

CITY COUNCIL AGENDA REQUEST FORM

Today's date: 9 / 21 / 20

Date of meeting 10 / 7 / 20

(City Council meetings are held the 1st and 3rd Wednesday of each month.)

Name of Elected Official, City Employee, Organization, or Citizen making request:

Linda Heiss

Address: 1123 Lake St, Sandpoint, ID 83864

Phone number and email address: lheiss@sandpointidaho.gov

Authorized by: _____
name of City official *City official's signature*

Subject: State of Idaho Broadband Grant Agreement (City Agreement No. A21-3800-1)

Summary of what is being requested: Ratify City staff's acceptance of the Idaho Broadband Grant from the Department of Commerce in the amount of \$277,750.00 to fund fiber conduit on the south side of Bridge St and the east side of 1st Ave including WiFi to Community Hall with free public access.

The following information **MUST** be completed before submitting your request to the City Clerk:

1. Would there be any financial impact to the city? Yes No Budgeted? Yes No
If yes, in what way? _____

2. Name(s) of any individual(s) or group(s) that will be directly affected by this action: _____ Have they been contacted? **Yes or No**

3. Is there a need for a general public information or public involvement plan? **Yes or No**
If yes, please specify and suggest a method to accomplish the plan: _____

4. Is an enforcement plan needed? Yes No Additional funds needed? Yes No

5. Have all the affected divisions been informed about this agenda item? Yes No

This form must be submitted no later than 5:00pm Tuesday the week prior to the meeting. All pertinent documentation for the Council packet must be included.

ITEMS WILL NOT BE AGENDIZED WITHOUT THIS FORM

**CITY OF SANDPOINT
AGENDA REPORT**

DATE: 9/21/2020

TO: MAYOR AND CITY COUNCIL

FROM: Linda Heiss

SUBJECT: State of Idaho Broadband Grant Agreement (City Agreement No. A21-3800-1)

DESCRIPTION/BACKGROUND:

As a result of COVID-19 and CARES Act funding, the Idaho Department of Commerce accepted grant applications for the Idaho Broadband Grant. The City applied and was awarded funding in the amount of \$277,750.00 to install fiber conduit on the south side of Bridge Street and the east side of First Avenue, including WiFi to Community Hall with free public access.

STAFF RECOMMENDATION: Ratify the Mayor's executive of the Agreement for the Idaho Broadband Grant (City Agreement No. A21-3800-1).

ACTION: Approve the Resolution ratifying the Mayor's execution of the Agreement for the Idaho Broadband Grant (City Agreement No. A21-3800-1).

WILL THERE BE ANY FINANCIAL IMPACT? No HAS THIS ITEM BEEN BUDGETED? Yes

ATTACHMENTS:

Proposed Resolution

Idaho Broadband Grant Agreement

No: 20-
Date: October 21, 2020

RESOLUTION
OF THE CITY COUNCIL
CITY OF SANDPOINT

TITLE: AGREEMENT WITH IDAHO DEPARTMENT OF COMMERCE FOR IDAHO BROADBAND GRANT

WHEREAS: As a result of COVID-19 and CARES Act funding, the Idaho Department of Commerce accepted grant applications for the Idaho Broadband Grant;

WHEREAS: The City applied and was awarded funding in the amount of \$277,750.00 to install fiber conduit on the south side of Bridge Street and the east side of First Avenue, including WiFi to Community Hall, with free public access; and

NOW, THEREFORE, BE IT RESOLVED THAT: City Council accepts the award for the Idaho Broadband Grant in the amount of \$277,750.00 and approves the corresponding Agreement with the Idaho Department of Commerce.

BE IT FURTHER RESOLVED THAT: The Mayor's and City Administrator's signatures, on behalf of the City, affixed to this Agreement (City Agreement #A21-3800-1), a copy of which is attached hereto and made a part hereof as if fully incorporated herein, is hereby approved and ratified by City Council.

Shelby Rognstad, Mayor

ATTEST:

Melissa Ward, City Clerk



IDAHO BROADBAND GRANT
STATE OF IDAHO – DEPARTMENT OF COMMERCE
CITY OF SANDPOINT

This grant Agreement (“Agreement”) is entered into by and between the State of Idaho, through its Idaho Department of Commerce (“Department”), and city of Sandpoint (“Grantee”), for the purpose of providing the Grantee with an Idaho Broadband Grant (“IBG”) to support the project: Sandpoint Fiber Conduit to Farmin's Landing to City Beach Park, application #004154 (“Project”).

RECITALS

WHEREAS, in 2020, the State of Idaho received CARES Act funds to help it respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19).

WHEREAS, the State of Idaho’s Coronavirus Financial Advisory Committee approved the IBG initiative, designed to meet the CARES Act criteria and help Idaho rebound from the COVID-19 public health emergency by expanding access to broadband internet services.

