



# TUALATIN CITY COUNCIL

Monday, March 10, 2014

**CITY COUNCIL CHAMBERS**  
**18880 SW Martinazzi Avenue**  
**Tualatin, OR 97062**

**WORK SESSION** begins at 6:30 p.m.  
**BUSINESS MEETING** begins at 7:00 p.m.

---

**Mayor Lou Ogden**

**Council President Monique Beikman**

**Councilor Wade Brooksby      Councilor Frank Bubenik**

**Councilor Joelle Davis      Councilor Nancy Grimes**

**Councilor Ed Truax**

**Welcome!** By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda - *Item C*, following Announcements, at which time citizens may address the Council concerning any item not on the agenda with each speaker limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City website at [www.tualatinoregon.gov/meetings](http://www.tualatinoregon.gov/meetings), the Library located at 18878 SW Martinazzi Avenue, and on file in the Office of the City Manager for public inspection. Any person with a question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011. Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised *live* the day of the meeting through Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](http://www.tvctv.org). Council meetings can also be viewed by live *streaming video* on the day of the meeting at [www.tualatinoregon.gov/meetings](http://www.tualatinoregon.gov/meetings).

Your City government welcomes your interest and hopes you will attend the City of Tualatin Council meetings often.

## PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A **legislative** public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *deny*, or *continue* the public hearing.

## PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A **quasi-judicial** public hearing is typically held for annexations, planning district changes, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report.
3. Public testimony is taken:
  - a) In support of the application
  - b) In opposition or neutral
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *approve with conditions*, or *deny the application*, or *continue* the public hearing.

## TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all provided all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 minutes**, subject to the right of the Mayor to amend or waive the time limits.

## EXECUTIVE SESSION INFORMATION

An Executive Session is a meeting of the City Council that is closed to the public to allow the City Council to discuss certain confidential matters. An Executive Session may be conducted as a separate meeting or as a portion of the regular Council meeting. No final decisions or actions may be made in Executive Session. In many, but not all, circumstances, members of the news media may attend an Executive Session.

The City Council may go into Executive Session for certain reasons specified by Oregon law. These reasons include, but are not limited to: ORS 192.660(2)(a) employment of personnel; ORS 192.660(2)(b) dismissal or discipline of personnel; ORS 192.660(2)(d) labor relations; ORS 192.660(2)(e) real property transactions; ORS 192.660(2)(f) information or records exempt by law from public inspection; ORS 192.660(2)(h) current litigation or litigation likely to be filed; and ORS 192.660(2)(i) employee performance of chief executive officer.



**A. CALL TO ORDER**  
Pledge of Allegiance

**B. ANNOUNCEMENTS**

1. Tualatin Youth Advisory Council Update
2. Southwest Corridor Open House

**C. CITIZEN COMMENTS**

*This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

**D. CONSENT AGENDA**

*The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, I) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

1. Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of February 24, 2014
2. Consideration of **Resolution No. 5158-13** Authorizing a Personal Services Agreement for Final Engineering for the C2 Water Reservoir
3. Consideration of an Intergovernmental Agreement between the City of Portland and the City of Tualatin for Access to the Regional Justice Information Network [RegJIN]
4. Consideration of Approval of 2014 Liquor License Renewals Late Submittals

**E. SPECIAL REPORTS**

1. Tualatin Riverkeepers Update- Mike Skuja, Executive Director

**F. PUBLIC HEARINGS – Legislative or Other**

1. Consideration of Plan Text Amendment (PTA) 14-01 Amending Chapters 60, 61, and 62 of the Tualatin Development Code (TDC) to Allow Small-Scale Mixed Uses and Modifications to Chapters 34 and 69 to Implement Recommendations from Linking Tualatin.

**G. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

**H. COMMUNICATIONS FROM COUNCILORS**

**I. ADJOURNMENT**



**City Council Meeting**

**B. 1.**

**Meeting Date:** 03/10/2014

**ANNOUNCEMENTS:** Tualatin Youth Advisory Council Update

---

**ANNOUNCEMENTS**

Tualatin Youth Advisory Council Update

---

A. YAC Update

---

Council Update March 10, 2014

# **TUALATIN YOUTH ADVISORY COUNCIL**

# Project F.R.I.E.N.D.S

(Finding Relations in Every New Diverse Student)



- May 23, 2014
- Revising curriculum and lessons
- Byrom, Bridgeport and Tualatin Elementary Schools

*Tualatin YAC – Youth Participating in Governance*

# Other Upcoming Projects

- Youth/Elected Leader Social
- Teen Extravaganza
- Crawfish Festival
- Tualatin TRYathlon June 7
- Movies on the Commons





# Tualatin TRYathlon

- June 7, 2014
- Tualatin High School
- Non-timed, non-competitive kids triathlon for ages 6-15



*Tualatin YAC – Youth Participating in Governance*

# Movies on the Commons



- Free, family-friendly movies
- Saturdays in July & August
- YAC helps choose films, sells concessions

**City Council Meeting**

**B. 2.**

**Meeting Date:** 03/10/2014

**ANNOUNCEMENTS:** Southwest Corridor Open House

---

**ANNOUNCEMENTS**

Southwest Corridor Open House

---

Open House Announcement

---



# Southwest Corridor Open House

Upcoming Open House

Thursday, March 20, 6:00-8:00 p.m.

Tualatin Police Station  
8650 SW Tualatin Road





# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos

**FROM:** Nicole Morris, Deputy City Recorder

**DATE:** 03/10/2014

**SUBJECT:** Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of February 24, 2014

---

### **ISSUE BEFORE THE COUNCIL:**

The issue before the Council is to approve the minutes for the City Council Work Session and Regular Meeting of February 24, 2014.

### **RECOMMENDATION:**

Staff respectfully recommends that the Council adopt the attached minutes.

---

**Attachments:** City Council Work Session Minutes of February 24, 2014  
City Council Meeting Minutes of February 24, 2014



## OFFICIAL MINUTES OF TUALATIN CITY COUNCIL WORK SESSION FOR FEBRUARY 24, 2014

---

Present: Mayor Lou Ogden; Council President Monique Beikman; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Nancy Grimes; Councilor Ed Truax

Absent: Councilor Joelle Davis

Staff: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker;

Present: Assistant City Manager Alice Cannon; Deputy City Manager Sara Singer; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris

### **CALL TO ORDER**

Mayor Ogden called the meeting to order at 5:48 p.m.

#### **1. *Update on the 2013-2015 City Council Goals.***

City Manager Sherilyn Lombos presented the City Council goals update. She noted a Council Advance was held in November 2012 to establish goals for the following two years. During the Advance the Council discussed trends and drivers of change in Tualatin including increased costs of services, increased traffic in the SW Corridor, technology, changing demographics, and the need for educational opportunities. Following discussion of these trends and drivers of change eight Council goals were established. City Manager Lombos presented each goal and the accomplishments made to date. She noted that a refresh of these goals will happen after the election in November.

Mayor Ogden asked if progress on each goal could be made available online. City Manager Lombos stated the goals and tracking spreadsheet could be made available.

#### **2. *Report on the Relocation of City Services from the Council Building.***

Deputy City Manager Sara Singer updated the Council of the relocation of city services from the Council Building. She noted staff is working with Cardno and CenterCal on the design of Seneca Street, Street A, and the configuration of the City's parking lot. The City's goals in the design phase are to maximize parking, enhance pedestrian safety, and provide for good circulation in the area. Manager Singer said the city is also working closely with CenterCal on the sequencing of construction to minimize the impacts to the City facilities.

Deputy City Manager Singer met with all city departments to gather ideas and concerns regarding the relocation of services. From those meetings 186 ideas and concerns were gathered. Three options were considered for the relocation of the city services and it was decided municipal court would relocate to the police department, utility billing and passports would locate to the city offices counter, and the finance

department would move to the Lafky House. Council meetings will be held at the Juanita Pohl Center and staff will be working with TVCTV to develop a plan for broadcasting. Manager Singer noted that all building must be vacated by April 1. A communication plan has been put in place and includes an insert in the March newsletter, large maps in all city lobbies, and way finding signs to help direct citizens.

Mayor Ogden asked about citizen involvement in the design process for the extension of Seneca Street. Manager Singer noted a webpage containing preliminary information has been put in place. City Manager Lombos stated a neighborhood developer meeting will be held. Engineering Manager Kaaren Hofmann also noted the design will go through the Architectural Review Process in March and the public can give feedback at that time.

### **3. Council Meeting Agenda Review, Communications & Roundtable.**

Councilor Bubenik attended the Washington County screening of the movie *American Winter*. The screening kicked off the update of their Cooperative Plan. He noted a survey is now going out to residents to get feedback on how poverty is being addressed in Washington County. The survey will help decide how to allocate resources towards poverty stricken residents.

Councilor Truax asked how he could see the movie. Councilor Bubenik stated that a copy will be available through the library system to check out. City Manager Lombos also noted that it is available on demand through HBO.

## **ADJOURNMENT**

The work session adjourned at 6:15 p.m.

Sherilyn Lombos, City Manager

\_\_\_\_\_ / Nicole Morris, Recording Secretary

\_\_\_\_\_ / Lou Ogden, Mayor



## OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR FEBRUARY 24, 2014

---

Present: Mayor Lou Ogden; Council President Monique Beikman; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Nancy Grimes; Councilor Ed Truax

Staff City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker;  
Present: Assistant City Manager Alice Cannon; Finance Director Don Hudson; Deputy City Manager Sara Singer; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris; Assistant Planner Colin Cortes; Engineering Manager Kaaren Hofmann; Public Works Director Jerry Postema

### A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:00 p.m.

### B. ANNOUNCEMENTS

#### 1. Proclamation Declaring February 9-15, 2014 Future Business Leaders of America Week

Mayor Ogden presented the proclamation declaring February 9-15, 2014 Future Business Leaders of America Week. The Tualatin High School Future Business Leaders of America accepted the proclamation.

#### 2. Proclamation Declaring March 2014 American Red Cross Month in the City of Tualatin

Councilor Davis read the proclamation declaring March 2014 as American Red Cross Month in the City of Tualatin. Dave Lamb accepted the proclamation on behalf of the local American Red Cross chapter.

Mayor Ogden thanked the American Red Cross volunteers for the help they offer to the citizens of Tualatin.

#### 3. Proclamation Declaring Karen Miller as Tualatin's "2013 Employee of the Year"

City Manager Sherilyn Lombos presented Karen Miller, Accounting Technician, as the 2013 Employee of the Year. She commended Ms. Miller on her contributions to the City of Tualatin.

Council President Beikman read the proclamation declaring Karen Miller as the Tualatin 2013 Employee of the Year.

4. Employee Introduction- Stephanie Marcinkiewicz, Building Department Permit Technician

Assistant City Manager Alice Cannon introduced Stephanie Marcinkiewicz, Building Department Permit Technician. The Council welcomed her.

**C. CITIZEN COMMENTS**

*This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

Kathy Newcomb expressed concerns regarding increased congestion on Martinazzi Ave. due to the planned stoplights at the Seneca Street extension and Martinazzi Ave. She urged Council to review the traffic impacts to the area.

**D. CONSENT AGENDA**

*The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, I) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

MOTION by Council President Monique Beikman, SECONDED by Councilor Ed Truax to adopt the consent agenda.

**Vote:** 7 - 0 MOTION CARRIED

1. Consideration of Approval of the Minutes for the City Council Regular Meeting of February 10, 2014
2. Consideration of Recommendations from the Council Committee on Advisory Appointments
3. Consideration of Approval of Liquor License Renewals for 2014
4. Consideration of **Resolution No. 5184-14** Authorizing the City Manager to Execute Documents Related to the Dedication of Right-of-Way for SW Seneca Street and Street A

**E. SPECIAL REPORTS**

1. Quarterly Financial Update

Finance Director Don Hudson presented the quarterly financial report for the second quarter of fiscal year 2013-14. Director Hudson noted the fiscal year 12/13 audit had been completed. The audit presented fairly and in accordance with the generally accepted accounting principles. The Audit Standards letter was distributed to Council and it was noted that the internal control testing did not identify any deficiencies. Director Hudson stated the finance department has received the Certificate of Achievement for Excellence in Financial Reporting for the past 22 years. This award is the highest form of recognition in governmental accounting and financial reporting. Director Hudson briefed the Council on the General Fund and Building Fund revenues and Operating expenditures for the current fiscal year. The fiscal year 2014-15 budget process has begun with each department working on budget projections. A budget work session for the Council will be held on April 15 followed by budget meetings on May 13, 28, and 29. Director Hudson stated the overall fiscal health is positive.

## **F. PUBLIC HEARINGS – Quasi-Judicial**

1. Consideration of a Conditional Use Permit to Allow Rental and Leasing of Autos and Light Trucks in the Light Manufacturing (ML) Planning District for U-Haul at 7100 SW McEwan Road (Tax Map 2S1 13DD, Tax Lots 900, 1000, 1100, 1200, 1600, and 1700, and Tax Map 2S1 24AA, Tax Lot 5500) (CUP-13-05)

Assistant Planner Colin Cortes and Planning Manager Aquilla Hurd-Ravich presented the staff report for consideration of CUP -13-05. Planner Cortes stated the applicant has proposed truck rental (U-Haul) on the subject property thus requiring a conditional use permit (CUP). He covered the criteria for the CUP and the conditions of approval. The analysis and findings presented in the staff report show that U-Haul, with proposed conditions of approval, meets the CUP criteria. Planner Cortes noted there was code compliance issues on which staff worked with the applicant to correct.

Ryan Schera, on behalf of the applicant, supports the conditions of approval proposed by staff and feels that the application meets the requirements for approval as presented.

**PUBLIC COMMENT-** None

## **COUNCIL QUESTIONS**

Councilor Grimes asked for specifics on the code compliance issues. Planner Cortes stated the issues included outdoor storage without screening, signage, and tree removal. He also noted staff has worked with the applicant to help them understand permitting processes for future work.

MOTION by Councilor Ed Truax, SECONDED by Councilor Nancy Grimes to grant a conditional use permit to allow rental and leasing of autos and light trucks in the Light Manufacturing (ML) Planning District for U-Haul at 7100 SW McEwan Road (Tax Map 2S1 13DD, Tax Lots 900, 1000, 1100, 1200, 1600, and 1700, and Tax Map 2S1 24AA, Tax Lot 5500).

**Vote:** 7 - 0 MOTION CARRIED

## **G. GENERAL BUSINESS**

### **1. Consideration of Resolution 5185-14 Adopting the Tualatin Tomorrow Vision Plan**

Deputy City Manager Sara Singer, Tualatin Tomorrow Chair Candice Kelly, and Tualatin Tomorrow Vision Advisor Jason Robertson presented the Tualatin Tomorrow Vision Plan. Chair Kelly noted the Tualatin Tomorrow Vision Plan was first developed in 2007 and over 100 actions have been implemented including enhancements to the City entrance, the Older Adults center expansion, and the Arts Festival/Walk.

