

**Lowell City Council  
Regular Meeting  
Tuesday, July 2 2024 at 7:00 pm**

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

**Members of the public may provide comment or testimony through the following:**

- Joining in person or by phone, tablet, or personal computer. For details, click on the event at <www.ci.lowell.or.us>.
- Mailing written comments to PO Box 490, Lowell, OR 97452 or delivering in person at Lowell City Hall located at 70 N. Pioneer St.
- By email to admin@ci.lowell.or.us.
- Comments received by 4:00 pm on the meeting date will be included in the record.

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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

Consent Agenda

Council members may request an item be removed from the Consent Agenda to be discussed as the first business item of the meeting.

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)

Staff Reports

Old Business

New Business

1. Motion to approve a Library Services and Technology Act grant agreement with the Oregon State Library in the amount of \$12,083 and to authorize the City Administrator to sign. – Discussion/ Possible action
2. Motion to approve payment in the amount of \$5,674.71 in workers compensation premiums to SAIF for the July 1, 2024 through July 1, 2025 plan year. – Discussion/ Possible action

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

3. Motion to approve a “Financial and accounting consultation services” agreement with Layli A. Nichols in the amount not to exceed \$37,106 and to authorize the City Administrator to sign. –Discussion/ Possible action
4. Motion to approve payment in the amount of \$5,506.56 to LiftOff, LLC for Microsoft licensing. – Discussion/ Possible action

### Other Business

### Mayor Comments

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

Adjourn the Regular Meeting.

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### **Executive Session Agenda**

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 during or following this executive session. For that reason, the City Council will adjourn immediately following the executive session and will not be returning to open session.

### Call to Order/Roll Call

Councilors: Mayor Bennett \_\_\_ Harris \_\_\_ Stratis \_\_\_ Weathers \_\_\_ Murray\_\_\_

### Executive Session:

This executive session is being held pursuant to ORS 192.660(2)(i) – to review and evaluate the employment-related performance of an employee who does not request an open hearing. – City Administrator performance evaluation

Adjourn the Executive Session

# Agenda Item Sheet

City of Lowell City Council

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Type of item:	Contract
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**Item title/recommended action:**

Motion to approve a Library Services and Technology Act grant agreement with the Oregon State Library in the amount of \$12,083 and to authorize the City Administrator to sign. – Discussion/ Possible action

**Justification or background:**

The Library Director applied for this grant in the spring, which will fund an oral history project. The project involves purchasing video equipment and editing software, as well as consulting services. By June 2025, the goal is to collect a minimum of 25 oral histories. Pages 11 and 12 of the agreement describe the project activities and budget.

**Budget impact:**

Receipt of \$12,083 for oral history project.

**Department or Council sponsor:**

Library Director

**Attachments:**

LSTA Grant Agreement

**Meeting date:** 07/02/2024

# **STATE LIBRARY OF OREGON**

## **LSTA GRANT AGREEMENT**

This Grant Agreement (“Grant”) is entered into by and between the State of Oregon acting by and through its State Library (“Agency”) and Maggie Osgood Library (“Grantee”), each a “Party” and, together, the “Parties”.

### **SECTION 1: AUTHORITY**

Pursuant to the federal Library Services and Technology Act (“LSTA”) program administered through the Institute of Museum and Library Services (“IMLS”), CFDA Award No. 45.310, and ORS 357.035, Agency is authorized to enter into a grant agreement and provide funding for the purposes described in this Grant.

### **SECTION 2: EFFECTIVE DATE AND DURATION**

When all Parties have executed this Grant, and all necessary approvals have been obtained (“Execution Date”), this Grant is effective and has a Grant funding start date as of July 1, 2024 (“Effective Date”), and, unless extended or terminated earlier in accordance with its terms, will expire on August 31, 2025.

### **SECTION 3: GRANT MANAGERS**

#### **3.1 Agency’s Grant Manager is:**

Buzzy Nielsen, Program Manager  
State Library of Oregon  
250 Winter St. NE  
Salem, OR 97301  
971-375-3486  
buzzy.nielsen@slo.oregon.gov

#### **3.2 Grantee’s Grant Manager is:**

Peggy O’Kane  
Maggie Osgood Library  
PO Box 490 , Lowell, OR 97452  
pokane@ci.lowell.or.us

A Party may designate a new Grant Manager by written notice to the other Party.

### **SECTION 4: PROJECT ACTIVITIES/PERFORMANCE PERIOD**

Grantee must perform the project activities set forth on Exhibit A (the “Project”), attached hereto and incorporated in this Grant by this reference, for the period beginning on the Effective Date and ending June 30, 2025 (the “Performance Period”).

## SECTION 5: GRANT FUNDS

In accordance with the terms and conditions of this Grant, Agency will provide Grantee up to \$12,083.00 (“Grant Funds”) for the Project. Agency will pay the Grant Funds from monies available through its federal LSTA awards for FFY 2023 and FFY 2024, CFDA No. 45.310 (“Funding Source”).

## SECTION 6: DISBURSEMENT GENERALLY

### 6.1 Disbursement.

- a. Subject to the availability of sufficient moneys in and from the Funding Source, Agency will disburse Grant Funds to Grantee for the allowable Project activities described in Exhibit A that are undertaken during the Performance Period.
- b. Grantee must provide to Agency any information or detail regarding the expenditure of Grant Funds required under Exhibit A prior to disbursement or as Agency may request.
- c. Agency will only disburse Grant Funds to Grantee for activities completed or materials produced, that, if required by Exhibit A, are approved by Agency. If Agency determines any completed Project activities or materials produced are not acceptable and any deficiencies are the responsibility of Grantee, Agency will prepare a detailed written description of the deficiencies within 15 days of receipt of the materials or performance of the activity and will deliver such notice to Grantee. Grantee must correct any deficiencies at no additional cost to Agency within 15 days. Grantee may resubmit a request for disbursement that includes evidence satisfactory to Agency demonstrating deficiencies were corrected.
- d. **Conditions Precedent to Disbursement.** Agency’s obligation to disburse Grant Funds to Grantee under this Grant is subject to satisfaction of each of the following conditions precedent:
  - (i) Agency has received sufficient funding, appropriations, expenditure limitation, allotments or other necessary expenditure authorizations to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement from the Funding Source;
  - (ii) No default as described in Section 13 has occurred; and
  - (iii) Grantee’s representations and warranties set forth in Section 7 are true and correct on the date of disbursement(s) with the same effect as though made on the date of disbursement.

**6.2 No Duplicate Payment.** Grantee may use other funds in addition to the Grant Funds to complete the Project; provided, however, the Grantee may not credit or pay any Grant Funds for Project costs that are paid for with other funds and would result in duplicate funding.

## SECTION 7: REPRESENTATIONS AND WARRANTIES

**7.1 Organization/Authority.** Grantee represents and warrants to Agency that:

- a. Grantee is a unit of local government, duly organized and validly existing;
- b. Grantee has all necessary rights, powers and authority under any organizational documents and under Oregon Law to (i) execute this Grant, (ii) incur and perform its obligations under this Grant,

and (iii) receive financing, including the Grant Funds, for the Project;

**c.** This Grant has been duly executed by Grantee and when executed by Agency, constitutes a legal, valid and binding obligation of Grantee enforceable in accordance with its terms;

**d.** If applicable and necessary, the execution and delivery of this Grant by Grantee has been authorized by an ordinance, order or resolution of its governing body, or voter approval, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings; and

**e.** There is no proceeding pending or threatened against Grantee before any court of governmental authority that if adversely determined would materially adversely affect the Project or the ability of Grantee to carry out the Project.

**7.2 False Claims Act.** Grantee acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) made by (or caused by) Grantee that pertains to this Grant or to the Project. Grantee certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Grantee further acknowledges in addition to the remedies under Section 14, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Grantee. Agency acknowledges that Grantee’s acknowledgment under this section does not create any additional claims or causes of action beyond the claims that may be asserted under the Oregon False Claims Act.

**7.3 No limitation.** The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Grantee.

## **SECTION 8: OWNERSHIP**

**8.1 Intellectual Property Definitions.** As used in this Section and elsewhere in this Grant, the following terms have the meanings set forth below:

“Grantee Intellectual Property” means any intellectual property owned by Grantee and developed independently from the Project.

“Third Party Intellectual Property” means any intellectual property owned by parties other than Grantee or Agency.

