

Lowell City Council
Regular Meeting and Executive Session
Tuesday, August 1, 2023 at 7:00 p.m.

Lowell Rural Fire Protection District Fire Station 1
389 N. Pioneer Street, Lowell, OR 97452

Members of the public are encouraged to provide comment or testimony through the following:

- Joining in person or by phone, tablet, or PC. For details, click on the event at www.ci.lowell.or.us.
 - In writing, by using the drop box at Lowell City Hall, 107 East Third Street, Lowell, OR 97452.
 - By email to: admin@ci.lowell.or.us.
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Regular Meeting Agenda

Call to Order/Roll Call/Pledge of Allegiance

Councilors: Mayor Bennett ___ Harris ___ Stratis ___ Weathers ___ Murray ___

Approval of Agenda

Public Comments

Speakers will be limited to three (3) minutes. The Council may ask questions but will not engage in discussion or make decisions based on public comment at this time. The Mayor may direct the City Administrator to follow up on comments received. When called, please state your name and address for the record.

Direct all comments to the Council through the Mayor. All speakers are expected to be polite, courteous, and respectful when making their comments. Personal attacks, insults, profanity, and inflammatory comments will not be permitted.

Council Comments (three minutes per speaker)

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or other accommodations for persons with disabilities must be made at least 48 hours before the meeting to City Clerk Sam Dragt at 541-937-2157.

City Council Meeting Agenda

New Business

1. Motion to approve an intergovernmental agreement for city attorney services with Lane Council of Governments and to authorize the City Administrator to sign. – Discussion/ Possible action
2. Discussion on scheduling a City Council goal-setting work session in August. – Discussion/ Possible action

Other Business

Mayor Comments

Community Comments: Limited to two (2) minutes if prior to 9:30 P.M.

Recess the Regular Meeting. Executive Session to follow.

Executive Session Agenda (estimated 1 hour)

Executive Sessions are closed to the public. Representatives of the news media and designated staff may attend Executive Sessions. Representatives of the news media are specifically directed not to report on any of the deliberations during the Executive Session, except to state the general subject of the session as previously announced. No decision will be made in this executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

Call to Order/Roll Call

Councilors: Mayor Bennett ___ Harris ___ Stratis ___ Weathers ___ Murray___

Executive Session:

The executive session is being held pursuant to ORS 192.660(2)(h), to consult with legal counsel concerning the legal rights and duties of the city with regards to litigation.

Adjourn the Executive Session

City Council Meeting Agenda

Return to Regular Meeting

At this time, the City Council may vote on the following item:

- Contract for legal services with Thorp, Purdy, Jewett, Urness & Wilkinson, PC. in the amount of \$10,000 and to authorize the City Administrator to sign – Discussion/
Possible action

Agenda Item Sheet

City of Lowell City Council

Type of item:	Procurement
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Item title/recommended action:

Motion to approve an intergovernmental agreement for city attorney services with Lane Council of Governments and to authorize the City Administrator to sign. – Discussion/
Possible action

Justification or background:

The city's agreement with LCOG for city attorney services has expired. In addition, the previous agreement estimated annual attorney's fees at \$5,000. Due to increased development and other legal issues, actual attorney's fees have exceeded \$5,000. For those reasons, a new agreement is necessary to renew these services and to incorporate the increase in hours. The city recoups a portion of legal fees associated with land use applications by billing developers for those costs.

Budget impact:

\$10,000.00

Department or Council sponsor:

Administration

Attachments:

N/A

Meeting date:	08/01/2023
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INTERGOVERNMENTAL AGREEMENT
For City Attorney Services

BETWEEN: **Lane Council of Governments (LCOG)**, an organization of governments within Lane County, Oregon

AND: **The City of Lowell (CITY)**, a municipal corporation of the State of Oregon

EFFECTIVE DATE: **March 1, 2023**

RECITALS

- A. ORS 190.010 provides that units of local government may enter into agreements for the performance of any and all functions and activities that any party to the agreement, its officers, or agents have the authority to perform.
- B. Provision of services for the remuneration specified in this agreement will mutually benefit the parties to it.
- C. CITY and LCOG desire to enter into an agreement wherein LCOG will provide the services described in this agreement on the terms and conditions set forth herein and in Attachment A (attached hereto and incorporated herein by reference).