Consultant Robertson stated this update is the five year plan update. He noted over the last year extensive community outreach was conducted and over 1,000 community ideas were gathered. Many means of outreach were done to ensure entire community participation including ideas boxes, community events, online forums, and a priorities survey. After ideas were gathered Theme Teams were formed to sort through the ideas. Eight focus areas emerged with 18 community goals, and 100 proposed actions to be implemented. Consultant Robertson briefed the Council on the focus areas and their proposed actions. Focus areas in the brief included a shared sense of place and community identity, activities and attractions for all ages, quality community services, enhance mobility, environmental sustainability, community health and safety, economic opportunity, and education and learning opportunities.

Deputy City Manager Singer noted the next steps will be to recruit partnering agencies to assist in the implementation of the proposed actions. She stated Tualatin Tomorrow will be back annually to present the Council with a progress report.

Councilor Bubenik thanked Consultant Robertson for helping guide the group through the vision update. He is excited there will be partnering agencies put in place to help implement the vision of the community.

Mayor Ogden thanked the Tualatin Tomorrow Advisory Committee for the hours put into the Vision Plan Update.

MOTION by Councilor Joelle Davis, SECONDED by Council President Monique Beikman to adopt Resolution 5185-14 adopting the Tualatin Tomorrow Vision Plan.

**Vote: 7 - 0 MOTION CARRIED**

### **2. Consideration of Ordinance 1366-14 Relating to the Annual Report of the Arts Advisory Committee; and Amending the Tualatin Municipal Code (TMC) 11-05**

City Manager Sherilyn Lombos stated the municipal code currently requires the Tualatin Arts Advisory Committee (TAAC) to provide an annual report to Council. The TAAC has requested that this report be provided on a fiscal year to coincide with the City's fiscal year budget.

Councilor Truax asked when the next report from the TAAC would be presented. City Manager Lombos noted the TAAC would come before Council with a report in

July 2014.

MOTION by Councilor Nancy Grimes, SECONDED by Councilor Joelle Davis for first reading by title only.

**Vote:** 7 - 0 MOTION CARRIED

MOTION by Councilor Nancy Grimes, SECONDED by Councilor Frank Bubenik for second reading by title only.

**Vote:** 7 - 0 MOTION CARRIED

MOTION by Council President Monique Beikman, SECONDED by Councilor Frank Bubenik to adopt Ordinance No. 1366-14 relating to the annual report of the Arts Advisory Committee; and amending the Tualatin Municipal Code (TMC) 11-05.

**Vote:** 7 - 0 MOTION CARRIED

3. Consideration of **Ordinance No. 1368-14** Relating to Medical Marijuana Facilities; Establishing New Tualatin Municipal Code Chapter 9-08; and Declaring an Emergency

MOTION by Council President Monique Beikman, SECONDED by Councilor Nancy Grimes for second reading by title only.

**Vote:** 7 - 0 MOTION CARRIED

#### **PUBLIC COMMENT**

Robert Kellogg spoke neutrally on the subject. He requested, if the legislation regarding medical marijuana dispensaries does not pass, two Citizen Involvement Organization meetings be put together to receive citizen feedback on the topic.

MOTION by Council President Monique Beikman, SECONDED by Councilor Nancy Grimes to adopt Ordinance No. 1368-14 relating to Medical Marijuana Facilities; establishing new Tualatin Municipal Code Chapter 9-08; and declaring an emergency.

**Vote:** 6 - 0 MOTION CARRIED

4. Consideration of **Ordinance No. 1367-14** An Ordinance Relating to the Transportation System Plan; Amending the Tualatin Development Code (TDC) 11.650 and the 2012 Tualatin Transportation System Plan Adopted February 25, 2013

#### **PUBLIC COMMENT**

Wendi Kellington, representing the Tonquin Industrial Group, urged the Council to resolve this issue by taking one of three actions. She presented options including consideration of an alternate alignment, additional language to the provisions regarding the building of regional trails, and replacement of the word participate with coordinate in regards to development of regional trails.

#### **COUNCIL QUESTIONS**

Mayor Ogden asked how changing language from participate to coordinate would be a better solution. Ms. Kellington stated it strengthened the statements for future reference and leave less room for misinterpretation.



Councilor Davis asked for City Attorney Sean Brady's opinion on Ms. Kellington's proposal on the language change. Attorney Brady stated he has not analyzed the language differences at this time and that it may affect the ability to participate in the building of other regional trails if changed.

Councilor Grimes asked how many references to the Ice Age Tonquin Trail had been removed from planning language. Planning Manager Hurd-Ravich listed the 10 items that had been removed from the Transportation System Plan (TSP).

MOTION by Council President Monique Beikman, SECONDED by Councilor Wade Brooksby for second reading by title only.

**Vote:** 6 - 1 MOTION CARRIED

Nay: Councilor Joelle Davis

MOTION by Council President Monique Beikman, SECONDED by Councilor Frank Bubenik to adopt Ordinance No. 1367-14 relating to the Transportation System Plan; amending the Tualatin Development Code (TDC) 11.650 and the 2012 Tualatin Transportation System Plan adopted February 25, 2013.

**Vote:** 6 - 1 MOTION CARRIED

Nay: Councilor Joelle Davis

#### **H. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

#### **I. COMMUNICATIONS FROM COUNCILORS**

Councilor Davis noted she attended the Washington County Consolidated Communications Agency (WCCCA) meeting. The WCCCA has entered into a new agreement for cab service that will save the agency a considerable amount of money each year. She also noted the prepaid tax for mobile phones passed and revenues generated from this tax will be seen in 2015. WCCCA kicked off a campaign called "So you called 911 for that?" The campaign is receiving national recognition.

#### **J. ADJOURNMENT**

Mayor Ogden adjourned the meeting at 8:21 p.m.

Sherilyn Lombos, City Manager

\_\_\_\_\_ / Nicole Morris, Recording Secretary

\_\_\_\_\_ / Lou Ogden, Mayor



# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos

**FROM:** Kaaren Hofmann, Engineering Manager

**DATE:** 03/10/2014

**SUBJECT:** Consideration of **Resolution No. 5158-13** Authorizing a Personal Services Agreement for Final Engineering for the C2 Water Reservoir

---

### ISSUE BEFORE THE COUNCIL:

Council consideration of Resolution No. 5158-13 authorizing the City Manager to enter into a Personal Services Agreement with CH2M Hill, Inc. for final engineering services for the construction of the C2 Water Reservoir.

### RECOMMENDATION:

Staff recommends that the City Council accept the scope and budget and authorize the City Manager to enter into a contract with CH2M Hill, Inc. for final engineering services for the construction of the C2 Water Reservoir.

### EXECUTIVE SUMMARY:

As a part of the City's Water Master Plan, another C-level water reservoir is needed. The reservoir is planned to be constructed next to the existing steel tank reservoir on the City's property off of SW Frobase in unincorporated Washington County. The City started preliminary engineering and the land use process for this project in 2008, but due to budgetary reasons, the project was put on hold after the City received land use approval from Washington County. The Water SDC Fund now has money available to finish the design and construct this reservoir.

A Request for Proposals (RFP) for Final Engineering Services for the construction of the C2 Water Reservoir project was published in the Daily Journal of Commerce on December 13, 2013. Staff received one proposal from CH2M Hill, Inc. in response to the RFP. The proposal was reviewed for responsiveness to the selection criteria contained in the RFP by a committee composed of the following individuals:

- Kaaren Hofmann, Engineering Manager
- Jerry Postema, Public Works Director
- Mick Wilson, Water Operations Manager

Staff has negotiated a scope of work and budget with CH2M Hill, Inc.; these are attached to this staff report for Council's review. The work will include: 1) Preliminary Design; 2) Permitting Assistance; 3) Final Design; 4) Bidding Services; and 5) Services During Construction.

## NEXT STEPS

After receiving notice to proceed, CH2M Hill, Inc. will complete final engineering for the C2 Water Reservoir. The reservoir is planned to be under construction by the fall of 2014.

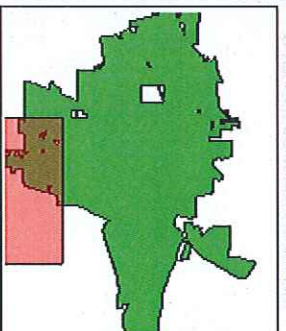
## FINANCIAL IMPLICATIONS:

This project is funded by the Water SDC Fund. The proposed contract has a not to exceed budget of \$391,594. There is sufficient money budgeted over the next several years to complete the construction of this project.

---

**Attachments:**    A. Vicinity Map  
                         B. Resolution 5158-13  
                         C. Personal Services Agreement  
                         D. Scope of Work





Scale 1:15,530  
1 in = 1,294 ft



RESOLUTION NO. 5158-13

RESOLUTION AUTHORIZING A PERSONAL SERVICES AGREEMENT FOR  
FINAL ENGINEERING FOR THE C2 WATER RESERVOIR

WHEREAS, the City of Tualatin issued a solicitation for request for proposals for the C2 Water Reservoir; and

WHEREAS, the project was advertised in the *Daily Journal of Commerce* on December 13, 2013; and

WHEREAS, one proposal was received prior to the close of the bid period on December 31, 2013; and

WHEREAS, CH2M Hill submitted the best proposal for engineering services for the project; and

WHEREAS, City staff reviewed the responsive proposals and recommend the City Council award the contract to CH2M Hill to provide professional services for the C2 Water Reservoir; and

WHEREAS, there are now funds available to complete this project in the Water SDC Fund; and

WHEREAS, the procurement complied with the City's public contracting requirements; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

**Section 1.** The City of Tualatin hereby awards the Personal Services contract for the C2 Water Reservoir to CH2M Hill.

**Section 2.** The City Manager is authorized to execute a contract with CH2M Hill in the amount of \$391,594.00.

**Section 3.** The City Manager is authorized to execute Contract Amendments totaling up to 10% of the original contract amount.

**Section 4.** This Resolution is effective upon adoption.

Adopted by the City Council this \_\_\_\_ Day of \_\_\_\_\_, 2014.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

BY \_\_\_\_\_  
City Recorder

## **CITY OF TUALATIN PERSONAL SERVICES AGREEMENT**

THIS AGREEMENT is entered into as of the date first indicated on the signature page by and between the City of Tualatin, a municipal corporation of the State of Oregon ("City"), and CH2M HILL ("Consultant").

### **Section 1. Agreement Documents.**

**A.** The Agreement Documents consist of the following:

1. This Agreement;
2. Any documents specifically referenced in this Agreement;
3. The attached Scope of Work; and
4. Tualatin Public Works Design Standards.

**B.** There are no Agreement Documents other than those listed in subsection A.

### **Section 2. Work.**

**A. Completion.** Consultant shall complete all Work that is generally described as set forth in Attachment A, which is incorporated into this Agreement as if fully set forth.

**B. Authenticity by Consultant.** All written documents, drawings, and plans submitted by Consultant in completing the Work shall bear the signature, stamp, or initials of Consultant or Consultant's authorized Project Manager.

**C. Qualified Professionals.** All Work shall be performed by qualified engineers and other professionals that are properly licensed under the laws of the State of Oregon.

**D. City Standards.** All design work shall be according to City of Tualatin standards, including but not limited to, the Tualatin Municipal Code and Tualatin Public Works Standards, applicable Master plans, and all other applicable documents referenced in any of these documents.

**E. Solely Responsible.** Consultant shall be solely responsible for all Work under this Agreement, including all services, labor, materials and supplies, documents, permits and other requirements to complete the Work, whether produced by Consultant or any of Consultant's subcontractors or consultants, except for those items identified as the responsibility of the City.

**F. Sufficient Plans.** Consultant warrants that the Agreement specifications and plans, if any, prepared by Consultant will be adequate and sufficient to accomplish the purposes of the project and that review or approval by the owner of the plans and specifications shall not diminish the warranty of

adequacy.

- G. Project Costs.** In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the project, given the uncertainty with such projections, City acknowledges Consultant makes no warranty that City's actual project costs, financial aspects, economic feasibility, or schedules will not vary from Consultant's opinions, analyses, projections, or estimates.
- H. Subsurface Investigations.** City acknowledges Consultant makes no warranty about subsurface conditions and cost/execution effects, even if analyzed, as soils, foundation, ground water, and other subsurface investigations may vary significantly between successive test points and sample intervals.
- I. Record Drawings.** Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the Project was finally constructed. Engineer is not responsible for errors or omissions in the information from others that are incorporated into the record drawings.
- J. Additional Work.** If City requests. Consultants to provide additional services not included in the Work described on Attachment A, the parties will enter into a written amendment to include such Work. The Agreement price for such additional Work shall not exceed Consultant's hourly rate as agreed to in Attachment A. No compensation for additional services shall be paid or owing unless both parties specifically agree in writing to such additional compensation and services.

**Section 3. Effective Date.** The effective date of this Agreement is the date of both Parties sign this Agreement ("Effective Date"). If the parties sign on separate dates, the latter date shall be the Effective Date.

**Section 4. Time is of the Essence.** Consultant agrees that time is of the essence under this Agreement.

**Section 5. Standard of Care.** In the performance of its professional services, Consultant shall use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of its profession practicing in the Portland Metropolitan Area. Consultant will reperform any services not meeting this standard without additional compensation. Consultant's reperformance of any services, even if done at City's request, shall not be considered as a limitation or waiver by City of any other remedies or claims it may have arising out of Consultant's failure to perform in accordance with the applicable standard of care or this Agreement.

**Section 6. Duty to Inform.** If during the performance of this Agreement or in the future, Consultant becomes aware of actual or potential problems, faults, or defects in the



projects, any nonconformance with the federal, state or local law, rule, or regulation, or has any objection to a decision or order made by City with respect to such laws, rules, or regulations, Consultant shall give prompt written notice to City's Project Manager. Delay or failure by City to provide a written response to Consultant shall not constitute agreement with, nor acquiescence to, Consultant's statement or claim, nor constitute a waiver of City's rights.

## **Section 7. Independent Consultant; Responsibility for Taxes and Withholding.**

- A. Independent Contractor.** Consultant shall perform all Work as an independent Contractor. The City reserves the right (i) to determine and modify the delivery schedule for the Work and (ii) to evaluate the quality of the Work Product; however, the City may not and will not control the means or manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Work.
- B. Conflict of Interest.** If Consultant is currently performing work for another government, corporation, or other entity, Consultant by signature to this Agreement, represents and warrants that: Consultant's Work to be performed under this Agreement creates no potential or actual conflict of interest as defined by ORS 244 and no statutes, rules or regulations of the government, corporation, or other entity for which Consultant currently performs work would prohibit Consultant's Work under this Agreement.
- C. Not an Officer, Employee or Agent.** Consultant understand and agrees that Consultant is not an "officer", "employee", or "agent" of the City, as those terms are used in ORS 30.265.
- D. Federal and State Taxes.** Consultant shall be responsible for all federal or state taxes applicable to compensation or payments paid to Consultant under this Agreement and, unless Consultant is subject to backup withholding, City will not withhold from such compensation or payments any amount(s) to cover Consultant's federal or state tax obligations. Consultant is not eligible for any social security, unemployment insurance or workers' compensation benefits from City under this Agreement. Consultant is not entitled to, and expressly waives all claims to City benefits, including but not limited to health and disability insurance, paid leave, and retirement.

