



BURNS CITY COUNCIL MEETING

Wednesday, April 24, 2024, at 6:00 p.m.

**Burns City Hall
242 S. Broadway
Burns, Oregon 97720**

Mayor Jerry Woodfin
Council President Jennifer Hoke
Councilor Jennifer Keady Councilor Heather Smith
Councilor Chase Patterson Councilor Andrew Roy
Councilor Tod Gahley

**COUNCILORS AND CITIZENS ARE WELCOME AND ENCOURAGED TO JOIN THE
REGULAR COUNCIL VIA ZOOM.**

Members of the public and media wishing to address the council during any public comment period will be able to join the webinar as an “attendee.” Attendees will be able to view the Webinar on a desktop, laptop or mobile device such as a smartphone or iPad by using the following link:

<https://uso2web.zoom.us/j/9020143459> Meeting ID: 902 014 3459

- I. Call to Order
- II. Pledge of Allegiance
- III. Establish Quorum (*Roll Call*)
- IV. Public Comments

Members of the public desiring to address the Mayor and Council shall first be recognized by the Presiding Officer and then state their name and address for the record. Unless otherwise designated by the presiding officer, each person shall have up to three minutes to present their comments. City Councilors normally should not directly respond to a public comment during the public comment period. Councilor comments should be held until the Councilor comment period.



V. Agenda Approval and Added Agenda Items (*Discussion/Action*)

Any matters added to the agenda at this time will be discussed during the “New Business” portion of this Agenda or such other time selected by the council.

VI. Consent Agenda (*Discussion/Action*)

Information concerning matters listed in the Consent Agenda has been distributed to each member of the council for reading and study, is routine, and will be enacted or approved by one motion of the council without separate discussion. If separate discussion is desired, concerning a particular matter listed in the Consent Agenda, that matter may be removed from the Consent Agenda and placed on the regular agenda by request of any council member.

1. Regular Meeting Minutes April 10, 2024

VII. New Business

1. Lanette Humphrey – Harney Partners for kids – Drug and Alcohol-Free Dinner Donation Request (*Discussion/Action*)
2. Amy Dobson – Kids Club of Harney County – 21st Annual Kaye Johnson Memorial Diamonds in a Glass Dinner & Fundraiser (*Discussion/Action*)
3. Wayne Delange- Plum Crazy – Hood to Coast Walk Donation Request (*Discussion/Action*)
4. Rick Paul – S.E.A.C.T (*Discussion/Action*)
5. Core Grant Agreement for the Burns Airport (*Discussion/Action*)
- 6.

VIII. Old Business

IX. Resolutions/Ordinances (*Discussion/Action*)

X. City Manager Report (*Discussion/Action*)

XI. Committee Reports (*Discussion*)

1. Cemetery
2. Safety
3. Airport
4. R3



5. URA
6. Event Committee
7. Planning

XII. Councilor Comments (*Discussion/Action*)

XIII. Adjourn

The Burns City Council meetings are available via Zoom and in accordance with ORS 192.610 to 192.690, these meetings conform to guidelines set forth on public meeting law. In accordance with the Americans with Disabilities Act, this meeting location is accessible to persons with disabilities. This institution is an equal opportunity provider. Discrimination is prohibited by Federal law. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to City Recorder Tiffany Leffler (541) 573-5255 or use the TTY Relay Service at 1-800-735-2900 for appropriate assistance. If a request is made, the city will make a reasonable attempt to honor the request.

Posted: April 19, 2024, at Burns City Hall, Burns Post Office, Harney County Courthouse, City of Burns Website, and City of Burns Facebook Page.

BURNS CITY COUNCIL
April 10, 2024

The Burns City Council met in regular session on April 10, 2024, at 6:00 p.m. Members present were as follows:

Mayor: Jerry Woodfin
Councilors: Jen Keady - Excused
Jen Hoke
Heather Smith
Chase Patterson
Andrew Roy
Tod Gahley

Also, in attendance were City Manager Judy Erwin, Fire Chief Scott Williamson, Police Chief Steve Macartney, and Public Works Director Ty Richardson.

PUBLIC COMMENT

There was no public comment given.

AGENDA APPROVAL AND ADDED ITEMS

Mayor Woodfin added the Brycer Compliance Program to New Business.

Councilor Smith made a motion to approve the agenda with the added item. Councilor Hoke seconded the motion. All ayes.

CONSENT AGENDA

1. Regular Meeting Minutes – March 27, 2024

Councilor Gahley made a motion to approve the Consent Agenda. Councilor Smith seconded the motion. All ayes.

DEPARTMENT HEAD REPORT – BURNS POLICE DEPARTMENT

Burns Police Chief Steve Macartney informed the council that their department has been incredibly busy, and the number of calls had continued to escalate by the month. They have just tried to work through it, and they currently have 6 different investigations going on right now. A few of them are going on with different agencies including the County, State, and Federal Government from the local area.

He also let them know that his crew was doing great. They are still discovering issues along the way, but they are addressing them as they come along. He said there was a lot of good things happening as well. Jake Hatley is only 5 weeks away from being out of the academy and he is very excited about that. They have been working through applicants to get Lateral Officers in and on board. He said since he had last spoke with them the department had received a lot of grant monies. He said it was not in actual money, but for new equipment. They have been able to obtain all new medical kits for all the vehicles, new evidence kits for the vehicles, and as they had discussed before the \$10,000 grant from CIS for a large evidence facility, which is now complete. They still need to work on the fencing, but all the security systems and area are complete now.

He had the privilege to meet with the Burns Paiute Tribal Council last week to discuss partnerships and he feels very positive that they will be able to help public safety partnerships with the Tribe. There could also be grants and such available to help with equipment, staffing, and things of that nature. He felt truly honored to sit down and meet with their nation's government. He truly believes this is moving forward in a positive direction.

He then informed them that were $\frac{3}{4}$ left of the budget year and they were still doing good. The long goal was to be accredited and he said they are about halfway there. When he first got here, he thought it would be a 3-year project, and after about 16 months he still believes that they will meet that time frame and he is very proud of what they have done this far.