“Work Product” means all materials and content Grantee creates under the Project.

**8.2 Grantee Ownership.** Grantee must deliver copies of all Work Product as directed in Exhibit A. Grantee retains ownership of the Work Product and is free to seek copyright registrations for the Work Product. Grantee grants to Agency and the IMLS a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the Work Product for government purposes.

**8.3 Third Party Ownership.** If the Work Product created by Grantee under this Grant is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee must secure an irrevocable, non-exclusive, perpetual, royalty-free

license allowing Agency, the IMLS and other entities the same rights listed above for the pre-existing element of the Third party Intellectual Property employed in the Work Product. If state or federal law requires that Agency or Grantee grant to another agency of the United States a license to any intellectual property in the Work Product, or if state or federal law requires Agency or the United States to own the intellectual property in the Work Product, then Grantee must execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

## **SECTION 9: INDEMNITY/LIABILITY**

- 9.1 Indemnity.** Grantee must defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including attorneys' fees, resulting from, arising out of, or relating to the activities of Grantee or its officers, employees, subgrantees, contractors, subcontractors, or agents under this Grant (each of the foregoing individually or collectively a "Claim" for purposes of this Section). If legal limitations apply to the indemnification ability of Grantee, this indemnification must be for the maximum amount of funds available for expenditure, including any available contingency funds, insurance, funds available under ORS 30.260 to 30.300 or other available non-appropriated funds.
- 9.2 Defense.** Grantee may have control of the defense and settlement of any Claim subject to this Section. But neither Grantee nor any attorney engaged by Grantee may defend the Claim in the name of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon. Nor may Grantee settle any Claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event the State of Oregon determines Grantee is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or an important governmental principle is at issue and the State of Oregon desires to assume its own defense. Grantee may not use any Grant Funds to reimburse itself for the defense of or settlement of any Claim.
- 9.3 Limitation.** Except as provided in this Section, neither Party will be liable for incidental, consequential, or other direct damages arising out of or related to this Grant, regardless of whether the damages or other liability is based in contract, tort (including negligence), strict liability, product liability or otherwise. Neither party will be liable for any damages of any sort arising solely from the termination of this Grant in accordance with its terms.

## **SECTION 10: INSURANCE**

- 10.1 Workers' Compensation.** If Grantee employs subject workers, as defined in ORS 656.027, Grantee must comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Grantee must require and ensure each of its subgrantees, contractors and subcontractors complies with these requirements. If Grantee is a subject employer, as defined in ORS 656.023, Grantee must also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Grantee

is an employer subject to any other state's workers' compensation law, Grantee must provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and must require and ensure each of its out-of-state subgrantees, contractors and subcontractors complies with these requirements.

**10.2 Private Insurance.** If Grantee is a private entity, or if any contractors, subcontractors, or subgrantees used to carry out the Project are private entities, Grantee and any private contractors, subcontractors or subgrantees must obtain and maintain insurance covering Agency in the types and amounts indicated in Exhibit B.

**10.3 Public Body Insurance.** If Grantee is a "public body" as defined in ORS 30.260, Grantee agrees to insure any obligations that may arise for Grantee under this Grant, including any indemnity obligations, through (i) the purchase of insurance as indicated in Exhibit B or (ii) the use of self-insurance or assessments paid under ORS 30.282 that is substantially similar to the types and amounts of insurance coverage indicated on Exhibit B, or (iii) a combination of any or all of the foregoing.

## **SECTION 11: GOVERNING LAW, JURISDICTION**

This Grant is 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 Agency or any other agency or department of the State of Oregon, or both, and Grantee that arises from or relates to this Grant must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event may 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, to or from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS GRANT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.

## **SECTION 12: ALTERNATIVE DISPUTE RESOLUTION**

The Parties should attempt in good faith to resolve any dispute arising out of this Grant. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Grant. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each Party will bear its own costs incurred for any mediation or non-binding arbitration.

## **SECTION 13: DEFAULT**

**13.1 Grantee.** Grantee will be in default under this Grant upon the occurrence of any of the following events:

- a. Grantee fails to use the Grant Funds for the intended purpose described in Exhibit A or otherwise fails to perform, observe or discharge any of its covenants, agreements or obligations under this



Grant;

- b.** Any representation, warranty or statement made by Grantee in this Grant or in any documents or reports relied upon by Agency to measure the Project, the expenditure of Grant Funds or the performance by Grantee is untrue in any material respect when made;
- c.** A petition, proceeding or case is filed by or against Grantee under any federal or state bankruptcy, insolvency, receivership or other law relating to reorganization, liquidation, dissolution, winding-up or adjustment of debts; in the case of a petition filed against Grantee, Grantee acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal; or Grantee becomes insolvent or admits its inability to pay its debts as they become due, or Grantee makes an assignment for the benefit of its creditors.

**13.2 Agency.** Agency will be in default under this Grant if, after 15 days written notice specifying the nature of the default, Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Grant; provided, however, Agency will not be in default if Agency fails to disburse Grant funds because there is insufficient expenditure authority for, or moneys available from, the Funding Source.

## **SECTION 14: REMEDIES**

**14.1 Agency Remedies.** In the event Grantee is in default under Section 13.1, Agency may, at its option, pursue any or all of the remedies available to it under this Grant and at law or in equity, including, but not limited to:

- a.** termination of this Grant under Section 16.2;
- b.** reducing or withholding payment for Project activities or materials that are deficient or Grantee has failed to complete by any scheduled deadlines;
- c.** requiring Grantee to complete, at Grantee's expense, additional activities necessary to satisfy its obligations or meet performance standards under this Grant,
- d.** initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief;
- e.** exercise of its right of recovery of overpayments under Section 15 of this Grant or setoff, or both, or
- f.** declaring Grantee ineligible for the receipt of future awards from Agency.

These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

**14.2 Grantee Remedies.** In the event Agency is in default under Section 13.2 and whether or not Grantee elects to terminate this Grant, Grantee's sole monetary remedy will be, within any limits set forth in this Grant, reimbursement of Project activities completed and accepted by Agency and authorized expenses incurred, less any claims Agency has against Grantee. In no event will Agency be liable to

Grantee for any expenses related to termination of this Grant or for anticipated profits.

## **SECTION 15: WITHHOLDING FUNDS, RECOVERY**

Agency may withhold from disbursements of Grant Funds due to Grantee, or Grantee must return to Agency within 30 days of Agency's written demand:

- a.** Any Grant Funds paid to Grantee under this Grant or payments made under any other agreement between Agency and Grantee, that exceed the amount to which Grantee is entitled;
- b.** Any Grant Funds received by Grantee that remain unexpended or contractually committed for payment of the Project at the end of the Performance Period;
- c.** Any Grant Funds determined by Agency to be spent for purposes other than allowable Project activities; or
- d.** Any Grant Funds requested by Grantee as payment for deficient activities or materials.

## **SECTION 16: TERMINATION**

**16.1 Mutual.** This Grant may be terminated at any time by mutual written consent of the Parties.

**16.2 By Agency.** Agency may terminate this Grant as follows:

At Agency's discretion, upon 30 days advance written notice to Grantee:

- a.** Immediately upon written notice to Grantee, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Grant;
- b.** Immediately upon written notice to Grantee, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Grant is prohibited or Agency is prohibited from funding the Grant from the Funding Source; or
- c.** Immediately upon written notice to Grantee, if Grantee is in default under this Grant and such default remains uncured 15 days after written notice thereof to Grantee.

**16.3 By Grantee.** Grantee may terminate this Grant as follows:

- a.** If Grantee is a governmental entity, immediately upon written notice to Agency, if Grantee fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to perform its obligations under this Grant.
- b.** If Grantee is a governmental entity, immediately upon written notice to Agency, if applicable laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project activities contemplated under this Grant are prohibited by law or Grantee is prohibited from paying for the Project from the Grant Funds or other planned Project funding; or
- c.** Immediately upon written notice to Agency, if Agency is in default under this Grant and such default remains uncured 15 days after written notice thereof to Agency.

**16.4 Cease Activities.** Upon receiving a notice of termination of this Grant, Grantee must immediately cease all activities under this Grant, unless Agency expressly directs otherwise in such notice. Upon termination, Grantee must deliver to Agency all materials or other property that are or would be

required to be provided to Agency under this Grant or that are needed to complete the Project activities that would have been performed by Grantee.