## **Section 8. Subcontracting.**

- A. Services.** Consultant's services are unique and as such, shall not enter into any subcontracts for any of the Work required by this Agreement without City's prior written consent.
- B. Subcontract.** If City permits a subcontract as set forth in subsection A, in addition to any other provisions City may require, Consultant shall include in any permitted subcontract under this Agreement provisions to ensure that City will receive the benefit of subcontractor's performance as if the

subcontractor were the Consultant. City's consent to any subcontract shall not relieve Consultant of any of its duties or obligations under this Agreement.

- C. Written Agreements.** All subcontracts for services shall be issued under written agreements that include all provisions required under Oregon Public Contracting law and substantially similar to the City's Standard Agreement provisions. Consultant shall provide City a copy of all Agreements with subcontractors who are performing work under this Agreement, upon request by City.

## **Section 9. Ownership of Intellectual Property.**

- A. Definitions.** As used in this Section and elsewhere in this Agreement, the following terms have the meanings set forth below:

- (i) "Consultant Intellectual Property" means any intellectual property owned by Consultant and developed independently from the Work.
- (ii) "Third Party Intellectual Property" means any intellectual property owned by parties other than City or Consultant.
- (iii) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Consultant is required to deliver to City pursuant to the Work.

- B. Original Works.** All Work Product created by Consultant pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of City. City and Consultant agree that such original works of authorship are "work made for hire" of which City is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not "work made for hire," Consultant hereby irrevocably assigns to City any and all of its rights, title and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon City's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in City. Consultant forever waives any and all rights relating to original Work Product created pursuant to the Work; including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. In the event that Work Product created by Consultant under this Agreement is a derivative work based on Consultant Intellectual Property, or is a compilation that includes Consultant Intellectual Property, Consultant hereby grants to City an irrevocable, non-exclusive, perpetual, royalty free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform

and display the pre-existing elements of the Consultant Intellectual Property employed in the Work Product, and to authorize others to do the same on City's behalf. In the event that Work Product created by Consultant under this Agreement is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Consultant shall secure on the City's behalf and in the name of the City an irrevocable, non-exclusive, perpetual, royalty free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on City's behalf.

**C. Consultant Intellectual Property.** All of the work product specifically developed for the City of Tualatin during executing this Agreement shall belong to the City. City of Tualatin is granted an irrevocable, non exclusive, perpetual, royalty free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the CH2M HILL intellectual property, and to authorize others to do the same on City's behalf. CH2M HILL shall retain all right, title and interest (including, without limitation, all copyrights, patents, service marks, trademarks, trade secrets and other intellectual property rights) in, and will have the right to use for any purpose, all Pre-Existing CH2M HILL Material. CH2M HILL shall not be liable for damages or costs due to any reuse, modification or alteration of the work product by the City of Tualatin.

**D. Third Party Works.** In the event that Work Product is Third party Intellectual Property, Consultant shall secure on the City's behalf and in the name of City, an irrevocable, non-exclusive, perpetual, royalty free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on City's behalf.

## **Section 10. Agreement Price.**

**A. Hourly Rate.** City agrees to pay Consultant on an hourly basis for actual hours worked on this project. The hourly rate is shown on Attachment B, which is attached hereto and incorporated into this Agreement as if fully set forth.

**B. Maximum Fee.** In no event will City pay Consultant a price not to exceed \$391,594, which is inclusive of all hours necessary to complete the Work.

**Section 11. City Funds for Payment.** City certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement. OR Consultant understand and agrees that City's payment of amounts under this Agreement is contingent on City receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow City, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.

## **Section 12. Payment Process.**

- A. Invoices.** Consultant shall furnish City an invoice for services on a monthly basis. The invoice shall contain an itemized statement showing the number of hours worked on the project by Consultant.
- B. Reimbursable Expenses.** City's Payment for reimbursable expenses shall be limited to those reimbursable expenses set forth on Attachment A, which are actually incurred by Consultant and itemized on Consultant's bill for services.
- C. Payment for Services.** City will pay Consultant for services invoiced within 30 days of receiving an itemized invoice, unless City disputes the invoice, in which case City will only pay for those services not in dispute.

## **Section 13. Consultant's Representations.**

- A.** In order to induce City to enter into this Agreement Consultant makes the following representations and warranties:
  - (i) Consultant has the power and authority to enter into and perform his Agreement;
  - (ii) This Agreement, when executed and delivered, shall be a valid and binding obligation of Consultant enforceable in accordance with its terms;
  - (iii) Consultant has examined and carefully studied the Agreement Documents and the other related data identified in the Agreement Documents;
  - (iv) Consultant has become familiar with conditions that may affect cost, progress, and performance of the Work;
  - (v) Consultant has the skill and knowledge possessed by well informed members of its industry, trade or profession and Consultant will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in Consultant's industry, trade or profession;
  - (vi) Consultant shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
  - (vii) Consultant prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

- B. Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**Section 14. Suspension of Work.** The City may suspend work upon a finding that any of the following grounds exist:

- A. False, Misleading, or Erroneous Data.** False, misleading, or erroneous data or information submitted on Attachment A or any other plans submitted in connection with the Work.
- B. Materials or Workmanship.** Materials or workmanship which do not meet specification for the construction or installation of the Work; or construction or installation which varies from the Attachment A.
- C. Violations.** Violation of any of the provisions of the Tualatin Municipal or Development Code governing the Work.
- D. Stop Work Orders.** Upon suspension of the work as provided in Section 14 above, the City shall cause to be issued a written "stop work order" to be sent by regular mail to Consultant.

**Section 15. Notice to Parties.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, mail facsimile, or email.

- A. Notice by Personal Delivery.** Any communication or notice given by personal delivery shall be effective when actually delivered.
- B. Notice by Mail.** Notice given by mail shall be by postage prepaid, to Consultant or City at the address, set forth herein, or to such other addresses or numbers as either party may indicate pursuant to this Section 15. Any communication or notice so addressed and mailed shall be effective five (five) days after mailing.
- C. Notice by Facsimile.** Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against City, any notice transmitted by facsimile must be confirmed by telephone notice to City's Agreement Administrator.
- D. Notice by Email.** Any communication or notice given by email shall be 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.
- E. Party to be Notified.** Unless otherwise notified in writing as set forth above,

notices shall be given to the Project Managers. If a Party's Project Manager is changed, notification of the change shall be promptly made in writing to the other party. If a party receives a communication from the other party not executed by the Project Manager, the party may request clarification by the other party's Project Manager, which shall be promptly furnished.

1. **Kaaren Hofmann**  
**Engineering Manager**  
**18880 SW Martinazzi Avenue**  
**Tualatin, OR 97062**  
**khofmann@ci.tualatin.or.us**

2. **Brad Phelps**  
**CH2M Hill**  
**2020 SW 4<sup>th</sup> Avenue, Ste 300**  
**Portland, OR 97201**  
**Brad.Phelps@ch2m.com**

**Section 16. City's Obligations.** In addition to obligations of City described in other parts of the Agreement Documents, City shall be responsible for providing the following:

- A. Timely Response.** City shall respond in a timely manner to all properly submitted requests from Consultant.
- B. Cooperation.** City shall cooperate with Consultant to promptly review, comment on and approve all proposals and work that comply with the requirements of this Agreement.

**Section 17. Assignment of Agreement.** No assignment of any rights, duties, responsibilities, or interests in the Agreement will be binding on the other party without the written consent of the party sought to be bound. No assignment will release or discharge the assignor from any duty or responsibility under the Agreement Documents.

**Section 18. Successors and Assigns.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.

**Section 19. Severability.** If any term or provision of this Agreements is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

**Section 20. Merger Clause; Waiver.** This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are not understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind the parties unless in writing and signed by both parties and all

necessary City approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. Whenever under this Agreement either party, by a proper authority, waives either party's performance in any respect or waives a requirement or condition of either party's performance, the waiver so granted, whether express or implied, shall only apply to the particular instance and shall not be deemed a waiver forever of subsequent instances of the performance, requirement or condition. No such waiver shall be construed as a modification of the Agreement regardless of the number of times that either party may have waived performance, requirement, or condition.

**Section 21. Agreement Construction.** This Agreement shall not be construed against either party regardless of which party drafted it. Other than as modified by this Agreement, the applicable rules of Agreement construction and evidence shall apply. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflict of laws. In any litigation, the entire text of any order or permit issued by a governmental or regulatory authority, as well as any documents referenced or incorporated therein by reference, shall be admissible for the purpose of Agreement interpretation.

**Section 22. Records Maintenance; Access.** Consultant shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Consultant shall maintain any other records pertinent to this Agreement in such a manner as to clearly document Consultant's performance. Consultant acknowledges and agrees that City, the State of Oregon, and the federal government and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of Consultant's that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Consultant shall retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

**Section 23. No Third-Party Beneficiaries.** There are no intended third-party beneficiaries to this Agreement. Consultant and the City are the only parties to this Agreement and are intended to be the only entities entitled to exercise and enforce the rights and obligations created by this Agreement. References in this Agreement to any employee, consultant, subcontractor or other agent of either party are made for the purpose of the convenience of the two parties in determining their respective rights and obligations hereunder and are not intended to imply that such entities shall have any contractual rights hereunder.

**Section 24. Nondiscrimination; Compliance with Applicable Law.** Consultant agrees that no person shall, on the grounds of race, color, religion, sex, marital status, familial status, domestic partnership, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, or veteran status suffer

discrimination in the performance of this Agreement. Consultant shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement. Without limiting the generality of the foregoing, Consultant expressly agrees to comply with:

- (i) Title VI of the Civil Rights Act of 1964;
- (ii) Section V of the Rehabilitation Act of 1973
- (iii) The Americans with Disabilities Act of 1990 and ORS 659.425;
- (iv) All regulations and administrative rules established pursuant to the foregoing laws; and
- (v) All other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

**Section 25. Registered in Oregon and City of Tualatin.** If Consultant is not domiciled in or registered to do business in the State of Oregon, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Agreement. Consultant shall demonstrate its legal capacity to perform the Work under this Agreement in the State of Oregon prior to entering into this Agreement. Consultant shall have or acquire a City business license prior to executing this Agreement.

**Section 26. Use of Recycled Products.** Consultant shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products (as defined in ORS 279A.010(1)(ff)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(gg)).

**Section 27. Force Majeure.** Neither City nor Consultant shall be held responsible for delay or default caused by fire, riot, acts of God, terrorist acts, or other acts of political sabotage, or war where such cause was beyond the reasonable control of City or Consultant, respectively. Consultant shall; however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

**Section 28. Survival.** All rights and obligations of the parties shall cease upon termination or expiration of this Contract, except for the rights and obligations of a party for payment of completed Work, indemnity, dispute resolution, maintenance of insurance, and those provisions, including, but not limited to, provisions concerning property rights and governing laws which, by their nature, must survive termination to accomplish the intent of the parties as expressed in this Contract.

**Section 29. Joint and Several Liability.** In the event Consultant includes more than one person or entity, all such persons or entities shall be jointly and severally liable for all conditions herein.



## **Section 30. Indemnification.**

- A. General Indemnity.** Consultant shall defend, save, hold harmless, and indemnify the City, its 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 Consultant or its officers, employees, subcontractors, or agents under this Agreement.
- B. Indemnity for Infringement Claims.** Without limiting the generality of Section 30(A), Consultant expressly agrees to defend, indemnify, and hold City, its officers, employees, and agents, harmless from any and all claims, suits, actions, losses, liabilities, costs, expenses, including attorneys' fees, and damages arising out of or related to any claims that the work, the work product or any other tangible or intangible items delivered to the City by Consultant that may be the subject of protection under any state or federal intellectual property law doctrine, or the City's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, that City shall provide Consultant with prompt written notice of any infringement claim.
- C. Control of Defense and Settlement.** Consultant shall have control of the defense and settlement of any claim that is subject to Section 30; however, neither Consultant nor any attorney engaged by Consultant shall defend the claim in the name of the City, nor purport to act as legal representative of the City or any of its officers, employees, or agents without first receiving from the City, in a form and manner determined appropriate by the City, authority to act as legal counsel for the City, nor shall Consultant settle any claim on behalf of the City without the approval of the City. The City may, at its election and expense, assume its own defense and settlement in the event that the City determines that the Consultant is prohibited from defending the City, or is not adequately defending the City's interests, or that an important governmental principle is at issue and the City desires to assume its own defense.

**Section 31. Insurance.** Consultant shall provide City with evidence of the following insurance coverage's prior to execution of this Agreement. A copy of each insurance policy, issued by a company currently licensed in the State of Oregon and certified as a true copy by an authorized representative of the issuing company or a certificate in a form satisfactory to City certifying to the issuance of such insurance, shall be furnished to City. Unless specifically set forth on Attachment A, insurance and related costs shall be borne by Consultant. All policies shall be written on an "occurrence basis, "except for Consultant's Professional Liability Insurance which may be written on a "claims made" basis, and maintained in full force for not less than four (4) years following Consultant's performance under this Agreement. All policies shall provide for not less than 30 days' written notice to City before they may be revised, non-renewed, canceled, or coverage reduced. Excepting professional liability and worker's compensation coverage, all

policies shall provide an endorsement naming the City, its officers, employees, and agents as additional insureds. If the policy lapses during performance, City may; treat said lapse as a breach; terminate this Agreement and seek damages; withhold progress payments without impairing obligations of Consultant to proceed with work; pay an insurance carrier (either Consultant's or a substitute) the premium amount and withhold the amount from payment to Consultant; and use any other remedy provided by this Agreement or by law.

- A. Automobile.** Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from the use of motor vehicles, including on-site and off-site operations, and owned, non-owned, or hired vehicles, with \$1,000,000 combined single limits.
- B. General Liability.** Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any act or omission of Consultant or of any of its employers, agents, or subcontractors, with \$2,000,000 per occurrence and in the aggregate.
- C. Professional Liability Insurance of \$2,000,000 per Occurrence and In the Aggregate, Including Contractual Liability Coverage.** If Consultant proposes using subcontractors, City may require subcontractors to provide professional liability insurance, provided the amount and form of coverage complies with this section.
- D. Limitation of Liability.** To the maximum extent permitted by law, CH2M HILL's liability for City of Tualatin's damages will not, in the aggregate, exceed \$1,500,000. This article takes precedence over any conflicting article of this AGREEMENT or any document incorporated into it or referenced by it. This limitation of liability will apply whether CH2M HILL's liability arises under breach of contract or warranty; tort; including negligence; strict liability; statutory liability; or any other cause of action, and shall include CH2M HILL's officers, affiliated corporations, employees, and subcontractors.
- E. Policy Coverage.** Coverage provided by this policy(ies) shall be primary and any other insurance carried by City is excess. Consultant shall be responsible for any deductible amounts payable under all policies of insurance.
- F. Workers Compensation.** Consultant, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017.

