn**

Chapter 2.20 PLANNING COMMISSION

| | | |
|-----------|----------|-----------------------------|
| Sections: | 2.20.010 | Establishment. |
| | 2.20.020 | Membership. |
| | 2.20.030 | Appointments |
| | 2.20.040 | Vacancies and removal. |
| | 2.20.050 | Presiding members. |
| | 2.20.060 | Staff services. |
| | 2.20.070 | Meetings. |
| | 2.20.080 | Powers and duties. |
| | 2.20.090 | Recommendations to council. |
| | 2.20.100 | Expenses. |
| | 2.20.110 | Public Hearings |

2.20.010 Establishment. There is hereby re-established and re-created a City Planning Commission, herein referred to as the Commission, for the City of Detroit. *[Ord #178 January 9, 2001]*

2.20.020 Membership. The Commission shall consist of ~~seven~~ ~~five~~ seven members who are not officials or employees of the City. Members must be residents of the City for at least one year. The Mayor shall serve as an ex-officio member of the Commission, with the right to take part in its discussions, but shall not have the right to vote. Commission members will not be compensated. *[Ord #178 January 9, 2001, amended by Res. 432 & 511 & 613]*

2.20.030 Appointments. Members of the commission shall be appointed by the Mayor, with the approval of the majority of the City Council, for terms of two years. *[Ord #178 January 9, 2001]*

2.20.040 Vacancies and removal. Appointments to fill vacancies on the Commission shall be for the remainder of the un-expired term and in the same manner as set forth for appointment of all Commission members, by the Mayor with the approval of the majority of the City Council. Any member of the Commission may be removed by the City Council, after hearing for misconduct or non-performance of duty. A member, who is absent from three ~~consecutive~~ regular meetings in a calendar year, ~~without an excuse approved by the Commission,~~ is presumed to be in non-performance of duty and the City Council shall declare the position vacant unless finding otherwise following the hearing. Removal of any member of the Commission shall be only upon a majority vote of the entire council of the city. *[Ord #178 January 9, 2001, amended by Res. 511]*

2.20.050 Presiding members. At its first meeting of each calendar year, the Commission shall elect a Chairman and a Vice Chairman who shall be voting members of the Commission to serve one-year terms. *[Ord #178 January 9, 2001]*

Section 5. **Construction of Charter.** In this Charter, no mention of a particular power shall be construed to be exclusive, or to restrict the scope of the powers, which the city would have if the particular power were not mentioned. The Charter shall be liberally constructed to the end that the city may have all powers necessary, or convenient, for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the State Constitution.

Chapter III

FORM OF GOVERNMENT

Section 6. **Where Powers Vested.** Except as this Charter provides otherwise, all powers of the city shall be vested in the Council.

Section 7. **Council.** The Council shall be comprised of seven Council members elected in the city at large who are not paid city employees. Five (5) of the seven Council members must be primary residents of the city and up to two (2) may be non-primary residents who otherwise meet the requirements of Section 12.

Section 8. **Council Members.** The term of office of each Council member in office when this Charter is adopted shall continue for the term for which each was elected. At the General Biennial Election in November, and at each subsequent biennial election, the three (3) Councilors receiving the highest number of votes shall each hold office for four (4) years and the other members for two (2) years.

Section 9. **Mayor.** To be eligible to occupy the office of Mayor, a person must be a councilor who is a primary resident (Section 12 (3)) and who was elected to the Council by the electorate of the City. Councilors who are appointed by the Council to fill a vacancy shall not be eligible to occupy the office of Mayor. At the first meeting of each year, the Council shall choose, from its eligible membership, a chairperson who shall be Mayor. The Mayors' term of office shall be one year.

Section 10. **Other Officers.** Additional appointed officers of the city may be a recorder, municipal judge and such other officers as the Council deems necessary. Each of these officers shall be appointed, and may be removed by the mayor with the consent of the Council. The Council may combine any two or more appointive city offices. The Council may designate any appointive officer to supervise any other appointive officer except the municipal judge in the exercise of his judicial functions.

Section 11. **Compensation.** The mayor and Council members shall not receive a salary. The compensation of each city officer and employee shall be the amount fixed by the Council. The Council may prescribe a plan for reimbursing city personnel for expenses that they incur in serving the city.

Section 12. **Qualifications of Officers.**

- (1) No person shall be eligible for an elective office of the city unless, at the time of his election, he is a qualified elector within the meaning of the state constitution, and has a residence inside the city limits of the City of Detroit, Oregon, during the twelve months immediately preceding the election.
- (2) No city employee who receives compensation from the city shall hold a city elective office. No person who holds the office of municipal judge shall hold another city elective or appointed office.
- (3) Additional Residency Requirement – Primary Resident:
 - a. Must reside in the city a minimum of six (6) months plus one (1) day per calendar year
 - b. Must be registered to vote in the City of Detroit, Oregon

- c. Must receive official mail, including Federal and State tax information/returns, at their City of Detroit, Oregon, mailing address
 - d. Driver License or State ID card must be issued to their Detroit, Oregon address
 - e. Must be able to attend nine (9) out of twelve (12) regular City Council meetings in a calendar year
- (4) Additional Residency Requirement – Non-primary Resident:
- a. Must be able to prove part-time residency status (e.g. home ownership, lease or rental agreement, water bill)
 - b. Must be registered to vote in the City of Detroit, Oregon
 - c. Must be able to attend nine (9) out of twelve (12) regular City Council meetings in a calendar year
- (5) The Council shall be the judge of the qualifications and election of the elected city officers.

Chapter IV

COUNCIL

Section 13. **Meetings**. The Council shall hold a regular meeting at least once a month at a time and place in the city which it designates, and may meet at other times in accordance with the rules. It shall, by Ordinance, prescribe rules to govern its meetings and proceedings.

Section 14. **Quorum**. A majority of members of the Council shall constitute a quorum for its business.

Section 15. **Record of Proceedings**. The Council shall cause a record of its proceeding to be preserved.

Section 16. **Proceedings to be Public**. No action by the Council shall have any legal effect unless the motion for the action, and the vote by which it is disposed of, take place at proceedings open to the public.

Section 17. **Mayor's Function at Council Meetings**. The mayor shall be the chairperson for the Council and preside over its deliberations. The mayor is a voting member of the Council and shall have authority to preserve order, enforce the rules of the Council and determine the order of business under the rules.

Section 18. **Council President**. At the first meeting after this Charter takes effect and thereafter at its first meeting of each odd-numbered year, the Council shall elect a president from its membership. In the mayor's absence from a Council meeting, the president shall preside over it. Whenever the mayor is unable to perform the functions of the office, the president shall act as mayor.

Section 19. **Vote Required**. Except as this Charter otherwise provides, the concurrence of a majority of a quorum present and voting at a Council meeting shall be necessary to decide any question before the Council.

Chapter V

POWERS AND DUTIES OF OFFICERS

Section 20. **Mayor**. The mayor shall appoint other persons required by the Council to be so appointed; shall sign all approved records of proceedings of the Council; shall have no veto power; and, shall sign all ordinances passed by the Council within three days after their passage.



FS Agreement No. _____

Cooperator Agreement No. _____

NON FUNDED CHALLENGE COST SHARE AGREEMENT
Between The
DETROIT, CITY OF
And The
USDA, FOREST SERVICE
WILLAMETTE NATIONAL FOREST

This NON FUNDED CHALLENGE COST SHARE AGREEMENT is hereby entered into by and between the Detroit, City of, hereinafter referred to as "The City," and the United States Department of Agriculture (USDA), Forest Service, Willamette National Forest, hereinafter referred to as the "U.S. Forest Service," under the authority: Department of Interior and Related Agencies Appropriation Act of 1992, Pub. L. 102-154.

Background: Detroit Lake is one of the busiest lakes in Oregon and is surrounded by the Willamette National Forest. To bolster the economic development and vitality of the area, local, county, state and federal agencies, local non-governmental organizations and private citizens have invested countless hours and resources into expanding recreation opportunities in the area including events such as car shows, waterskiing expos, annual fireworks display, fishing derbies and ballfield activities. The new Oregon State Scenic Bikeway provides easier access to the remarkable natural assets in the area. In addition to the Bikeway and other improvement projects at Detroit Flats, the newly constructed restrooms have reinforced the critical linkages between the town and surrounding public lands and recreation opportunities by creating a visitor portal. This portal has enhanced the existing day use facility and will serve as a launch point for the tens of thousands of Scenic Bikeway users, participants in recreation events, and out-of-town visitors to Detroit Lake and all the nearby recreation opportunities. The visitor portal area is located on land owned by The City which was once the site of Detroit Elementary School and therefore, a historical and sentimental site for local citizens. The Detroit Flats Day Use Area is U.S. Army Corp of Engineers lands currently administered and maintained by the Willamette National Forest.

Title: Detroit Flats Day Use Area Operations and Maintenance

I. PURPOSE:

The purpose of this agreement is to document the cooperation between the parties to jointly operate and maintain Detroit Flats Day Use Area in accordance with the following provisions and the hereby incorporated Operating and Financial Plan, attached as Exhibit A.



II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The U.S. Forest Service and The City share mutual interest in the high quality, cost effective and efficient operation and maintenance of the Detroit Flats Day Use area. This site provides free access to Detroit Lake for the community of City of Detroit and for the recreating public. The City and the U.S. Forest Service have cooperatively been participants in the Detroit Area Visitor Portal, Scenic Bikeway and Day Use Enhancements projects which resulted in the complete redesign and re-construction of the Detroit Flats. After project completion in March 2019, The City and the U.S. Forest Service planned to share operations and maintenance responsibilities for the site. Its venue for a variety of recreation opportunities and events as stated above would bring visitors to The City and surrounding areas, including the national forest.

In consideration of the above premises, the parties agree as follows:

III. THE CITY SHALL:

- A. LEGAL AUTHORITY. The City shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. Conduct routine operation and maintenance tasks for the Detroit Flats Day Use site. Areas of responsibility include all areas within the day use area administered by the U.S. Forest Service, including the access road to Detroit Flats, the picnic area, group activities and parking areas at Detroit Flats, the trail connecting Patton Road and Detroit Avenue, and the Osprey Point Trail. Operation and maintenance tasks will include:
 - (a) Patrol of the site and public contact for education about rules and regulations of the site.
 - (b) Assist with posting signs and/or notices as needed, related to public information, safety, fire restrictions, etc.
 - (c) Facilities maintenance including restroom cleaning and stocking with toilet paper, litter and trash collection, disposal of human waste (if necessary), sign maintenance, landscaping maintenance, and trail clearing and maintenance.
 - (d) Reporting natural resource damage, trash or occupancy violations to law enforcement and U.S. Forest Service personnel.
- C. Work year-round according to the following schedule:
 - (a) Primary Recreation Use Season (Memorial Day to October 31): three times per week, preferably including Fridays and Mondays
 - (b) Shoulder Season (November 1 up to Memorial Day): once per week.
- D. Provide the following: appropriately skilled and trained personnel to conduct the activities described above, suitable vehicles, equipment, tools, materials and supplies to conduct the work.



- E. Communicate with the U.S. Forest Service as needed to provide updates regarding the overall status of the site, any issues that arise, and notification of any vandalism or other damage to the site that requires repairs beyond routine operation and maintenance as described above. Notification of the need for cleaning materials and supplies will be no less than one week in advance.
- F. Participate in meetings with the U.S. Forest Service at a minimum of twice per year (spring and fall) or as needed to review and evaluate the cooperative relationship between the two entities.

IV. THE U.S. FOREST SERVICE SHALL:

- A. Maintain responsibility for site and facility maintenance beyond the items described above, including vault toilet pumping and hazard tree assessment and treatment. Tasks may include repair or replacement of damaged facilities, structures, signs, and other improvements.
- B. Provide materials and cleaning supplies (toilet paper, garbage bags, disposable gloves, and cleaning/disinfecting solution) for the operational maintenance of the restroom located at Detroit Flats Day Use Area. Materials will be stored in the restroom building storage closet.
- C. Provide garbage dumpster service via the local vendor.
- D. Inspect the work completed by The City to ensure compliance with U.S. Forest Service standards for facility operation and maintenance. Provide prompt feedback for work performed.
- E. Participate in meetings with The City a minimum of twice per year (spring and fall) or as needed to review and evaluate the cooperative relationship between the two entities.