WHEREAS, the Department created the IBG program for the purpose of funding projects implementing broadband infrastructure across underserved and unserved areas of the state, helping to facilitate distance learning and teleworking, increase access to telehealth and telemedicine, and improve public safety, commerce, and overall well-being.

WHEREAS, the Grantee submitted a satisfactory IBG application (“Application”) to the Department on or before the deadline.

WHEREAS, the Director of Department reviewed Grantee’s Application and approved funding of Grantee’s Project.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual promises and covenants herein contained, the parties agree as follows:

- 1. Term.** This Agreement shall be effective upon signature by both parties, and shall remain in effect until the Project is completed pursuant to the proposed scope of work, detailed in Attachment A and incorporated herein by this reference, or until December 30, 2020.
- 2. Grant Amount.** The total maximum amount that may be reimbursed under this Agreement is **\$277,750**. No Project costs in excess of this total amount shall be reimbursed by the Department.
- 3. Reimbursable Costs.** Project costs must only be incurred between June 9, 2020 and December 15, 2020 to be eligible for reimbursement. Costs not directly related to the Project will not be eligible for reimbursement. The Project must be completed by December 15, 2020. The State will provide no funding and have no obligations for projects that fail to be completed by December 15, 2020.
- 4. Allowable Use of Funds.** The use of IBG funds includes construction materials, new and rehabilitative construction contracts, architect and engineering services, legal and professional services required for Project implementation, permitting fees, validation of service expenses, equipment related to broadband infrastructure, equipment installation, and

administrative fees chargeable to the grant which shall not exceed the lesser of 1% or \$5,000.

5. Unallowable Use of Funds. IBG funds may not be used for any purpose other than described in Section 4. Unallowable costs include, but are not limited to: general broadband planning not associated with the project, expenses related to providing broadband services, ongoing overhead costs, operating costs, staff costs, political activities, and lobbying.

6. Payments. A Request for Funds (“RFF”) must be submitted by the Grantee through the Department’s online grant portal (“Portal”), which can be found at this web address: <http://idahocommerce.force.com/grants>. The RFF must contain an invoice from the Grantee to the Department for the amount requested, and must include supporting documentation of the incurred costs such as vendor receipts, invoices, and proof of payment through canceled checks or bank statements. The Grantee will receive a lump sum reimbursement after the project is completed, verified, operable, and paid for, and the required documentation is submitted to the Department. As stated in Section 3, the State will provide no funding and have no obligations for projects that fail to be completed by December 15, 2020.

7. Reporting. The Grantee shall submit a narrative and certified report of completion with its RFF verifying the completion of the project. The report narrative templates are included as Attachment B and the certification is included as Attachment C and are both incorporated herein by this reference. Funds will not be reimbursed by the Department until the report confirming completion of the project is received.

8. Records. In the performance of the Agreement, the Grantee shall maintain books, records, and accounts of all activities related to the Agreement and for which expenses will be claimed. Such books, records, and accounts shall be made available for inspection and audit by the Department, or an Auditor acting on behalf of the Department. Records shall be retained for a minimum of three (3) years after the closeout of the Agreement.

9. Compliance with Law. The Grantee shall comply with all requirements of federal, state, and local laws, rules, and regulations applicable to the Grantee or to the services performed by the Grantee pursuant to this Agreement including but not limited to:

- [Idaho Code Title 67, Chapter 28](#); Purchasing by Political Subdivisions
- [Idaho Code Title 54, Chapter 19](#); Public Works Contractors
- [Idaho Code 67-2320](#); Professional Service Contracts with Design Professionals, Construction Managers and Professional Land Surveyors
- [Idaho Code Title 67, Chapter 92](#) – The State Procurement Act (if applicable)

10. Transparency. The Grantee is subject to Idaho Code §§ 74-101 through 74-126 (Public Records Act), Idaho Code §§ 74-201 through 74-208 (Open Meetings Law), Idaho Code §§ 74-401 through 74-406 (Ethics in Government Act), and any other laws applicable to the Grantee as an Idaho public entity.

11. Retention and Use of Funded Property, Materials and Equipment. The Grantee warrants that the ownership of any property purchased or materials created through the use of Program funds shall remain with the for-profit company, membership-owned cooperative corporation, or local or tribal government or State of Idaho agency as described in Idaho Code section 67-1226. Broadband service may only be provided by for-profit company, membership-owned cooperative corporation, as defined in Idaho Code section § 30-30-103, and be utilized solely for the purposes of the Project.