**Section 32. Execution of Agreement.** This Agreement may be executed in one or more counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

**Section 33. Governing Law; Venue; Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of law. Any claim, action, suit or proceeding (collectively, "Claim") between City and Consultant that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Washington County for the State of Oregon; provided; however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver of any form of defense or immunity from any Claim or from the jurisdiction of any court. Consultant, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. City and Consultant each represent and warrant that the individual(s) executing this Agreement have taken all steps necessary to secure full authority to bind the City and Consultant, respectively, for the acts, expenditures, and obligations contemplated in this Agreement to be performed by each of them.

**Section 34. Public Contracting Requirements.** Consultant shall comply with provisions of ORS 279A.110; ORS 279B.2210, 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 which are incorporated by reference herein. City's performance under the Agreement is conditioned upon Consultant's compliance.

**Section 35. Default; Remedies; Termination.**

**A. Default by Consultant.** Consultant shall be in default under this Agreement if:

- (i) Consultant institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
- (ii) Consultant no longer holds a license or certificate that is required for Consultant to perform its obligations under the Agreement and Consultant has not obtained such license or certificate within fourteen (14) calendar days after City's notice or such longer period as City may specify in such notice; or
- (iii) Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform the Work under this Agreement within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Consultant's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after City's notice, or such longer period as City may specify in such notice.

**B. City's Remedies for Consultant's Default.** In the event Consultant is in default under Section 35(A), City may, at its option, pursue any or all of the

remedies available to it under this Agreement and at law or in equity; including, but not limited to:

- (i) Termination of this Agreement;
- (ii) Withholding all monies due for Work and Work Products that Consultant has failed to deliver within any scheduled completion dates or has performed inadequately or defectively;
- (iii) Initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief;
- (iv) Exercise of its right of setoff.

These remedies are cumulative to the extent the remedies are not inconsistent, and City may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Consultant was not in default, then Consultant shall be entitled to the same remedies as if this Agreement was terminated.

**C. Default by City.** City shall be in default under this Agreement if:

- (i) City fails to pay consultant any amount pursuant to the terms of this Agreement, and City fails to cure such failure within thirty (30) calendar days after Consultant's notice or such longer period as Consultant may specify in such notice; or
- (ii) City commits any material breach or default of any covenant, warranty, or obligation under this Agreement, and such breach or default is not cured within thirty (30) calendar days after Consultant's notice or such longer period as Consultant may specify in such notice.

**D. Consultant's Remedies for City's Default.** In the event City terminates the Agreement, or in the event City is in default and whether or not Consultant elects to exercise its right to terminate the Agreement, Consultant's sole monetary remedy shall be (i) with respect to services compensable on an hourly basis, a claim for unpaid invoices, hours worked within any limits set forth in this Agreement but not yet billed, authorized expenses incurred and interest of two-thirds of one percent per month, but not more than eight percent per annum, and (ii) with respect to deliverable based Work, a claim for the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by City, less previous amounts paid and any claim(s) that City has against Consultant. In no event shall City be liable to Consultant for any expenses related to termination of this Agreement or for any anticipated profits. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection,

Consultant shall pay immediately any excess to City upon written demand provided.

**E. Termination by City.** At its sole discretion, City may terminate this Agreement:

- (i) For any reason upon thirty (30) days' prior written notice by City to Consultant;
- (ii) Immediately upon written notice if City fails to receive funding, appropriations, limitations, allotments, or other expenditure authority at levels sufficient to pay for the Work or Work Products; or
- (iii) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the City's purchase of the Work or Work Products under this Agreement is prohibited or City is prohibited from paying for such Work or Work Products from the planned funding source.
- (iv) City's Right to Terminate for Cause. In addition to any other rights and remedies City may have under this Agreement, City may terminate this Agreement immediately upon written notice by City to Consultant, or at such later date as City may establish in such notice, or upon expiration of the time period and with such notice, upon the occurrence of any of the following events:
  - (a) Consultant is in default because Consultant institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
  - (b) Consultant is in default because Consultant no longer holds a license or certificate that is required for it to perform services under the Agreement and Consultant has not obtained such license or certificate within fourteen (14) days after City's notice or such longer period as City may specify in such notice; or
  - (c) Consultant is in default because Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform the Work under this Agreement within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Consultant's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within fourteen (14)

calendar days after City's notice, or such longer period as City may specify in such notice.

**F. Termination by Consultant.** Consultant may terminate this Agreement with such written notice to City upon the occurrence of the following events.

- (i) City is in default because City fails to pay Consultant any amount pursuant to the terms of this Agreement, and City fails to cure such failure within thirty (30) calendar days after Consultant's notice of the failure to pay or such longer period as Consultant may specify in such notice; or
- (ii) City is in default because City commits any material breach or default of any covenant, warranty, or obligation under this Agreement, fails to perform its commitments hereunder within the time specified or any extension thereof, and City fails to cure such failure within thirty (30) calendar days after Consultant's notice or such longer period as Consultant may specify in such notice.

**G. Return of Property upon Termination.** Upon termination of this Agreement for any reason whatsoever, Consultant shall immediately deliver to City all of City's property (including without limitation any Work or Work Products for which City has made payment in whole or in part) that is in the possession or under the control of Consultant in whatever stage of development and form of recordation such City property is expressed or embodied at that time. Upon receiving a notice of termination of this Agreement, Consultant shall immediately cease all activities under this Agreement, unless City expressly directs otherwise in such notice of termination. Upon City's request, Consultant shall surrender to anyone City designates, all documents, research or objects or other tangible things needed to complete the Work and the Work Products.

**H. City's Remedies Cumulative.** In the event of termination, in addition to the remedies provided herein, City shall have any remedy available to it in law or equity. City shall also have such remedies as are available to it in law or equity for Consultant's breach without the requirement that City first terminate this Agreement.

## **Section 37. Dispute Resolution.**

**A. Process.** If Consultant is not in agreement with a decision of the City under this Agreement, Consultant shall comply with the following process:

- (i) Consultant shall file a written notice of appeal with the City Engineer within fifteen (15) days following receipt of the City's written decision.

- (ii) City Engineer shall have sixty (60) days for review of the appeal prior to presenting a decision to Consultant. During the sixty (60) day period, City Engineer shall appoint a three-person management team as the authorized review panel. The review panel may call on the resources appropriate to evaluate the merit of the appeal. This may include; but not be limited to, City's attorney, Consultant, and any employee of City.
- (iii) Prior to the end of the sixty (60) day review period, the City Engineer shall issue a written decision o Consultant. If Consultant is agreeable with this decision, a Change Order shall be processed consistent with the decision.

**B. Exhaustion of Remedies.** If Consultant is not in agreement with the written decision of City Engineer, Consultant shall only then be entitled to initiate legal action as the prescribed administrative remedies have been exhausted.

**C. Complaint.** Any claim that cannot be resolved between the parties as set forth in this Section shall be initiated by filing a complaint as set forth in Section 37. The claim and all cross and counter-claims filed in response to the complaint shall be submitted to mediation. If the parties cannot agree on a mediator, the Presiding Judge for Washington County, shall select the mediator. Only if the dispute cannot be resolved by mediation, shall the parties proceed to litigate the claim in court.

REMAINDER OF PAGE LEFT BLANK FOR FORMATTING PURPOSES

**Section 38. Attorney Fees.** If any suit, action, arbitration or other proceeding is instituted upon this Agreement or to enforce any rights herein or otherwise pursue, defend or litigate issues related to this Agreement, each party shall be liable for their own attorneys' fee and costs, including those on appeal. The parties each agree and hereby waive any right to attorney fees granted by statute or rule that conflicts with this provision.

**CONSULTANT, BY EXECUTION OF THIS AGREEMENT,  
HEREBY ACKNOWLEDGES THAT CONSULTANT HAS READ  
THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE  
BOUND BY ITS TERMS AND CONDITIONS**

APPROVED AND ENTERED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CH2M HILL \_\_\_\_\_  
(Consultant)

City of Tualatin

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title - City Manager

Address \_\_\_\_\_

18880 SW Martinazzi Ave.

\_\_\_\_\_

Tualatin, OR 97062

Telephone \_\_\_\_\_

503-692-2000

\_\_\_\_\_  
Consultant's Federal ID Number or  
Social Security Number

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
City Attorney



**Attachment A**

**CONSULTANT'S SERVICES**

Table 1

CONSULTANT'S HOURLY RATES  
(CH2M HILL)

The following hourly rates are effective through project completion or January, 2014.

## **Attachment B**

### **CITY'S RESPONSIBILITIES**

## Steel Tank C-2 Reservoir: Permitting Assistance, Design, and Construction Services

### Project Understanding and Approach

The City of Tualatin is planning to further develop the Frobase reservoir site with an additional welded steel tank reservoir to serve the C-Level service area which has an overflow elevation of 506-foot. The 1 acre site is located in unincorporated Washington County. The new steel tank will provide additional storage for the C-level and also provide redundant storage for that level to accommodate removing one of the reservoirs from service for maintenance and improvements.

CH2M HILL previously assisted the City of Tualatin in attaining a land use permit for developing the project site, which provides the stipulated requirements of the project. The C-2 reservoir design will be consistent with the requirements established in the approved land use permit 09-164-SU/D/M.

The new C-2 reservoir will operate in parallel with the existing C-1 reservoir. The existing C-1 and new C-2 reservoir will be supplied from the Norwood pump station which has a peak capacity of 2,800 gpm. The new tank will be provided with a separate inlet/outlet to enhance mixing in order to reduce dead volumes and stratification in the reservoir and improving water quality. Provisions will be provided for the addition of electrically powered (solar or grid) water mixing system, which may or may not be constructed within this project. Corrosion protection measures for both the tanks and new pipeline will be incorporated into the project.

Our project team will consist of CH2M HILL, Winterbrook Planning and Greenworks PC. CH2M Hill will be serving as the prime contractor and in the role of project manager and design lead for the project. Winterbrook will provide assistance in attaining a land use permit extension (if necessary), and Greenworks PC will serve as the Landscape architect for the project.

As required by the Land Use approval, the building permit is to be acquired by August 7<sup>th</sup>, 2014, or an extension to the permit is needed.

The design will be produced using the requirements of the 2014 International Building Code, expected to be adopted by Washington County during the design of this project.

### Task 1 - Preliminary Design

Our design team will finalize the C-2 preliminary design to ensure all aspects of the project are defined to the City's desired project features.. A significant portion of the predesign activities have been completed including the following:

- Geotechnical evaluation and seismic hazard evaluation
- Site survey

- Development of stormwater and overflow management approach
- Concept site design and site landscape

**Geotechnical Predesign** The geotechnical evaluation was based on the findings developed from a 1994 geotechnical exploration supplemented with cone penetrometer testing (CPT) conducted in 2009. CH2M HILL has completed a geotechnical site report and site specific seismic hazards evaluation based on the original site design submitted with the Land Use Permit application. The site-specific seismic hazards evaluation for the reservoir location provides recommendations for foundation and structure type as well as specific seismic design criteria. CH2M HILL used USGS probabilistic seismic hazard data for ground shaking on rock and the computer program, ProShake (EduPro, 2001) to perform the site response analyses and determine the level of induced shaking at the ground surface of the site for the appropriate seismic design events. The previously prepared site specific hazards report will need to be updated to be current with the 2014 IBC requirements and will be issued as part of the preliminary design package.

**Structural Predesign:** Project specific design requirements will be determined for the new tank by considering the following: geotechnical recommendations (including updates), the International Building Code (2014 IBC) requirements as amended by the Oregon Structural Specialty Code (2009 OSSC) and as required by the reference code of ASCE 7-10, and AWWA D100-11 Potable Water Steel Tank design requirements. Project specific design requirements will include wind, seismic, and performance based parameters. The design loads will be verified with the Washington County building department. Higher seismic requirements in recent codes have dictated new design considerations to accommodate seismic sloshing of the contents an evaluation of additional wall height versus design of roof-wall connections and roof members to accommodate sloshing forces will be evaluated during preliminary design.

#### Preparation of Preliminary Plans

CH2M HILL will prepare the following plans and reports during the preliminary design phase:

- Landscaping Plan (complete) and concept Irrigation Plan
- Site Civil Plan
- Grading Plans
- Tank Elevations (illustrating common floor elevations for C-1 and C-2, overflow elevations, and roof elevations)
- Yard Piping Plan with hydraulic calculations to determine Inlet/Outlet pipeline constraints to maintain approximate similar water surface elevation between the tanks.
- Process and Instrumentation Diagram (P&ID)
- Electrical One-Line diagram (Verify existing power supply can provide for new C-1 mixer to be installed now and for future mixer at C-1.)
- Stormwater Management Report
- Geotechnical Site Specific Analysis (conforming to IBC 2014)

- Structural Design Criteria Report
- Mixing Options Report (City desire to install mixing system during construction of C-2 Tank and later install a mixer under separate contract for reservoir C-1.)

## Task 2 – Permitting Assistance

As needed for possible extension of the approved Land Use approval, CH2M HILL and Winterbrook Planning will assist the City of Tualatin in attaining an extension to their existing Land Use Permit 09-164-SU/D/M.

CH2M HILL will also assist the City of Tualatin in attaining required construction permits. This will include close coordination of land use requirements and the design development for approval by Washington County, Department of Environmental Quality (DEQ), and the Drinking Water Services of the Oregon Health Authority. Our design plans will contain the required information to obtain permits associated with construction of the new reservoir. The design drawings will be submitted to Washington County to obtain necessary commercial construction permits, which include building, plumbing, underground utilities, and electrical permits. In addition to the commercial construction permits, an excavation and grading permit will be needed. Oregon DEQ will also require a DEQ NPDES construction permit (1200-C).

The site appears to be relatively unencumbered by environmental permitting constraints. It appears that jurisdictional wetlands or waters are not present on the site or within 200 foot of the site based on data from the USGS topographic quad map, National Wetlands Inventory, Metro's Habitat Tool, and Washington County Rural Natural Resource Plan. This implies that only the CWS prescreening process will be all that is required, we are assuming that attaining a service provider letter will not be required.

Fees for any permit applications will be paid by the City direct to the regulatory agencies.

### Land Use Permit 09-164-SU/D/M Requirements

The Land Use Notice of Decision 09-165-SU/D/M issued by Washington County stated that the following shall be submitted prior to implementing any ground disturbing activities and issuance of a grading permit, CH2M HILL will assist the City of Tualatin in ensuring these activities are completed:

#### Submit to Washington County Planning Services:

- Construction Plans shall include 2 Parking Spaces designed in accordance with Section 413-5.3
- Provide evidence that a construction right of way permit has been obtained from the operations division for the existing access to SW 82<sup>nd</sup> Ave. (Section 207-5)
- Provide evidence that the applicants engineer (CH2M HILL) has inspected SW 82<sup>nd</sup> Avenue between terminus and its intersection with SW Frobase Road to document the pre- construction road conditions.
- Provide evidence of Fire Marshal Approval for the access driveway. Access to the site shall be granted to TVFR via a Knox Box (Section 409-5).