## **SECTION 17: MISCELLANEOUS**

- 17.1 Conflict of Interest.** Grantee by signature to this Grant declares and certifies the award of this Grant and the Projects activities to be funded by this Grant, create no potential or actual conflict of interest, as defined by ORS Chapter 244, for a director, officer or employee of Grantee.
- 17.2 Nonappropriation.** Agency's obligation to pay any amounts and otherwise perform its duties under this Grant is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Grant. Nothing in this Grant may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.
- 17.3 Amendments.** The terms of this Grant may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.
- 17.4 Notice.** Except as otherwise expressly provided in this Grant, any notices to be given under this Grant must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Grant Manager at the physical address or email address set forth in this Grant, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.
- 17.5 Survival.** All rights and obligations of the Parties under this Grant will cease upon termination of this Grant, other than the rights and obligations arising under Sections 9, 11, 12, 14, 15, 16 and subsection 17.5 hereof and those rights and obligations that by their express terms survive termination of this Grant; provided, however, termination of this Grant will not prejudice any rights or obligations accrued to the Parties under this Grant prior to termination.
- 17.6 Severability.** The Parties agree if any term or provision of this Grant 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 will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Grant did not contain the particular term or provision held to be invalid.
- 17.7 Counterparts.** This Grant may be executed in several counterparts, all of which when taken together constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Grant so executed constitutes an original.
- 17.8 Compliance with Law.** In connection with their activities under this Grant, the Parties must comply with all applicable federal, state and local laws.
- 17.9 Intended Beneficiaries.** Agency and Grantee are the only parties to this Grant and are the only parties entitled to enforce its terms. Nothing in this Grant provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons

are individually identified by name herein and expressly described as intended beneficiaries of this Grant.

- 17.10 Assignment and Successors.** Grantee may not assign or transfer its interest in this Grant without the prior written consent of Agency and any attempt by Grantee to assign or transfer its interest in this Grant without such consent will be void and of no force or effect. Agency's consent to Grantee's assignment or transfer of its interest in this Grant will not relieve Grantee of any of its duties or obligations under this Grant. The provisions of this Grant will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.
- 17.11 Contracts and Subgrants.** Grantee may not, without Agency's prior written consent, enter into any contracts or subgrants for any of the Project activities required of Grantee under this Grant. Agency's consent to any contract or subgrant will not relieve Grantee of any of its duties or obligations under this Grant.
- 17.12 Time of the Essence.** Time is of the essence in Grantee's performance of the Project activities under this Grant.
- 17.13 Records Maintenance and Access.** Grantee must maintain all financial records relating to this Grant in accordance with generally accepted accounting principles. In addition, Grantee must maintain any other records, whether in paper, electronic or other form, pertinent to this Grant in such a manner as to clearly document Grantee's performance. All financial records and other records, whether in paper, electronic or other form, that are pertinent to this Grant, are collectively referred to as "Records." Grantee acknowledges and agrees Agency, the Oregon Secretary of State's Office, and the federal government, including IMLS, and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Grantee must retain and keep accessible all Records for a minimum of ten (10) years, or such longer period as may be required by applicable law, following termination of this Grant, or until the conclusion of any audit, controversy or litigation arising out of or related to this Grant, whichever date is later.
- 17.14 Headings.** The headings and captions to sections of this Grant have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Grant.
- 17.15 Grant Documents.** This Grant consists of the following documents, which are incorporated by this reference and listed in descending order of precedence:
- This Grant less all exhibits
  - Exhibit C (Federal Terms and Conditions)
  - Exhibit A (the "Project")
  - Exhibit B (Insurance)
  - Exhibit D (Federal Award Identification)
- 17.16 Merger, Waiver.** This Grant and all exhibits and attachments, if any, 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 Grant. No waiver or consent under this Grant binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

## SECTION 18: SIGNATURES

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions. By its signature below, Agency certifies that the Project is necessary and essential for activities that are properly within the statutory functions of Agency, and that the arrangements and payments contracted for are in compliance with the provisions for programs of the Institute of Museum and Library Services, Library Services and Technology Act, 20 USC 9121, and the Oregon LSTA 5-year State Plan.

IN WITNESS WHEREOF, the Parties have executed this Grant as of the dates set forth below.

### STATE OF OREGON acting by and through its State Library

By: Buz Nielsen 5/16/2024  
*Authorized Signature* *Date*  
Buzzy Nielsen, Program Manager for Library Support  
*Printed Name, Title*

### Maggie Osgood Library

Federal Tax ID Number: 93-6011170

By: \_\_\_\_\_  
*Authorized Signature* *Date*  
\_\_\_\_\_  
*Printed Name, Title*

### Approved for Legal Sufficiency in accordance with ORS 291.047

By: Cynthia Byrnes, Oregon Department of Justice May 13, 2019  
Name, Title Date

# EXHIBIT A

## THE PROJECT

### SECTION I – PROJECT SERVICES/PROMOTIONS

Grantee agrees that any and all:

(i) library services directly supported, in whole or in part, by Grant Funds will be provided free of charge to all persons residing in the community, district or region from which Grantee receives its financial support and

(ii) all grant publicity and products resulting from the activities supported, in whole or in part, by this Grant will contain acknowledgment as indicated at

<https://libguides.osl.state.or.us/lstagrants/acknowledgment>.

### SECTION II – PERFORMANCE PERIOD

Agency will disburse Grant Funds only for the costs of Project activities that occur, including expenses incurred, during the Performance Period. Grantee shall complete all purchases, including installation, funded under this Grant prior to the end of the Performance Period. If local circumstances prevent purchase, installation, or construction by the specified date, Grantee will notify Agency in writing of the circumstances regarding the delay. Such notification must be received at least forty-five (45) days prior to the expiration of the Performance Period. Agency will consider amending this Grant to extend time in extenuating circumstances.

### SECTION III – PROJECT ACTIVITIES AND BUDGET

**Project Title:** Capturing the Stories of Lowell and the Surrounding Area

**Project Description:** Expand the Maggie Osgood Library Digital Repository to include oral histories and bring the stories of Lowell and surrounding unincorporated areas to life.

**Project Activities:**

- Hire a consultant and train volunteers to collect oral histories in video and/or audio format.
- Hire a contractor to create transcripts of the interviews.
- Add a minimum of 12 oral histories including transcriptions to MOLDR by June 2025.

## Project Budget:

Budget category	LSTA funds FFY2023	LSTA funds FFY2024	Description
Salary/wages/benefits	\$0.00	\$0.00	
Consultant fees	\$0.00	\$7,500.00	Oral history consultant
Travel	\$0.00	\$500.00	Oral history consultant travel
Supplies/materials	\$2,658.00	\$0.00	Video recorder and accessories, tripod, audio recorder and accessories, storage bags, editing programs, external hard drives
Equipment	\$0.00	\$0.00	
Services	\$0.00	\$1,425.00	Transcription
Indirect costs	\$0.00	\$0.00	
<b>Project total</b>	<b>\$2,658.00</b>	<b>\$9,425.00</b>	

Grantee may expend Grant Funds that differ from the amounts shown for each category or line item shown in the Project Budget shown in this Exhibit A (the "Budget") by up to and including 10% without the prior consent of Agency's Grant Manager, and Grantee may expend Grant Funds that differ from the amounts shown for each category or line item in the Budget by more than 10% with the prior written approval of Agency's Grant Manager, as long as the total amount expended for all Project activities paid for with Grant Funds does not exceed the amount identified in Section 5 of this Grant. Any adjustments that result in an increase to the amount identified in Section 5 may not be done without an amendment to this Grant.

## SECTION IV - PROGRESS REPORTS

**Progress Reports.** Grantee shall provide Agency with three (3) Grant Activity Reports and one (1) Final Grant Activity Report on forms supplied by Agency in accordance with the following schedule.

<i>Report</i>	<i>Due Date</i>
July 1, 2024 to August 31, 2024	September 15, 2024
September 1, 2024 to December 31, 2025	January 31, 2025
January 1, 2025 to March 31, 2025	April 30, 2025
Final report	July 31, 2025

Agency reserves the right to request such additional information as may be necessary to comply with federal or state reporting requirements.

If the Performance Period begins prior to the Executed Date of this Grant, any reports for Project activities shown below as due prior to the Executed Date shall be provided to Grantee within 30 days of the Executed Date, if not already provided to Agency despite the lack of an executed Grant. Grantee will not be in default for failure to perform any reporting requirements prior to the Executed Date.