On a final note, he informed the council that he was hoping to move forward with staffing, but the recent applicants hadn't really met the departments standards. He would continue to keep looking, but they won't compromise on that because it is very important to them.

NEW BUSINESS

1. **Brycer Compliance Program – Fire Chief Scott Williamson** – He informed the council that Brycer was a company that he would like the authority to enter into an agreement with for fire safety inspections on local businesses. There are many different systems, like sprinkler systems, fire alarm systems, and things such as that, that need to be evaluated and tested by licensed companies. Brycer will locate all businesses in town that have these types of systems and notify them when their systems are coming due for inspections. When it's time to come test them they will keep record of the results and testing. If there is an issue, they will have 30 days to resolve it. Brycer will help the companies stay on top of these inspections and follow up with whether it has been resolved or not. They will then give all this information to Fire Chief Scott Williamson which will save him from having to visit each individual business. With only 2 of them in the department, this can make it hard to accomplish all that needs done. He believes this will help tremendously not only with time but with documentation. He said it will also help their ISO rating. As for being accredited, the Burns Fire Department is an ISO 3, which is very good for a department of this size. ISO 1 being the highest level, and their department is working towards moving to ISO 2.

Mayor Woodfin asked him if there was any cost to the city.

Fire Chief Scott Williamson said there was absolutely no cost to the city, it will be passed on the local businesses that have these types of systems.

Councilor Patterson asked how that differed from what they were doing now.

Fire Chief Scott Williamson said there is currently no way of tracking it. The results are just left with the property owners, and they are not returned or lost. This way the information will be recorded and stored, and he will have all it available to access when needed.

Councilor Gahley wanted to clarify that he was understanding it correctly. Currently they are paying these companies to come do these inspections. This company will take care of these inspections, sort and store all the information, and essentially just add \$20 dollars to the cost. They also would then report all this back to the Fire Chief and he wouldn't have to go business to business anymore tracking this stuff down.

Fire Chief Scott Williamson said that was correct. He said this is also for the businesses benefit as well. If they cannot find their documentation when he asks for it, he will ask them to have it done again. This will be an added cost to the business owner, which is not what we want.

There was more discussion on how the program works.

Councilor Gahley asked if there was any one local that handles inspections.

Fire Chief Scott Williamson said there was no one local that handled that.

Councilor Hoke asked what this program all covered.

Fire Chief Scott Williamson informed her that it was anything to do with Fire Life Safety Systems.

Councilor Hoke felt it may be a benefit for businesses when it comes to staying up to date with inspections as well as keeping track of the paperwork.

Councilor Hoke made a motion to allow Fire Chief Scott Williamson to sign the agreement with the Brycer Compliance Company. Councilor Patterson seconded the motion. All ayes.

2. **C&B Sanitary Service Application for Rate Increase** – One of the owners of C&B Sanitary, Rod Dinsmore, informed the Council that they would like to increase their rates. It has been 9 years since they last raised them and they like to keep the rates low but with the current economy and everything going up, it is something they need to do. He said they are proposing a %15 percent rate increase. He said it would be across the board for all contains, dumpsters, and things such as that, but for the common residential customer this would be about a \$3.00 increase.

City Manager Judy Erwin informed him that she had sent the letter and documents that she received from them to the city attorney, and he wants to go through it because it is outdated and needs to be redone. She said she understood why he was needing to raise the rates and felt he was very reasonable. She thought maybe it would be a good idea to have the council and C&B Sanitary, sit down and have a Work Session meeting when the attorney gets a proposed franchise agreement together. That way, if there are things they may want or things the city may want, they can work together to come up with a good agreement that works for both. She said if the council was agreeable on it, she they could set a meeting time to sit down and talk.

Mayor Woodfin asked if there was a purposed effective date so that they could have the meeting before then. He said he couldn't speak for everyone but believed that they all could understand the reason for the increase. He wasn't sure it was enough to offset their other costs, but felt it was very reasonable.

Rod Dinsmore said that the purposed date was June 1, 2024.

Councilor Smith asked how they came to that number. She said it was very reasonable and she wasn't asking them to go higher, but she felt like it wouldn't cover their costs.

Karen Dinsmore said they also based it off what the outlining communities are, and they are all higher than they are, but they also want to try and keep it as low as possible.

Councilor Gahley said they have been talking about potentially changing the franchise fees for C&B Sanitary, which would ultimately affect their costs. He wondered if this happened if they would need to raise theirs higher than the %15.

Rod Dinsmore said they do not pass it on to their customers.

Karen Dinsmore asked why they were wanting to raise their franchise fees or what their reasoning was.

Councilor Gahley said that they have discussed it but now he feels they are putting the cart before the horse, and it should be discussed before they do that. He is concerned they may need to raise their fees more than they are requesting.

Karen Dinsmore said that it also effects the city and increases the city's franchise amount. Anytime their fees go up, the cities franchise fees go up as well. She said the more customers they have and the more they charge, the more it will kick back to the city.

Rod Dinsmore said he had kind of anticipated what they were discussing and felt they were good where they were.

There was more discussion on waiting to decide and why they felt they should.

Rod Dinsmore was adamant they were good with the number of their increase and would maybe reassess it down the road.

Mayor Woodfin wanted to know how far they were away from coming to a decision on the franchise agreement.

City Manager Judy Erwin said she hadn't received anything back from the city's attorney yet, but he just started on it and said it may take a few weeks. She said they could shorten the length of the agreement and reassess it in a few years if that is what the Dinsmore's would like.

Mayor Woodfin said he was in favor of that idea.

The council agreed.

Rod Dinsmore asked if they could approve their rate increase for the time being to meet the June 1st deadline.

Councilor Hoke made a motion to approve the rate increase for C&B Sanitary. Councilor Smith seconded the motion. 5 in favor. Councilor Patterson abstained.

OLD BUSINESS

There was no old business.

RESOLUTIONS/ORDINANCES

Resolution No. 24-779 – A Resolution of the City of Burns, Oregon, accepting identified and unanticipated revenues from Oregon Department of Forestry for a VFA Grant in the amount of \$9695.00.

Councilor Gahley made a motion to read Resolution No. 24-779 by title only. Councilor Hoke seconded the motion. All ayes.