Submit to the Building Service Division:

- Grading, drainage, and erosion control plans for the proposed facility consistent with the preliminary approved plans in the case file. The erosion control plans shall be prepared in conformance with the Washington County Erosion Control Plans Technical Guidance Book. The approved erosion control plan shall be fully implemented during construction as required by OAR 340-41-455(3)(B), Section 410).
- Final construction plans, including necessary engineering plans and calculations.

### Task 3 - Final Design

Project final design will commence once we attain endorsement of the preliminary design from the City of Tualatin. Once predesign concepts are approved and final design commences this scope assumes the preliminary design concepts will be frozen and changes in the preliminary design subsequent of initiating final design could result in additional engineering costs.

We are planning to performance specify the C-2 steel tank structure, similar to the approach undertaken for the recently constructed A-2 reservoir design, where the Tank Constructor will be responsible to provide the required detailed, deferred submittals and calculations of the structure. We will complement the performance specification approach with experienced in-house design calculations developed for both permitting review as well as quality control/approval of the submittal provided by the tank fabricator.

We will develop a design that incorporates cathodic protection in both the C-1 and C-2 reservoirs to be implemented as part of this project. We will utilize our in-house corrosion specialist to develop a design that will optimize the performance of the protective coating system and reduce the occurrence of corrosion through techniques such as seal welding interior roof plates.

In the contract documents we will require the contractor restore the existing roadway to preconstruction conditions, both on-site and also the paved portion of SE 82<sup>nd</sup> Avenue that may need repairs from construction damage.

It is anticipated that the instrumentation and control strategy for C-2 reservoir will be similar to the C-1 reservoir which utilizes a pressure transducer for monitoring the reservoir water level that is interconnected to the SCADA system and serves as in input for the Norwood Pump Station. Our approach assumes that all software integration would be provided by the City of Tualatin's preferred system integrator – Callisto Integration and would be provided under the general contractor. We will prepare an instrumentation and control specification, operational narrative, and include a scope of work attained from the City of Tualatin's preferred software integrator to include in the contract documents as a cash allowance bid item.

Our formal but flexible phased design process will include deliverables at predesign (30%), interim design (60%) and contract document finalization (90%), all aiming to seek owner and quality assurance review input to the ongoing design and final bid documents. We propose to meet with City of Tualatin at each of the three delivery phase's. Constructability reviews will be performed by one of our reservoir construction team members throughout development of our design. We will provide updated construction cost estimates with our design deliverables.

CH2M HILL will prepare construction documents suitable for public bidding. Construction documents will include design plans, City of Tualatin front ends and standard specifications, City of Tualatin Technical Specifications and special provisions, and CH2M HILL specialty technical specifications. CH2M HILL will also prepare specifications for the entire code-required “Statement of Special Inspection, Testing and Observation Plan” specific to steel tanks.

#### Task 4 - Bidding Services

CH2M HILL will assist the City of Tualatin in bidding the project, this will include preparation of bid documents for distribution to bidders, facilitating a pre-bid meeting, and responding to addenda and making recommendation for award. The City will be responsible for bid advertising, notice of award, and contracting with the successful construction contractor, including obtaining bonds, and insurance.

#### Task 5 - Services During Construction

CH2M HILL will provide a qualified construction manager to coordinate construction activities at a 25% full time equivalent allocation for the duration of active construction. Our construction management services will ensure critical design elements are implemented during construction, we will strive to develop a teaming relationship with the contractor to facilitate a smooth construction phase.

Our Structural engineer and Geotechnical engineer will conduct IBC required observations at key elements of the project, required by code, to ensure the project is constructed in accordance with the design intent.

Our office engineering will include reviewing and approving shop drawings, responding to contractor information requests (RFIs), preparing record drawings, and assisting with project closeout, including preparation of Mylar As-built drawings.

The City will approve and pay the construction contractor’s monthly invoices. Special or materials inspection services required by the IBC will be contracted direct to the City of Tualatin.

### Budget Estimate

The proposed work will be performed on a time and expense basis, the estimated budget to complete the work described in this scope of work is \$391,594. This scope and budget buildup assumes that work will be conducted in accordance with the City of Tualatin’s Agreement.

A summary of the task level costs are provided in Table 1. The estimated fee is based on the proposed tasks and the level of effort needed to complete each task based on the Scope of Work assumption provided within this Attachment A.

We will not exceed this total fee without prior authorization from the City of Tualatin.

**Table 1 Budget Summary**

C-2 Reservoir

Task	Estimated Level of Effort	Total Costs
------	---------------------------	-------------



**Table 1 Budget Summary**

C-2 Reservoir

Task	Estimated Level of Effort	Total Costs
1. Preliminary Design	162	\$27,202
2. Permitting Assistance	178	\$27,197 <sup>1</sup>
3. Final Design	1310	\$197,672 <sup>2</sup>
4. Bidding Services	78	\$12,125
5. Service During Construction	839	\$130,111
<b>Total</b>	<b>2619</b>	<b>\$391,594 <sup>3</sup></b>

<sup>1</sup> Includes a possible \$2,500 subcontract with Winterbrook Planning

<sup>2</sup> Includes a \$6,200 subcontract with Greenworks PC for design services

<sup>3</sup> Total Costs includes a 5% markup on subcontractors

## Schedule

Below is a preliminary schedule based on a start Notice to Proceed of February 12<sup>th</sup>, 2014:

Activity	Date Completed
NTP	February 17 <sup>th</sup> , 2014
Kick off meeting	February 19 <sup>th</sup> , 2014
Preliminary Design Review	March 11 <sup>th</sup>
Final Design	March 12 <sup>th</sup> to May 6 <sup>th</sup>
Submit Application for Building Permits	May 20 <sup>th</sup>
Submit Land Use Extension (if needed)	July 1 <sup>st</sup>
Attain Building Permit Approvals	August 5 <sup>th</sup>
Issue Contract Documents for Bidding	August 6 <sup>th</sup>
Bidding & Construction Phase Services	August 2014-August 2015

### Scope of Work Assumptions:

- Contractor will provide construction staking surveying
- Contractor will provide redline markups for As-built drawing documentation
- Contract will be completed in August 2015
- Construction services will be provided on a time and expense basis, and may need to be adjusted based on construction contractor performance and the City of Tualatin's preference for inspection frequency. This Scope assumes a partial on-site observation services equivalent to 25% full time for a duration of 32 weeks.

- City will procure special and materials inspection services required by the IBC.
- Design Engineering Fee is based on development of 30 design drawings.
- Due to increased sloshing height requirements for steel tank design resulting from new codes, the new C-2 reservoir will be approximately 2-foot to 6-foot taller than the existing C-1. The existing overflow height will be the same between the two tanks.
- A CWS Prescreening Process for sensitive areas will suffice and a sensitive area service provider letter shall not be required.
- No wetland delineation services will be required.
- No booster pumping or re-chlorination facility will be required, scope assumes that only 1 new structure (C-2 reservoir) will be designed and constructed.
- Design of a cathodic protection system for C-2 reservoir will be included
- Detention pond, or Low impact design (LID) shall be required for stormwater detention and temporary reservoir overflow discharge storage. The storm drain line for the detention pond or LID structures will extend no farther than the site property line.
- No offsite piping or improvements shall be required.
- A dechlorination facility for draining the tank will consist of a manhole structure with bags of appropriate dechlorination chemical. No automation.
- No retaining walls will be required.
- No additional Geotechnical Borings will be required for the site.
- City will pay for all permit fees applications, and deferred submittal review costs.
- No software integration services will be provided by CH2M HILL. System Integration will be performed by the City's preferred provider as a cash allowance under the construction contractor.
- CH2M HILL will work closely with Washington County for permit acquisition, but has no control over permit review time allowance.



# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos

**FROM:** Lance Harris, Information Services Manager

**DATE:** 03/10/2014

**SUBJECT:** Consideration of an Intergovernmental Agreement between the City of Portland and the City of Tualatin for Access to the Regional Justice Information Network [RegJIN]

---

### **ISSUE BEFORE THE COUNCIL:**

Consideration of authorizing the City Manager to execute an Intergovernmental Agreement with the City of Portland that will allow the City of Tualatin to continue access to the regional justice information network.

### **RECOMMENDATION:**

It is recommended that this agreement be approved to allow the police officers of the City of Tualatin to access RegJIN.

### **EXECUTIVE SUMMARY:**

The goal of RegJIN is to develop a single, regional records management system (RMS) that will be used by over 35 law enforcement agencies and that provides all of the capabilities of the current Portland Police Data System (PPDS), with expanded, more fully integrated capabilities.

The Tualatin Police Department will use the RegJIN system to:

- Create offense reports
- Access criminal information and history

Through the identification and procurement of a new regionwide, enterprise solution, the RegJIN Partner Agencies (RPA) anticipate enhanced automated capabilities that will allow for improved data management, more effective decision support, and enhanced crime data analysis. Specifically, they hope to accomplish the following goals:

- Procure an enterprise solution that will provide modern law enforcement data collection and records keeping functionality, including secure data sharing among participating agencies.
- Provide law enforcement with modern, state-of-the-art tools.

- Provide a fully integrated system without redundant data entry or data loss.
- Procure an RMS system that is highly scalable and can adapt to changing business needs.
- Increase data sharing and collaboration between regional law enforcement agencies.
- Increase capabilities by securely interfacing with other information systems for data exchange.
- Eliminate the need for separate, fragmented systems and databases.
- Increase agency automation and decrease the need to rely on manual paperwork processing.
- Improve data sharing and interoperability among participating law enforcement agencies.
- Provide enhanced and quick access to crime information and emerging trends, thereby reducing crime and increasing officer efficiency.
- Provide effective data to support operational and administrative decision-making.
- Leverage existing technologies available to partner agencies (e.g., GIS) for improved operational productivity and safety to officers and the public.
- Facilitate greater coordination and information sharing among the participating agencies.
- Ensure data confidentiality in a secure, highly available environment.

#### **FINANCIAL IMPLICATIONS:**

Costs for participation in RegJIN will be budgeted in the 2014-2015 budget.

---

**Attachments:**    Master RegJIN IGA  
                          Signature Page

**REGJIN**  
**MASTER**  
**IGA**

**MASTER INTERGOVERNMENTAL AGREEMENT FOR THE USER BOARD OF THE  
REGIONAL JUSTICE INFORMATION SYSTEM (RegJIN)  
No. 30003644**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into, pursuant to Oregon Revised Statutes ("ORS") 190.003 to 190.085, and Revised Code of Washington ("RCW") 39.34.030 by and among the City of Portland, an Oregon municipal corporation ("City"), and the Regional Partner Agencies (herein collectively, the "RPA").

**RECITALS**

WHEREAS, the City has acquired a law enforcement Records Management System ("RMS") to maintain a multi-agency, multi-jurisdictional set of law enforcement applications and associated databases; and

WHEREAS, the City and RPA find that a primary objective of the region is to develop a shared common database available in the RMS in order to cooperatively prevent criminal activity, track resource utilization, facilitate rapid and efficient communications, provide immediate and coordinated assistance among agencies for day-to-day, tactical, and strategic operations, improve the ability of law enforcement to prevent and solve criminal activity through shared system functionality and cooperative operations, effectively prosecute criminals, and identify short and long term leveraging opportunities for cost effective infrastructure investments to meet regional requirements; and

WHEREAS, the City and RPA desire to create a User Board to provide input, guidance and strategic direction for the RMS; and

WHEREAS, regionalization and interoperability provides a cost effective and efficient acquisition of the RMS and improvements through economies of scale, coordination and sharing; and

WHEREAS, use of the City's RMS assets with the RPA will increase overall system reliability and reduce duplicative systems while allowing for shared information; and

WHEREAS, creation of this Intergovernmental Agreement for the RMS may also be expanded to include other public safety technologies in the future; and

WHEREAS, the participating jurisdictions now desire to enter into this Agreement, and being fully advised; and

**NOW, THEREFORE, IN CONSIDERATION** of the mutual promises and covenants contained herein, it is agreed as follows:

**1. DEFINITIONS:**

The following is a definition of terms used herein:

- A. "Capital Cost" is the estimated and budgeted amount required, including but not limited to, the direct cost for hardware, software, project management, planning, design, engineering, procurement, labor and materials for designing, procuring, installation, testing, commissioning, training, and otherwise implementing the

RMS and its future components. Capital Cost does not include non-City RPA assets, non-City RPA specific applications, data conversion of data not contained in the Portland Police Data System (PPDS), the RPA side of RMS System interfaces, non-City user devices such as computer workstations, mobile computers, desktop and mobile computer operating system software and printers, and non-City network components.

- B. "Days" means calendar days, including weekdays, weekends and holidays, beginning at midnight and ending at midnight twenty-four hours later, unless otherwise specified by the Agreement.
- C. "City/RPA Confidential Information" means any information, in any form or media, including verbal discussions, whether or not marked or identified by the City and/or RPA, which is reasonably described by one or more of the following categories of information: (1) financial, statistical, personnel, human resources data or Personally Identifiable Information as described in the Oregon Consumer Identity Theft Protection Act of 2007; (2) business plans, negotiations, or strategies; (3) unannounced pending or future products, services, designs, projects or internal public relations information; (4) trade secrets, as such term is defined by ORS 192.501(2) and the Uniform Trade Secrets Act ORS 646.461 to 646.475; (5) Exempt per ORS 192.501 and/or ORS 192.502 (6) attorney/client privileged communications, (7) exempt per federal laws (including but not limited to Copyright, HIPPA, Computer Fraud and Abuse Act), (8) criminal history information that is not subject to disclosure based on State of Oregon, State of Washington, or Federal rules and regulations, (9) criminal investigation information, (10) tactical and strategic public safety information, and (11) information relating to or embodied by designs, plans, configurations, specifications, programs, or systems developed for the benefit of the City and/or RPA including without limitation, data and information systems, any software code and related materials licensed or provided to the City by third parties; processes; applications; codes, modifications and enhancements thereto; and any work products produced for the City.

"Confidential Information" includes, but is not limited to, any information that is disclosed in written, graphic, verbal, or machine-recognizable form, and is marked, designated, labeled or identified at the time of disclosure as being confidential or its equivalent; or if the information is in verbal form, it is identified as confidential or proprietary at the time of disclosure and is confirmed in writing within thirty (30) days of the disclosure. Confidential Information does not include any information that: is or becomes publicly known through no wrongful or negligent act of the receiving party; is already known to the receiving party without restriction when it is disclosed; is, or subsequently becomes, rightfully and without breach of this Agreement or any other agreement between the Parties or of any applicable protective or similar order, in the receiving party's possession without any obligation restricting disclosure; is independently developed by the receiving party without breach of this Agreement; or is explicitly approved for release by written authorization of the disclosing party.