V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

Principal Cooperator Contacts:

| Cooperator Program Contact | Cooperator Administrative Contact |
|--|--|
| Name: Jim Trett, Mayor Address: PO Box 589 (160 Detroit Ave. N) City, State, Zip: Detroit, OR 97342-0589 Telephone: 503.559.0358 FAX: 503.854.3232 Email: trett1380@msn.com | Name: Address: City, State, Zip: Telephone: FAX: Email: |

Principal U.S. Forest Service Contacts:

| U.S. Forest Service Program Manager Contact | U.S. Forest Service Administrative Contact |
|---|--|
| Name: Katherine Smith, Staff Officer Address: 44125 N Santiam Highway SE City, State, Zip: Detroit, OR 97342 Telephone: 503.854.4208 FAX: 503.854.4239 Email: Katherine.smith@usda.gov | Name: Address: City, State, Zip: Telephone: FAX: Email: |

B. NOTICES. Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or The City are sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the agreement.

To The City, at the address shown in the agreement or such other address designated within the agreement.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

C. PARTICIPATION IN SIMILAR ACTIVITIES. This agreement in no way restricts the U.S. Forest Service or The City from participating in similar activities with other public or private agencies, organizations, and individuals.



- D. ENDORSEMENT. Any of The City's contributions made under this agreement do not by direct reference or implication convey U.S. Forest Service endorsement of The City's products or activities.
- E. USE OF U.S. FOREST SERVICE INSIGNIA. In order for The City to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications (Washington Office). A written request will be submitted by the U.S. Forest Service Pacific Northwest Region, Willamette National Forest to the Office of Communications Assistant Director, Visual Information, and Publishing Services prior to use of the insignia. The U.S. Forest Service Pacific Northwest Region, Willamette National Forest will notify The City when permission is granted.
- F. NON-FEDERAL STATUS FOR COOPERATOR PARTICIPANTS. The City agree(s) that any of their employees, volunteers, and program participants shall not be deemed to be Federal employees for any purposes including Chapter 171 of Title 28, United States Code (Federal Tort Claims Act) and Chapter 81 of Title 5, United States Code (OWCP), as The City has hereby willingly agreed to assume these responsibilities.
- Further, The City shall provide any necessary training to The City's employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. The City shall also supervise and direct the work of its employees, volunteers, and participants performing under this agreement.
- G. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.
- H. NONDISCRIMINATION. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, and so forth.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.
- I. ELIGIBLE WORKERS. The City shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). The City shall comply with regulations



regarding certification and retention of the completed forms. These requirements also apply to any contract awarded under this agreement.

J. SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM). The City shall maintain current organizational information and the original Unique Entity Identifier (UEI) provided for this agreement in the System for Award Management (SAM) until receipt of final payment. This requires annual review and updates, when needed, of organizational information after the initial registration. More frequent review and updates may be required for changes in organizational information or agreement term(s). Any change to the original UEI provided in this agreement will result in termination of this agreement and de-obligation of any remaining funds. For purposes of this agreement, System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a Cooperative. Additional information about registration procedures may be found at the SAM Internet site at www.sam.gov.

K. AGREEMENT CLOSEOUT. Within 120 days after expiration or notice of termination the parties shall close out the agreement.

Within a maximum of 120 days following the date of expiration or termination of this agreement, all reports required by the terms of the agreement must be submitted to the U.S. Forest Service by The City.

L. PROGRAM MONITORING AND PROGRAM PERFORMANCE REPORTS. The parties to this agreement shall monitor the performance of the agreement activities to ensure that performance goals are being achieved.

Performance reports must contain information on the following:

- A comparison of actual accomplishments to the goals established for the period. Wherever the output of the project can be readily expressed in numbers, a computation of the cost per unit of output, if applicable.
- Reason(s) for delay if established goals were not met.
- Additional pertinent information

The City shall submit semi-annual performance reports to the U.S. Forest Service Program Manager. These reports are due 30 days after the reporting period. The final performance report must be submitted no later than 120 days from the expiration date of the agreement.

M. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. The City shall retain all records pertinent to this agreement for a period of no less than 3 years from the expiration or termination date. As used in this provision, records includes books, documents, accounting procedures and practice, and other data, regardless of the type



or format. The City shall provide access and the right to examine all records related to this agreement to the U.S. Forest Service Inspector General, or Comptroller General or their authorized representative. The rights of access in this section must not be limited to the required retention period but must last as long as the records are kept.

If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

- N. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552). Requests for research data are subject to 2 CFR 215.36.

Public access to culturally sensitive data and information of Federally recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill).

- O. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All Cooperators, their Employees, Volunteers, and Contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

- P. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. The City is/are encouraged to give public notice of the receipt of this agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

"Detroit Flats Day Use Site Operations and Maintenance of the U.S. Forest Service, Department of Agriculture"

The City may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. The City is/are requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to U.S. Forest Service's Office of Communications as far in advance of release as possible.

- Q. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. The City shall include the following statement, in



full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)"

To file a complaint alleging discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington DC 20250-9410 or call toll free voice (866) 632-9992, TDD (800)877-8339, or voice relay (866) 377-8642. USDA is an equal opportunity provider and employer."

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

- R. REMEDIES FOR COMPLIANCE RELATED ISSUES. If The City materially fail(s) to comply with any term of the agreement, whether stated in a Federal statute or regulation, an assurance, or the agreement, the U.S. Forest Service may wholly or partly suspend or terminate the current agreement.
- S. TERMINATION BY MUTUAL AGREEMENT. This agreement may be terminated, in whole or part, as follows:
1. When the U.S. Forest Service and The City agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
 2. By 30 days written notification by The City to the U.S. Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated. If the U.S. Forest Service decides that the remaining portion of the agreement does not accomplish the purpose for which the award/agreement was made, the U.S. Forest Service may terminate the award upon 30 days written notice in its entirety.
- T. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.
- U. DEBARMENT AND SUSPENSION. The City shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the Federal Government according to the terms of 2 CFR Part 180. Additionally, should The City or any of



their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

V. MODIFICATIONS. Modifications within the scope of this agreement must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 90 days prior to implementation of the requested change.

W. COMMENCEMENT/EXPIRATION DATE. This agreement is executed as of the date of the last signature and is effective through December 31, 2028 at which time it will expire. The expiration date is the final date for completion of all work activities under this agreement.

X. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this agreement. In witness whereof, the parties hereto have executed this agreement as of the last date written below.

Date

Date
U.S. Forest Service,

The authority and format of this agreement have been reviewed and approved for signature.

Date
U.S. Forest Service Grants Management Specialist



USDA, Forest Service

OMB 0596-0217
FS-1500-10C

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.



FS Agreement No. 19-CS-11061800-001

Cooperator Agreement No. _____

NON FUNDED CHALLENGE COST SHARE AGREEMENT
Between The
DETROIT, CITY OF
And The
USDA, FOREST SERVICE
WILLAMETTE NATIONAL FOREST

This NON FUNDED CHALLENGE COST SHARE AGREEMENT is hereby made and entered into by and between the Detroit, City of, hereinafter referred to as "The City," and the USDA, Forest Service, Willamette National Forest hereinafter referred to as the "U.S. Forest Service," under the authority: Department of Interior and Related Agencies Appropriation Act of 1992, Pub. L. 102-154.

Background: Detroit Lake is the busiest lake in Oregon and is surrounded by the Willamette National Forest. To bolster the economic development and vitality of the area, local, county, state and federal agencies, local non-governmental organizations and private citizens have invested countless hours and resources into expanding recreation opportunities in the area including events such as car shows, waterskiing expos, annual fireworks display, fishing derbies and ballfield activities. The new Oregon State Scenic Bikeway provides easier access to the remarkable natural assets in the area. In addition to the Bikeway and other improvement projects at Detroit Flats, the newly constructed restrooms have reinforced the critical linkages between the town and surrounding public lands and recreation opportunities by creating a visitor portal. This portal has enhanced the existing day use facility and will serve as a launch point for the tens of thousands of Scenic Bikeway users, participants in recreation events, and out-of-town visitors to Detroit Lake and all the nearby recreation opportunities. The visitor portal area is located on land owned by The City which was once the site of Detroit Elementary School and therefore, a historical and sentimental site for local citizens. The Detroit Flats Day Use Area is U.S. Army Corp of Engineers lands currently administered and maintained by the Willamette National Forest.

Title: Detroit Flats Day Use Area Operations and Maintenance

I. PURPOSE:

The purpose of this agreement is to document the cooperation between the parties to jointly operate and maintain Detroit Flats Day Use Area in accordance with the following provisions and the hereby incorporated Operating and Financial Plan, attached as Exhibit A.



II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The U.S. Forest Service and The City share mutual interest in the high quality, cost effective and efficient operation and maintenance of the Detroit Flats Day Use area. This site provides free access to Detroit Lake for the community of City of Detroit and for the recreating public. The City and the U.S. Forest Service have cooperatively been participants in the Detroit Area Visitor Portal, Scenic Bikeway and Day Use Enhancements projects which resulted in the complete re-design and re-construction of the Detroit Flats. After project completion in March 2019, The City and the U.S. Forest Service planned to share operations and maintenance responsibilities for the site. Its venue for a variety of recreation opportunities and events as stated above would bring visitors to The City and surrounding areas, including the national forest.

In Consideration of the above premises, the parties agree as follows:

III. THE CITY SHALL:

- A. LEGAL AUTHORITY. The City shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. Conduct routine operation and maintenance tasks for the Detroit Flats Day Use site. Areas of responsibility include all areas within the day use area administered by the U.S. Forest Service, including the access road to Detroit Flats, the picnic area, group activities and parking areas at Detroit Flats, the trail connecting Patton Road and Detroit Avenue, and the Osprey Point Trail. Operation and maintenance tasks will include:
 - (a) Patrol of the site and public contact for education about rules and regulations of the site.
 - (b) Assist with posting signs and/or notices as needed, related to public information, safety, fire restrictions, etc.
 - (c) Facilities maintenance including: restroom cleaning and stocking with toilet paper, litter and trash collection, disposal of human waste (if necessary), sign maintenance, landscaping maintenance, and trail clearing and maintenance.
 - (d) Reporting natural resource, trash or occupancy violations to law enforcement and U.S. Forest Service personnel.
- C. Work year round according to the following schedule:
 - (a) Primary Recreation Use Season (Memorial Day to October 31): three times per week, preferably including Fridays and Mondays
 - (b) Shoulder Season (November 1 up to Memorial Day): once per week.



- D. Provide the following: appropriately skilled and trained personnel to conduct the activities described above, suitable vehicles, equipment, tools, materials and supplies to conduct the work.
- E. Communicate with the U.S. Forest Service as needed to provide updates regarding the overall status of the site, any issues that arise, and notification of any vandalism or other damage to the site that requires repairs beyond routine operation and maintenance as described above.
- F. Participate in meetings with the U.S. Forest Service at a minimum of twice per year (spring and fall) or as needed to review and evaluate the cooperative relationship between the two entities.

IV. THE U.S. FOREST SERVICE SHALL:

- A. Maintain responsibility for site and facility maintenance beyond the items described above, including vault toilet pumping and hazard tree assessment and treatment. Tasks may include repair or replacement of damaged facilities, structures, signs, and other improvements.
- B. Inspect the work completed by The City to ensure compliance with U.S. Forest Service standards for facility operation and maintenance. Provide prompt feedback for work performed.
- C. Participate in meetings with The City a minimum of twice per year (spring and fall) or as needed to review and evaluate the cooperative relationship between the two entities.

V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

Principal Cooperator Contacts:

| Cooperator Program Contact | Cooperator Administrative Contact |
|--|---|
| Jim Trett, Mayor PO Box 589 (160 Detroit Ave. N) Detroit, OR 97342-0589 Phone: 503.559.0358 FAX: 503.854.3232 Email: trett1380@msn.com | Christine Pavoni, City Recorder PO Box 589 (160 Detroit Ave. N) Detroit, OR 97342-0589 Phone: 503.854.3496 FAX: 503.854.3232 Email: detroit@wvi.com |



Principal U.S. Forest Service Contacts:

| U.S. Forest Service Program Manager Contact | U.S. Forest Service Administrative Contact |
|---|--|
| Annette Smits, Staff Officer 44125 N Santiam Highway, SE Detroit, OR 97342 Phone: 503.854.4208 FAX: 503.854.4239 Email: annette.smits@usda.gov | Julie Mattson, Grants Management Specialist 3040 Biddle Road Medford, OR 97504-4119 Phone: 541.618.2022 FAX: 541.618.2148 Email: julie.mattson@usda.gov |

B. USE OF U.S. FOREST SERVICE INSIGNIA. In order for The City to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service’s Office of Communications (Washington Office). A written request will be submitted by the U.S. Forest Service Pacific Northwest Region, Willamette National Forest to the Office of Communications Assistant Director, Visual Information, and Publishing Services prior to use of the insignia. The U.S. Forest Service Pacific Northwest Region, Willamette National Forest will notify the The City when permission is granted.