Councilor Smith made a motion to approve Resolution No. 24-779. Councilor Patterson seconded the motion. All ayes.

Resolution No. 24-780 – A Resolution of the City of Burns authorizing the High Desert Park & Recreation to apply for a local government grant from Oregon Parks & Recreation Department for Tennis Court Resurfacing/ADA Compliance at Anderson Park and delegating authority to the City of Burns Council to sign the application.

Councilor Hoke made a motion to read Resolution No. 24-780 by title only. Councilor Gahley seconded the motion. All ayes.

Councilor Gahley said he had heard that Parks and Rec didn't get the grant they applied for because it was for new construction, not resurfacing. He wondered if this was a different grant from the previous one they applied for.

City Manager Judy Erwin said she believed this was a different grant.

City Clerk Tiffany Leffler said that was her understanding as well.

Councilor Hoke said she thought the pool remodel was completely funded by grants. She believes they probably applied for many different grants, and some they have been approved for. She said she felt this grant was just for the resurfacing of the tennis court.

Councilor Gahley made a motion to approve Resolution No. 24-780. Councilor Smith seconded the motion. All ayes.

CITY MANAGER REPORT/DEPARTMENT REPORT

City Manager Judy Erwin reported the following:

- She said the SDC Ordinance should be ready the following week, so they are anticipating on getting it posted and ready for passage at the next City Council meeting.
- She had been working with the Public Works Director Ty Richardson to create new job descriptions for the staff. She said job duties have substantially changed since the last time they were done.
- Telos had submitted a Comprehensive Plan Amendment and Zone Change for their project that is located between Burns and Hines. Miller Springs had submitted a Variance request for road widths with their development. She said there was also a local resident going before Planning Commission in favor of changes being proposed in Open Space.
- The new franchise agreement for C&B Sanitary as well as Light Speed Networks is in process with the city attorney.

City Manager Judy Erwin asked City Clerk Tiffany Leffler if she had anything else to add to planning.

City Clerk Tiffany Leffler said there was a lot going on. She currently was working on the 2 projects above as well as 6 or so modular homes being put in, a few different lot line adjustments, many different carports, and a few different storage sheds. She said there were more projects than that but not all of them were coming to mind without having them in front of her. She said 4 to 5 projects come in almost daily and things are really moving and expanding in Burns. Planning keeps her very busy, but growth is exactly what the city wanted, and it makes her hopeful for the new housing developments coming in.

City Manager Judy Erwin said the new Commercial Building Inspector came in and met with her, but Tiffany was out sick that day. She said he seemed very knowledgeable. There were still things to be worked out between the County and City departments, but she was sure they were more than willing to work with the city.

Councilor Hoke asked if she had spoke with them about the issues they had been having.

City Manager Judy Erwin said she had.

Councilor Gahley said that he was under the impression they were going to sit down and discuss things.

Councilor Hoke said after the last Safety Committee Fire Chief Scott Williamson and City Manager Judy Erwin had some concerns with some Commercial buildings on Broadway that the loop had not been closed. She said that is what she was referring to, but as far as she is aware they are going to still put together the committee they had discussed.

He said he has a lot of customers at his business that have discussed how difficult the permitting process still is and he said he could agree with them from his own experiences with it. He really would love to see something that is more user friendly than what there is.

City Manager Judy Erwin said she agreed but it would be helpful if they would come address these issues with her so she can take care of them.

There was more discussion on the permitting process.

Fire Chief Scott Williamson said when he first started there was not a lot of communication from the county with the city at all. They were not being notified at all what was going on in the city and this is still an issue. This could be a possible issue for the person building. They could open and get shut down again because they don't meet all the requirements to do so. This will cost the builder unnecessary time and money He said it will be a slower process than what it was, but this is how it was always supposed to be. They need to come to the city first and submit a sub-plan first on what they want to do and once it is signed off by the city, it can then go to the county, but they still need to come back with the final to the city before occupancy is given. They are also hoping that having a Commercial Inspector here will now speed the process up some though, because before it had to go to the state. He believed the new inspector still needed to get his Commercial Electrician and Fire Life Safety, but he felt this would be a good step in the right direction. He does want to say the communication with the city and the county has improved a lot.

There was more discussion on the permitting process.

Councilor Gahley said what he believes they have been working towards is some kind of packet that tells the person exactly what they are going to need. That way is all laid out and they only go through one process.

City Clerk Tiffany Leffler said when they recently updated the Zoning Ordinance, they also updated the planning forms, and each specific project has a printout of submittal requirements that lays out exactly what they will need to do through the city. She said unfortunately, these things take more time than anyone would like. She agreed that they needed to get these meetings set with the county to streamline the process all together, but they have been yet to be able to set something up with them.

COMMITTEE REPORTS

CEMETERY COMMITTEE - Councilor Gahley said the Cemetery Committee had met and discussed putting in a Columbarium, which Lafollette's Chapel would pay for. In turn, they would like the city to donate the space and pay for the cement slab it would be placed on. He said they were not ready to bring it to the council yet, but they were working on it. He then asked if City Clerk Tiffany Leffler had anything she'd like to add.

City Clerk Tiffany Leffler said they had spent most the time discussing the new Columbarium but had discussed a little with the plotting of the new portion of the cemetery. She informed them that David Moss would be handling the plotting of the new portion himself, which would save them money with this project. She said once that is done, they will begin working on getting the sprinkler systems. They had also been cleaning up the entrance to the cemetery and had started planning ideas for the landscaping.

Mayor Woodfin said it looked really nice and so did the new road entering the cemetery. He also informed them that he had mowed from Snyders to the gate to start early on trying to keep the weeds down.

AIRPORT COMMITTEE – Councilor Smith said they had met the previous week and they had just received updates on the timeline for the Apron Project. There were just a few details they need to work out for the project still, but they are working diligently to get it done. They are hoping in doing this, the

weather will improve. She informed them that Hailey Walker and herself will be going to a drone conference April 22nd through the April 25th. She had been taking in a lot of information and will get to in person now as well. She said it is pretty awesome and she is very excited for all of it.