- D. "Cost Sharing Formula" is the plan and periodic amendments thereof, adopted by the City based on recommendations by the User Board that apportions User

Fees, capital, operation, maintenance, repair and replacement costs and use of grant funding among the Entry and Inquiry Only RPA. The Cost Sharing Formula is attached as Exhibit A.

- E. "Entry RPA" includes the City of Portland and any authorized agency who enters data into the RMS. Entry RPA may take part in decisions or activities of the User Board in which the Entry RPA has discretion to participate. Entry RPA shall have full voting rights. The City shall be considered an Entry RPA for voting purposes.
- F. "Inquiry Only RPA" is an agency who has access to view the RMS data but does not input any data. Inquiry Only RPA have no voting rights on the User Board.
- G. "Operation and Maintenance Cost" are the budgeted amount required for the operation and maintenance of the RMS which may include, but not be limited to, the direct cost for: license fees, vendor support costs, software and hardware upgrade and/or replacement costs, maintenance, personnel, facilities use and rental costs, and training for the upcoming year. Operating and Maintenance Cost shall be allocated to the Entry and Inquiry Only RPA according to the Cost Sharing Formula.
- H. "Project" shall mean any effort undertaken by the System Manager, as recommended by the User Board, to improve or modify the RegJIN RMS.
- I. "Quorum of the Board" is comprised of fifty (50) percent of the Entry RPA, plus one.
- J. "RPA Asset" shall mean hardware, software, equipment, real property and fixtures, owned or leased by any RPA.
- K. "RPA" shall mean Inquiry Only and Entry Partners
- L. "Records Management System" is the tangible assets and/or Systems acquired or purchased by the City to develop, implement and operate the RegJIN RMS.
- M. "RegJIN RMS" is the law enforcement records management system acquired and implemented by the City of Portland for use by the RPA.
- N. "Strategic Plan" is the plan and periodic amendments thereof, setting forth the vision, strategy and benefits for the RegJIN RMS as recommended by the User Board and approved by the City.
- O. "System Manager" is the individual and his/her designated named backups appointed by the City of Portland to manage and operate the RMS on a daily basis.
- P. "Technology Management Plan" is the plan and periodic amendments thereof, that is recommended by the User Board and approved by the City that provides technical guidance for operation, maintenance, and repair of the RMS.



- Q. "Unanimous Vote" or "Unanimously" means that approval is required by the City and all Entry RPA present at a User Board meeting. A Quorum of the Board is required for all Unanimous Votes.
- R. "Upgrade Plan" is the Plan for upgrading the RMS, and periodic amendments thereof, that is recommended by the User Board and approved by the City, including, but not limited to, detailed technical designs, estimated budget for the capital costs of acquiring, constructing, and deploying the technical design, estimated budget for upgrading the RMS.
- S. "User Board" is the administrative body of the RegJIN User Board.
- T. "User Fees" are fees set by the City for RPA access and use of the RMS and as agreed to between the City and a RPA in a Participating IGA.
- U. "Withdrawal Plan" is a plan providing the manner of complete withdrawal for an RPA, or for an Entry RPA to move to an Inquiry Only RPA.

**2. ESTABLISHMENT OF USER BOARD:**

There is hereby established the RegJIN User Board ("User Board") for the purpose as described below and subject to the terms and conditions herein. The User Board is established to plan and advise the City of Portland in the operation of the RMS, which serves the geographic area encompassed by Clackamas, Columbia, Multnomah, and Washington Counties of Oregon State and Clark County of Washington State (along with future RPA). Thereafter, the RPA may recommend expansion of the System and pursue other services as agreed to by the City and Entry RPA.

**3. STATEMENT OF PURPOSE:**

**General**

The User Board is formed to create a user based structure for making recommendations to the City regarding the planning, funding, operations, and maintenance of the RMS including, but not limited to, transition planning, User and administrative training procedures, training equipment and facilities, uniform data entry, complying with federal and state reporting requirements, maintaining data integrity, operational efficiencies, physical backup and redundancy, and obtaining and managing additional resources such as grants to support RMS maintenance, enhancement, and extension. The User Board may perform functions, which may include, but are not limited to the following:

- A. Cooperatively develop or review and recommend changes or adoption of a Strategic Plan for maintaining the viability and efficiency of the RMS.
- B. Review and recommend which RMS data and applications will be shared among the City and RPA.
- C. Cooperatively develop or review and recommend changes or adoption of a coordinated long-term plan for capital and operating funding of the RMS, including methods to allocate costs.

- D. Review and recommend changes to established Standard Operating Procedures (SOPs) and technical standards for the operations and business continuity of the RMS.
- E. Review and recommend changes or adoption of the RMS Technology Management Plan.
- F. Review and recommend changes to the operational and maintenance procedures of the RMS for assets owned by the City in a manner that resolves operational interface issues with each RPA's local assets.
- G. Recommend admission of new RPA.
- H. Review and recommend changes to RMS operational and maintenance procedures with the goal of balancing regional requirements against Entry RPA data collection and reporting autonomies.
- I. Apply for grants and other available funding sources to fund RMS enhancements and capability extensions.
- J. Participate in, and recommend process changes to ensure the successful deployment of the RMS and, in the future, RMS extensions and enhancements.
- K. Review and recommend changes of the annual operational budget developed to support and fund the RMS.
- L. Review and recommend Changes to the RMS Cost Sharing Formula.

**4. ADMINISTRATIVE BODY:**

The User Board shall have the duties as provided below.

- A. The User Board, as an advisory group formed to furnish advice to the City of Portland, shall be subject to and comply with the requirements of the Oregon Public Meetings laws.
- B. The User Board shall be composed of one representative appointed by each Entry RPA, which includes one representative appointed by the City. The User Board shall elect a Chair, and Vice-Chair who shall each serve for a two year term. The Chair, or in the Chair's absence the Vice-Chair, shall preside over all User Board meetings.
- C. The Entry RPA, through the Board, shall administer the operation of the User Board. Each Entry RPA and the City shall have one vote. Each Entry RPA shall appoint, at its pleasure, one primary representative, and one alternate representative who may attend all Board meetings. The primary and alternate representatives may jointly participate in all discussions of the User Board; provided however that the vote of the Entry RPA shall be cast only by the primary representative, unless the primary representative is absent, in which event the alternate representative may cast the Entry RPA's vote. No User Board member

may grant proxy voting power to another User Board member from another Entry RPA. A tie vote shall not be sufficient to pass a measure or recommendation.

- D. The Board may meet monthly at the discretion of the Chair, but in no event less than twice per year. It may meet more frequently as determined by the Chair or as requested by any Entry RPA or the City.
- E. A Quorum of the Board is required for the User Board to make any official recommendation or action.
- F. Unless otherwise provided herein, all User Board actions shall require approval by a majority of the Entry RPA present at an official Board meeting.
- G. The User Board Chair shall be responsible for providing notices of public meetings and keeping of minutes in compliance with Oregon Public Records laws. The minutes shall summarize the discussions completed during Board meetings and include all official actions taken by the Board, along with any vote tallies associated with those actions.
- H. The Chair or designee shall represent the User Board at official public meetings as requested by the City or other Entry RPA during which the Chair or designee shall report on the opinion and/or recommendations of the Board regarding specific issues being discussed that are relevant to the Board or RMS. The Chair or designee shall limit their participation in this capacity to reporting on official actions and recommendations taken by the Board.
- I. The User Board shall undertake the following:
  - 1. Review and recommend changes to the Strategic Plan developed by or updated by the City.
  - 2. Review and recommend changes to the Technology Management Plan developed by or updated by the City.
  - 3. Review and recommend changes to the Cost Sharing Formula developed by or updated by the City.
  - 4. Review and recommend changes to the annual objectives and work plans developed by the System Manager.
  - 5. Review and recommend changes to the general policy guidelines and/or Standard Operating Procedures developed by the System Manager for the RMS.
  - 6. Provide oversight and direction regarding User Board operations.
  - 7. Establish committees and appoint committees as needed.
  - 8. Review and comment on all Plans at least once every four years.
  - 9. Makes other recommendations as necessary.

- J. The User Board shall review and make recommendations on the acceptance of any new RPA as outlined in Section 10. Recommendations on acceptance of a new RPA shall be by Unanimous vote.
- K. The User Board, at its first organizational meeting, or as soon thereafter as reasonable, shall adopt rules governing its procedures, and including at a minimum 1) time and place of regular meetings; 2) method and manner of calling special meetings; 3) method, term and manner of election of User Board officers; and 4) establish committees and appoint committee representatives from among the RPA; and 5) any other procedures deemed necessary as outlined in Section 7.

**5. PROJECTS AND FUNDING:**

- A. Funds for Capital Cost of the initial RMS implementation will be contributed by the City. Funds for the Capital Costs of future components of the RMS will be jointly contributed by the City and other RPA based on a recommended allocation formula, taking into account application of grant funding and credit for contributed assets, if any. The RPA agree to request such grant funding whenever possible.
- B. According to adopted Strategic and Cost Sharing Formulas, the User Board may recommend Projects which further improve, expand, enhance and support the RMS, including, but not limited to, acquisition of hardware, software and equipment, upgrades and other steps to improve and extend the RMS.
- C. Entry RPA may propose improvements to the RMS by giving written notice to the User Board, describing the proposed improvement and identifying its benefits. Within 90 days, the User Board shall meet to discuss the proposal and determine if there is interest in pursuing the proposed Project. If so, the User Board shall direct the System Manager to research the proposed Project to determine or confirm any cost and operational impacts and to report back on the findings to the User Board. Subsequent to receiving the System Manager's report, the User Board may hold a vote to recommend whether or not the proposed Project should be undertaken.
- D. Any significant changes to the RMS shall consider the following factors, including but not limited to, sources of funding (City, RPA, available grants and other sources), technical and business impact to the City and RPA, and the recommendation(s) of the User Board. Capital and Operating Costs for such changes shall be allocated among the City, Entry and Inquiry RPA as determined by the Cost Sharing Formula and incorporated into each RPA's Participating IGA as part of the User Fees.
- E. Each RPA agrees to inform the User Board of potential grant sources and thereupon the User Board shall determine if the User Board should pursue that source. If the User Board declines to pursue that source, then the individual RPA may seek those grant funds on its own and, if successful, may choose to apply

the grant funds for the benefit of the User Board or to its local match or share if it is an allowable use of grant proceeds.

- F. Any increase in either A, B, C and/or D above may be recommended by the User Board and approved by the City so long as the total cost impact per subsection to all RPA is no greater than 5% per year, and no greater aggregate than 10% per year. Any subsection with a cost impact greater than the 5% or 10%, shall be voted upon by a Quorum of the User Board and approved with a majority vote.

**6. USER BOARD MANAGEMENT, OPERATION AND FUNDING:**

- A. The User Board shall make recommendations as to the best method for the administration, management, and operation of the RMS. The User Board shall review and make recommendations on the annual budget prepared by the System Manager for managing and supporting the RMS.
- B. The User Board shall be self-sufficient in its operation. The City and RPA will participate at their own cost, time and expense.

**7. COMMITTEES:**

The User Board may establish committees from time to time as it deems necessary. Generally, the User Board will consider establishment of committees in the following areas:

- A. Engineering/Technical
- B. Policy
- C. Customer/User
- D. Finance/Budget

When a committee is established by the User Board, the City and each Entry RPA is entitled to have one voting representative on the committee. The Chair may limit these committees to an appropriate size for conducting its business. The Chair will recommend a procedure for limiting the size of the committees, which will then be approved by the Board. Each committee shall provide advice, counsel, and recommendations to the User Board or the Chair as requested.

The City and each Entry RPA may designate one voting committee member and an alternate. A majority of the voting committee creates a quorum. All decisions require a majority vote of the members in attendance. An alternate RPA committee member may vote if the designated RPA voting member is not present.

**8. CAPITAL CONTRIBUTION, CAPITAL COST DETERMINATION, AND INITIAL RPA RESPONSIBILITY:**

The Cost Sharing Formula shall establish the application of User Board grant proceeds, cost allocation formulas, rates, and appropriate service charges for such services

provided to Entry and Inquiry Only RPA, and for upgrading and maintaining the RMS which will be paid by the RPA. RPA responsibility for such allocations, rates and charges will be incorporated in, or amended to, each RPA's Participating IGA.

**9. PAYMENT:**

- A. Each Entry and Inquiry Only RPA will have an individual Participating IGA with the City that outlines the costs and terms and conditions of their participation in the RegJIN RMS. A Entry RPA's right to participate on the User Board under this Agreement is contingent upon execution of the Participating IGA.
- B. Failure to pay the City as due under the Participating IGA will suspend the Entry RPA's voting rights in the User Board until fully paid.

**10. NEW RPA:**

The User Board shall review and recommend the admitting of new Entry RPAs as part of the RMS. Any recommendations for admitting a new Entry RPA shall require a Unanimous Vote; admitting of any new Inquiry Only RPA shall be at the discretion of the System Manager. The System Manager will make the list of new Inquiry Only RPAs available to the User Board 30 days prior to granting access to the System. Recommendations on the addition of new Inquiry and Entry RPA must consider that the:

- A. The RMS contains highly confidential crime and other data and is reserved for law enforcement applications and will only be open to certified law enforcement agencies.
- B. If a new RPA is added, its addition is subject to the sections of the Cost Sharing Formula that govern the costs allocated to RPA(s) added to the RMS after the initial RMS cutover to operational (live) status.
- C. New RPA shall be bound by the terms and provisions of this Agreement and an individual Participating IGA.

**11. DURATION, WITHDRAWAL AND TERMINATION:**

- A. This Agreement is perpetual and the User Board shall continue from year to year unless otherwise terminated or dissolved by the methods described in this Agreement.
- B. The User Board may be dissolved upon unanimous agreement of all Entry RPA.
- C. Termination of an Entry RPA's Participating IGA shall revoke their participation on the User Board effective immediately.
- D. An Entry RPA that withdraws from the RMS may remove its RPA assets from the RMS including any data entered into the RMS by the withdrawing RPA. All costs associated with the reasonable removal of the withdrawing RPA's assets including costs of removing data entered by the RPA into the RMS will be the responsibility of the withdrawing RPA.

- E. A minimum of 180 days shall be allocated for the System Manager to withdraw an RPA's assets, including the withdrawal of the Entry RPA's data, from the RMS after the date upon which the RPA's withdrawal becomes effective. The withdrawing Entry RPA shall have full access to its assets including its data during the time period required to complete the removal of an Entry RPA's assets from the RMS.
- F. RPA may only withdraw from the RMS on January 1 of each year and must provide a minimum of 180 days written notice of their intention to withdraw.
- G. Notice of an RPA's intention to withdraw must be provided in writing to the User Board Chair. A copy of the withdrawal notice must be provided to the System Manager.

**12. INDEMNIFICATION:**

To the extent permitted by the Constitutions and laws of Oregon and Washington, each Entry RPA shall hold harmless and indemnify the other Entry RPA for the willful or negligent acts, actions or omissions to act of that Entry RPA's respective entity, commissioners, officers, employees, and agents in the performance of their respective responsibilities and duties under this Agreement.