C. NON-FEDERAL STATUS FOR COOPERATOR PARTICIPANT LIABILITY. The City agree(s) that any of their employees, volunteers, and program participants shall not be deemed to be Federal employees for any purposes including Chapter 171 of Title 28, United States Code (Federal Tort Claims Act) and Chapter 81 of Title 5, United States Code (OWCP), as The City hereby willingly agrees to assume these responsibilities.

Further, The City shall provide any necessary training to The City’s employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. The City shall also supervise and direct the work of its employees, volunteers, and participants performing under this agreement.

D. NOTICES. Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or The City are sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the agreement.

To The City , at the address shown in the agreement or such other address designated within the agreement.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.



- E. PARTICIPATION IN SIMILAR ACTIVITIES. This agreement in no way restricts the U.S. Forest Service or The City from participating in similar activities with other public or private agencies, organizations, and individuals.
- F. ENDORSEMENT. Any of The City's contributions made under this agreement do not by direct reference or implication convey U.S. Forest Service endorsement of The City's products or activities.
- G. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.
- H. ELIGIBLE WORKERS. The City shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). The City shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract awarded under this agreement.
- I. SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM). The City shall maintain current information in the System for Award Management (SAM). This requires review and update to the information at least annually after the initial registration, and more frequently if required by changes in information or agreement term(s). For purposes of this agreement, System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a Cooperative. Additional information about registration procedures may be found at the SAM Internet site at www.sam.gov.
- J. NONDISCRIMINATION. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, and so forth.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.
- K. AGREEMENT CLOSEOUT. Within 90 days after expiration or notice of termination the parties shall close out the agreement.



Within a maximum of 90 days following the date of expiration or termination of this agreement, all reports required by the terms of the agreement must be submitted to the U.S. Forest Service by The City.

L. PROGRAM MONITORING AND PROGRAM PERFORMANCE REPORTS

The parties to this agreement shall monitor the performance of the agreement activities to ensure that performance goals are being achieved.

Performance reports must contain information on the following:

- A comparison of actual accomplishments to the goals established for the period where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output, if applicable.
- Reason(s) for delay if established goals were not met.
- Additional pertinent information.

The City shall submit semi-annual performance reports to the U.S. Forest Service Program Manager. These reports are due 30 days after the reporting period.

M. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. The City shall retain all records pertinent to this agreement for a period of no less than 3 years from the expiration or termination date. As used in this provision, records includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. The City shall provide access and the right to examine all records related to this agreement to the U.S. Forest Service Inspector General, or Comptroller General or their authorized representative. The rights of access in this section must not be limited to the required retention period but must last as long as the records are kept.

If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

N. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552). Requests for research data are subject to 2 CFR 215.36.

Public access to culturally sensitive data and information of Federally recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill).



O. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All Coopeatives, their Employees, Volunteers, and Contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

P. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. The City is/are encouraged to give public notice of the receipt of this agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

"Detroit Flats Day Use Site Operations and Maintenance" of the U.S. Forest Service, Department of Agriculture"

The City may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. The City is/are requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to U.S. Forest Service's Office of Communications as far in advance of release as possible.

Q. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. The City shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)"

To file a complaint alleging discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington DC 20250-9410 or call toll free voice (866) 632-9992, TDD (800)877-8339, or voice relay (866) 377-8642. USDA is an equal opportunity provider and employer."

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

R. REMEDIES FOR COMPLIANCE RELATED ISSUES. If The City materially fail(s) to comply with any term of the agreement, whether stated in a Federal



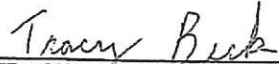
statute or regulation, an assurance, or the agreement, the U.S. Forest Service may wholly or partly suspend or terminate the current agreement.

- S. TERMINATION BY MUTUAL AGREEMENT. This agreement may be terminated, in whole or part, as follows:
1. When the U.S. Forest Service and The City agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
 2. By 30 days written notification by The City to the U.S. Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated. If the U.S. Forest Service decides that the remaining portion of the agreement does not accomplish the purpose for which the award/agreement was made, the U.S. Forest Service may terminate the award upon 30 days written notice in its entirety.
- T. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.
- U. DEBARMENT AND SUSPENSION. The City shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the Federal Government according to the terms of 2 CFR Part 180. Additionally, should The City or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- V. MODIFICATIONS. Modifications within the scope of this agreement must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 90 days prior to implementation of the requested change.
- W. COMMENCEMENT/EXPIRATION DATE. This agreement is executed as of the date of the last signature and is effective through December 31, 2023 at which time it will expire. The expiration date is the final date for completion of all work activities under this agreement.

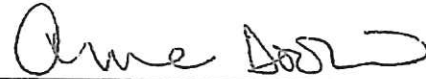


AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this agreement. In witness whereof, the parties hereto have executed this agreement as of the last date written below.


JIM TRETT, Mayor
Detroit, City of
09/15/19
Date


TRACY BECK, Forest Supervisor
U.S. Forest Service, Willamette National Forest
9/19/19
Date

The authority and format of this agreement have been reviewed and approved for signature.


ANNE DOOLIN (19CSI1061800001)
U.S. Forest Service Grants Management Specialist
9/4/19
Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

U.S. Forest Service

Attachment: Exhibit A USFS Agreement No.: 19-CS-11061800-001 Mod. No.:
Cooperator Agreement No.:

Note: This Financial Plan may be used when:
(1) No program income is expected and
(2) The Cooperator is not giving cash to the FS and
(3) There is no other Federal funding

Agreements Financial Plan (Short Form)

Note: All columns may not be used. Use depends on source and type of contribution(s).

Financial Plan Matrix:

| COST ELEMENTS | FOREST SERVICE CONTRIBUTIONS | | | COOPERATOR CONTRIBUTIONS | | (e) Total |
|----------------------|------------------------------|------------------------------|----------------|--------------------------|--|--------------|
| | (a) Noncash | (b) Cash to Cooperator | (c) Noncash | (d) In-Kind | | |
| Direct Costs | | | | | | |
| Salaries/Labor | \$9,950.00 | \$0.00 | \$16,379.96 | \$813.76 | | \$27,143.72 |
| Travel | \$129.60 | \$0.00 | \$158.76 | \$92.80 | | \$381.16 |
| Equipment | \$0.00 | \$0.00 | \$0.00 | \$0.00 | | \$0.00 |
| Supplies/Materials | \$0.00 | \$0.00 | \$3,749.97 | \$800.00 | | \$4,549.97 |
| Printing | \$0.00 | \$0.00 | \$0.00 | \$25.00 | | \$25.00 |
| Other | \$1,600.00 | \$0.00 | \$0.00 | \$0.00 | | \$1,600.00 |
| Other | | | | | | \$0.00 |
| Subtotal | \$11,679.60 | \$0.00 | \$20,288.69 | \$1,731.56 | | \$33,699.85 |
| Coop Indirect Costs | | | | | | \$0.00 |
| FS Overhead Costs | \$1,167.96 | \$0.00 | \$0.00 | | | \$1,167.96 |
| Total | \$12,847.56 | \$0.00 | \$20,288.69 | \$1,731.56 | | \$34,867.81 |
| Total Project Value: | | | | | | |

| Matching Costs Determination | |
|---|-------------|
| Total Forest Service Share = (a+b) + (c) = (f) | 36.85% (f) |
| Total Cooperator Share (c+d) + (e) = (g) | 63.15% (g) |
| Total (f+g) = (h) | 100.00% (h) |

WORKSHEET FOR

FS Non-Cash Contribution Cost Analysis, Column (a)

| Salaries/Labor | | | | |
|-----------------------------|----------|-----------|--|-------------------|
| Standard Calculation | | | | |
| Job Description | Cost/Day | # of Days | | Total |
| RLM Staff | \$400.00 | 5.00 | | \$2,000.00 |
| Recreation Program Manager | \$355.00 | 10.00 | | \$3,550.00 |
| Recreation Technician | \$220.00 | 20.00 | | \$4,400.00 |
| Total Salaries/Labor | | | | \$9,950.00 |

| Travel | | | | |
|--|-----------|-----------|------------|-----------------|
| Standard Calculation | | | | |
| Travel Expense | Employees | Cost/Trip | # of Trips | Total |
| Travel for Recreation Tech (@ .54/mi for GOV, ave 8 RT miles) | 1 | \$4.32 | 20.00 | \$86.40 |
| Travel for Recreation Program Manager (@ .54/mi for GOV, ave 8 RT miles) | 1 | \$4.32 | 10.00 | \$43.20 |
| Total Travel | | | | \$129.60 |

| Other Expenses | | | | |
|-----------------------------|------------|-----------|--|-------------------|
| Standard Calculation | | | | |
| Item | # of Units | Cost/Unit | | Total |
| Vault toilet pumping | 2.00 | \$800.00 | | \$1,600.00 |
| Total Other | | | | \$1,600.00 |

| | |
|------------------------------|--------------------|
| Subtotal Direct Costs | \$11,679.60 |
|------------------------------|--------------------|

Forest Service Overhead Costs

| Current Overhead Rate | Subtotal Direct Costs | Total |
|--------------------------------|-----------------------|-------------------|
| 10.00% | \$11,679.60 | \$1,167.96 |
| Total FS Overhead Costs | | \$1,167.96 |

| | |
|-------------------|--------------------|
| TOTAL COST | \$12,847.56 |
|-------------------|--------------------|

WORKSHEET FOR

Cooperator Non-Cash Contribution Cost Analysis, Column (c)

| Salaries/Labor | | | | |
|-----------------------------|----------|-----------|--|--------------------|
| Standard Calculation | | | | |
| Job Description | Cost/Day | # of Days | | Total |
| Maintenance Worker | \$128.09 | 98.00 | | \$12,552.82 |
| City Recorder | \$191.28 | 13.00 | | \$2,486.64 |
| City Clerk | \$134.05 | 10.00 | | \$1,340.50 |
| Total Salaries/Labor | | | | \$16,379.96 |

| Travel | | | | |
|---|-----------|-----------|------------|-----------------|
| Standard Calculation | | | | |
| Travel Expense | Employees | Cost/Trip | # of Trips | Total |
| Maintenance Worker @ 3 RT miles, .54/mi | 1 | \$1.62 | 98.00 | \$158.76 |
| Total Travel | | | | \$158.76 |

| Supplies/Materials | | | | |
|---------------------------------|------------|-----------|--|-------------------|
| Standard Calculation | | | | |
| Supplies/Materials | # of Items | Cost/Item | | Total |
| Toilet Paper | 500.00 | \$0.92 | | \$460.00 |
| Hand Sanitizer Dispenser | 1.00 | \$32.00 | | \$32.00 |
| Hand Sanitizer Refill | 6.00 | \$20.00 | | \$120.00 |
| Garbage Bags | 1.00 | \$50.00 | | \$50.00 |
| Trash Grabber | 1.00 | \$30.00 | | \$30.00 |
| Latex Gloves | 3.00 | \$5.99 | | \$17.97 |
| Respirator Masks (Box) | 1.00 | \$40.00 | | \$40.00 |
| Non-Standard Calculation | | | | |
| Power Wash Assembly | | | | \$3,000.00 |
| Total Supplies/Materials | | | | \$3,749.97 |

| | |
|------------------------------|--------------------|
| Subtotal Direct Costs | \$20,288.69 |
|------------------------------|--------------------|

Cooperator Indirect Costs

| Current Overhead Rate | Subtotal Direct Costs | | Total |
|-----------------------------------|-----------------------|--|---------------|
| | \$20,288.69 | | |
| Total Coop. Indirect Costs | | | \$0.00 |
| 0% | | | |

| | |
|-------------------|--------------------|
| TOTAL COST | \$20,288.69 |
|-------------------|--------------------|

WORKSHEET FOR

Cooperator In-Kind Contribution Cost Analysis, Column (d)

| Salaries/Labor | | | | |
|--|-----------|------------|--|-----------------|
| Standard Calculation | | | | |
| Job Description | Cost/hour | # of hours | | Total |
| Volunteer clean-up crew (4 volunteers @ 8hrs total per each) | \$25.43 | 32.00 | | \$813.76 |
| Total Salaries/Labor | | | | \$813.76 |

| Travel | | | | |
|--|-----------|-----------|------------|----------------|
| Standard Calculation | | | | |
| Travel Expense | Employees | Cost/Trip | # of Trips | Total |
| Volunteer labor vehicles @ GSA rate of .58/mi x ave 20 RT miles x 8 (each volunteer @ 2 half days) | 4 | \$11.60 | 2.00 | \$92.80 |
| Total Travel | | | | \$92.80 |

| Supplies/Materials | | | | |
|---|------------|-----------|-----------|-----------------|
| Standard Calculation | | | | |
| Supplies/Materials | # of Items | Cost/Item | # of Days | Total |
| Kubota (@ 4 days, 4 hrs per day including trailer/travel) | 1.00 | \$200.00 | 4.00 | \$800.00 |
| Total Supplies/Materials | | | | \$800.00 |

| Printing | | | | |
|---------------------------------|------------|-----------|--|----------------|
| Standard Calculation | | | | |
| Paper Material | # of Units | Cost/Unit | | Total |
| Flyers, Notices | 50.00 | \$0.50 | | \$25.00 |
| Non-Standard Calculation | | | | |
| Total Printing | | | | \$25.00 |

| | |
|------------------------------|-------------------|
| Subtotal Direct Costs | \$1,731.56 |
|------------------------------|-------------------|

| | |
|-------------------|-------------------|
| TOTAL COST | \$1,731.56 |
|-------------------|-------------------|

COMMERCIAL LEASE

THIS COMMERCIAL LEASE (the "*Lease*"), made and entered into on October ____, 2023, (the "*Effective Date*"), is by and between the *City of Detroit*, an Oregon municipal corporation, herein referred to as "*Landlord*," and the *Detroit Lake Foundation*, an Oregon non-profit corporation with no members, herein referred to as "*Tenant*." Landlord and Tenant shall be referred to herein jointly as the "*Parties*" and severally as a "*Party*."