12. Non-Performance. All documentation required under this Agreement must be submitted by 5:00 P.M. Mountain Time on December 15, 2020. If the Grantee has reason to believe it will be unable to submit all required documentation by 5:00 P.M. Mountain Time on December 15, 2020, it must submit written notification to the Department prior to December 15, 2020. The Department will determine whether additional time should be provided to the Grantee, but no more than a three (3) calendar-day extension may be provided by the Department. In the event the Grantee fails to submit all required documentation by the extended deadline identified by the Department, the Department shall deny any corresponding requests for reimbursement. In the event the Grantee fails to submit all required documentation by 5:00 P.M. Mountain Time on December 15, 2020, and the Grantee failed to notify the Department it would be unable to submit all required documentation prior to December 15, 2020, the Department shall deny any corresponding requests for reimbursement.

13. Amendments. The Agreement may not be released, discharged, changed, extended, modified, subcontracted, or assigned in whole or in part (collectively, "Amendment") except to the extent provided by an Amendment in writing signed by both the Grantee and the Department.

14. Termination.

- a. The Department shall have the right to terminate this Agreement in whole or in part, at any time before the Project's date of completion, whenever it is determined by the Department the Grantee has failed to comply with any term of this Agreement. The Department will notify the Grantee in writing of the determination, the reasons for the termination, and the effective date of the termination.
- b. The Department shall also have the right to terminate this Agreement should funding for the IBG program be eliminated. In the event funding for the IBG program is eliminated, the Department will notify the Grantee in writing with the effective date of termination
- c. In the event the Agreement is terminated prior to the Project's date of completion, the Department shall not be liable for any costs associated with the terminated agreement or any of the proposed project costs.

15. Relationship of Parties. It is distinctly and particularly understood and agreed between the parties that the Department is in no way associated or otherwise connected with the performance of any service under this Agreement on the part of the Grantee, or with the employment of labor or the incurring of expenses by the Grantee. The Grantee is solely liable for all labor, taxes, insurance, required letter of credit and other expenses, except as specifically stated herein, and for any and all damages in connection with the operation of this Agreement, whether it may be for personal injuries or damages of any other kind. The Grantee shall not imply, represent, or claim to be an officer or employee of the Department or the state of Idaho. The Grantee shall exonerate, indemnify, defend, and hold the State of Idaho, the Department, and its officers, employees, and agents, harmless from and against and assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, social security, worker's compensation, and income tax laws with respect to the Grantee or Grantee's employees engaged in performance under this Agreement. The state of Idaho and the Department do not assume

liability as an employer. Further, the parties do not intend for this Agreement to create any third-party beneficiaries.

16. Contingency Fees. The Grantee certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations not specified herein made contingent upon this Agreement.

17. Governing Law. The Agreement shall be governed by and construed under the laws of the state of Idaho and the parties hereto consent to the jurisdiction and exclusive venue of the state courts of Ada County in the state of Idaho in the event of any dispute with respect to the Agreement.

18. Attorney Fees. In the event of a legal proceeding of any kind instituted under the Agreement or instituted to obtain performance or to remedy a default under the Agreement, the prevailing party shall be awarded such additional sums as the court may adjudge for reasonable attorney fees and to pay all costs and disbursements incurred in connection therewith.

19. No Waiver. The failure of either party to require strict performance of any term or condition of the Agreement, or to exercise any option or discretion granted to it, in any one or all instances shall not be construed to be a waiver or relinquishment of any such term or condition. The same shall be and remain in full force and effect unless there is a written waiver signed by both the Department and the Grantee.

20. Headings. The headings have been inserted solely for convenience and are not to be considered when interpreting the provisions of this Agreement.

21. Severability. If any term, provision, covenant, or condition of the Agreement, or the application thereof to any party or circumstance, shall be held to be illegal, invalid or unenforceable, in whole or in part or for any reason, the remaining terms, provisions, covenants and conditions of the Agreement shall continue in full force and effect as if the Agreement had been executed with the illegal, invalid or unenforceable portion eliminated, so long as the Agreement as so modified continues to express, without material change, the original intentions of the parties as to the subject matter of the Agreement, and the deletion of such portion of the Agreement will not substantially impair the respective benefits or expectations of the parties to the Agreement.

22. Survival of Terms. In the event termination, cancellation, or expiration of the Agreement occurs, provisions which are intended to survive and continue shall survive and continue.

23. Entire Agreement. This Agreement constitutes the entire Agreement between the parties and shall supersede all previous applications, proposals, oral or written, negotiations, representations, commitments, and all other communications between the parties.

24. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[End of text; signatures and attachments follow]

State of Idaho
Department of Commerce
Director
Thomas F. Kealey

City of Sandpoint
Mayor

Shelby Rognstad
Print name

Tom Kealey
Signature

Shelby Rognstad
Signature

10/8/2020
Date

10/7/2020
Date

*Additional Signatory lines have been added if necessary to fully execute agreement.

City Administrator
Title

Title

Jennifer Stapleton
Print Name

Print Name

Jennifer P. Stapleton
Signature

Signature

10/7/2020
Date

Date

If the Grantee requires approval stamps, they may be included on an attached page.