**SECTION V – CLAIMS FOR REIMBURSEMENT**

For FFY2023 funds, grantee agrees to provide Agency with one (1) claim for reimbursement using forms supplied by Agency in accordance with the following schedule:

<i>Grant Expenditure Period</i>	<i>Due Date</i>
July 1, 2024 to August 31, 2024	September 15, 2024

For FY2024 funds, grantee agrees to provide Agency with three (3) claims for reimbursement using forms supplied by Agency in accordance with the following schedule:

<i>Grant Expenditure Period</i>	<i>Due Date</i>
September 1, 2024 to December 31, 2025	January 31, 2025
January 1, 2025 to March 31, 2025	April 30, 2025
April 1, 2025 to June 30, 2025	July 31, 2025

Disbursements shall be made by Agency within 30 days of Agency’s approval of a request for reimbursement or advance from Grantee using a format that is acceptable to Agency. Funds shall be expended by Grantee within 29 days of disbursement from Agency.



# **EXHIBIT B INSURANCE**

## **INSURANCE REQUIREMENTS**

Grantee must obtain at Grantee's expense, and require its first tier contractors and subgrantees, if any, to obtain the insurance specified in this exhibit prior to performing under this Grant, and must maintain it in full force and at its own expense throughout the duration of this Grant, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Grantee must obtain and require its first tier contractors and subgrantees, if any, to obtain the following insurance from insurance companies or entities acceptable to Agency and authorized to transact the business of insurance and issue coverage in Oregon. Coverage must be primary and non-contributory with any other insurance and self-insurance, with the exception of professional liability and workers' compensation. Grantee must pay and require its first tier contractors and subgrantees to pay, if any, for all deductibles, self-insured retention and self-insurance, if any.

### **COMMERCIAL GENERAL LIABILITY**

Required  Not required

Commercial general liability insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to Agency. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Grant, and have no limitation of coverage to designated premises, project or operation. Coverage must be written on an occurrence basis in an amount of not less than \$\_\_\_\_\_ per occurrence. Annual aggregate limit may not be less than

\$\_\_\_\_\_.

### **AUTOMOBILE LIABILITY INSURANCE**

Required  Not required

Automobile liability insurance covering Grantee's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$\_\_\_\_\_ for bodily injury and property damage. This coverage may be written in combination with the commercial general liability insurance (with separate limits for commercial general liability and automobile liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

### **PROFESSIONAL LIABILITY**

Required  Not required

Professional liability insurance covering any damages caused by an error, omission or any negligent acts related to the activities performed under this Grant by the Grantee and Grantee's contractors, subgrantees, agents, officers or employees in an amount not less than \$\_\_\_\_\_ per claim. Annual aggregate limit may not be less than \$\_\_\_\_\_. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months must be included in the professional liability

insurance coverage, or the Grantee must provide tail coverage as stated below.

### **NETWORK SECURITY AND PRIVACY LIABILITY**

Required  Not required

Grantee must provide network security and privacy liability insurance for the duration of the Grant and for the period of time in which Grantee (or its business associates, contractors, or subgrantees) maintains, possesses, stores or has access to Agency or client data, whichever is longer, with a combined single limit of no less than \$\_\_\_\_\_ per claim or incident. This insurance must include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of Agency or client data (which may include, but is not limited to, Personally Identifiable Information (“PII”), payment card data and Protected Health Information (“PHI”)) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of Agency data.

### **POLLUTION LIABILITY**

Required  Not required

Pollution liability insurance covering Grantee’s or appropriate contractor or subgrantee’s liability for bodily injury, property damage and environmental damage resulting from sudden, accidental, or gradual pollution and related cleanup costs incurred by Grantee, all arising out of the Project activities (including transportation risk) performed under this Grant is required. Combined single limit per occurrence may not be less than \$\_\_\_\_\_. Annual aggregate limit may not be less than \$\_\_\_\_\_.

An endorsement to the commercial general liability or automobile liability policy, covering Grantee’s, contractor, or subgrantee’s liability for bodily injury, property damage and environmental damage resulting from sudden, accidental, or gradual pollution and related clean-up costs incurred by Grantee that arise from the Project activities (including transportation risk) performed by Grantee under this Grant is also acceptable.

### **EXCESS/UMBRELLA INSURANCE**

A combination of primary and excess/ umbrella insurance may be used to meet the required limits of insurance.

### **ADDITIONAL INSURED**

All liability insurance, except for workers’ compensation, professional liability, and network security and privacy liability (if applicable), required under this Grant must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Grantee’s activities to be performed under this Grant. Coverage must be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Grantee’s ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

### **WAIVER OF SUBROGATION**

Grantee waives, and must require its first tier contractors or subgrantees waive, rights of subrogation

which Grantee, Grantee's first tier contractor and subgrantee, if any, or any insurer of Grantee may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Grantee must obtain, and require its first tier contractors or subgrantees to obtain, any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Grantee or the Grantee's insurer(s).

### **TAIL COVERAGE**

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Grantee must maintain, and require its first tier contractors or subgrantees, if any, 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 this Grant, for a minimum of 24 months following the later of (i) Grantee's completion and Agency's acceptance of all Project activities required under this Grant, or, (ii) Agency or Grantee termination of Grant, or, (iii) the expiration of all warranty periods provided under this Grant.

### **CERTIFICATE(S) AND PROOF OF INSURANCE**

Grantee must provide to Agency's Grant Manager Certificate(s) of Insurance for all required insurance before performing any Project activities required under this Grant. The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Grant. If excess/ umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/ umbrella insurance. As proof of insurance, Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Grant. Grantee must furnish acceptable insurance certificates to: \_\_\_\_\_ **or by mail to Agency's Contract Manager** prior to commencing the work.

### **NOTICE OF CHANGE OR CANCELLATION**

Grantee or its insurer must provide at least 30 days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

### **INSURANCE REQUIREMENT REVIEW**

Grantee agrees to periodic review of insurance requirements by Agency under this Grant, and to provide updated requirements as mutually agreed upon by Grantee and Agency.

### **STATE ACCEPTANCE**

All insurance providers are subject to Agency acceptance. If requested by Agency, Grantee must provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this exhibit.

### **DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY**

Required  Not required

Directors, officers and organization liability insurance covering the Grantee's Organization, Directors, Officers, and Trustees actual or alleged errors, omissions, negligent, or wrongful acts, including improper governance, employment practices and financial oversight - including improper oversight and/or use of Grant Funds and donor contributions - with a combined single limit of no less than \$\_\_\_\_\_ per claim.

**CRIME PROTECTION COVERAGE: EMPLOYEE DISHONESTY or FIDELITY BOND**

Required  Not required

Employee dishonesty or fidelity bond covering loss of money, securities and property caused dishonest acts of Grantee's employees. Coverage limits may not be less than \$\_\_\_\_\_.

**PHYSICAL ABUSE AND MOLESTATION INSURANCE COVERAGE:**

Required  Not required

Abuse and molestation insurance in a form and with coverage satisfactory to the State covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee, its contractors, subcontractors or subgrantees ("Covered Entity") is responsible including but not limited to any Covered Entity's employees and volunteers. Policy endorsement's definition of an insured must include the Covered Entity and its employees and volunteers. Coverage must be written on an occurrence basis in an amount of not less than \$\_\_\_\_\_ per occurrence. Any annual aggregate limit may not be less than \$\_\_\_\_\_ Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits must be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, must be treated as a separate occurrence for each victim. Coverage must include the cost of defense and the cost of defense must be provided outside the coverage limit.

# EXHIBIT C

## FEDERAL TERMS AND CONDITIONS

### 1. FEDERAL FUNDS

1.1 If specified below, Agency's payments to Grantee under this Grant will be paid in whole or in part by funds received by Agency from the United States Federal Government. If so specified then Grantee, by signing this Grant, certifies neither it nor its employees, contractors, subcontractors or subgrantees who will perform the Project activities are currently employed by an agency or department of the federal government.

Payments  will  will not be made in whole or in part with federal funds.

1.2 In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, Agency has determined:

Grantee is a sub-recipient       Grantee is a contractor       Not applicable

1.3 Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Grant: 45.310

### 2. FEDERAL PROVISIONS

Grantee and Grantee's sub-recipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements including but not limited to:

(i) if Grantee is a local government, provisions of the Library Services and Technology Act, 20 USC 9121 and the Uniform Administrative Requirements for Grants and Cooperative Agreement to State and Local Government of the National Foundation on the Arts and Humanities, 45 CFR 1183; and

(ii) if Grantee is a university, the Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Educations, Hospitals and Non-Profit Organizations.

Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and the Grant Funds:

For purposes of these provisions, the following definitions apply:

**A. Miscellaneous Federal Provisions.** Grantee shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Grant or to the Project activities. Without limiting the generality of the foregoing, Grantee expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Grant: (a) Title VI and VII of the Civil Rights Act of 1964, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, (c) the Age Discrimination in Employment Act of 1967, and the Age Discrimination Act of 1975, (d) Title IX of the Education Amendment of 1972, (e) the Drug Abuse Office and Treatment Act of 1972, (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (g) Section 523 and 527 of the Public Health Service Act of 1912, (h) Title VIII of the Civil Rights act of 1968, (i) the Hatch Act (U.S.C. 1501-1508 ad 7328), (j) Davis-Bacon Act (40 U.S.C.

276a to 276a7), (k) the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), (l) the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), (m) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to this Grant and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.

- B. Equal Employment Opportunity.** If this Grant, including amendments, is for more than \$10,000, then Grantee shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended.
- C. Clean Air, Clean Water, EPA Regulations.** If this Grant, including amendments, exceeds \$150,000 then Grantee shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to Agency, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Grantee shall include and require all subcontractors to include in all contracts with subcontractors receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.
- D. Other Environmental Standards.** Grantee shall comply and require all subcontractors to comply with all applicable environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order 11514; (b) protection of wetlands pursuant to Executive Order 11990; (c) evaluation of flood hazards in flood plains in accordance with Executive Order 11988; (d) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.); (e) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (f) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (g) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
- E. Energy Efficiency.** Grantee shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
- F. Truth in Lobbying. RESERVED (see Grantee certificate)**
- G. Audits.**
  - i.** Grantee shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Grant and applicable state or federal

law.

- ii. If Grantee receives federal awards in excess of \$750,000 in a fiscal year, Grantee is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Copies of all audits must be submitted to Agency within 30 days of completion.
- iii. Grantee shall save, protect and hold harmless the State of Oregon from the cost of any audits or special investigations performed by the Secretary of State or the Federal government with respect to the funds expended under this Grant. Grantee acknowledges and agrees that any audit costs incurred by Grantee as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Grantee and State.

**H. Debarment and Suspension.** Grantee shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

**I. Drug-Free Workplace.** Grantee shall comply and cause all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) Grantee certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Grantee's workplace or while providing services to Agency clients. Grantee's notice shall specify the actions that will be taken by Grantee against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Grantee's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Grant a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Grant, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify Agency within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subcontractor to

comply with subparagraphs (i) through (vii) above; (ix) Neither Grantee, or any of Grantee's employees, officers, agents or subcontractors may provide any service required under this Grant while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Grantee or Grantee's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Grantee or Grantee's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to Agency clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of the Grant.

**J. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Project activities under this Grant, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. Grantee agrees that it has been provided the following notice:

- i.** The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
  - a.** The copyright in any Work developed under a grant, subgrant or contract under a grant or subgrant; and
  - b.** Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- ii.** The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."
- iii.** The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or contract under a grant or subgrant

**K. Super Circular Requirements.** 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, including but not limited to the following:

- i. Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

**(a) Time for Performance.** Grantee shall complete all purchases, including



installation, funded under this Agreement prior to the expiration date of this Agreement. If local circumstances prevent purchase, installation, or construction by the specified date, Grantee will notify Agency in writing of the circumstances regarding the delay. Such notification must be received at least forty-five (45) days prior to the expiration of the Agreement. Agency will consider amending this Agreement to extend time in extenuating circumstances.

**(b) Property Purchased.** Grantee shall maintain inventory records of tangible, non-expendable, personal property purchased with Grant Funds that have a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. Grantee shall report the purchase of such property to Agency on a form supplied by Agency within thirty (30) days following the receipt of such property. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years. Title to all property purchased with Grant Funds must vest in Grantee. Grantee shall dispose of any non-expendable personal property in accordance with federal requirements and procedures of the State, including filing a disposition report for all such property.

- ii. Procurement Standards.** When procuring goods or services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C or 2 CFR §§ 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.
- iii. Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of Grantee, and Grantee shall also include these contract provisions in its contracts with non-Federal entities.
- L. Whistleblower.** Grantee shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Pilot Program for Enhancement of Employee Whistleblower Protection.

**CERTIFICATIONS REGARDING: NONDISCRIMINATION; DEBARMENT AND SUSPENSION;  
FEDERAL DEBT STATUS; LOBBYING; TRAFFICKING IN PERSONS; CIPA; CONFLICT OF INTEREST**

**1. Nondiscrimination**

Grantee shall comply with Title VI of the Civil Rights Act of 1964 (78 State 252, 42 U.S.C. § 2000d). Grantee shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Grantee will report to State on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.

- a. Grantee shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any Grant Funds assisted contract or in the administration of the Project. Failure by Grantee to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the Grantee deems appropriate.
- b. Grantee must include the language in (a), above, in each sub-agreement Grantee signs with a subcontractor or sub-recipient.

**2. Certification Regarding Lobbying Activities (Applies to Applicants Requesting Funds in Excess of \$100,000) (31 U.S.C. § 1352)**

Grantee's authorized representative certifies, to the best of his or her knowledge and belief, that:

- a. No Library Services and Technology Act ("LSTA") funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into of a cooperative agreement, or the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, Grantee shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

- b. No LSTA funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any state agency, member of the legislature, an officer or employee of the legislature, or an employee of a member of the legislature in connection with legislative action through oral or written communication with state legislative officials, or solicitation of others to influence or attempt to influence legislative action.

**c.** No LSTA or other federal funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any county, district, or city agency, in connection with legislative action through oral or written communication with officials, or solicitation of others to influence or attempt to influence legislative action. LSTA funds will not be used for costs to:

**(i)** draft legislation or resolutions

**(ii)** travel to meetings of governmental bodies to urge passage of legislation or resolutions

**(iii)** survey voters regarding passage and drafting of legislation or resolutions

**d.** Grantee shall require the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.

**e.** This certification is a material representation of fact upon which reliance was placed when this Grant was made or entered into. Submission of this certification is a prerequisite for making or entering into this Grant imposed by Section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**f.** No part of any federal funds paid to Grantee under this Grant shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

**g.** No part of any federal funds paid to Grantee under this Grant shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

**h.** The prohibitions in subsections (f) and (g) of this Section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

**i.** No part of any federal funds paid to Grantee under this Grant may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules

of controlled substances established under Section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

### 3. Trafficking in Persons

The authorized representative, on behalf of the Grantee or its fiscal agent, if any, certifies to the best of his or her knowledge and belief that neither the Grantee or its fiscal agent, if any,:

- (i) engages in trafficking in persons, procures a commercial sex act, or uses forced labor
- (ii) procures a commercial sex act during the period of time that the award is in effect
- (iii) uses forced labor in the performance of the Grant

**THE UNDERSIGNED SHALL REQUIRE THAT THE LANGUAGE OF THIS CERTIFICATION BE INCLUDED IN THE AWARD DOCUMENTS FOR ALL SUB-AWARDS (INCLUDING SUBCONTRACTS, AND SUB-GRANTS) AND THAT ALL SUB-RECIPIENTS SHALL CERTIFY ACCORDINGLY.**

### 4. Federal Debt Status

The authorized representative, on behalf of the Grantee or its fiscal agent, if any, certifies to the best of his or her knowledge and belief that the Grantee or its fiscal agent, if any, is not delinquent in the repayment of any Federal debt.

### 5. Children's Internet Protection Act (CIPA)

Public and public/school library grantees, and consortia with public or school members **must** check one of the options below (a, b, or c). CIPA requirements are not applicable to all other types of grantees.