In consideration of the rent hereinafter specified and the covenants, terms, and conditions hereinafter contained, the Parties agree as follows:

1. Grant of Lease

Landlord does hereby lease and demise to Tenant designated space situated in the building located at 345 Santiam Avenue, W, in the City of Detroit, County of Marion, Oregon, more commonly known as the Civic Center, (the "*Premises*"), said Premises being more particularly shown on the floor plan of such building, which is attached hereto and incorporated herein as *Exhibit "A."* The common areas of the building, such as major hallways, entrance ways, and bathrooms, shall be controlled by Landlord and shall be available for the nonexclusive use of all Tenants of the building, their employees, customers, and invitees. Parking in the parking lot shall be shared between the Parties, and the Parties agree to cooperate to allow the other to use the entire parking area for certain community events.

2. Term of Lease

The term of the Lease shall commence, and Tenant shall be entitled to possession on the Effective Date, and extend for five (5) years, unless terminated by Tenant.

3. Rental Payment

Tenant agrees to pay to Landlord as base rent the sum of One Dollar (\$1.00) per year on the First (1st) day of each and every year during the term of this Lease. Rent is deemed paid when received in hand by Landlord.

4. Option to Extend Term

Tenant has the right, at its option, to extend the Term, at the minimum rent set forth in Section 3 and otherwise upon all the terms and conditions set forth herein, for Twenty (20) separate, successive period(s) of Five (5) years. If Tenant elects to exercise its option to extend the Term, Tenant will give Landlord written notice at least ninety (90) days before the end of the original Term. If Tenant elects to exercise any of its other options to extend the Term, Tenant will give Landlord written notice at least ninety (90) days before the end of the extended term then in effect. If Tenant fails to exercise or is late in exercising any of its options to extend the Term, none of Tenant's rights to extend the Term will be lost, and Landlord agrees to give Tenant written notice that it has failed to properly exercise an option to extend the Term. Tenant will have ten (10) days following receipt of Landlord's notice within which to exercise its option to extend the Term. If Tenant exercises its option within such ten (10) day period, Tenant's option will be considered properly exercised and all of Tenant's remaining options to extend the Term will remain available to Tenant.

5. Use of Premises

5.1 Permitted Use

Tenant shall use the Premises for the purpose of a community center and for other lawful purposes authorized under the City of Detroit Code.

5.2 Restrictions on Use

In connection with the use of the Premises, Tenant shall:

- 5.2.1 Conduct such business in an orderly and decent manner;
- 5.2.2 Refrain from violating any city, county, state or federal law, ordinance, regulation or order affecting the Premises or Tenant's use thereof. Tenant shall correct, at Tenant's own expense, any failure of compliance created through Tenant's fault or by reason of Tenant's use, but Tenant shall not be required to make any structural changes to effect such compliance;
- 5.2.3 Refrain from doing any activity which may make void or voidable any policy of fire insurance on the building on the Premises or which may cause any increase or additional premium to become payable for the said policy of fire insurance;
- 5.2.4 Refrain from committing any waste upon the Premises, or any nuisance or other act or thing which may be reasonably offensive to other Tenants or owners or users of neighboring Premises or would create a nuisance or damage the reputation of the Premises;
- 5.2.5 Refrain from causing or permitting any Hazardous Material to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees, except for Hazardous Material that is necessary, customary, or useful to Tenant's business and will be used, kept, and stored in the manner that complies with all laws regulating any such Hazardous Material so brought upon or used or kept in or about the Premises;
- 5.2.6 The term "**Hazardous Materials**" means any hazardous, toxic or dangerous substance, waste, contaminant, pollutant, gas or material, including, without limitation, gasoline, waste oil and other petroleum products and constituents thereof, which are now or may become regulated under any federal, state or local statute, regulation, ordinance or other law now or hereafter in effect, including, without limitation, any substance, waste or material which is now or hereafter (a) designated as a "hazardous substance" under the Federal Water Pollution Control Act and/or the Comprehensive Environmental Response, Compensation, and Liability Act, (b) designated as a hazardous waste or regulated substance pursuant to the Resource Conservation and Recovery Act, (c) designated or listed as a hazardous material under the Hazardous Material Transportation Act, or (d) is in any way regulated as a hazardous material or toxic substance under the laws of the state wherein the Premises is located; and

5.2.7 In addition to the specific provisions of this Lease concerning indemnification and without prejudice to any rights and remedies of the Parties thereunder, the Parties further grant to each other the following Hazardous Materials indemnification;

5.2.7.1 Landlord and its successors, assigns, trustees, beneficiaries and legal representatives will protect, indemnify, defend and hold harmless Tenant, its officers, directors, shareholders, representatives, and their respective successors and assigns from and against all judgments, suits, proceedings, liabilities, losses, costs, judgments, orders, obligations, damages, expenses or claims (whether by third parties or governmental authorities) arising out of or in any way relating to the existence of any Hazardous Materials placed on, in or under the Premises by Landlord or any person or entity acting for, by or through Landlord or with Landlord's permission or acquiescence. This indemnity includes, but is not limited to, remedial, removal, response, abatement, cleanup, legal, investigative and monitoring costs, penalties, fines and disbursements (including, without limitation, attorneys', consultants' and experts' fees) of any kind whatsoever, which may at any time be imposed upon or incurred by any indemnitee arising, directly or indirectly, (i) from requirements of any federal, state or local environmental law; (ii) in connection with claims by government authorities or third parties related to the condition of the Premises; and/or (iii) from the presence or existence of Hazardous Materials on, in or near the Premises, including all consequential damages. However, Landlord's liability is subject to the limitations contained in the Oregon Constitution and Tort Claims Act.

5.2.7.2 Tenant and its successors, assigns, trustees, beneficiaries and legal representatives will protect, indemnify, defend and hold harmless Landlord, its officers, directors, shareholders, representatives, and their respective successors and assigns from and against all judgments, suits, proceedings, liabilities, losses, costs, judgments, orders, obligations, damages, expenses or claims (whether by third parties or governmental authorities) arising out of or in any way relating to the existence of any Hazardous Materials placed by Tenant or any party acting from, by or through Tenant or with Tenant's permission or acquiescence on, in or under the Premises. This indemnity includes, but is not limited to, remedial, removal, response, abatement, cleanup, legal, investigative and monitoring costs, penalties, fines and disbursements (including, without limitation, attorneys', consultants' and experts' fees) of any kind whatsoever, which may at any time be imposed upon or incurred by any indemnitee arising, directly or indirectly, (i) from requirements of any federal, state or local environmental law; (ii) in connection with claims by government authorities or third parties related to the

condition of the Premises; and/or (iii) from the presence or existence of Hazardous Materials on, in or near the Premises, including all consequential damages.

6. General Obligations & Use Agreement

In addition to this Agreement, the Parties may choose to enter into a General Obligation and Use Agreement (the “GOA”) for the Premises. The GOA would identify specific areas not covered by this Agreement, like use of common areas, use of the parking lot, establishment of a Civic Center Committee to approve capital improvement projects and the like.

7. Maintenance and Repair

7.1 Landlord’s Obligations

The duty of Landlord to make repairs shall not mature until a reasonable time after Landlord has received from Tenant notice in writing of the repairs that are required. The following shall be the responsibility of the Landlord:

- 7.1.1 Repairs and maintenance of the roof and gutters, exterior walls (including painting), bearing walls, structural members, and foundation;
- 7.1.2 Repair of sidewalks, driveways, curbs, parking areas, and areas used in common by Tenant and Landlord or Tenants of other portions of the same building;
- 7.1.3 Repair and maintenance of exterior water, sewage, gas, and electrical services up to the point of entry to the Premises;
- 7.1.4 Repair and maintenance of the heating and air conditioning system; and
- 7.1.5 All other repairs to the Premises which Tenant is not required to make as set forth below;

7.2 Tenant’s Obligations

The following shall be the responsibility of the Tenant:

- 7.2.1 Repair of interior walls, ceilings, doors and windows and related hardware, light fixtures, switches, and wiring from the point of entry to the Premises; and
- 7.2.2 Any repairs or alterations of the Premises required under Tenant’s obligation to comply with the laws and regulations.

7.3 Reimbursement for Repairs Assumed

If the responsible party fails or refuses to make repairs which are required by this Lease, the other Party (“*Repairing Party*”) may make the repairs and charge the actual costs of repairs to the responsible party. Such expenditures by Repairing Party shall be reimbursed by responsible party on demand together with interest at the rate of nine percent (9%) per annum

from the date of expenditure by the Repairing Party. Except in an emergency creating an immediate risk of personal injury or property damage, the Repairing Party may not perform repairs which are the obligation of the responsible party and charge the responsible party for the resulting expense unless at least thirty (30) days before work is commenced the responsible party is given notice in writing outlining with reasonable particularity the repairs required, and such party fails within that time to initiate such repairs in good faith.

7.4 Landlord's Interference with Tenant

Any repairs, replacements, alterations, or other work performed on or around the Premises by Landlord shall be done in such a way as to interfere as little as reasonably possible with use of the Premises by Tenant. Tenant shall have no right to an abatement of rent nor any claim against Landlord for any inconvenience or disturbance resulting from Landlord's activities performed in conformance with the requirement of this provision.

8. Utilities and Services

Tenant shall pay, when due, its pro-rata share of charges, to be calculated by the square footage of the Premises leased, for electricity, water, propane, and any other utilities of any kind separately furnished to the Premises. Landlord shall initially pay the utility services and then invoice Tenant for these utilities on a monthly or quarterly basis. The Parties agree that for the initial part of the first Term that the split between the Parties for power and heat shall be 80% (Landlord) and 20% Tenant until individually metered.

9. Taxes

Landlord shall pay when due all real property taxes and assessments as to that portion of the Premises not leased to Tenant. However, Tenant shall pay when due all real property taxes for the portion of the leased Premises, unless Tenant receives approval for tax exempt status. Further, Tenant shall pay all personal property taxes, if any, assessed against Tenant's personal property on the Premises.

10. Property Tax Exemption

Rent under this lease has been set at an amount based on the assumption that the Premises will be exempt from real property taxation. In the event real property taxes or special assessments are levied against the Premises due to Tenant's occupancy or use of the Premises, Tenant shall reimburse Landlord for such taxes and assessments within 30 days from receipt of a statement detailing such taxes. As used herein, real property taxes includes any fee or charge relating to the ownership, use, or rental of the Premises, other than taxes on the net income of Landlord or Tenant. Tenant shall have the sole responsibility of applying for and pursuing a property tax exemption for the Premises in accordance with ORS 307.112. Landlord shall sign such documents or take other steps reasonably necessary for Tenant to obtain such exemption. If applicable, Tenant shall provide approval of tax exemption to Landlord each year.