R3 – Councilor Smith said it didn't get added to the agenda, but they were needing to get the new 2nd amended and reinstated IGA. She said she hoped they all had a time to review it, but it was just language changes and things of that nature. She said the first amended IGA was to add John Day and this one is to remove them because they have chosen to withdraw.

Councilor Gahley asked if it need to be posted or anything of that nature.

City Manager Judy Erwin said they didn't need to do anything more; it was the same agreement. It was just removing John Day because they withdrew. With John Day on the IGA now, a super majority was needed to vote or make any decisions and with only 3 board members, the super majority no longer made sense, and it would be changed to the majority.

Councilor Hoke made a motion to approve the 2nd Amended and Reinstated IGA for R3. Councilor Smith Seconded the motion. All ayes.

Councilor Smith said their next meeting would be on April 15th. She also informed them that the Heat Pump Program was in full swing. There have been multiple meetings and they have been working through the scoring criteria and application process. She said that Nick Green had figured out the numbers, and there will be 59 heat pumps available for Greater Eastern Oregon.

COUNCILOR COMMENTS

Councilor Smith said she was very grateful for everyone and excited for the better weather the following week. She also wanted to remind everyone that the Bird Festival will be going on over the weekend. She encouraged everyone to get out and support the vendors and events that are happening. She said High Desert Partnership is doing an event at the Foundry Building tomorrow night at 5:00 pm she believed. She wanted everyone to know that they would have a full schedule of events. Also, she had been working with Apptedy on the actual website. They had sent over a bunch of documents early on and Apptedy has been integrating them into a test website and shooting for a launch date of May 1st.

Councilor Gahley said that last Sunday he didn't have any water due to a watermain break, and he appreciated Public Works Director Ty Richardson and the crew handling it so quickly. He was informed that the Vector Truck blew up and they had to dig by hand. He wanted to know if Public Works Director Ty Richardson could speak to that.

Public Works Ty Richardson said it was a bad situation because that Vector Truck is really like their 911 system for all maintenance. He said what runs the pony motor in the front dis logged and went into the radiator fan and radiator unit, which is not common. They are having Mike Allison look at it along with the fact of vendors getting parts for it. He informed them that it could be down for a month and will be very expensive to fix. He said the Bucket Truck was down as well. The Bucket Truck was very old and had set in the sun for some time. The actual bucket is made of fiber glass, and after sun exposure it will become brittle. They bumped it off a tree just a little and it cracked pretty good. He wasn't sure if they could get a new Bucket Truck, a used one, or just get this one refurbished, but it really needs it because it doesn't operate the greatest and the hydraulics don't work anymore. They use this for hanging signs for events, trimming trees, and when they need to get to a radio tower that is high up.

Councilor Gahley also wanted to bring it to everyone's attention that it was brought to his attention that the council reads resolutions by title only and he wondered if they were out and available during the meetings for the public to read.

City Clerk Tiffany Leffler said she didn't print out and post the full resolutions for the public only ordinances, but she did print a few full packets for people at the meetings, which contained any

Resolutions in them. She said she would start making sure there are copies made available at the meetings.

Councilor Gahley said he thought it would be a good idea so people could know what is going on. He had also heard that Hines reads out their resolutions in full.

City Manager Judy Erwin said she believed he was correct.

Councilor Hoke said she wanted to recognize the Department Heads and all their Hard work. She thanked Police Chief Steve Macartney, Fire Chief Scott Williamson, and Public Works Director Ty Richardson for everything they do. She just wanted them to know she really appreciates them.

Councilor Patterson said he would like piggyback off what Councilor Hoke said.

Mayor Woodfin read a thank you letter from the Hilander Booster Club for the city's recent donation to their Crab Feed Dinner Auction. They said the money raised will be used to support all student athlete programs at the Burns High School.

There was no further discussion.

The next meeting will be April 24, 2024, at 6:00 p.m.

ADJOURN

Councilor Smith moved to adjourn at 7:15 p.m. Councilor Hoke seconded the motion. All ayes.

Tiffany Leffler, City Clerk

Jerry Woodfin, Mayor



April 18, 2024

Re: Drug and Alcohol-Free Dinner, October 2022

To Whom it may concern:

Harney Partners for Kids and Families is asking for your help! We have spent all the funding for the Red Ribbon Event. We are getting an early start for the annual Drug and Alcohol-Free Dinner that will be held during Red Ribbon Week in October. The free dinner is devoted to presenting positive alternatives to drug and alcohol-free lifestyles. This event is an opportunity for families to enjoy an evening in a Drug and Alcohol-free atmosphere.

We serve over 400 people at this event, so we are again asking for donations. Whatever amount you can provide would be greatly appreciated. If there is any leftover funding from this event, it will be used for future Drug and Alcohol-free events within the Harney Partners organization.

Thank you again for your continued support of this very important Red Ribbon Week event. If you have any questions, please feel free to contact Lanette at [541-589-1633](tel:541-589-1633). If you are unable to send a check, please call and Lanette will pick it up.

Please mail checks to:

Harney Partners for Kids and Families
c/o Red Ribbon 2024
PO Box 416
Hines, or 97738

Kids Club of Harney County



PO Box 1035, 267 S Egan Ave.,
Burns, OR 97720

541-573-7036

Website:

kidsclubofharneycounty.com

Email:

kidsclubharneycounty@gmail.com

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Heather Githens

Jen Hoke

Executive Director

Amy Dobson

Program Manager

Brenda Smith

Acting Gym Manager

Kara Nelson

OUR MISSION

To provide a safe and enriching out of school environment for youth that prepares them for success in academics and life by offering support and guidance as they learn the responsibility of healthy life choices.

**Help us build strong
futures
with our kids!!**

Federal EIN: 93-1318062

March 31, 2024

Dear *City of Burns,*

It's Diamonds in a Glass (DIG) time again! We are currently organizing our 21st Annual Kaye Johnson Memorial Diamonds in a Glass Dinner & fundraiser to be held April 27, 2024. This year's theme is "Sneak Peak". If you all remember we broke ground for Geno's Youth Center right after DIG 2023!! So, this year our event is going to look a little bit different as we are about to occupy our new facility! I didn't want a year to go by when we didn't honor the memory of Kaye and recognize our community for their ongoing support. So, this year DIG will be a grab and go dinner cooked by the same great team. This will allow you to support us and be the first to come take a look at Geno's Youth Center at 310 N. Birch St., Burns OR!!!