AGREEMENT

- 1. **Services to be provided.** LCOG agrees to provide City Attorney Services to CITY as described in Attachment A.
- 2. **Duration.** The agreement term shall be effective March 1, 2023 through June 30, 2025 or until terminated pursuant to Paragraph 4 or amended pursuant to Paragraph 5.
- 3. **Compensation.** CITY shall pay LCOG monthly upon receipt of an invoice and detailed log of City Attorney’s billed time, which shall be issued quarterly unless otherwise agreed to by the parties in writing. The invoice will reflect hourly rates for LCOG personnel plus any direct expenses associated with the work performed. The total cost of this agreement shall not exceed \$10,000 annually.
- 4. **Termination.** Upon thirty days; prior written notice delivered to the persons designated in Paragraph 6, either party, without cause, may terminate its participation in this agreement.
- 5. **Amendments.** This agreement may be modified or extended by written amendment signed by both parties.
- 6. **Administration.** Each party designates the following as its representative for purposes of administering this agreement:

LCOG: Gary Darnielle
Lane Council of Governments
859 Willamette Street, Suite 500
Eugene, OR 97401

CITY: Jeremy Caudle
City of Lowell
P.O. Box 490
Lowell, OR 97452

Each party may change its designated representative by giving written notice to the other as provided in paragraph 14.

7. **Records/Inspection.** CITY and LCOG shall each maintain records of its costs and expenses under this agreement for a period of not less than three full fiscal years following completion of this agreement. Upon reasonable advance notice, either party or its authorized representatives may from time to time inspect, audit, and make copies of the other party's records related to this agreement.
8. **Indemnification.** To the extent allowed by the Oregon Constitution and the Oregon Revised Statutes, each of the parties hereto agrees to indemnify, defend, and save the other harmless from any claims, liability or damages including attorney fees, at trial and on appeal, arising out of any error, omission or act of negligence on the part of the indemnifying party, its officers, agents, or employees in the performance of this agreement.
9. The parties shall exert every effort to cooperatively resolve any disagreements they may have under this Agreement. In the event that the parties alone are unable to resolve any conflict under this Agreement, they agree to present their disagreements to a mutually agreeable mediator for mediation. Each procedure shall be followed to its conclusion prior to either party seeking relief from the court, except in the case of an emergency.

If the dispute remains unresolved through mediation, the parties may agree in writing to submit the dispute to arbitration, using such arbitration process as they may choose at the time and which includes the following conditions:

- a. The location of the arbitration shall be in Eugene, Oregon;
 - b. Each party shall bear its own costs (except arbitration filing costs), witness fees, and attorney fees;
 - c. Arbitration filing costs and any arbitrator's fees will be divided equally between the parties; and
 - d. Judgment upon the award rendered by the arbitrator may be entered in the Circuit Court in Lane County, Oregon.
10. **Insurance.** Each party working under this agreement is either a subject employer under the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires each to provide Worker's Compensation coverage for all its subject workers, or is an employer that is exempt under ORS 656.126.
 11. **Subcontracting.** LCOG shall not subcontract its work under this agreement, in whole or in part, without the CITY's prior written approval. LCOG shall require any approved subcontractor to agree, as to the portion subcontracted, to comply with all obligations of LCOG specified in this Agreement. Notwithstanding the CITY's approval of a subcontractor, LCOG shall remain obligated for full performance of this Agreement and CITY shall incur no obligation to any sub-contractor.
 12. **Assignment.** Neither party shall assign this agreement in whole or in part, or any right or obligation hereunder, without the other party's written approval.
 13. **Compliance with Laws.** LCOG shall comply with all applicable federal, state, and local laws, rules, ordinances, and regulations at all times and in the performance of the work, including all applicable State and local public contracting provisions.
 14. **Notices.** Any notices permitted or required by this agreement shall be deemed given when personally delivered or upon deposit in the United State mail, first class postage fully prepaid, and addressed to

the representative designated in paragraph 6. Either party may change its address by notice given to the other in accordance with this paragraph.

15. Integration. This agreement embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein. This agreement shall supersede all prior communications, representations or agreements, either oral or written, between the parties.

15. Interpretation. This agreement shall be governed by and interpreted in accordance with the laws of the state of Oregon.

16. Signatures.

LANE COUNCIL OF GOVERNMENTS:

CITY OF LOWELL:

By: _____
Brendalee S. Wilson

By: _____
Jeremy Caudle

Title: Executive Director

Title: City Administrator

Date: _____

Date: _____

**ATTACHMENT A
WORK PROGRAM**

On request of CITY, LCOG shall provide the following services:

LCOG agrees to provide city attorney services to the City of Lowell (CITY). LCOG and the City anticipate that the City will require up to fifteen (15) hours of city attorney services per month. These services will include legal counsel and opinions to City staff, City Council, and City committees and commissions. As needed, LCOG will also coordinate and consult with special counsel and will prepare and present trainings to City staff, City Council, and city committees and commissions. The city and LCOG understand and agree that through this Agreement, LCOG may only represent the interests of the City.