11. Liability Insurance

Tenant agrees at Tenant's own expense to maintain during the term of this Lease public liability insurance in a company authorized to do business in Oregon satisfactory to Landlord (which approval

will not be unreasonably withheld) with combined single limit of not less than Two Million Dollars (\$2,000,000) for personal injury or death, and One Million Dollars (\$1,000,000) for property damage, and that Landlord will be one of the parties insured thereunder. Such insurance shall cover all risks arising directly or indirectly out of Tenant's activities on or any condition of the Premises, whether or not related to an occurrence caused or contributed to by Landlord's negligence and shall protect Landlord and Tenant against claims of third persons. Certificates evidencing such insurance and bearing endorsements requiring thirty (30) days written notice to Landlord and any mortgagee prior to any change or cancellation shall be furnished to Landlord and any mortgagee prior to Tenant's occupancy of the property, and during the Lease to evidence renewals of the insurance.

12. Fire and Casualty Insurance

Landlord shall keep the Premises and improvements insured at their full insurable value at against fire and other risks covered by a standard insurance policy with an endorsement for extended coverage. Tenant shall carry and bear the expense of insurance insuring the property of Tenant on the Premises against such risks.

13. Waiver of Subrogation

The liability and casualty insurance policies to be obtained as provided in this Lease shall provide that the insurer waives all right of recovery by way of subrogation against Landlord and/or Tenant in connection with any damage covered by such policies.

14. Liens

Tenant shall keep the Premises and the property on which the Premises are situated free from any liens arising out of any work performed, materials furnished, or obligations incurred by Tenant, and Tenant shall indemnify and hold Landlord harmless from all claims, demands, liabilities and expenses, including attorney's fees relating to such liens. If any mechanic's, laborer's, materialman's or other lien caused or charged to Tenant shall at any time be filed against the Premises, Tenant shall have the right to contest such lien or charge, provided, Tenant within thirty (30) days after notice of the filing thereof, will cause the same to be discharged of record or in lieu thereof to secure Landlord against said lien by depositing with Landlord, to be held in trust, cash or securities satisfactory to Landlord in an amount sufficient to discharge the lien plus any costs, attorney's fees and other charges that could accrue as a result of foreclosure or sale under the lien.

15. Alterations and Improvements

Tenant may make any alterations, additions or improvements (the "*Improvements*") in the Premises that Tenant and Landlord agree from time to time are necessary or desirable. All Improvements shall be made in a good and workmanlike manner, and in compliance with all applicable laws and building codes. Tenant may place or permit to be placed any signs, advertisements or notices on the exterior of said Premises in places where such signs, advertisements or notices will be visible from any public street which will not first have been approved by the City of Detroit. The Parties shall enter separate agreements for the Improvements. The intent is that the Parties will endeavor to complete different Improvements over the terms of the lease to enhance and support the Community Center and City Hall. All Improvements to the Civic Center shall become the property of the City upon completion.

16. Destruction of Premises

In the event of destruction of the improvements on which the Premises are situated, whether by fire or other casualty, to the extent of seventy-five percent (75%) or more of the value of such improvements, Landlord may elect whether or not to reconstruct the Premises. If Landlord elects not to reconstruct, this Lease shall terminate as of the date of the fire or other casualty. If Landlord elects to reconstruct, there shall be a reasonable abatement of rental during the period required to place the Premises in a Tenantable condition. If the building is partially destroyed and the damage so occasioned shall not amount to the extent above indicated, Landlord shall repair the same with all convenient speed and Tenant shall vacate, upon request, all or any part of the Premises which Landlord may require for the purpose of making such repairs, and for the period of time between the date of such fire or other casualty and until such repairs have been substantially completed, there shall be such an abatement of rental as the nature of the injury or damage to its interference with occupancy of the Premises by Tenant shall warrant. In the event the Landlord and Tenant are not able to agree on the amount of rent to abate, then the matter shall be determined by arbitration as provided below. It is further understood and agreed that if the Premises be but slightly injured and the damage so occasioned shall not cause any material interference with the occupation, use, and operation by Tenant, there shall be no abatement of rental and Landlord shall repair said damage with all convenient speed.

17. Surrender of Premises

Upon the termination of this Lease for any reason whatsoever, Tenant shall promptly vacate the Premises and deliver the same to Landlord broom clean and in as good order and repair as said Premises were at the commencement of this Lease, ordinary wear and tear and loss or damage by fire excepted.

18. Removal of Property

If Tenant shall fail to remove any of Tenant's property of any nature whatsoever from the Premises at the termination of this Lease, or when Landlord has the right of reentry, Landlord may, at Landlord's option, remove and store said property without liability for the loss thereof or damage thereto, such storage to be for the account and at the expense of Tenant. If Tenant does not pay the cost of storing any such property after it has been stored for a period of thirty (30) days or more, Landlord may, at Landlord's option, sell, or permit to be sold, any or all of such property at public or private sale, in such manner and at such times and places as Landlord in Landlord's sole discretion may deem proper, without notice to Tenant, and shall apply the proceeds of such sales: first, to the costs and expense of such sale, including reasonable attorney fees actually incurred; second, to the payment of the costs or charges for storing any such property; third, to the payment of any other sums of money which may then be or thereafter become due Landlord from Tenant under any of the terms hereof; and fourth, the balance, if any, to Tenant.

19. Assignment and Subletting

Tenant shall not have the right to assign its interest in this Lease, or sublet, all or part of the Premises, without the prior written consent of the Landlord. No assignment or subletting by Tenant will affect or diminish the obligation of Tenant to perform all of the obligations of Tenant under this Lease.

20. Landlord's Right to Perform

In the event that Tenant fails or refuses to pay, when due, any sum of money required to be paid in the performance or observance of any of the terms of this Lease on the part of Tenant to be performed or observed, the Landlord may, at its option, without any obligation, however, on its part to do so, pay such sum of money, and thereafter such sum of money shall be repaid by the Tenant to the Landlord forthwith upon the Landlord's making demand upon the Tenant for such repayment, with interest thereon at the rate of ten percent (10%) per annum from the date of the making of such payment by the Landlord until the date of the making of the repayment to the Landlord by the Tenant.

21. Access by Landlord

Tenant will permit Landlord and Landlord's agents to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same, to determine Tenant's compliance with this Lease, for altering or improving the Premises.

22. Nonwaiver

Waiver by Landlord of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition, or of any subsequent breach of the same or of any other term, covenant, or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, or condition of this Lease, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

23. Tenant's Indemnification

Except for damage or injury caused by willful or negligent acts or omissions of Landlord, its agents, or employees, Tenant shall defend and indemnify Landlord and save Landlord harmless from and against any and all claims, demands, liabilities, damages, costs, or expenses, including attorney fees, arising from any act, omission, or negligence of Tenant, or the officers, contractors, licensees, agents, servants, employees, guests, invitees, or visitors of Tenant in or about the Premises, or arising from any accident, injury, or damage, howsoever and by whomsoever caused, to any person or property, occurring in or about the Premises.

24. Landlord's Indemnification

Except for damage or injury caused by the willful or negligent act or omission of Tenant, its agents or employees, Landlord will indemnify, defend and hold Tenant, its agents and employees, harmless from any and all liability for injury to or death of any person, or loss of or damage to the property of any person, and all actions, claims, demands, costs (including, without limitation, reasonable attorneys' fees), damages or expenses of any kind arising therefrom which may be brought or made against Tenant or which Tenant may pay or incur by reason of the ownership, maintenance or use of the Premises by Landlord, its agents or employees. Landlord's liability is subject to the limitations contained in the Oregon Constitution and Tort Claims Act.

25. Holding Over

In the event Tenant holds over after the term of this Lease, then Tenant shall remain bound by all terms, conditions, and covenants of this Lease, except that the holding over shall be construed to create a tenancy from month to month, and the rental shall be equal to one hundred ten percent (110%) of the highest regular monthly rental payable by Tenant unto Landlord during the term of this Lease, including any renewals. If a month-to-month tenancy results from a holdover by Tenant under this section, the tenancy shall be terminable at the end of any monthly rental period on written notice from Landlord given not less than ten (10) days prior to the termination date which shall be specified in the notice.

26. Default

The following shall be events of default:

26.1 Default in Rent

Failure of Tenant to pay any rent or other charge within ten (10) days after it is due.

26.2 Default in Other Covenants

Failure of Tenant to comply with any term or condition or fulfill any obligation of the Lease (other than the payment of rent or other charges) within thirty (30) days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within such thirty (30) day period, this provision shall be complied with if Tenant begins correction of the default within the thirty (30) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. Landlord shall not be required to give more than one (1) notice for a similar default in any 12-month period.

26.3 Insolvency

Insolvency of Tenant; an assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy; an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest and failure of Tenant to secure discharge of the attachment or release of the levy of execution within ten (10) days. If Tenant consists of two or more individuals or business entities, the events of default specified in this section shall apply to each individual unless within ten (10) days after an event of default occurs the remaining individuals produce evidence satisfactory to Landlord that they have unconditionally acquired the interest of the one causing the default. If the Lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of Tenant under the Lease.

27. Remedies on Default

27.1 Termination

In the event of a default the Lease may be terminated at the option of Landlord by notice in writing to Tenant. Whether or not the Lease is terminated by election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default. If the Lease is terminated, Tenant's liability to Landlord for damages shall survive such termination and Landlord may reenter, take possession of the Premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.

27.2 Reletting

Following reentry or abandonment, Landlord may relet the Premises and in that connection may make any suitable alterations or refurbish the Premises, or both, or change the character or use of the Premises, but Landlord shall not be required to relet for any use or purpose other than that specified in the Lease or which Landlord may reasonably consider injurious to the Premises, or to any Tenant which Landlord may reasonably consider objectionable. Landlord may relet all or part of the Premises, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

27.3 Damages

In the event of termination on default, Landlord shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the lease term, the following amounts as damages:

- 27.3.1 The loss of reasonable rental value from the date of default until a new Tenant has been, or with the exercise of reasonable efforts could have been secured up to and including the date of termination;
- 27.3.2 The reasonable costs of reentry and reletting including without limitation the cost of any clean up, refurbishing, removal of Tenant's property and fixtures, or any other expense occasioned by Tenant's failure to quit the Premises upon termination and to leave the Premises in the required condition, any remodeling costs, attorney fees, court costs, broker commissions, and advertising costs;
- 27.3.3 The excess of the unpaid rent and Tenant's other obligations from the date of termination to the date of award over the amount of rent the Tenant proves the Landlord has or could have received with reasonable efforts by reletting the Premises;
- 27.3.4 Any excess of the value of the rent and all of Tenant's other obligations under this Lease over the reasonable expected return from the Premises for the period commencing on the date of award and continuing through the end of the term. The present value of future amounts will be computed using a discount rate

equal to the prime loan rate of the United States National Bank of Oregon, or its successors, in effect on the date of trial; and

27.3.5 Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's default.

28. Default by Landlord

If Landlord fails to perform any covenant, condition, or agreement on its part to be performed under this Lease within thirty (30) days after receipt of written notice from Tenant specifying such failure (or if such failure cannot reasonably be cured within thirty (30) days, if Landlord does not commence to cure the failure within that thirty (30) day period or does not diligently pursue such cure to completion), then such failure will constitute a default hereunder and Landlord will be liable to Tenant for damages sustained by Tenant to the extent they are a result of Landlord's default. If, after notice of Landlord (except in an emergency when no notice will be required), Landlord fails to promptly cure its failure to perform and that failure could cause injury to persons, damage to the Premises, or to Tenant's property, or interfere with the conduct of Tenant's business at the Premises, then Tenant will have the right, but not the obligation, to cure Landlord's failure to perform for the account and at the expense of Landlord. Landlord agrees to promptly reimburse Tenant for the reasonable cost of such cure following receipt from Tenant of an itemized statement of such cost. Any amounts not reimbursed by Landlord within thirty (30) days following receipt of Tenant's statement may be applied by Tenant as a credit against Tenant's next payment(s) of minimum rent and other charges until fully recovered.

29. Right to Sue More Than Once

Landlord and Tenant may sue periodically to recover damages during the period corresponding to the remainder of the lease term, and no action for damages shall bar a later action for damages subsequently accruing.

30. Remedies Cumulative

The foregoing remedies shall be in addition to and shall not preclude any other remedy available to Landlord and Tenant.

31. Notices

All notices under this Lease shall be in writing and delivered in person or sent by registered or certified mail to Landlord at the same place rental payments are made, and to Tenant at the Premises, or such addresses as may hereafter be designated by either party in writing. Notices mailed as aforesaid shall be deemed given on the date of such mailing.