Although things are a bit different your can still support us in one of three ways:

1. YOU can be an event sponsor!! You will be recognized on the TO GO bag!

- \$250 Gold Sponsor
- \$125 Silver Sponsor

2. YOU can donate an item to be raffled. Instead of silent auction items, we will be selling raffle tickets, raffle tickets will be placed in the bucket next to the item they hope to win! Drawings will be done at the conclusion of the dinner pick up!

3. YOU can purchase a dinner ticket and come see our amazing Youth Center!!

Kids Club of Harney County is the only after school enrichment program in Harney County, focusing on youth K-5!! Geno's Youth Center will allow us not only to grow the programming that already exists, but also provide us the space to expand current programming and add additional resources to our youth & community!

Join us on Facebook at Kids Club of Harney County & Geno's Youth Center Gym to see all the wonderful things happening at our organization!!

Your generous donation helps to enable us to continue focusing on our goals and mission, directly supporting local youth. Thank you for taking the time to consider our request and know that we appreciate your support.

Sincerely,

Amy J. Dobson, MS

Executive Director

kidsclubharneycounty@gmail.com

(541) 413-1911

GRANT AGREEMENT
CRITICAL OREGON AIRPORT RELIEF GRANT PROGRAM AGREEMENT
Burns Municipal Airport
Project Name: Backup Generator Installation

THIS AGREEMENT is made and entered into by and between the **State of Oregon**, acting by and through its Department of Aviation, ("ODAV"), and City of Burns, a public entity acting by and through its elected officials, ("Recipient"), (ODAV and Recipient, collectively the "Parties").

BACKGROUND

A. The State of Oregon has established the Aviation System Action Program (the "Program") pursuant to ORS 319.023(5).

B. Among the purposes of the Program are:

- i. Assisting airports in Oregon with match requirements for Federal Aviation Administration (FAA) Airport Improvement (AIP) Grants;
- ii. Making grants for emergency preparedness and infrastructure projects in accordance with the Oregon Resilience Plan or the Oregon Aviation Plan; and
- iii. Making grants for services critical or essential to aviation; aviation-related business development; and airport development for local economic development.

C. Recipient applied for a grant through the Program to undertake the project described in Exhibit A, attached and incorporated by this reference (the "Project"). The Project will benefit the **City of Burns** (the "Airport").

D. ODAV approved a grant in the maximum amount of **\$22,500.00** and is willing to provide the grant to Recipient for the Project on the terms and conditions of this Agreement.

TERMS OF AGREEMENT

1. Effective Date. This Agreement shall become effective on the date that it is fully executed and approved as required by applicable law (the "Effective Date"). Unless otherwise terminated or extended, Grant Funds under this Agreement shall be available for Project Costs incurred on or after the Effective Date through the date that is two years after the Effective Date (the "Availability Termination Date"). No Grant Funds are available for any expenditure before the Effective Date or after the Availability Termination Date.

2. Agreement Documents. This Agreement consists of this document and the following documents:

- a. Exhibit A **Project Description, Milestones, Schedule and Budget**
- b. Exhibit B **Application and documents provided by Recipient to ODAV prior to the execution of this Agreement**
- c. Exhibit C **Subcontractor Insurance Requirements**

Exhibits A, B, and C are incorporated by reference into this Agreement and are attached hereto. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: This Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C.

3. Project Cost; Grant Funds; Match; Reimbursement Rate.

- a. **Project Cost:** The total Project cost is estimated at **\$25,000.00** (the "Total Project Cost").
- b. **Grant Funds; Match:** ODAV shall provide grant funds to Recipient in an amount not to exceed **\$22,500.00** or **90%** of the Total Project Cost, whichever is less (the "Grant Funds"). Recipient shall be responsible for providing matching funds in the amount of **\$2,500.00** or **10.00%** of the Total Project Cost, whichever is greater, as reflected in Exhibit A, Table 2 (Funding Breakdown).
- c. **Reimbursement Rate:** ODAV shall reimburse Recipient for **90%** of the amount of Eligible Costs, provided that in no event shall the total amount reimbursed exceed the sum of **\$22,500.00**. ODAV will withhold five percent (5%) from each disbursement as Retainage (the "Retainage"), which is payable as provided in Section 9.c.

4. Project Implementation and Completion. Recipient shall implement and complete the project in accordance with the plans and specifications and all documents or plans included in Exhibit A, incorporated herein, as they may be revised or modified with the approval of ODAV. In accordance with the provisions of Section 6, Recipient shall notify ODAV in writing of all changes in the project activities prior to performing any changes and shall not perform any changes without written prior approval from ODAV.

5. Grant Funds

- a. **Use of Grant Funds; Grant Award; No Exclusive Right.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless ODAV approves such changes pursuant to the Project Change Procedures in Section 6 or pursuant to the Amendment provisions of Section 15.d.

- i. Recipient agrees to substantially initiate the Project within six (6) months of the Effective Date.
- ii. In accepting the Grant Funds, the Recipient, its contractors, lessees, and their successors and assigns covenant not to sell, transfer, or convey any exclusive right to use the Airport, its improvements or its services at any time during the 20 year-period following the Effective Date.

b. Eligible Project Costs. The Grant Funds may only be used for Recipient's actual Project Costs to the extent those costs are (a) reasonable, necessary and directly used for the Project; (b) permitted by generally accepted accounting principles established by the Governmental Accounting Standards Board, as reasonably interpreted by ODAV, to be capitalized to an asset that is part of the Project; and (c) eligible or permitted uses of the Grant Funds under State of Oregon law and this Agreement. Any payment of principal due under any interim financing agreement associated with or executed for the Project will be deemed an Eligible Project Cost only if ODAV (i) specifically determines the costs are reasonable, necessary and directly used for the Project as provided by this subsection; and (ii) provides the Agency's prior written consent before any claim of reimbursement is submitted.

c. Ineligible Project Costs. The Grant Funds may not be used for any operating or working capital expenditures that Recipient charges to the Project; or for any maintenance costs of the Project; or for any payments made to related parties (as described in Section 13.b. or as prohibited under Section 13.c.) or for any loans or grants to be made to third parties, except as provided in Section 5.b.

d. Request for Reimbursements. ODAV will disburse Grant Funds to the Recipient on an expense reimbursement or cost-incurred basis. To obtain reimbursement for Eligible Project Costs, Recipient shall submit to ODAV's Program Coordinators no more frequently than monthly a Request for Reimbursement (Form 109-007), the form of which is incorporated by reference, together with (i) the Milestone Progress Report for that month as required by Section 8.a. and (ii) invoices and other supporting documentation that ODAV may request in its reasonable discretion. In no case will ODAV reimburse a Request for Reimbursement that is not accompanied with the Milestone Progress Report required by Section 8.a.