- a.  The applicant public or public/school library has complied with the requirements of Section 9134(f)(1) of the Library Services and Technology Act. Every computer connecting to the Internet, public and staff, is filtered. The filter can be disabled upon request of adults.
- b.  **(for consortia only)** Prior to using any LSTA funds to purchase computers used to access the Internet or to pay for direct costs associated with accessing the Internet for a public library or a public/school library, the applicant consortium or group will collect and retain a duly completed Internet Safety Certification from every constituent public library or public/school library in accordance with requirements of Section 9134(f) of the Library Services and Technology Act. Every computer connecting to the Internet, public and staff, is filtered. The filter can be disabled upon request of adults.
- c.  The requirements of Section 9134(f) of the Library Services and Technology Act do not apply to the applicant library because it is an academic or special library or no funds made available under the LSTA program will be used to purchase computers used to access the Internet or to pay for direct costs associated with accessing the Internet for a public library or public/school library that does not receive discounted E-Rate

services under the Communications Act of 1934, as amended.

## 6. Conflict of Interest

The grantee and its fiscal agent (if different):

- shall not hold financial interests that conflict with the conscientious performance of duty;
- shall not engage in financial transactions using nonpublic government information or allow the improper use of such information to further any private interest.
- shall not, but for exceptions allowed by regulations, solicit any gift or other item of monetary value from any person or entity seeking official action from the IMLS or State Library of Oregon;
- shall put forth honest effort in the performance of the grant;
- shall make no unauthorized commitments or promises of any kind purporting to bind the Government;
- shall act impartially and not give preferential treatment to any private organization or individual;
- shall protect and conserve Federal property and shall not use it for other than authorized activities;
- shall disclose waste, fraud, abuse, and corruption to appropriate authorities;
- shall endeavor to avoid any actions creating the appearance that you are violating the law or the ethical standards.

In the event of a conflict of interest, please contact Buzzy Nielsen at [buzzy.nielsen@slo.oregon.gov](mailto:buzzy.nielsen@slo.oregon.gov).

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

This certification is a material representation of fact on which the State Library of Oregon relied when it made or entered into this grant or cooperative agreement.

### Signature by Authorized Certifying Official

By: \_\_\_\_\_  
*Authorized Signature* \_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Printed Name, Title*

**EXHIBIT D**  
**FEDERAL AWARD IDENTIFICATION**  
**(REQUIRED BY 2 CFR 200.332)**

<b>1. Grantee Name</b> (must match name UEI is registered to):	Maggie Osgood Library
<b>2. Grantee's UEI:</b>	KJJ4DGLL9NE7
<b>3. Grant period of performance start and end date (the Grant's Performance Period):</b>	From: June 1, 2024 To: June 30, 2025
<b>4. Total amount of federal funds obligated by this Grant:</b>	\$12,083.00
<b>5. Total amount of federal funds obligated to the Grantee by Agency including this Grant:</b> <i>(all federal funds, including this Grant, obligated to Grantee during the current state fiscal year (July 1 to June 30))</i>	\$12,083.00
<b>6. Pass-through entity:</b>	
<b>(a) Name of pass-through entity:</b>	State Library of Oregon
<b>(b) Contact Information for awarding official of the pass-through entity:</b>	Buzzy Nielsen buzzy.nielsen@slo.oregon.gov
<b>7. Federal Award</b>	
<b>(a) Federal Award Identification Number (FAIN):</b>	LS-253649-OLS-23 and LS-256838-OLS-24
<b>(b) Federal award date:</b>	02/09/2023 and 4/18/2024
<b>(c) Total amount of federal award committed to the Grantee by the pass-through entity:</b> (amount of federal funds from this FAIN committed to Grantee)	\$2,658.00 and \$9,425.00
<b>(d) Federal awarding agency:</b>	Institute of Museum and Library Services
<b>(e) Federal award project description:</b>	Grants to States (LSTA)
<b>(f) CFDA number and name:</b>	45.310 State Library Program
<b>Amount:</b>	\$2,619,286.00 and \$2,597,695.00
<b>(g) Indirect cost rate:</b>	4%
<b>(h) Is award research and development?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

# Agenda Item Sheet

City of Lowell City Council

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Type of item:	Procurement
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**Item title/recommended action:**

Motion to approve payment in the amount of \$5,674.71 in workers compensation premiums to SAIF for the July 1, 2024 through July 1, 2025 plan year. – Discussion/ Possible action

**Justification or background:**

This is a renewal of our annual workers compensation insurance through SAIF. Since the total premiums exceed the City Administrator's \$5,000 purchase authority, City Council approval is requested.

**Budget impact:**

Expenditure of \$5,674.71 for workers compensation premiums in FY 2024-2025

**Department or Council sponsor:**

Administration

**Attachments:**

Information page showing amount of premium per job classification

Meeting date:	07/02/2024
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**Rating period: 07/01/2024 to 07/01/2025**

**Location 1: 70 N Pioneer St, Lowell, OR**

Classification description	Class	Subject payroll	Rate	Premium
Landscape Gardening & Dr	0042	\$0.00	3.9	\$0.00
Tree/Shrub Prun/Trim-Above Grnd-Dr	0106	\$0.00	6.36	\$0.00
Plumbing-NOC-Dr	5183	\$0.00	1.46	\$0.00
Street/Rd Const-Fnl Grad/Pve/Rep/Dr	5506	\$17,150.00	3.53	\$605.40
Waterworks Operation-Dr	7520	\$106,032.00	1.65	\$1,749.53
Sewage Disposal Plant Oper-Dr	7580	\$106,032.00	1.61	\$1,707.12
Public Relations/Sales/Promotion	8742	\$98,953.00	0.15	\$148.43
Vol Board Members	8742	\$2,500.00	0.15	\$3.75
Office Clerical	8810	\$68,616.00	0.06	\$41.17
Vol Librarians	8810	\$23,860.00	0.06	\$14.32
Attorney & Cler/Messenger/Dr	8820	\$7,400.00	0.06	\$4.44
Park NOC-All Employees & Dr	9102	\$0.00	2.31	\$0.00
Vol Park NOC All Emp-Dr	9102	\$36,995.00	2.31	\$854.58
City Inspectors NOC	9410	\$9,940.00	1.01	\$100.39
<b>Total manual premium</b>		<b>\$477,478.00</b>		<b>\$5,229.13</b>

Description	Basis	Factor	Premium
EL Increased Limits premium (Part II)	\$5,229.13	1.009	\$47.06
Balance to Min EL Increased Limits (Part II)	\$160.00	1.0214	\$112.94
<b>Total subject premium</b>			<b>\$5,389.13</b>

Description	Basis	Factor	Premium
Experience Rating	\$5,389.13	0.96	-\$215.57
<b>Total modified premium</b>			<b>\$5,173.56</b>

Description	Basis	Factor	Premium
Pre-pay credit	\$5,173.56	0.99	-\$51.74
<b>Total standard premium</b>			<b>\$5,121.82</b>

Description	Basis	Factor	Premium
Oregon Total Premium			\$5,121.82
Premium Discount	\$5,121.82	0.0025	-\$12.79
Terrorism Premium	\$477,478.00	0.005	\$23.87
Catastrophe Premium	\$477,478.00	0.01	\$47.75
DCBS Assessment	\$5,041.38	1.098	\$494.06
<b>Total premium and assessment</b>			<b>\$5,674.71</b>

**Policy Minimum Premium: \$500**

**Part Two Coverage Increased Limits Minimum Premium: \$160**

Your policy premium is based on your current estimated premium and may be prorated for policies in effect for less than a full year or adjusted based on actual payroll by classification.



# Agenda Item Sheet

## City of Lowell City Council

Type of item:	Procurement
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### Item title/recommended action:

Motion to approve a "Financial and accounting consultation services" agreement with Layli A. Nichols in the amount not to exceed \$37,106 and to authorize the City Administrator to sign.  
-Discussion/ Possible action

### Justification or background:

This is a renewal of the annual accounting and audit services contract with Layli A. Nichols. The total contract cost is not to exceed \$37,106. One change is an increase in the "other services" budget from \$1,000 to \$5,000. The monthly services plus audit services has increased from the FY 23/24 fiscal year of \$30,576 to \$32,106 in FY 24/25.

### Budget impact:

Expenditure not to exceed \$32,106 without prior approval

### Department or Council sponsor:

Administration

### Attachments:

Consulting services agreement

Meeting date:	07/02/2024
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AGREEMENT FOR  
FINANCIAL AND ACCOUNTING CONSULTATION SERVICES

THIS AGREEMENT is made as of July 1, 2024, by and between the City of Lowell, Oregon (“City”) and Layli A Nichols, a sole proprietor (“Consultant”).