LANDLORD:

City of Detroit
345 W Santiam Ave
Detroit, OR 97342

TENANT:

Detroit Lake Foundation
PO Box 4779
Salem, OR 97302

32. Successors and Assigns

The covenants and conditions herein contained shall, subject to the provisions as to assignment,

apply to and bind the heirs, successors, personal representatives, and assigns of all the Parties hereto; and all of the Parties hereto shall be jointly and severally liable hereunder.

33. Attorneys' Fees

In case any proceeding is instituted, including any bankruptcy or arbitration proceeding, arising directly or indirectly out of this agreement, the losing party shall pay to the prevailing party its reasonable attorneys' fees, together with all expenses, which may reasonably be incurred in taking such action, including, but not limited to, costs incurred in searching records, expert witness fees, anticipated post-judgment collection services, and including any such fees and costs incurred in any appeal of any proceedings. Such sums shall be in addition to all other sums provided by law.

34. Covenant of Quiet Enjoyment

If the Tenant punctually and faithfully performs and observes all of the terms, covenants, provisions, and conditions contained in this Lease on the part of the Tenant to be performed and observed, Landlord covenants that Tenant should have control and management, and quiet and peaceable possession, of said Premises as Tenant during the term of this Lease.

35. Mortgages

This Lease is and shall be prior to any mortgage or deed of trust ("*Encumbrance*") recorded after the date of this Lease and affecting the Premises. However, if any lender holding such an Encumbrance requires that this Lease be subordinate to the Encumbrance, then Tenant agrees that the Lease shall be subordinate to the Encumbrance if the holder thereof agrees in writing with Tenant that so long as Tenant performs its obligations under this Lease no foreclosure, deed given in lieu of foreclosure, or sale pursuant to the terms of the Encumbrance, or other steps or procedures taken under the Encumbrance shall affect Tenant's rights under this Lease. If the foregoing condition is met, Tenant shall execute the written agreement and any other documents required by the holder of the Encumbrance to accomplish the purposes of this section. If the Premises are sold as a result of foreclosure of any Encumbrance thereon, or otherwise transferred by Landlord or any successor, Tenant shall attorn to the purchaser or transferee.

36. Relation of Parties

Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent or partnership or joint venture of any association between Landlord and Tenant and no provision contained in this Lease or any acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of Landlord and Tenant.

37. Acceptance of Premises "As Is"

Tenant accepts the Premises in their present condition, "*As Is*", including latent defects, without any representations or warranties, expressed or implied, unless they are in writing signed by Landlord. Tenant acknowledges that Tenant has ascertained, from sources other than Landlord, the applicable zoning, building, housing and other regulations, ordinances and laws, and the Tenant accepts the Premises with full awareness of these ordinances and laws as they may affect the present or future use of the Premises, and Landlord makes no representations with respect thereto.

38. Miscellaneous

38.1 Integration and Modification

This Lease contains the entire agreement between the Parties and any executory agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such executory agreement is in writing and signed by the Party against whom enforcement of the change, modification or discharge is sought. This Lease cannot be changed orally or terminated orally.

38.2 Headings

The headings and titles in this Lease are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

38.3 Interpretation

All nouns and pronouns and any variations thereof shall be deemed to refer to the masculine, feminine neuter, singular or plural as the identity of the person or persons, firm or firms, corporation or corporations, entity or entities or any other thing or things may require. Both parties had input in the terms of this Agreement. Any rule of construction that a document is interpreted against its drafter is inapplicable.

38.4 Severability

If any term or provision of this Lease shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Lease shall not be affected thereby, but each term and provision shall be valid and be enforced to the fullest extent permitted by law.

38.5 Estoppel Letter

Each Party agrees that any time, and from time to time, upon not less than ten (10) days prior written request from the other Party, to execute, acknowledge and deliver to the other party a statement in writing, certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), the dates to which the rent, taxes and assessments, if any, have been paid, the amount of any additional rent held by Landlord, and whether the Lease is then in default or whether any events have occurred which, with the giving of notice or the passage of time, or both, could constitute a default hereunder, it being intended that any such statement delivered pursuant to this section may be relied upon by any prospective assignee, mortgagee or purchaser of the fee interest in the Premises or of this Lease. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the Lease is in full force and effect and has not been modified except as may be represented by the Party requesting the certificate.

39. Time of Essence

Time is of the essence of the performance of each of the Parties obligations under this Lease.

40. Brokers

Tenant represents that it did not deal with any broker in connection with this Lease, and hereby indemnifies Landlord against the claims or demands of any broker claimed through a relationship with Tenant.

41. Governing Law and Venue

The Parties hereby submit to jurisdiction in Marion County, Oregon and agree that any and all disputes arising out of or related to this Lease shall be litigated exclusively in the Circuit Court for Marion County, Oregon and in no federal court or court of another county or state. Each party to this Lease further agrees that pursuant to such litigation, the Party and the Party's officers, employees, and other agents shall appear, at that Party's expense, for deposition in Marion County, Oregon.

42. Rule of Construction

Any rule of construction interpreting this instrument against it drafter shall be inapplicable.

IN WITNESS WHEREOF, the Parties have executed this Lease as of the Effective Date written above.

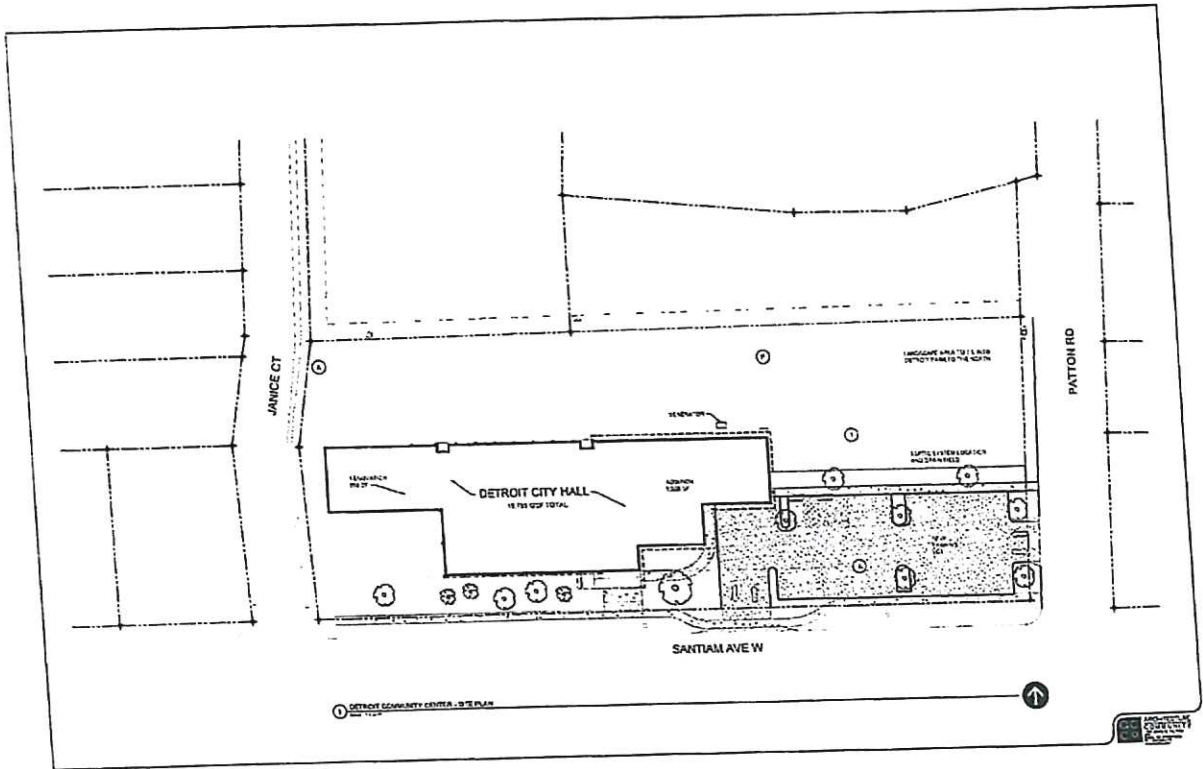
LANDLORD:
CITY OF DETROIT

By: _____
James Trett, Mayor

TENANT:
DETROIT LAKE FOUNDATION

By: _____
Keith Owen, President

EXHIBIT A FLOOR PLAN



Staff Report

LEGISLATIVE AMENDMENT TO THE DETROIT DEVELOPMENT CODE

LA-22-01

City Council Date: October 10, 2023

FILE: LA-22-01

HEARING: July 11, 2023, August 8, 2023, September 12, 2023
City Hall

REPORT: October 3, 2023

APPLICANT: City of Detroit

PROPERTY OWNER: Citywide

SUBJECT PROPERTY: Citywide

EXHIBITS: EXHIBIT A: Draft Text Changes
EXHIBIT B: Track changes spreadsheet
EXHIBIT C: Findings Responding to Public Testimony

I. REQUEST

Text amendments to the Detroit Land Use Development Code to revise temporary placement and use of recreational vehicles on individual properties, permit duplexes on the same size lots in the residential zone, eliminate design standards for manufactured housing and tiny homes, add new vehicle and bike parking standards, add a grading and erosion control ordinance, modify the steep slopes section of the development code, removing and adding definitions as needed throughout the code and provide consistency in the code for administrative processes and miscellaneous clean-up of incorrect code sections or errors in conflict with state law.

II. PROCEDURE

A text amendment to the Detroit Development Code is a Legislative Amendment. Legislative amendments are policy decisions made by the City of Detroit City Council (City Council). They are reviewed using the Type IV procedure in Chapter 4.1.6. The Planning Commission makes a recommendation to the City Council regarding the proposed text amendment.

On November 30, 2021, the Planning Commission made a motion to begin a Legislative Amendment for the entire Detroit Development Code. The Detroit City Council accepted the grant award from DLCD in December 2021 to begin review of the current code. Further discussion of the code amendment process is discussed in detail below.

APPEAL

The adoption of Ordinance No. 272 authorizing the Legislative Text Amendments constitutes the City Council's final decision which may be appealed to the Oregon Land Use Board of Appeals (LUBA).

BACKGROUND

Beginning in January 2022, MWVCOG staff began work with the Detroit Planning Commission on a comprehensive review and potential update to the Detroit Development Code. The Planning Commission served as the Technical Advisory Committee for this Code review. This work is being funded by a Planning Assistance grant from the Department of Land Conservation and Development.

During the Technical Advisory Committee meetings and Joint work sessions with the City Council and Planning Commission, several key parts of the Code were discussed. We have had nine TAC meetings to discuss the current code and proposed updates.

On January 31, 2023, the City Council and Planning Commission held a Joint Work session to discuss the current recommendations. A particular focused discussion item regarding Recreational Vehicles. Several Councilors raised concerns both in support and opposition of modifying the current Code to restrict the number of RV's to less than what is currently permitted. Staff identified the following item addressed by Council at this meeting that Council would like to have addressed:

- a) Allow all property owners the ability to have one (1) RV year-round on their property.

A duly noticed Planning Commission public hearing was held on April 18, 2023. Notice of the hearing was posted on the City of Detroit website, City of Detroit Facebook page and in the Canyon Weekly newspaper. Measure 56 notice was mailed to all property owners within the City on March 27th, 2023. DLCD 35 day notice was completed on the PAPA online site in February 2023.

At the Planning Commission hearing, several members of the public testified in opposition to the changes to the of the RV standards. The Planning Commission heard all testimony from the public and reviewed written submissions. The Planning Commission closed the public hearing and had a detailed discussion regarding Chapter 3.6.3- RV standards. The Planning Commission voted to recommend the City Council accept and approve the text amendments as currently shown with no new changes to the draft Code.

The Staff Report and proposed changes to the Development Code were made available to the public July 3, 2023. The Council held a hearing on July 11, 2023, and continued the hearing to August 8, 2023, to allow for additional public testimony. At the August 8, 2023, hearing, City Council closed the public hearing and directed staff to bring back several revisions to the text including:

Revising the definition of lot coverage to include impervious area as part of the maximum lot coverage; restricting RV's to not permit rentals; require the front yard setback to be consistent with the setback requirements for structures as reflected in the zoning setbacks; permit one (1) RV outright year round; permit one (1) RV outright during April 1- October 31; and, allow an additional RV to be permitted on a lot 10,000 sq. ft. in size or greater, during April 1-October 31, after a Type 2 application for a Conditional Use Permit is received that meets the criteria identified in the DDC.