6. Project Change Procedures. Project change orders are only for changes to the schedule. Recipient shall submit a Request for Change Order (Form 109-009), the form of which is hereby incorporated by reference, to ODAV's Program Coordinators:

- a. If Recipient anticipates Project milestones will be delayed by more than ninety (90) days from the milestones shown in Exhibit A, Recipient shall submit a Request for Change Order (Form 109-009) to ODAV's Project Coordinators as soon as Recipient becomes aware of any possible delay. The Request for Change Order must be submitted prior to the milestone completion date shown in Exhibit A.

b. Recipient shall not proceed with any changes to Project scope or delivery schedule prior to the execution of an amendment to this Agreement executed in response to ODAV's approval of a Request for Change. A Request for Change Order may be rejected at the discretion of ODAV. ODAV may choose to request review by the State Aviation Board. Changes will not include additional costs or reimbursement requests in excess of the maximum grant award stated in Section 3.

7. Inspection. ODAV may inspect the Project on a periodic basis and at Project completion. ODAV may conduct any or all of its Project inspections by an onsite walkthrough inspection or, in lieu of a walkthrough inspection, by reviewing date-stamped photographs or video or by using other means satisfactory to ODAV in its sole discretion.

8. Reporting.

a. Milestone Progress Reports. On or before the 15th of every month until the Project completion date or the Availability Termination Date, whichever is earlier, Recipient shall submit to ODAV's Program Coordinators a completed Milestone Progress Report (Form 109-008), the form of which is incorporated by reference, that reports the Project's progress for the preceding month.

b. Final Report. Within ninety (90) days from the Project completion date, Recipient shall submit a written report (the "Final Report") to ODAV's Program Coordinators that includes the following information at the minimum:

- i. The number of jobs created or retained both during construction and after Project completion as a direct result of the Project;
- ii. The number of jobs projected in the Recipient's Project application;
- iii. Data on the methodology that measures the Project's success as described in the grant application.

Recipient's obligation to provide this report survives expiration of this Agreement. Recipient shall use Final Report form, which Recipient must also sign.

9. Disbursement and Recovery of Grant.

a. Disbursement Generally. ODAV shall reimburse Eligible Project Costs that Recipient incurs, subject to Section 5, up to the maximum amount of Grant Funds provided in Section 3. Reimbursements shall be made by ODAV within forty-five (45) days of ODAV's approval of a Request for Reimbursement from Recipient.

b. Conditions Precedent to Disbursement. ODAV's obligation to disburse Grant Funds to Recipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- i. ODAV has received funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODAV, in the exercise of its reasonable administrative discretion, to make the disbursement.
- ii. Recipient is in compliance with the terms of this Agreement, including without limitation completion of all prerequisites for reimbursement.
- iii. Recipient has provided to ODAV a Request for Reimbursement, together with a Milestone Progress Report, in accordance with Section 5. Recipient must submit its final Request for Reimbursement following completion of the Project and no later than ninety (90) days after the earlier of completion of the Project or the Availability Termination Date. Failure to submit the final Request for Reimbursement within ninety (90) days after the completion of the Project or the Availability Termination Date could result in non-payment.
- iv. Recipient agrees to submit an IRS form W-9 form, and any other required documentation requested by ODAV in order to input Recipient into ODAV's financial system for the disbursement of Grant Funds.

c. Retainage. ODAV will withhold five percent (5%) from each disbursement for the duration of the Project schedule (the "Retainage"). ODAV will release the cumulative Retainage to Recipient only after ODAV certifies the Project as complete.

d. General Right to withhold Payments. ODAV reserves the right to withhold payment of funds if there are unresolved audit findings, or inadequate information concerning Recipient's Project activities. ODAV reserves the right to reallocate any portion of the Grant Funds that ODAV estimates the Recipient will use.

e. Recovery of Grant Funds. Any Grant Funds disbursed to Recipient under this Agreement that are expended in violation of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of the Availability Termination Date or termination of this Agreement must be returned to ODAV. Recipient shall return all Misexpended Funds to ODAV promptly after ODAV's written demand and no later than fifteen (15) days after ODAV's written demand. Recipient shall return all unexpended Grant Funds to ODAV within fourteen (14) days after the earlier of the Availability Termination Date or termination of this Agreement.

10. General Representations and Warranties of Recipient. Recipient represents and warrants to ODAV as follows:

a. Organization and Authority. Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement.

b. Binding Obligation. This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

c. No Solicitation. Recipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

d. No Debarment. Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from any federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify ODAV immediately if it is debarred, suspended or otherwise excluded from any federally assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.

e. Compliance with Oregon Taxes, Fees and Assessments. Recipient is, to the best of the undersigned's knowledge, and for the useful life of the Project will remain, current on all applicable state and local taxes, fees and assessments.