RECITALS

- A. This agreement acknowledges that the City has secured the offer of Consultant to perform the accounting and financial services as described herein.
- B. City desires to utilize the services of Consultant as an independent contractor for financial and accounting consultation for the City.
- C. Consultant represents that she is fully qualified to perform such services by virtue of its experience, training and expertise.
- D. In accordance with L.R.C. Sec. 2.106(e), the Lowell City Council finds that this Agreement represents a continuation of work by a contractor who performed preliminary studies and analysis under a prior contract that was awarded through a competitive request for proposals process. The use of the current Consultant will significantly reduce risks associated with the work contemplated in this Agreement. This is due to the extensive knowledge that the Consultant has gained of the city’s accounting system and processes through her work under the prior contracts.

NOW THEREFORE, in consideration of performance by the parties of the promises, covenants, and conditions herein contained, the parties hereto agree as follows:

- 1. Consultant’s Services.  
Scope and Level of Services the nature, scope, and level of specific services to be performed by Consultant are as set forth in Exhibit A attached hereto.
- 2. Term of Agreement.  
This agreement is effective on the date set forth in the initial paragraph of this Agreement and shall remain in effect through June 30, 2025 unless earlier terminated pursuant to section 9.
- 3. Compensation.  
City Agrees to compensate Consultant for its services for a total amount of \$27,106 for monthly services, \$5,000 for Audit Services, and \$5,000 for Other Services, as described in Exhibit A. Monthly services shall be paid in 12 equal installments. Audit Services shall be paid in one lump sum, upon completion, and Other Services shall be billed as needed. In no event shall the total compensation and costs payable to Consultant under this Agreement exceed the sum of the awarded contract of \$37,106, unless specifically approved in advance, in writing, by City.
- 4. Notices.  
Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party’s regular business hours or by facsimile or email before or during receiving party’s regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses heretofore below, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this section.

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

Consultant:  
Layli A Nichols  
535 Spruce Court  
Creswell, OR 97426

5. Status as an independent Contractor.

Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control of the conduct of Consultant except as set forth in this agreement. Consultant shall not, at any time, or in any manner, represent that it is in any way an employee of City.

6. Assignability; Subcontracting.

Consultant shall not assign, transfer, or subcontract any interest in this Agreement or the performance of any of Consultant's obligations hereunder, without the prior written consent of City.

7. Compliance with Laws.

Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state, and local governments. Consultant shall be solely responsible for the payment of all taxes, including workers' compensation.

8. Conflict of Interest.

Consultant covenants that she presently has no interest and shall not acquire interest, direct or indirect, which may be affected by the services to be performed by Consultant under this Agreement, or which would conflict in any manner with the performance of its services hereunder. Furthermore Consultant shall avoid the appearance of having any interest, which would conflict in any manner with the performance of its services pursuant to this Agreement. Nothing in this section shall, however, preclude Consultant from accepting other engagements with City.

9. Termination.

This contract may be terminated by either City or Consultant in writing by giving five business days' notice to the other party. In the event this Agreement is terminated, Consultant shall be paid for any services properly performed through the last working day the Agreement is in effect.

10. Attorney's Fees.

In the event that either party to this Agreement shall commence any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorney's fees.

11. Amendment.

This Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.

12. Severability.

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable.

13. Exhibits.

All documents referenced as exhibits in this Agreement are hereby incorporated in this agreement.

14. Entire Agreement.

This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between City and Consultant. This agreement supersedes all prior oral or written negotiations, representations or agreements.

In witness whereof, the parties have executed this Agreement as of the date first written above.

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Jeremy Caudle, City Administrator

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Layli A. Nichols, Consultant

Exhibit A  
Scope of Services

Consultant will provide the following services as outlined in below:

Monthly Services

1. Monthly bank reconciliations for all bank accounts, including the General Checking and Local Government Investment Pool Accounts.
2. Monthly reconciliation including adjusting journal entries.
3. Monthly preparation of interim financial statements.
4. Quarterly preparation of payroll tax reports
5. Year-end payroll reporting preparation
6. Review of budget to actual revenues and expenditures.
7. Preparation of Fixed Assets which include recognizing new assets, retiring assets, and recording depreciation.

Audit Preparation

1. Review of the revenues and expenditures compared to the adopted budget.
2. Reconciliation of the June 30<sup>th</sup> balance sheet accounts for both fund basis and modified accrual basis financial statements.
3. If necessary, preparation for a Single Audit (audit of expenditures of federal awards).
4. Lead staff through the audit team's on-site fieldwork visits.
5. Report drafting in coordination with the audit firm for final issuance on or before December 31<sup>st</sup> deadline.
6. Presentation and work sessions with the City Council, as requested.

Other Services

1. Other Services are defined as: Services requested not otherwise outlined in the Scope of Services.
2. Other Services include but are not limited to: Special projects, project research, technical support, and software conversion.
3. Other Services are to be provided on an "as needed" basis only.

All work papers and reports must be retained by the Accountant for a minimum of five (5) years, unless notified in writing by the City of the need to extend the retention period. Working papers will be made available, upon request, to the City of Lowell.

As part of the overall contract, the City expects to receive from the Accountant a variety of technical assistance throughout the fiscal year. This assistance would include answers to accounting, reporting, or internal control questions.

# Agenda Item Sheet

City of Lowell City Council

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Type of item:	Procurement
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**Item title/recommended action:**

Motion to approve payment in the amount of \$5,506.56 to LiftOff, LLC for Microsoft licensing.  
–Discussion/ Possible action

**Justification or background:**

This is the third year of a three year agreement with LiftOff LLC for renewal of our Microsoft licenses. For comparison, over the last year, our billing from LiftOff LLC have been \$5,370. This includes the addition of some new licenses during the year.

**Budget impact:**

Expenditure of \$5,506.56 for Microsoft licenses

**Department or Council sponsor:**

Administration

**Attachments:**

LiftOff LLC agreement

**Meeting date:**

07/02/2024



## QUOTE

as of 4/9/2024

### Bill to:

City of Lowell. OR  
107 E. 3rd Street  
Lowell, OR 97452

### Ship to:

City of Lowell. OR  
107 E. 3rd Street  
Lowell, OR 97452

### Reseller (Remit To):

LiftOff LLC  
Attn: Ron Braatz  
1667 Patrice Circle  
Crofton, MD 21114

### Terms:

Due on Receipt

### Payment Options:

ACH Payment (preferred) or check

### Quote Description

G SKU Item Name	Part Number	Term in Months	Price/User/Month	Licenses	Cost/Year
Office 365 Plan G1 GCC	U4S-00002	12	10.00	3	\$360.00
Office 365 Plan G3 GCC	AAA-11894	12	23.00	12	\$3,312.00
M365 Apps for Enterprise GCC	3WS-00001	12	12.00	1	\$144.00
Exchange Online Plan 1 GCC	3MS-00001	12	4.00	1	\$48.00
Defender for O365 Plan 1 GCC	3GU-00001	12	2.00	1	\$24.00
Teams Phone Standard GCC	LK9-00003	12	7.48	6	\$538.56
Domestic Calling Plan GCC	LM9-00001	12	15.00	6	\$1,080.00
LiftOff Licensing Benefits	-	-	-	-	INCLUDED

**Total: \$5,506.56**

\*LIFTOFF LICENSING BENEFITS: As a valued licensing customer, LiftOff offers you a range of free, ongoing services to your organization. This includes: Access to our library of Office 365 Admin best practice documents, our library of end-user training videos, AD Connect support including re-installations and troubleshooting, invitations to our Office 365 Security webinars and access to the recordings, limited free consultations on implementation processes like the "Office Deployment

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Tool", annual Office 365 health check-ups and security check-ups, and support for compliance/retention features including ongoing training to staff that need to conduct compliance retention searches.

**Pricing Information:**

- All prices are displayed in United States Dollars.
- Product and pricing data are updated frequently and may change without notice.
- Pricing valid for 14 days
- License orders are paid up front, are non-refundable, and are one-year licenses that renew each year.
- License reductions, upgrades, or cancellations may only occur at the annual renewal date.

**In order to proceed, send a Purchase Order to [365licensing@liftoffonline.com](mailto:365licensing@liftoffonline.com). Once we have the Purchase Order, we will order the licenses from Microsoft. We will immediately invoice the full amount when we place the order.**

## **Customer Terms for Cloud Services Agreement US Public Sector**

This agreement is between **LiftOff LLC** (“we”, “us”, and “our”) and **City of Lowell, OR** (“you” and “your”). It is effective when we accept it. Key terms are defined in § 8.