The City Council received revisions to the text as requested at the September 12, 2023, Council meeting. The Council discussed the changes and made a motion for staff to add language to DDC 3.5 to permit an additional 3 RV as a conditional use on lots greater than 10,000 square feet on an annual basis. The Council voted in favor of the motion 5-2.

III. APPROVAL CRITERIA

Section 4.1.6(G): Decision-Making Consideration. *The decision by the City Council shall be based on consideration of the following factors:*

- 1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only).*

FINDINGS: This proposal is for a text amendment to the Development Code and not the Comprehensive Plan of the City of Detroit. This criterion is not applicable. The Statewide Planning Goals are listed below, followed by findings addressing each Goal.

Goal 1, Citizen Involvement:

Goal 1, Citizen Involvement.

Findings: The City Council made a motion to begin a Code review process. The Planning Commission, serving as the Technical Advisory Committee, held nine (9) public meetings to review proposed changes and discuss the current standards. These meetings were noticed on the City of Detroit's website and members of the public were able to join via Zoom.

The Planning commission held a hearing on April 18, 2023, to receive comments from the public. The hearing is consistent with the City's procedures for legislative

amendments to the Development Code, which has been acknowledged by DLCD as consistent with the statewide planning goals, including Goal 1.

A duly noticed public hearing was held on July 11, 2023. Notice of the hearing was posted on the City of Detroit website, City of Detroit Facebook page and in the Canyon Weekly newspaper. Measure 56 notice was mailed to all property owners within the City on March 27th, 2023. DLCD 35 day notice was also established on the PAPA online site. The Staff Report and Draft Ordinance were made available on July 3, 2023, to the public. The City Council held the public hearing open until August 8, 2023, to receive additional testimony from the public. At the August 8, 2023, meeting, the City Council closed the public hearing and directed staff to bring revised language back to the City Council at the September 12, 2023, meeting. The City Council reviewed revised language at the September 12, 2023, meeting and made a motion to accept staff's recommendation with some additional modified language as presented here. Goal 1 is met.

Goal 2. Land Use Planning.

Findings: Goal 2 requires each local government in Oregon to have and follow a comprehensive land use plan and implementing regulations. These are in place. The scope of this legislative proposal is limited and does not involve any amendments to the Comprehensive Plan policies. Existing Comprehensive Plan land use map designations and zoning designations remain unchanged. This amendment proposal does not add, subtract or modify the uses allowed outright or conditionally in existing zones. The proposal does not involve exceptions to the Statewide Goals.

Public testimony was submitted at several points during the Legislative Amendment process and the City has provided detailed findings in response to those comments in Exhibit C, which is attached hereto and incorporated into this report.

Staff therefore finds Goal 2 is met.

Goal 3 & 4. Agricultural Lands and Forest Lands

Findings: Goal 3 and 4 primarily pertain to rural areas, typically outside urban areas. Staff finds Goals 3 and 4 to be not applicable due to the limited scope of the proposed text amendments.

Goal 5. Natural Resources, Scenic and Historic Areas, and Open Spaces.

Findings: The proposed amendments do not impact natural resources or open spaces. Several of the proposed text amendments are designed to bring certain practices within the City into alignment with the City of Detroit Comprehensive Plan Goals and Policies related to natural resource protection. Staff incorporate the scope of work description above in response to Goal 2. This amendment proposal does not add, subtract, or modify the list / description of historic resources identified to the Historical Property Overlay Zone. Goal 5 does not apply.

Goal 6. Air, Water and Land Resources Quality.

Findings: The proposal does not address Goal 6 resources, although some of the proposed text amendments arguably will result in changes within the City which will bring the City into better alignment with City of Detroit Comprehensive Plan Goals and Policies related to water and land quality protection. Regardless, based on the limited scope of proposed text amendments, staff finds Goal 6 to be not applicable.

Goal 7. Areas Subject to Natural Hazards.

Findings: The proposal does address Goal 7 resources by revising language in the Steep slopes section of the Code to be clearer. The proposed code also incorporates a new grading ordinance into the development code, better addressing safety hazards presented by development near steep slopes. These sections will benefit the City as new development occurs, protecting natural resources and the safety of residents by providing a thorough level of review of proposed development in hazard zones. Goal 7 is met.

Goal 8. Recreation Needs.

Findings: The proposal does not address Goal 8 resources. Based on the limited scope of work included in this report staff finds Goal 8 to be not applicable.

Goal 9. Economic Development.

Findings: Proposed amendments do not change the permitted uses in the commercial and industrial zones. Proposed changes to the zone do not impact identified future employment areas identified through past Economic Opportunities Analysis. Accordingly, Goal 9 does not apply.

Goal 10. Housing.

Findings: The proposed amendments advance Goal 10 by permitting duplexes in the RS zone and removing development standards for different housing types. This creates uniformity in the code in terms of permitted uses and eliminates additional standards for some types of housing. This will advance statewide targets for housing production on residential land designated in the Comprehensive Plan. Extending the expiration dates will have benefits for multifamily projects by reducing the occurrence of extension requests and expirations. All the proposed amendments are consistent with the implementation guidelines under Goal 10. Goal 10 is met.

Goal 11. Public Facilities and Services.

Findings: Public facilities under Goal 11 include water, sanitary sewer, police and fire protection. Other services (e.g., health, communication services) are also listed in Goal 11. The proposed amendments do not have any direct impact on any of the master planning documents required under Goal 11. However, the proposed amendments to the expiration dates for land use approvals will advance Goal 11 by providing more time to design, and construct public facilities included in those plans when they are required to be constructed

as conditions of approval for subdivisions and other land use decisions. The proposed amendments are consistent with Goal 11.

Goal 12. Transportation.

Findings: The amendments to the standards for clear vision areas will encourage a safe convenient and economic transportation system under Goal 12 by preserving safe sight distance at intersections. Goal 12 is met.

Goal 13. Energy Conservation.

Findings: Based on the limited scope of work described in this report, staff finds Goal 13 to be not applicable.

Goal 14. Urbanization.

Findings: Based on the limited scope of the text amendments described in this report, staff finds Goal 14 to be not applicable. No change to the existing Urban Growth Boundary (UGB) is proposed.

Goal 15 for the Willamette River Greenway and Goals 16 – 19 for the Coastal Goals.

Findings: Staff observe Goals 15 through 19 to apply only to specific regions of the state (*Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, Ocean Resources*). Goals 15 – 19 do not apply because the city is not on the Willamette River or in a coastal area.

The proposed amendments are consistent with the applicable Statewide Planning Goals. This criterion is met.

2. *Comments from any applicable federal or state agencies regarding applicable statutes or regulations.*

Findings: Comments were received from DLCD during the TAC meetings with regards to housing types and permitting duplexes on the same size lots as single family lots. These were the only comments received from any applicable federal or state agencies regarding this proposal or applicable statutes or regulations.

3. *Any applicable intergovernmental agreements; and*

Findings: No intergovernmental agreements were identified as being applicable to this proposal.

4. *Any applicable comprehensive plan policies and provisions of this Code that implement the comprehensive plan. Compliance with Chapter 4.7 shall be required for Comprehensive Plan Amendments, and Land Use Zone Map and Text Amendments.*

Findings: The proposed amendments to the Development Code comply with the applicable approval criteria set out in Chapter 4.7 of the Detroit Development Code and the procedures

set out in Chapter 4.1.6. Compliance with the Statewide Planning Goals and related Administrative Rules has been met for text amendments.

PROPOSED CODE SECTIONS

Proposed amendments are in red and blue and ~~strikeout for deleted language.~~

See Exhibit A- Chapters 1- Chapter 5.

CONCLUSION AND RECOMMENDATIONS

IV. RECOMMENDATION:

Based on the findings outlined in this report, staff recommends **APPROVAL** of Legislative Amendment LA 22-01 to the Detroit City Council and the first reading of Ordinance No. 272 occur.

| DATE | CHAPTER AND SECTION | PROPOSED CHANGES |
|--------------------------------------|---------------------|--|
| CHAPTER 1: INTRODUCTION | | |
| 3/15/2022 | 1.2.3 | Removed unnecessary language about variances |
| 3/15/2022 | 1.3.2 | Moved standards for accessory dwellings from definitions section to 2.1.7(B) |
| 3/15/2022 | 1.3.2 | Deleted definition for "apartment" (not listed as a permitted use anywhere) |
| 3/15/2022 | 1.3.2 | Deleted definition for "family" (problematic/not fair housing) |
| 8/8/2023 | 1.3.2 | Modified definition of "lot coverage" to include all structures |
| CHAPTER 2: LAND USE DISTRICTS | | |
| 4/19/2022 | Throughout | Removed "semi public" language (appeared ~5 times but did not have clear definition or use) |
| 4/19/2022 | 2.4 | zoning map. Conditional uses that were originally only allowed in IC (and not CG) were added as conditional uses in CG section (2.3.3) |
| 4/19/2022 | 2.0.2 | Specified that City Recorder can use Type II code interpretation to permit uses not specifically described in the code |
| 4/19/2022 | 2.1.2 | Added duplexes as a permitted use in RS zone |
| 4/19/2022 | 2.1.2F | Removed confusing language describing guest houses and gardens as accessory structures |
| 4/19/2022 | 2.1.2, 2.2.2 | Added accessory dwellings as a permitted use in the RS and RM zones |
| 4/19/2022 | 2.1.2, 2.2.2 | Added home occupations as a permitted use (rather than a conditional use) in the RS and RM zones |
| 4/19/2022 | 2.1.4, 2.2.3 | Removed "bed and breakfasts" as a conditional use (outdated language - it's mostly Airbnb now) |
| 4/19/2022 | 2.1.7 and elsewhere | Removed language that discouraged metal roofing - we want to encourage wildfire hardening materials |
| 4/19/2022 | 2.2.2 | Removed "boarding houses" as a permitted use (there's no definition for it) |
| 4/19/2022 | 2.2.4 | Made side and rear yards uniformly 5 ft for all structures in RM zone |
| 4/19/2022 | 2.3.5 | Added 5 ft minimum setbacks in CG zone |
| 4/19/2022 | 2.4.5, 2.2.5, 2.1.6 | Removed redundant language |
| 5/17/2022 | | Accessory structures and permitting ADU's was discussed. Want to allow one ADU per property |
| CHAPTER 3: DESIGN STANDARDS | | |
| 6/29/2022 | Throughout | Reordered sections to improve flow/navigation |
| 6/16/2022 | 3.1.2(K) | Increased width minimum for driveway aprons to 5 ft (instead of 4) to conform to typical standards |
| 5/4/2022 | 3.2.3(A) | Added table (based on DLCD model code) to organize vehicle parking standards |
| 5/4/2022 | 3.2.4(A) | Added table (based on DLCD model code) to organize bicycle parking standards |
| 5/4/2022 | 3.7.4 | Updated Slope Hazard Areas section as recommended by HH |
| 6/16/2022 | 3.9 | Added new Grading and Erosion Control section as recommended by HH |
| 8/16/2022 | 3.6 | RV standards discussed |
| 8/8/2023 | 3.5.3 | Limit RV's. 1 permitted year round, 1 permitted seasonally. Revise setback language to match underlining zone setbacks for structures. Revise definition of lot coverage to include all structures and impervious area |
| 9/12/2023 | 3.5.3 | Limit RV's. 1 permitted year round, 1 permitted seasonally and allow a provision that will permit a third RV seasonally on lots 10,000 or larger through a Conditional Use application. |
| CHAPTER 4: DESIGN STANDARDS | | |
| 3/14/2023 | 4.1.2 | Limit Comprehensive plan changes to one property. Remove public construction from table. Create a process for non-conforming use confirmation. Question about including lots and parcels was discussed |
| 3/14/2023 | 4.1.3.A | Require proof of ownership |
| 3/14/2023 | 4.1.5.B.1 | Process added for when TIA not required. Remove proportionally language from code |
| 3/14/2023 | 4.1.6 | Create an exemption for pre-application requirement for City owned property. Allow for an exemption for more than 2 code changes a year |
| 3/14/2023 | 4.1.7, C.1 | Clarify duties of City recorder and City Officials in process |

| | | |
|------------------------------------|-------------|--|
| 3/14/2023 | 4.1.7, C, 4 | Changes in rules- removed language |
| 3/14/2023 | 4.2.2, 4 | Remove new development language. Provide an exemption for uses that do not intensify the property. |
| 3/14/2023 | 4.2.6 | Limit the number of extensions that can be applied for. |
| 2/14/2023 | 4.3.10.D | Limit the number of extensions that can be applied for. |
| 3/14/2023 | 4.4.6.A | Added language to clarify multiple applications |
| 3/14/2023 | 4.4.6.C | Limit the number of extensions that can be applied for. |
| 3/14/2023 | 4.5.6.D | Clarify language |
| 3/14/2023 | 4.5.6.H | Clarify language to make process clearer |
| 3/14/2023 | 4.5.6.I | Expiration requirement- remove language of PC to have a public hearing |
| 3/14/2023 | 4.10.6 | Limit the number of extensions that can be applied for. |
| 9/12/2023 | 4.1.5 | Add a provisions that allows staff to waive a pre-application conference |
| CHAPTER 5: DESIGN STANDARDS | | |
| 9/20/2022 | 5.1.1.A | Expansion prohibited- cannot expand a non-conforming use |
| 9/20/2022 | 5.1.2.B | clarified language for non-conforming development standards |
| 9/20/2022 | 5.1.3.A | permit allowed uses on non-conforming lots of record |
| 9/20/2022 | 5.1.4 | remove this section. |

Findings Regarding Public Testimony

Public testimony on the proposed amendments was received during the public hearing process at the Planning Commission and City Council. The following summarizes and addresses those public comments received through September 12, 2023, related specifically to the amendments to Chapter 3.5.3 of the Detroit Development Code (the "***Proposed Amendments***"), these findings are intended to respond directly to questions and objections raised regarding the Proposed Amendments to this particular section. All written public testimony received by the City of Detroit concerning the Proposed Amendments is available upon written request to the City Recorder, located at 345 Santiam Avenue West, Detroit, Oregon 97342.