11. Special Warranty of Recipient To Maintain and Operate the Airport & Segregate Income.

- a. Recipient warrants that it shall maintain and operate the Airport as an airport in a usable, safe, and orderly manner at all times for a period of at least 20 years from the Effective Date.** If this condition is not met, Recipient shall immediately reimburse to ODAV all Grant Funds in an amount equal to the total amount of Grant Funds provided for the Project, divided by twenty (20), multiplied by the difference between twenty (20) and the number of years that the Airport remained open after the Effective Date. By way of example only, if \$100,000 in Grant Funds are distributed and Recipient closes the Airport after only seven years of the required 20-year operating period, then Recipient must reimburse ODAV \$65,000 of Grant Funds ($\$100,000/20 \text{ years} = \$5,000$; $\$5,000 \times 13 \text{ years} = \$65,000$).
- b. Recipient also warrants and agrees that all income derived from the Airport shall be deposited into a segregated account for a period of at least 20 years from the Effective Date, and these funds shall be used only for the operation, maintenance or capital improvement of the Airport.**

12. Records Maintenance and Access; Audit.

- a. Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards, and state minimum standards for audits of municipal corporations. Recipient shall ensure that each of its subrecipients and subcontractors complies with these requirements. ODAV, the Secretary of State of the State of Oregon (the "Secretary") and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, ODAV, the Secretary and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of ODAV, and the Secretary to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient. Nothing herein is meant to be or will be interpreted to be a waiver of any protection against disclosure of records or communication otherwise provided by law, including protection provided by attorney-client privilege or the attorney work product doctrine.
- b. Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records, that are directly related to this Agreement, the funds or the Project until the date that is six (6) years following the Availability Termination Date.
- c. Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by ODAV under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit ODAV to verify how the Grant moneys were expended.

This Section 12 shall survive any expiration or termination of this Agreement.

13. Recipient Subagreements and Procurements.

a. Subagreements generally. Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, "subagreements") for performance of the Project.

- i. All subagreements must be in writing, executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
- ii. Recipient shall require all of its contractors performing work under this Agreement to name ODAV as a third party beneficiary of Recipient's subagreement with the Contractor and to name ODAV as an additional obligee on contractors' bonds.
- iii. Upon ODAV's request, Recipient shall provide ODAV with a copy of any signed subagreement, as well as identify all owners of the sub-recipient, contractor, or subcontractor with whom Recipient entered into the subagreement. Recipient must report to ODAV any substantial breach of a term or condition of a subagreement relating to this Agreement within ten (10) days of Recipient discovering the breach.

b. Conflicts of Interest; Private Recipients. If Recipient is not a public body, as defined in ORS 174.109, Recipient shall not award, enter into, or otherwise participate in any subagreement if a conflict of interest, real or apparent, would arise. Such a conflict arises when any of the following would be a party to the subagreement:

- i. An employee, officer, or agent of the Recipient ("Recipient Person");
- ii. A Recipient Person's spouse, domestic partner, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law;
- iii. The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse or domestic partner of a Recipient Person;
- iv. Any individual for whom a Recipient Person has a legal support obligation; or
- v. An organization in which any of the individuals identified in (i) through (iv) is a partner, member, or employee or from which the individual otherwise receives a financial benefit.

c. Conflicts of Interest; Public Recipients. If Recipient is a public body, as defined in ORS 174.109, Recipient's public officials shall comply with Oregon's government ethics laws, ORS 244.010 et seq., as those laws may be subsequently amended.

d. Subagreement indemnity; insurance.

- i. **Recipient shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in Oregon Revised Statute (ORS) 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, the Oregon Aviation Board and its members, the Oregon Department of Aviation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260 ("Claims"), to the extent such Claims are caused, or alleged to be caused by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that ODAV shall, in all instances, except to the extent Claims arise from the negligent or willful acts or omissions of ODAV, be indemnified for all Claims caused or alleged to be caused by the contractor or subcontractor.**
- ii. Any such indemnification shall also provide that neither Recipient's contractor or subcontractor, nor any attorney engaged by Recipient's contractor or subcontractor, shall defend any claim in the name the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's contractor is prohibited from defending the State of Oregon, or that Recipient's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Recipient's contractor if the State of Oregon elects to assume its own defense.
- iii. Recipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement.

e. Procurements for Public Recipients. If Recipient is a public body, as defined in ORS 174.109, Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code and rules, ensuring that:

- i. all applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement;
- ii. all procurement transactions are conducted in a manner providing full and open competition; and

- iii. procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements).

f. Procurements for Private Recipients. If Recipient is not a public body, as defined in ORS 174.109:

- i. For procurements over \$25,000, Recipient must solicit quotes or bids from at least three sources. If three quotes or bids are not reasonably available, fewer will suffice. In either case, Recipient shall retain, and provide upon ODAV's request, documentation of the bidding and selection process for all procurements over \$25,000, including Recipient's efforts to obtain the quotes or bids.
- ii. Recipient may not artificially divide or fragment a procurement so as to reduce the procurement amount below the \$25,000 threshold designated by this section.

14. Termination and ODAV Rights Upon Termination.

a. Mutual Termination. This Agreement may be terminated by mutual written consent of the Parties.

b. Termination by ODAV. ODAV may terminate this Agreement effective upon delivery of written notice to Recipient, or at such later date as may be established by ODAV, under any of the following circumstances:

- i. If Recipient fails to pay its share of the Project costs;
- ii. If Recipient fails to provide services or funds called for by this Agreement within the time specified herein;
- iii. If Recipient fails to perform any of its other obligations under this Agreement, and that failure continues for a period of 10 calendar days after the date ODAV delivers Recipient written notice specifying such failure. The ODAV may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action;
- iv. If any false or misleading representation is made by or on behalf of Recipient in this Agreement or in any document provided by Recipient related to this Agreement or the Project;
- v. If ODAV fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODAV, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement;

- vi. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that the Project work under this Agreement is prohibited or if ODAV is prohibited from paying for such Project work from the planned funding source; or
- vii. If, in the sole opinion of ODAV, the Project would not produce results that are commensurate with the further expenditure of funds.

c. ODAV's Rights upon Termination. Upon termination under Section 14(a) or Section 14(b) above, ODAV may:

- i. Terminate ODAV's commitment and obligation to make any further disbursements of Grant Funds;
- ii. Require Recipient to immediately repay ODAV all disbursed Grant Funds; and
- iii. For termination on any of the grounds set forth in Section 14(b)(i)-(iv), bar Recipient from applying to ODAV for future assistance.

ODAV's remedies are cumulative and are in addition to any other rights or remedies available at law or in equity.

15. GENERAL PROVISIONS:

a. Contribution.