The City and LCOG understand and agree that the majority of correspondence between City and LCOG will occur by e-mail or phone. LCOG may appear at city meetings; however, LCOG will require as much advance notice as possible. Without at least three days notice, LCOG may not guarantee in person appearances. If LCOG is unable to attend a meeting in person, LCOG will make every attempt to be available by conference call or video conference.

Agenda Item Sheet

City of Lowell City Council



Type of item:	Discussion
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Item title/recommended action:

Discussion on scheduling a City Council goal-setting work session in August. – Discussion/
Possible action

Justification or background:

This is to set a date for a goal-setting session with City Council in August. I propose August 12, 19, or 26, all on Saturdays, with a starting time in the morning.

I anticipate that the goal-setting session will be quicker and easier than the one you completed earlier this year. My proposed process is as follows: First, I'll prepare and send a memo in advance to the City Council. The memo will include my recommended ranking of priorities. Guiding my recommendation will be state mandated projects that we are required to implement, ongoing services that we are required to provide, projects that are currently in progress or anticipated in the FY 23/24 budget, City Council's earlier priorities resolution, and new projects/issues that have arisen but aren't included in the earlier priorities resolution.

At the goal-setting session, I'll present my recommendations to City Council. Discussion with the City Council will follow, to include direction from City Council on what priorities to add, delete, or rearrange in importance.

Alternatively, City Council may wish to follow another process. If that is the case, I request direction from the City Council at the 8/1/23 meeting so that I can prepare accordingly.

Agenda Item Sheet
City of Lowell City Council



Type of item:	Discussion
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Budget impact:

N/A

Department or Council sponsor:

Administration

Attachments:

N/A

Meeting date:	08/01/2023
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CONTRACT FOR LEGAL SERVICES – HOURLY FEE

This is a contract under which Thorp, Purdy, Jewett, Urness & Wilkinson, PC, a professional corporation (“Lawyer”), agrees to provide the undersigned client (“Client”) legal services concerning the following matter: Litigation v. Charter Communications (the “Case”). The Case shall also include any other legal services provided by Lawyer at Client’s request. The following terms and conditions shall apply to the contract of the parties.

1. **Lawyer’s Responsibility:** Lawyer shall represent Client on the Case and use reasonable efforts in doing so. However, Lawyer makes no assurances or warranties regarding the outcome of the Case.
2. **Client’s Responsibility:** Client shall be obligated to:
 - (a) Fully cooperate with Lawyer in handling the Case, provide requested information and promptly respond to requests and inquiries by Lawyer.
 - (b) Pay Lawyer for fees and costs in accordance with this agreement.
 - (c) Keep Lawyer advised at all times of Client’s current address and telephone number.
3. **Termination:** This contract shall terminate:
 - (a) At any time by mutual agreement of Lawyer and Client.
 - (b) Upon prior written notice by Client. All fees and costs due Lawyer shall be immediately due and payable.
 - (c) By Lawyer at any time Client violates this agreement.
4. **Work Assignment:** Lawyer may assign performance of legal services to any attorney employed by Lawyer. Lawyer may utilize law clerks, legal assistants, and other support-staff as Lawyer deems appropriate and may employ the services of outside agents, experts, consultants, and investigators whenever Lawyer determines it is desirable in handling the Case. Lawyer may also refer part or all of the work on the Case to an attorney not employed by Lawyer and divide the fee with such attorney, but the amount of the fee shall not exceed the amount of the fee under this contract.
5. **Ownership of Files:** Lawyer shall retain all files pertaining to the Case until termination of this contract. Lawyer may also retain all files and any property of Client following termination of this contract until Client pays all of Lawyer’s fees and costs. Upon full payment, including copying costs, Client shall be entitled to all of Client’s files and Client’s property in Lawyer’s possession upon request except Lawyer’s work papers, notes and work product which shall remain the property of the Lawyer. Lawyer may retain copies of all files delivered to Client. Unless picked up by Client, files may be destroyed five years following termination of this contract.
6. **Fees and Costs:** Client agrees to pay Lawyer at Lawyer’s standard hourly rate for the services of each attorney, legal assistant, law clerk, word processor operator and other employees and agents of Lawyer who work on the Case. Lawyer reserves the right to unilaterally adjust Lawyer’s standard hourly rate for Lawyer’s employees. At the time this contract is signed, the standard hourly rates of Lawyer’s attorneys and staff members are:

Attorney/Staff Member	hourly rate	Attorney/Staff Member	hourly rate
John Urness	\$350	Murray Pettitt	\$370
Lance LeFever	\$350	Janice Hatton	\$350
Kristin Denmark	\$285	Brian Millington	\$325
Blake Hutchins	\$260	Maura Roberts	\$275
Joshua Capp	\$220	Stefan Jacobson	\$220

Nancy Bish	\$185	Paula Peterman	\$180
Jordan Burroughs	\$160	Kevin Perry	\$180
Tracy Thomas	\$180	Liz Gilbert	\$185
Legal Assistants	\$75	Law Clerks	\$100
Other Paralegals	\$130	Other Non-attorney Staff	TBD

Time will be billed in increments of 1/10 of an hour. However, the Firm has spent years developing agreements, legal briefs, pleadings, and other documents, the value of which cannot be measured merely by the time it may take to adapt them to your Case. For this reason and others, certain services are set at certain minimum rates. The minimum rate for telephone calls is .2 hours, letters are .3 hours, and court documents are .5 hours. Client shall also reimburse Lawyer for all costs and expenses incurred on the Case including but not limited to, travel costs at the then-current IRS rate, telephone charges, copying costs, court fees, computer charges, and other expenses incurred on the Case. Except as and to the extent provided elsewhere herein, Lawyer shall bill Client monthly, and Client shall pay the sums due within thirty days from the statement date. The account shall be delinquent if not paid when due.

7. **Collection of Fees:** Lawyer shall have a lien on all papers, personal property and money of Client in Lawyer’s possession to secure payment of all sums due Lawyer. Lawyer may retain such items until paid and apply any Client’s money in Lawyer’s possession to the payments due Lawyer. Lawyer shall also have a lien against the Case to the extent permitted by law to secure payment of Lawyer’s fees and costs. Client shall pay Lawyer a late payment charge of 1.5% per month compounded monthly on all delinquent sums due Lawyer. In the event legal action is taken to collect any sums due Lawyer, the prevailing party shall be entitled to recover such party’s legal fees, costs and expenses in such action and any appeal. If Lawyer undertakes collection on its own behalf, Lawyer shall be entitled to recover legal fees for the attorney time spent by Lawyer on such collection, at Lawyer’s standard hourly rates, and the parties agree for all purposes that the lost economic opportunity represented by such time shall be treated as fees “incurred” by Lawyer. If both Client and Lawyer so agree, any disputes concerning the amount of fees shall be settled in accordance with the Rules of the Oregon State Bar on Mediation and Arbitration of Fee Disputes.

8. **Evergreen Retainer.** Client shall pay a retainer of \$10,000 before Lawyer may be required to perform any work on the Case, which sum Lawyer shall hold in trust and apply to Lawyer’s fees and costs as they become due. Client shall maintain in Lawyer’s trust account at all times the sums required by this paragraph, which sums may be applied by Lawyer to past and future fees and costs. However, if at any time the monthly bill for Lawyer’s fees and costs is 30 days or more past due without payment in full by Client, Lawyer may require the Client to bring the bill current and to pay, in addition to the foregoing sum, an additional retainer in the amount of \$5,000, not later than 14 days after the date Lawyer requests Client to pay such sum.

9. **Additional Pre-Trial Retainer.** Not later than seven weeks prior to any trial or hearing date, Client shall bring any outstanding balance current, and pay, in addition to any other retainer identified in the preceding Section, an additional retainer in the amount of \$10,000. Such additional retainer shall be held and may be applied as specified in the preceding Section.

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10. **Counterparts.** This agreement may be executed in any number of counterparts, each of which upon execution and delivery shall be considered an original for all purposes, and all of which together shall, upon execution and delivery, constitute one and the same instrument. An electronic or facsimile version of this executed agreement, including signatures inserted thereon by any electronic or facsimile means, shall be deemed to be an original agreement or signature, as the case may be, enforceable by and against any party hereto.

CITY OF LOWELL

THORP, PURDY, JEWETT,
URNESS & WILKINSON, P.C.

By: _____
Jeremy Caudle, City Administrator

By: _____
Stefan B. Jacobson

Dated _____, 2023

Dated _____, 2023