**13. CONFIDENTIALITY:**

- A. Maintenance of Confidentiality. The City and RPA shall treat confidential any Confidential information that has been made known or available to them or that an Entry RPA has received, learned, heard or observed; or to which an RPA has had access. The City and RPAs shall use Confidential information exclusively for the City or RPA's benefit and in furtherance of this Agreement. Except as may be expressly authorized in writing by the City or affected RPA, in no event shall the City or a RPA publish, use, discuss or cause or permit to be disclosed to any other person such Confidential information. The City and RPA shall (1) limit disclosure of the Confidential information to those directors, officers, employees and agents of the City or RPA who need to know the Confidential information, (2) exercise reasonable care with respect to the Confidential Information, at least to the same degree of care as the City or RPA employs with respect to protecting its own proprietary and confidential information, and (3) return immediately to the City or RPA who provided the information, upon its request, all materials containing Confidential Information in whatever form, that are in the City or RPA's possession or custody or under its control. The City and RPA are expressly restricted from and shall not use Confidential intellectual property of the City or providing RPA without the City or that RPA's prior written consent.
- B. The RPA acknowledge that each RPA is subject to the Oregon or Washington Public Records Acts, as applicable, and Federal law. The RPA agree that each RPA will follow the laws of its home state. Third persons may claim that the Confidential Information may be, by virtue of its possession by the City or a RPA, a public record and subject to disclosure. RPA receiving a public records request agrees, consistent with its state public records law, not to disclose any information that includes a written request for confidentiality and as described above and specifically identifies the information to be treated as Confidential.

Specifically, Washington RPA shall abide by RCW 42.56 for cases involving public records contained in the City of Portland owned RegJIN System as outlined in this public safety Regional Intergovernmental Agreement. A RPA's commitments to maintain information confidential under this Agreement are all subject to the constraints of Oregon or Washington and federal laws. Within the limits and discretion allowed by those laws, the City and RPA will maintain the confidentiality of information.

- C. The RPA acknowledge and agree that the City and each RPA owns its own data in the RMS. RMS data can only be disclosed by the agency that entered it. In the event of a public record request for RMS data which belongs to the City or another RPA, the City or receiving RPA shall inform both the requestor and the appropriate agency within two business days that it is not the custodian of record for the requested data and identify the Entry RPA that may be able to comply with the public record request.
- D. The RPA acknowledge that unauthorized disclosure of Confidential Information will result in irreparable harm to the City or providing RPA. In the event of a breach or threatened breach of this Agreement, the City or affected RPA may obtain equitable relief prohibiting the breach, in addition to any other appropriate legal or equitable relief.

**14. WAIVER:**

No waiver or any breach of Agreement shall be held to be a waiver of any other or subsequent breach of this Agreement.

**15. REMEDIES:**

The remedies provided in this Agreement are cumulative, and may be exercised concurrently or separately. The exercise of any one remedy shall not constitute an election of one remedy to the exclusion of any other.

**16. SURVIVAL:**

All obligations relating to confidentiality; indemnification; publicity; representations and warranties; proprietary rights; perpetual licenses, including licensing obligations as stated in this Agreement shall survive the termination or expiration of this Agreement.

**17. NO THIRD PARTY BENEFICIARIES:**

The City and Entry RPA expressly agree that nothing contained in this Agreement shall create any legal right or inure to the benefit of any third party.

**18. ASSIGNMENT:**

The rights and obligations of each party under this Agreement may not be assigned in whole or in part.



**19. NOTICE:**

Notices to the City shall be provided as set forth below in writing and sent by either certified US mail, return receipt requested, or by personal delivery to:

**City of Portland  
RegJIN System Manager  
Portland Police Bureau  
1111 SW 2<sup>nd</sup> Avenue, Suite 1156  
City of Portland  
Portland, OR 97204**

**20. AMENDMENTS:**

This Agreement may only be changed, modified, or amended by unanimous vote of all Entry RPA.

**21. EFFECTIVE DATE:**

This Agreement shall be effective on July 1, 2012 and continue in perpetuity unless otherwise terminated.

**22. SEVERABILITY:**

The terms of this Agreement are severable and a determination by an appropriate body having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part, shall not affect the remainder of this Agreement.

**23. INTERPRETATION:**

The terms and conditions of this Agreement shall be liberally construed in accordance with the general purposes of this Agreement and according to Oregon and Washington law.

**24. EXECUTION IN COUNTERPARTS:**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute the same agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]



**RegJIN MASTER INTERGOVERNMENTAL AGREEMENT  
REGIONAL PARTNER AGENCY – FULL ENTRY**

<b>RPA: City of Tualatin</b>
<b>By:</b>
<b>Name:</b>
<b>Title:</b>
<b>Date:</b>
<b>By:</b>
<b>Name:</b>
<b>Title:</b>
<b>Date:</b>



# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos

**FROM:** Nicole Morris, Deputy City Recorder

**DATE:** 03/10/2014

**SUBJECT:** Consideration of Approval of 2014 Liquor License Renewals Late Submittals

---

### **ISSUE BEFORE THE COUNCIL:**

The issue before the Council is to approve liquor license renewal applications for 2014. The businesses listed below submitted their 2014 renewal application too late to be included in the renewals approved at the February 24, 2014 Council meeting. Copies have not been included with this staff report but are available at the City Offices for review.

### **RECOMMENDATION:**

Staff respectfully recommends that the Council approve endorsement of the following liquor license application renewals for 2014:

Baja Fresh  
Fiorano  
Grampy's  
Lakeside Bistro  
Nacho Mama's  
Nicoli's Grill & Sports Bar (Formally  
Game Time)  
Roxy's Island Grill  
Sushiville

### **EXECUTIVE SUMMARY:**

Annually the Oregon Liquor Control Commission (OLCC) requires all liquor licenses be renewed. According to the provisions of City Ordinance No. 680-85, establishing procedures for liquor license applicants, applicants are required to fill out a City application form, from which a review by the Police Department is conducted, according to standards and criteria established in Section 6 of the ordinance. The liquor license renewal applications are in accordance with all ordinances and the Police Department has conducted reviews of the applications.

According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license renewal requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for such a hearing include reasons for said hearing.

**FINANCIAL IMPLICATIONS:**

A renewal fee of \$35 has been paid by each applicant.

---

**Attachments:**

**City Council Meeting**

**E. 1.**

**Meeting Date:** 03/10/2014

**SPECIAL REPORTS:** Tualatin Riverkeepers Update- Mike Skuja, Executive Director

---

**SPECIAL REPORTS**

Tualatin Riverkeepers Update- Mike Skuja, Executive Director

---

PowerPoint

---



A group of people are kayaking on a river. In the foreground, a man in a green life vest and a woman in a red life vest are in yellow kayaks. Behind them, another woman in a red life vest is in a red kayak, and a man in a yellow life vest is in a grey kayak. They are all holding paddles. In the background, there is a green metal truss bridge with concrete pillars. The river is surrounded by lush green trees and foliage. The water is calm, reflecting the surrounding greenery.

Lasting Partnership

**Tualatin Riverkeepers  
and the City of Tualatin**





Summer day  
camp and school  
field trips at  
Dirksen

Bug Camp at the Refuge




A photograph of three young women in a red canoe on a river. The woman in the foreground is wearing a yellow life vest and holding a paddle. The woman in the middle is wearing a dark patterned shirt. The woman in the back is wearing a red life vest and holding a paddle. They are surrounded by dense green foliage. The text "New Partners" is overlaid in the upper right, and "Rumbo al Rio with Adelante Mujeres + Good Neighbor Center & CPAH" is overlaid in the lower left.

New Partners

Rumbo al Rio with Adelante Mujeres  
+ Good Neighbor Center & CPAH



# Strong Advocacy

A group of approximately 15 volunteers, including men and women of various ages, are gathered around a large, rectangular concrete slab on a paved surface. They are using long-handled tools, likely pry bars or crowbars, to lift the slab. The volunteers are dressed in casual work clothes, including t-shirts, jeans, and hats. Some are wearing safety glasses. The background shows a line of green trees and a clear sky, suggesting an outdoor setting. The text "Strong Advocacy" is overlaid in the top left, and "Breaking Ground at PCC Sylvania with Depave Volunteers (stormwater reduction)" is overlaid in the bottom right.

Breaking Ground  
at PCC Sylvania  
with Depave Volunteers  
(stormwater reduction)



## Volunteers - River Clean Up







Cook Park Boat Rentals, Discovery Day,  
Trip Leaders, Political Paddle Race



**Come to Green Heron Gala -May 3, 2014 - Tualatin Country Club**





# Thank You!

Tualatin Riverkeepers  
Tualatin River ~ September 19, 2012



Alice Paul Sean Don Janet Lance Sherilyn Kent Sara  
Alice Paul Sean Don Janet Lance Sherilyn Kent Sara  
City of Tualatin Management Team



# Now where to?

We have a commitment to give 5 events free of charge to the City each year: Lets make this diverse and engaging!

Free kayak trip for a day in the summer for City's teen program with a TRK trip leader

PhD lecture on Geology of the Tualatin Lecture (Juanita Pohl Ctr)

PhD lecture on the History of the Tualatin Lecture (Tualatin Heritage Ctr)

Bird watching tour



The City's facilities  
provide for a non-  
profit that represents  
650  
member families

**Thank You City  
of Tualatin!**





**TUALATIN**  
**RIVERKEEPERS®**



# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos

**FROM:** Cindy Hahn, Associate Planner  
Aquilla Hurd-Ravich, Planning Manager

**DATE:** 03/10/2014

**SUBJECT:** Consideration of Plan Text Amendment (PTA) 14-01 Amending Chapters 60, 61, and 62 of the Tualatin Development Code (TDC) to Allow Small-Scale Mixed Uses and Modifications to Chapters 34 and 69 to Implement Recommendations from Linking Tualatin.

---

### **ISSUE BEFORE THE COUNCIL:**

City Council consideration of Plan Text Amendment (PTA) 14-01 to allow more flexibility in uses within manufacturing districts in Tualatin by amending Chapters 34, 60, 61, 62 and 69 of the Tualatin Development Code (TDC). The proposed amendments are intended to help implement the land use recommendations of the Linking Tualatin Final Plan, a land use plan aimed at increasing transit use.

### **RECOMMENDATION:**

Staff recommends the City Council consider the staff report, draft language, and analysis and findings, and provide direction.

### **EXECUTIVE SUMMARY:**

This is a legislative matter for City Council consideration of a text amendment to the Tualatin Development Code (TDC; this proposed Plan Text Amendment (PTA) 14-01 would change the TDC to allow more flexibility in uses within manufacturing districts in Tualatin. The proposed amendment will expand the permitted uses in the Light Manufacturing (ML), General Manufacturing (MG), and Manufacturing Park (MP) Planning Districts as well as the Industrial Business Park Overlay (IBPO) District. Draft code language is included for City Council review as Attachment 101, and analysis and findings is included as Attachment 102.

The Linking Tualatin Final Plan was accepted by City Council Resolution No. 5143-13 on June 24, 2013. Implementation actions contained in the Resolution included "preparing code changes that will allow greater flexibility and support transit use." The draft amendments being presented to City Council tonight in PTA 14-01 are intended to help implement this recommended land use action.

The code amendments were originally initiated in 2013 by the Community Development

Department in response to the implementation actions contained in Resolution 5143-13. Draft amendments were presented to the Planning Commission in November 2013 and subsequently to City Council in December 2013 (Attachment 104 contains the minutes of the December 9, 2013 work session). When adopted through PTA 14-01, the proposed code amendments will enable the City to fulfill the final Milestone #8 in the Construction Excise Grant (CET) from Metro for the Linking Tualatin project.

## **Property and Business Owner Review**

The idea of allowing more flexibility in uses within manufacturing districts was first presented to property and business owners in meetings in spring 2013 related to "vetting" the Linking Tualatin Final Plan recommendations. Planning staff subsequently reviewed the possible code amendments with Engineering and Economic Development staff and asked for their comments. In October 2013 staff presented the possible code changes to Tualatin's Commercial Citizen Involvement Organization (CCIO) for input.

Most recently staff met with Cathy Holland and Scott Miller, representatives of the CCIO, on February 20, 2014 to discuss the proposed code amendments. Specifically, their potential effect on properties in the vicinity of SW 89th Avenue and SW Mohave Court, south of SW Old Tualatin-Sherwood Road, where the Oak Tree Business Center is located. Ms. Holland and Mr. Miller were concerned about whether the property owners in the area would be able to satisfy the requirements of the amended code and, thus, be able to include more retail, commercial and office uses on their sites.

## **Proposed Code Amendments**

Initially, amendments to the Industrial Business Park Overlay (IBPO) District, Chapter 69 of the Tualatin Development Code (TDC), were proposed. These amendments were presented to City Council at the December 9, 2013 meeting. The code amendments presented tonight, while recommending the same uses as previously, differ from those presented in December in two ways:

- Additional permitted uses continue to include a restaurant or deli as a retail use, however this use has been modified to allow drive-up and drive through facilities, based on Council direction.
- Only minor changes are proposed to the Industrial Business Park Overlay (IBPO) District, but more substantial changes are proposed to Chapters 60 Light Manufacturing (ML), 61 General Manufacturing (MG) and 62 Manufacturing Park (MP) of the TDC. This approach incorporates the proposed small-scale mixed uses as additional permitted uses in the ML, MG, and MP Planning Districts rather than relying on the IBPO District to broaden uses in manufacturing areas. This approach also allows properties that already are implementing the existing IBPO District to continue doing so with the added benefit of including additional mixed uses in their future development.

Additional small-scale mixed uses that would be allowed in the ML, MG, and MP Planning Districts under PTA 14-01 include the following:

1. Office Uses:
  - a. Business or commercial offices
  - b. General offices, but not government offices

c. Real estate offices

2. Retail Uses:

- a. Food or convenience store
- b. Restaurant or deli, with or without drive-up or drive through facilities
- c. Mobile food and flower vendors in conformance with Chapter 34.013

3. Services Uses:

- a. Correspondence, trade and vocational schools, except vocational high schools
- b. Health or fitness facilities
- c. Job training and related services
- d. Mailing operations
- e. Reproduction, photocopying
- f. Branch banks and banking kiosks
- g. Dry cleaning
- h. Medical and healing arts offices

4. Other uses of similar character found by the Community Development Director to meet the purpose of the underlying Planning District, as provided in TDC 31.070 - Interpretation of Code Provisions.

Proposed language allows the above uses on all sites in the ML, MG, and MP Planning Districts regardless of property size. A minor amendment to TDC Chapter 34, Special Regulations, also is proposed to include mobile food and flower vendors as a permitted retail use in these Planning Districts as well as in the IBPO District.