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

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

b. Indemnification and Hold Harmless. Recipient shall, to the full extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify and hold ODAV harmless from all liability of whatsoever nature, and for any costs, fees or expenses that ODAV may incur from Recipient's performance of this Agreement.

c. Dispute Resolution. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

d. Amendments. This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.

e. Duplicate Payment. Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.

f. No Third Party Beneficiaries. ODAV and Recipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

g. Notices. Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email or mailing the same, postage prepaid, to Recipient Contact or ODAV Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this section. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against ODAV, such facsimile transmission must be confirmed by telephone notice to ODAV Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.

h. Governing Law, Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between ODAV (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of Circuit Court of Marion County in the State of Oregon, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

i. Compliance with Law. Recipient shall comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the Project including, but not limited to, the provisions of ORS 319.020 and OAR 738 Divisions 124 and 125 where applicable by this Agreement, incorporated herein by reference and made a part of this Agreement. In addition, without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

j. Costs and Expenses Related to Employment of Individuals; Insurance; Workers' Compensation. Recipient is responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholding. In addition, Recipient's subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017 and shall provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.

k. Independent Contractor. Recipient shall perform the Project as an independent contractor and not as an agent or employee of ODAV. Recipient has no right or authority to incur or create any obligation for or legally bind ODAV in any way. ODAV cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of ODAV, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.

l. Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

m. Counterparts. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

n. Integration and Waiver. This Agreement, and attached exhibits constitute the entire Agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODAV to enforce any provision of this Agreement shall not constitute a waiver by ODAV of that or any other provision.

o. Questions; Program Coordinators. Questions regarding this Agreement may be directed to:

Oregon Department of Aviation
Attn: Program Coordinators: Andria Abrahamson, Ermie Buncal, or each of their successors
3040 25th Street SE
Salem, OR 97302

Andria Abrahamson, Program & Policy Coordinator
andria.abrahamson@odav.oregon.gov
503-378-4881

Ermie Buncal, Program Coordinator
ermie.m.buncal@odav.oregon.gov
503-302-9262

In the absence of any of the above-named individuals during the term of this Agreement, ODAV shall notify the Recipient in writing of a substitute contact.

SIGNATURE PAGE TO FOLLOW

THE PARTIES, by execution of this Agreement, hereby acknowledge that its signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The Director of the Department of Aviation or his designee is authorized to act on behalf of State in approving and executing this Agreement.

The State Aviation Board approved the COAR funding request and delegated authority to the Director of the Oregon Department of Aviation to enter into Agreement.

City of Burns by and through its elected officials

STATE OF OREGON, by and through its Oregon Department of Aviation

By _____
(Legally designated representative)

By _____
Director

Name _____
(printed)

Name _____
(printed)

Date _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

(If required in local process)

APPROVED AS TO LEGAL SUFFICIENCY

(For funding over \$150000)

By _____
(Legally designated representative)

By _____
Director

Date _____

Date _____

Recipienct Contact:

Judy Erwin, City Manager
242 South Broadway
Burns, Oregon, 97720-2205
(541) 573-5255
jerwin@cityofburnsor.gov

ODAV Contacts:

Andria Abrahamson, Program Coordinator
3040 25th Street SE
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EXHIBIT A
Project Description, Milestones, Schedule and Budget

Application Number: COAR-2024-BNO-00095
Project Name: Backup Generator Installation

A. PROJECT DESCRIPTION

This project will fund the installation of a backup generator and automatic power transfer switch to provide backup power to critical airport operations during an airport power outage.

B. PROJECT MILESTONES AND SCHEDULE

Milestones are used for evaluating performance on the Project as described in the Agreement. Milestones cannot be changed without an amendment to the Agreement.

If Recipient anticipates that Project milestones will be delayed by more than ninety (90) days, Recipient shall submit a Request for Change Order, as described in Section 6 of the Agreement, to the ODAV Project Coordinators as soon as Recipient becomes aware of any possible delay. The Request for Change order must be submitted before the Milestone completion date shown in Table 1 below.

The anticipated start date of the Project is: **04/01/24**
 The anticipated completion date of the Project is: **12/31/24**

Table 1: Milestones

Milestone	Description	Estimated Start Date	Estimated Completion Date
1.	25% Completion	04/01/24	06/15/24
2.	50% Completion	06/16/24	08/31/24
3.	75% Completion	09/01/24	11/15/24
4.	100% Completion	11/16/24	12/31/24

Table 2: Funding Breakdown

1	COAR Grant Award Amount	\$22,500.00
2	Recipient Match	\$2,500.00
3	TOTAL PROJECT COST	\$25,000.00

EXHIBIT C
Subcontractor Insurance Requirements

GENERAL

Recipient shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between Recipient and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Recipient. Recipient shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall Recipient permit a contractor to work under a Subcontract when the Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the Recipient directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

TYPES AND AMOUNTS

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

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

Bodily Injury, Death and Property Damage:

Not less than \$2,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence). Annual aggregate limit shall not be less than \$4,000,000.

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

Bodily Injury, Death and Property Damage:

Not less than \$2,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

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

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

- 6 **NOTICE OF CANCELLATION OR CHANGE.** The contractor or its insurer must provide thirty (30) days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s). Any failure to comply with the reporting provisions of this clause shall constitute a material breach of this Agreement and shall be grounds for immediate termination of this Agreement.

- 7 **CERTIFICATE(S) OF INSURANCE.** Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees) and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage. Required insurance coverages shall be obtained from insurance companies acceptable to ODAV and the contractor shall pay for all deductibles, self-insured retention or self-insurance.

- 8 **INSURANCE REQUIREMENT REVIEW.** Recipient agrees to periodic review of insurance requirements by ODAV under this Agreement and to provide updated requirements as mutually agreed upon by ODAV and Recipient.

- 9 **ODAV ACCEPTANCE.** All insurance providers are subject to ODAV acceptance. If requested by ODAV, Recipient shall provide complete copies of its Contractors' insurance policies, endorsements, self-insurance documents and related insurance documents to ODAV's representatives responsible for verification of the insurance coverages required under this Exhibit C.

The Recipient shall immediately notify ODAV of any change in insurance coverage.