### ***1. General.***

**Right to use.** You may access and use Office 365, and install and use a Client (if any) included with your Subscription, only as described in this agreement. All other rights are reserved.

**Acceptable use.** You will use Office 365 only per the AUP. You will not use Office 365 in any way that infringes a third party’s patent, copyright, or trademark or misappropriates its trade secret. You may not reverse engineer, decompile, work around technical limits in, or disassemble Office 365, except if applicable law permits despite this limit. You may not rent, lease, lend, resell, transfer, or host Office 365 to or for third parties.

**Compliance.** You will comply with all laws and regulations applicable to your use of Office 365. In providing Office 365, we and our Providers will comply with all laws and regulations (including applicable security breach notification law) that generally apply to IT service providers. You will obtain any consents required: (1) to allow you to access, monitor, use, and disclose user data; and (2) for us to provide Office 365. If you are an educational institution, you will obtain any parental consent for end users’ use of Office 365 as required by applicable law.

**Customer Data.** Customer Data is used only to provide you Office 365. This use may include troubleshooting to prevent, find and fix problems with Office 365’s operation. It may also include improving features for finding and protecting against threats to users. Neither we nor our Providers will derive information from Customer Data for any advertising or other commercial purposes. We will enable you to keep Customer Data separate from consumer services. Customer Data will not be disclosed unless required by law or allowed by this agreement. Your contact information may be provided so that a requestor can contact you. If law requires disclosure, we will use commercially reasonable efforts to notify you, if permitted. Customer Data may be transferred to, and stored and processed in, any country we or our Providers maintain facilities, unless you provision your tenant in the United States, If you do, Microsoft will provide Office 365 from data centers in the United States,



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and storage of the following customer data at rest will be located in data centers only in the United States: (i) Exchange Online mailbox content (e-mail body, calendar entries, and the content of e-mail attachments), and (ii) SharePoint Online site content and the files stored within that site.

**Changes.** Office 365 may be changed periodically, after which you may need to agree to new terms. You may be required to run a client software upgrade on devices using Office 365 after a change to maintain full functionality.

**Use rights.** Use rights specific to Office 365 are posted online at the link to the AUP.

## ***2. Confidentiality and Security.***

We and our Providers will (a) maintain appropriate technical and organizational measures, internal controls, and data security routines intended to protect Customer Data against accidental loss or change, unauthorized disclosure or access, or unlawful destruction and (b) not disclose Customer Data, except as required by law or expressly allowed. Neither party will make any public statement about this agreement's terms without the other's prior written consent.

## ***3. Term, Termination, and Suspension.***

**Term and termination.** This agreement will remain in effect for three years subject to your right under applicable law to terminate for convenience.

**Customer Data.** You may extract Customer Data at any time. If your Subscription expires or terminates, we will keep your Customer Data in a limited account for at least 90 days so you may extract it. We may delete your Customer Data after that.

**Regulatory.** If a government rule or regulation applies to us or our Providers, but not generally to other businesses, and makes it difficult to operate Office 365 without change, or we or our Providers believe this agreement or Office 365 may conflict with the rule or regulation, we may change Office 365 or terminate the agreement. If we change Office 365 to come into compliance, and you do not like the change, you may terminate.

**Suspension.** We may suspend use of Office 365: (1) if reasonably needed to prevent unauthorized Customer Data access; (2) if you do not promptly respond under §5 to intellectual property claims; or (3) for non-payment; or (4) if you violate the AUP. A suspension will be in effect only while the condition or need exists and, if under clause (1) or (2), will apply to the minimum extent necessary. We will notify you before we suspend, unless doing so may increase damages. We will notify you at least 30 days before suspending for non-payment. If you do not fully address the reasons for suspension within 60 days after we suspend, we may terminate your Subscription.

## ***4. Limited warranty; disclaimer.***

We warrant that Office 365 will meet the SLA terms during the Subscription; your only remedy for breach of warranty is stated in the SLA. *We provide no (and disclaim to the extent permitted by law any) other warranties, express, implied, or statutory, including warranties of merchantability or fitness for a particular purpose.*

## ***5. Duty to protect.***

**Defense.** We or our Providers will defend you against any claims made by an unaffiliated third party that Office 365 infringes its patent, copyright, or trademark or misappropriates its trade secret.

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**Remedies.** If we or our Providers reasonably believe that a claim under §5 may bar your use of Office 365, we or our Providers will seek to: (1) obtain the right for you to keep using it; or (2) modify or replace it with a functional equivalent and notify you to stop use of the prior version. If these options are not commercially reasonable, we or our Providers may terminate your rights to Office 365 and refund any payments for unused Subscription rights.

**Other obligations.** To the extent permitted by law, you will (1) notify us promptly of a claim under this §5 and (2) allow us or our Providers to assist in your defense or settlement. You will provide reasonable help to defend. We or our Providers will reimburse you for reasonable out-of-pocket expenses incurred in giving that help and pay the amount of any resulting adverse final judgment (or settlement the protecting party consents to). Neither we nor our Providers will be bound by any settlement to which we do not agree in writing, this §5 provides the exclusive remedy for these claims.

**Limits.** The obligations of us and our Providers in this §5 won't apply to a claim or award based on: (1) Customer Data; (2) software not provided by us or our Providers; (3) modifications you make to Office 365, or materials you provide or make available as part of using Office 365; (4) your combination of Office 365 with, or damages based on the value of, a product, data, or business process not provided by us or our Providers; or (5) your use of a Microsoft trademark without their express, written consent, or your use of Office 365 after being notified to stop due to a third-party claim.

## ***6. Limited liability.***

Each party's (and our Providers') maximum aggregate liability for any claim related to this agreement is limited to direct damages up to the fees that you paid for Office 365 during the 12 months before the claim arose (or \$5,000.00 if you paid no fees). *Neither party nor our Providers will be liable for lost revenues or indirect, special, incidental, consequential, punitive, or exemplary damages, even if the party knew they were possible.* The limits and exclusions in this §6 apply to the extent permitted by law, but do not apply to (1) obligations under §5; or (2) intellectual property infringement or misappropriation.

## ***7. Agreement mechanics.***

You must send notice by regular mail, return receipt requested, to the address on the Portal (effective when delivered). We may email notice to your account administrators (effective when sent). You may not assign this agreement, or any right or duty under it. If part of this agreement is held unenforceable, the rest remains in force. Failure to enforce this agreement is not a waiver. The parties are independent contractors. This agreement does not create an agency, partnership, or joint venture. This agreement is governed by the laws applicable to Customer, without regard to conflict of laws. This agreement (including the SLA and AUP) and our price sheet are the parties' entire agreement on this subject and supersedes any concurrent or prior communications. Agreement terms that require performance, or apply to events that may occur, after termination or expiration will survive, including §5. Office 365 and the Client are subject to U.S. export jurisdiction. You must comply with the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, and end-user, end-use, and destination restrictions. For more information, see <http://www.microsoft.com/exporting/>. Our Providers may deliver Office 365, and the rights granted to us also apply to them.

## ***8. Definitions.***

“AUP” means the acceptable use policy at <http://www.microsoftvolumelicensing.com/Downloader.aspx?DocumentId=5502>.

“Client” means device software that we or our Providers provide you with Office 365.

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“Customer Data” means all data, including all text, sound, or image files that are provided to us or our Providers by, or on behalf of, you through your use of Office 365.

“Office 365” means (1) Exchange Online, Exchange Online Archiving, SharePoint Online, Lync Online, and Office Web Apps included in Office 365 Enterprise Plans E1, E2, E3, E4, K1, and K2; and Office 365 Government Plans G1, G2, G3, G4, K1, and K2; and (2) Exchange Online Archiving; Exchange Online Protection; Exchange Online Plans 1, 2, Basic, and Kiosk; SharePoint Online Plans 1, 2, and Kiosk; Office Web Apps Plans 1 and 2; and Lync Online Plans 1, 2, and 3.

“Portal” means the Online Services Portal for Office 365 (see <http://www.microsoft.com/online>).

“Providers” means our affiliates, licensors, and suppliers, including Microsoft and its applicable affiliates.

“SLA” means the service level commitments we or our Providers make regarding delivery and performance of Office 365 (see <http://www.microsoft.com/licensing/contracts>).

“Subscription” means an order for a quantity of Office 365.