- 1. Several statements were made questioning the transparency of the Code Amendment Process and the ability of the public to comment on the proposed changes.***

Staff Response: As addressed in the Staff Report, the Code Amendment process has conformed to the requirements for a Legislative Amendment as set forth in the Detroit Development Code. Citizens of the City of Detroit (the "***City***") have had multiple opportunities to engage in the process and provide testimony regarding the proposal. There are not seasonal limitations on the amendment process or requirements to accept Proposed Amendments raised by individuals or groups, rather, the requirement is to follow the process set forward in State and local law, which is demonstrated by the detailed timeline provided in the Staff Report. The opponents of the Proposed Amendments have not raised any specific procedural errors or notice deficiencies that would allow the City to respond to such concerns, rather, they raise generalized complaints centered around a lack of awareness of the prescribed process. There is no evidence of an identified deficiency and the City has provided substantial detail regarding its conformance with State and Local requirements.

- 2. Several comments were received stating that the Proposed Amendments would negatively impact the City of Detroit's economy and decrease property values.***

Staff Response: The Proposed Amendments came from an identified need by the City to ensure that RVs were being properly sited on citizens' properties in a manner that is consistent with the City of Detroit's Comprehensive Plan Policies and Goals (the "***DCP***"). Chapter 3 of the DCP focuses on the economic elements of the comprehensive plan with several stated goals, including:

To maintain the existing level of Detroit's economy and to encourage future economic growth, especially in areas relating to the recreational nature of Detroit; and

Encourage all people who work in Detroit to find housing within the City;

Encourage environmentally clean, light industry to locate in Detroit.

This section focuses on economic growth and diversification as well as on the need for population growth of the permanent residents of the City of Detroit in order to support the shift from a natural resource economy towards one focused on seasonal tourism. Several constraints were identified in this section, including: (1) the lack of a water and sewage infrastructure; and (2) the availability of buildable land. The City is working to address the constraints created by a lack of infrastructure, however, the availability of buildable land remains a consistent problem. Part of the rationale for imposing limits on seasonal RV use is to incentivize the use of developable parcels for residential uses that will support year-round housing at a variety of price points, allowing for a diversification of the housing stock and supporting local, workforce housing. There is currently a housing crisis in the State of Oregon and limiting seasonal RV uses on land zoned for residential uses is one tactic the City has identified as a mechanism for incentivizing property owners to develop permanent residences on these parcels, which now have the potential for developing at a higher density with the added ability to develop duplexes on these properties. While the City acknowledges that this may not be the preference of individual landowners, the City has determined that the Proposed Amendments comply with the DCP.

While there were comments indicating that the restriction on RVs would decrease tourism and investment in the City (leading to a decrease in property values), there was no evidence provided by those providing testimony to this effect. While it is likely that there will be a reduction in seasonal RV use as a result of the Proposed Amendments, property values are at a historic high in the City and the availability of additional public infrastructure will allow for development on smaller parcels which were previously constrained due to requirements for wells and septic systems. Some of these properties will continue to be used for seasonal recreational uses, but others will provide additional housing options for permanent residents. These permanent residents will drive the need and provide year-round support for the development of a stable, diverse, local economy in a way that seasonal tourism is not able to support.

Additional development in the City will have the additional benefit of generating additional tax revenue for use by the City in furtherance of economic development, including the expansion of public infrastructure, which will allow for further investment within the City, including the light industrial uses that were identified as a focus of economic expansion in the DCP.

The Proposed Amendments are consistent with the DCP, and therefore the City's adoption of the Proposed Amendments to bring RV use into conformance with the above Goals and Policies are entitled to deference.

3. *Unconstitutional Takings and Discrimination*

Staff Response: Several comments were received regarding private property rights and the limitations being placed on a perceived class of property owners by the Proposed Amendments, while not well

developed, it appears that these individuals are attempting to argue that the Proposed Amendments constitute an unconstitutional regulatory taking. It is settled law that cities are entitled to enact land use regulations that are designed to increase quality of life and preserve desirable aesthetic features, provided that such action is reasonably necessary to effectuate a substantial public purpose. The City's findings above and in the Staff Report demonstrate that there are substantial justifications for the adoption of the Proposed Amendments, both for the preservation of aesthetic values, and for health and safety reasons, including ensuring adequate sewage management, reductions in fire hazards due to spacing concerns, and conformance with the policies and goals of the DCP.

Moreover, the Proposed Amendments will be applied consistently throughout the City, and while there will be some property owners that may be impacted more than others due to their chosen use of their property, this is not the result of discriminatory intent and does not result in a disparate impact, rather, the City is making a determination that the limitation on the number of seasonal RVs on residential property is in the best interest of the City and is revising the Code in accordance with its comprehensive plan in a manner that will result in the consistent treatment of similarly situated properties throughout the City.

Moreover, the Proposed Amendments impact a small component of the property rights associated with the affected parcels. As it currently stands, the right to place additional seasonal RVs is already limited by the need to obtain City approval and time and place restrictions limiting the duration of the siting to an eight (8) month period. The Proposed Amendments limit the ability to site seasonal RVs on the property further but do not limit the use of the property to such a degree that the affected property owners will no longer have any economic benefit from their properties. The Proposed Amendments do not constitute a regulatory taking.

4. *Measure 49 Claims and Just Compensation for Land Use Regulation*

Staff Response: Several comments focused on a predicted diminution in property values and changes which restrict the use of a property owner's intended use of their property. While not specifically raised, it seems that these comments are directed towards preserving a Measure 49 Claim. ORS 195.300 to ORS 195.336 codified Measure 49 and outline the situations where just compensation is owed as a result of land use regulations which cause unfair burdens on property owners. Under this statute, just compensation for a change in land use regulation requires two (2) findings: (1) the land use change restricts either a residential use of private real property or a farming or forest practice; and, (2) the land use change causes a reduction in the fair market value of the property. ORS 195.305. Additionally, the land use regulation cannot fall into one of the exceptions set out in ORS 195.305(3).

First, it is the City's position that the restriction on siting of additional RVs on vacant properties does not constitute a residential use within the meaning of ORS 195.305(1). Measure 49 was passed with a specific focus on compensating landowners buying properties that they believed would be developable with a permanent residence, which was thereafter prohibited by a change in land use regulations. This type of change was demonstrated to drastically decrease the fair market value of what became

undevelopable large tracts of resource lands. While there are situations under which an RV use can be a residential use, such as in instances where the permanent residence on a property has been destroyed by a natural disaster, temporary siting of an RV on a property focused on taking advantage of seasonal recreational amenities is not the type of residential use that is being restricted by the Proposed Amendments. In fact, the ability to site a single RV on the property for a residential use will remain permitted by the Code, subject to State and Local restrictions that focus on proper access to electricity, water, and sewage treatment. The Proposed Amendments do not give rise to a Measure 49 Claim.

Secondly, the City's position is that the Proposed Amendments are being adopted in part to address health and safety concerns. Chapter 2 of the Detroit Comprehensive Plan notes that preservation of the Water Quality of the Santiam River has been identified by the State of Oregon (the "*State*") as being a key source of municipal water supplies in the Willamette Valley, subjecting it to additional standards under the State Water Quality Standards and requiring the prevention of waste discharges into the waters of the North Santiam River Subbasin, including the waterways surrounding the City. *DCCP Chpt 2 P. 2-6*. The Proposed Amendments require demonstration by a property owner allowing the siting of an RV on its property to demonstrate that it is properly managing sewage and gray water in a manner that is consistent with Marion County (the "*County*") and State waste management standards, which is consistent with the DCP's goal of maintaining water quality in the surrounding area.

Under the current code multiple RVs are being located on properties that are too small to allow for adequate fire and safety access, proper sewer and graywater facilities are not available, and water hookups are limited. In many instances, existing septic tanks that survived the wildfires may not be rated to properly manage the volume of wastewater associated with multiple RVs or RV wastewater itself, which the Department of Environmental Quality rates as generally stronger than wastewater from other domestic sources. These present risks to the ground water in the area as well as an increased risk in leaching of contaminants into the surrounding North Santiam River Basin, which is the municipal water source for a significant portion of the population in the Mid-Willamette Valley. The adoption of the Proposed Amendments will help mitigate some of these risks, allowing them to fall squarely within the health and safety exception in ORS 195.305(3)(b). The Proposed Amendments are exempt from Measure 49 Claims.

5. Compliance with State and County Rules

Staff Response: Several comments were made indicating that the Proposed Amendments do not comply with State and Federal Law. These arguments were not made with sufficient specificity for the City to respond to these arguments. However, the City has followed all of the required State and County procedures and have properly notified the government agencies it was required to notify, including the Department of Land Conservation and Development.

There is a possible argument that the City is not complying with its Goal 10 obligations to provide housing. However, as noted above, the restrictions that are being proposed as part of the Proposed Amendments are not a restriction on residential use, they are a restriction on additional seasonal,

recreational vehicles. It is the City's determination that restricting some of these uses may allow for the development of more permanent housing in the area, especially with the addition of duplexes as an additional residential option for these properties. Further, the City's obligation as a small city is to insure that there is an adequate supply of buildable lands for a range of residential uses. The City of Detroit's Housing Needs Analysis shows that there is a sufficient buildable lands inventory to provide the City's population with its needed housing over the planning period. The Proposed Amendments are in compliance with State and County laws, rules, and regulations.

6. *Alternative Proposals and Continuing Uses*

Staff Response: Several comments focused on providing the City with alternative proposals to the Proposed Amendments. The role of the public in the land use process is a critical component of Oregon's land use system and the members of the public were offered opportunities to engage in the process beginning with the Technical Advisory Committee in January of 2022 and ending with the close of the Public Hearing in September of 2023. While the engagement of the public and feedback from constituents is a valuable part of this process, the ultimate power to make decisions regarding the Proposed Amendments is vested in the City Council as elected representatives of all citizens of the City of Detroit. Within this context, the City has the authority to weigh alternative proposals and determine the best option for the City. In reviewing the evidence in the record and weighing the alternative proposals, the City determined that the alternative proposals submitted during the public testimony portions of the process presented various equity problems as well as the potential for significant cost increases related to enforcement due diligence and staff time if multiple properties were allowed to continue siting seasonal RVs while others were prohibited. It is the City's determination that the best path forward is to apply the Proposed Amendments consistently across all properties within the City. The City has made a reasonable determination based on the evidence in the record and in consideration of the DCP Goals and Policies that the Proposed Amendments are the appropriate path forward for the City.

Additionally, the seasonally sited RVs will not constitute continuing uses under common law or state law because they were intended to be temporary in nature. The existing permitting of the additional, seasonal RVs requires that the RVs be removed each year at the end of October and that the landowner apply for a new permit the following year. The City is not requiring all of the currently permitted RVs to be removed prior to the end of October, as one (1) RV will be permitted year round. However, beginning on April 1, 2024, new RV permits for year round use, a second RV (seasonal) during April 1- October 31, and a third RV (seasonal) if the property owner's property is 10,000 sq. ft. in size or greater, will only be issued if an applicant can demonstrate conformance with the permit requirements. This is consistent with the Code and all applicable laws, rules and regulations.