Restrictions on additional permitted uses include:

- Mixed Use Percentage. Limitations on the percentage of small-scale mixed uses include:
  - The gross floor area of office uses may not exceed 25% of the total gross floor area of buildings on the development site.
  - The gross floor area of an individual retail or service use may not be greater than 5,000 square feet.
  - The gross floor area of combined retail and service uses may not be greater than 20,000 square feet per development site.
  - The office, retail and service uses may be located in a stand-alone building or combined in a building with other uses, so long as the size limitations above are met.
- Setback Requirements. In the IBPO District, retail and service uses must be set back from any designated arterial or collector street right-of-way and any Residential District by not less than 80 feet. The proposed amendments to the ML, MG and MP Planning Districts remove the restriction on most arterials and collectors, limiting the 80-foot setback requirement to SW Tualatin-Sherwood Road and Residential Districts.

Plan Text Amendment (PTA) 14-01 proposes no changes to the following standards in the ML, MG, and MP Planning Districts:

- Conditional Uses
- Prohibited Uses
- Lot Size and Central Urban Renewal Lot Size
- Sound Barrier Construction

- Access
- Off-Street Parking and Loading
- Environmental Standards
- Floodplain District
- Wetlands Protection District
- Community Design Standards
- Landscape Standards

## **Planning Commission Recommendation**

The Planning Commission, at their meeting on February 20, 2014, recommended approval of PTA 14-01 with two code language changes: one to add language to acknowledge the allowance of mobile carts, and one to require a conditional use permit for drive-up or drive through facilities for restaurants or delis and branch banks or banking kiosks.

- The first change recognizes that mobile carts are free-standing facilities that are not located in either a stand-alone building or combined in a building with other uses by adding language to this effect to the proposed code amendments as follows:
  - The office, retail, and service uses may be located in a stand-alone building or combined in a building with other permitted uses or separately as a mobile food and flower vendor in conformance with TDC 34.013.
- The second change, to make drive-up and drive through facilities a conditional use, was recommended based on the Planning Commission's desire to allow uses that encourage walking and bicycling rather than driving while maintaining the flexibility to allow these facilities on a case-by-case basis on properties at the periphery of the industrial area.

Finally, the Planning Commission recommended that City Council direct staff to initiate work on a subsequent Plan Text Amendment to TDC 34.013 to expand mobile food and flower vendors to include larger dimension mobile carts and pods. In the existing regulations, a mobile food or flower vendor may occupy no more than 16 square feet of ground area and may not exceed three feet in width, excluding wheels; six feet in length, including any handles; and no more than five feet in height, excluding any canopies, umbrellas, or transparent enclosure.

Yes-6, No-0 (Aplin absent). Minutes of the Planning Commission meeting are included in Attachment 103.

## **Plan Amendment Criteria**

The analysis and findings in Attachment 102 contains findings of fact to demonstrate that the proposed amendments are consistent with the approval criteria for Plan Text Amendment per Section 1.032 of the Tualatin Development Code (TDC). These criteria must be met if proposed PTA 14-01 is to be granted. As demonstrated in the analysis and findings, seven (1, 2, 3, 4, 7, 8 and 9) of the ten approval criteria are met by the proposed amendments and three criteria (5, 6 and 10) are not applicable.

## **OUTCOMES OF DECISION:**

Approval of Plan Text Amendment (PTA) 14-01 would result in the following:

- Tualatin Development Code (TDC) Chapters 34, 60, 61, 62 and 69 will be revised to allow more flexibility in uses and support transit use.

Denial of PTA 14-01 would result in the following:

- The TDC will not be revised to allow more flexibility in uses and support transit use.

### **ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the Planning Commission recommendation include:

1. Approve PTA 14-01 without alterations to the draft code language.
2. Approve PTA 14-01 with one or more of the changes recommended by the Planning Commission.
3. Deny PTA 14-01.

### **FINANCIAL IMPLICATIONS:**

The FY 2013/14 budget accounts for the costs of City initiated code amendments.

---

**Attachments:**    [Attachment 101- Draft Code Language](#)  
                          [Attachment 102 - Analysis and Findings](#)  
                          [Attachment 103 - Planning Commission Minutes 02-20-14](#)  
                          [Attachment 104 - City Council Work Session Minutes 12-09-13](#)  
                          [Attachment 105 - Presentation](#)

PROPOSED TEXT AMENDMENT RELATING TO LINKING TUALATIN AND  
ALLOWING SMALL-SCALE MIXED USES; MODIFYING THE TUALATIN  
DEVELOPMENT CODE BY AMENDING TDC CHAPTERS 34, 60, 61, 62 AND 69  
(PTA-14-01)

**Section 1.** TDC 34.013 is amended to read as follows:

Section 34.013      Mobile Food and Flower Vendors.

(1) The purpose of this section is to permit the open-air vending of food (including a coffee kiosk) and fresh cut flowers in a manner that will enhance the attractiveness of the Central Commercial (CC), ~~and General Commercial (CG)~~, Light Manufacturing (ML), General Manufacturing (MG) and Manufacturing Park (MP) Planning Districts for pedestrian traffic.

(2) Mobile food and flower vending may be permitted in a Central Commercial (CC), ~~and General Commercial (CG)~~, Light Manufacturing (ML), General Manufacturing (MG), or Manufacturing Park (MP) Planning District for a period not to exceed 180 days.

(3) Applications for mobile vending permits shall meet the following criteria and requirements:

(a) Persons conducting business with a permit issued under this section may transport and display food or flowers upon any pushcart or mobile device; provided that such device shall occupy no more than 16 square feet of ground area and shall not exceed three feet in width, excluding wheels; six feet in length, including any handles; and no more than five feet in height, excluding any canopies, umbrellas, or transparent enclosure.

(b) Mobile vendors may conduct business on public sidewalks having a width of eight feet or more, and on private sidewalks or parking lots, provided that the Community Development Director approves specific locations. No person shall conduct business as defined herein at a location other than that designated on the permit.

(c) All mobile vendors shall pick up any litter within 25 feet of their places of business and shall provide an appropriate trash container for customer use.

(d) No food vendor may locate within 200 feet of a restaurant or fruit and vegetable market without written consent from the proprietor of the restaurant or market, and no flower vendor may locate within 200 feet of a flower shop without the written consent of the proprietor of the flower shop.

(e) Design, colors and graphics for any pushcart or mobile device shall be subject to review and approval by the Community Development Director to assure aesthetic compatibility with surrounding development.

(f) Food vendors shall comply with all state and county health regulations and shall furnish written evidence of compliance at the time of application for a mobile vending permit.

(g) Prior to the issuance of any permit, the Fire Marshal shall inspect and approve any mobile device or pushcart to determine if any cooking or heating apparatus conforms with the code of the Tualatin Rural Fire Protection District.

(h) Applications for a mobile vending permit shall be accompanied by a signed statement that the permittee will hold harmless the City of Tualatin, its officers and employees and shall indemnify the City of Tualatin, its officers and employees, for any claim for damage to property or injury to persons that may be occasioned by any activity carried on under the terms of the permit. The permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect the permittee from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than \$100,000 for bodily injury for each person, \$300,000 for each occurrence, and not less than \$300,000 for property damage per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insureds the City of Tualatin, its officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the City Administrator.

(4) An application for a mobile vending permit may be granted by the Community Development Director if the Director finds that Subsection (3) is satisfied by the applicant.

(5) The Community Development Director may attach appropriate conditions to the permit that are necessary to secure the health, safety and welfare of the residents and inhabitants of the City.

**Section 2.** TDC 60.010 is amended to read as follows:

Section 60.010      Purpose.



The purpose of this district is to provide areas of the City that are suitable for industrial uses and compatible with adjacent commercial and residential uses. The district serves to buffer heavy manufacturing uses from commercial and residential areas. The district is suitable for warehousing, wholesaling, and light manufacturing processes that are not hazardous and do not create undue amounts of noise, dust, odor, vibration, or smoke. The district is also suitable for retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet and, with appropriate restrictions, for retail sale of products not allowed for sale in General Commercial Planning Districts, and office commercial uses where any portion of a legally created lot is within 60 feet of a CO Planning District boundary. Railroad access and screened outdoor storage will be allowed in this district, conforming to defined architectural, landscape, and environmental design standards. In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, and TDC 60.037-60.038 selected small-scale mixed office and retail uses that are supportive of and secondary to industrial uses are allowed to provide services to businesses and employees. The purpose is also to allow certain commercial service uses in the Commercial Services Overlay shown in the specific areas illustrated on Map 9-5 and selected commercial uses subject to distance restrictions from residential areas and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 60.035.

**Section 3.** TDC 60.021 is amended to read as follows:

Section 60.021      Restrictions on Permitted Uses in ML.

The following restrictions shall apply to those uses listed as permitted uses in TDC 60.020:

(1) The use must be conducted wholly within a completely enclosed building, except off-street parking and loading, utility facilities, wireless communication facilities, outdoor storage of materials and products directly related to the permitted use, and outdoor play areas of child day care centers as required by state day care certification standards, and mobile food and flower vendors in conformance with TDC 34.013.

(2) The retail sale of products manufactured, assembled, packaged or wholesaled on the site is allowed provided that the retail sale area, including the showroom area, shall be no greater than 5% of the gross floor area of the building not to exceed 1,500 square feet.

(3) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:

(a) Retail uses on land designated Employment Area or Corridor on Map 9-4 shall not be greater than 60,000 square feet of gross floor area per building or business.

(b) Retail commercial, retail service and professional service uses on land designated Industrial Area on Map 9- 4 shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following ~~two~~ three exceptions, which shall not be subject to the size limitations stated in this sub-section:

(i) Commercial uses within the Special Setbacks for Commercial Uses Area, shown on Map 9-5, and as specified in TDC 60.035.

(ii) Development approved through the application of the Industrial Business Park Overlay District to certain properties, as specified in TDC Chapter 69.

(iii) Development approved through the application of standards for additional small-scale mixed uses in ML as specified in TDC 60.037-60.038.

**Section 4.** A new section is added to TDC Chapter 60 to read as follows:

Section 60.037 Additional Permitted Mixed Uses in ML.

(1) In addition to any other uses permitted in the ML Planning District, the uses set forth in subsection (2) are permitted uses provided:

(a) the site is used substantially for industrial purposes; and

(b) the non-industrial use complies with TDC 60.038:

(2) Permitted uses:

(a) Office Uses:

(i) Business and commercial offices.

(ii) General offices, but not government offices.

(iii) Real estate offices.

(b) Retail Uses:

(i) Food or convenience store.

(ii) Restaurant or deli, with or without drive-up or drive through facilities.

(iii) Mobile food and flower vendors in conformance with TDC 34.013.

(c) Service Uses:

(i) Correspondence, trade and vocational schools, except vocational high schools.

(ii) Health or fitness facility.

(iii) Job training and related services.

(iv) Mailing operations.

(v) Reproduction, photocopying.

(vi) Branch banks and banking kiosks, with or without drive-up or drive through facilities.

(vii) Dry cleaning.

(viii) Medical and healing arts.

(d) Other uses of a similar character found by the Community Development Director to meet the purpose of this section as provided in TDC 31.070.

(3) The office, retail, and service uses may be located in a stand-alone building or combined in a building with other permitted uses.

**Section 5.** A new section is added to TDC Chapter 60 to read as follows:

Section 60.038 Restrictions on Additional Permitted Mixed Uses in ML.

(1) **Mixed Use Percentage.** The uses allowed in TDC 60.037 must comply with the following:

(a) Office uses listed in Section 60.037 must not exceed 25 percent of the total gross floor area of all buildings on the development site.

(b) Individual Retail and Service. Retail and service uses listed in TDC 60.037 must not exceed 5,000 square feet for any individual retail or service use.

(c) Combined Retail and Service Uses. The total of all retail and service uses on a development site must not exceed 20,000 square feet of the total gross floor area of all buildings on the development site.

**(2) Setback Requirements.**

(a) The uses allowed in TDC 60.037 must comply with setback requirements in TDC 60.070.

(b) In addition to the setbacks requirements in TDC 60.070 retail and service uses in TDC 60.037 must be set back not less than 80 feet from:

(i) any Residential Planning District; and

(ii) SW Tualatin-Sherwood Road right-of-way.

(3) **Access.** Uses provided in TDC 60.037 must comply with the Access Management Standards in TDC Chapter 75 and the underlying ML District, except that retail and service uses when located in a stand-alone building must not have direct access onto any arterial or collector street.

**Section 6.** TDC 60.041 is amended to read as follows:

Section 60.041      Restrictions on Conditional Uses.

The following restrictions shall apply to those uses listed as conditional uses in TDC 60.040:

(1) The retail sale of products manufactured, assembled, packaged or wholesaled on the site is allowed provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet.

(2) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:

(a) Retail uses on land designated Employment Area or Corridor on Map 9-4 shall not be greater than 60,000 square feet of gross floor area per

building or business.

(b) Retail commercial, retail service and professional service uses on land designated Industrial Area on Map 9-4 shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following two exceptions, which shall not be subject to the size limitations stated in this sub-section:

(i) Commercial uses within the Special Setbacks for Commercial Uses Area, shown on Map 9-5, and as specified in TDC 60.035.

(ii) Development approved through the application of the Industrial Business Park Overlay District to certain properties, as specified in TDC Chapter 69.

**Section 7.** TDC 60.050 is amended to read as follows:

Section 60.050 Prohibited Uses.

The following uses are expressly prohibited, except as otherwise provided in TDC 60.020 and 60.040:

(1) All residential dwellings, except as otherwise provided in TDC 60.040.

(2) All commercial uses defined by TDC Chapters 50, 53, and 54, except as otherwise permitted in TDC 60.020, 60.030, 60.037, and 60.040.

(3) All industrial uses defined by TDC Chapter 61, whether permitted, conditional or prohibited as listed in TDC 61.020, 61.030 and 61.040.

**Section 8.** TDC 61.010 is amended to read as follows:

Section 61.010 Purpose.

The purpose of this district is to provide areas of the City that are suitable for light industrial uses and also for a wide range of heavier manufacturing and processing activities. These uses are expected to be more unsightly and have more adverse environmental effects than the uses allowed in the Light Manufacturing Planning

District. Railroad access and screened outdoor storage will be allowed in this district, conforming to defined architectural, landscape, and environmental design standards. The heaviest industrial uses that are environmentally adverse or pose a hazard to life and safety shall be prohibited. The purpose is also to allow the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet. Also suitable for the retail sale of building and home improvement materials and supplies provided it is not greater than 60,000 square feet of gross floor area per building or business and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035. In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, and TDC 60.037-60.038 selected office and retail small-scale mixed uses that are supportive of and secondary to industrial uses are allowed to provide services to businesses and employees. The purpose is also to allow certain commercial service uses in the Commercial Services Overlay shown in the specific areas illustrated on Map 9-5 and allow selected commercial uses subject to distance restrictions from residential areas and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035.

**Section 9.** TDC 61.020 is amended to read as follows:

Section 61.020 Permitted Uses.

No building, structure or land shall be used, except for the following uses as restricted in TDC 61.021.

(1) All uses permitted by TDC 60.020 and 60.037, in the Light Manufacturing Planning District.

(2) Assembly, packaging, processing, and other treatment of beer, coffee, and canned goods.

(3) Assembly of electrical appliances, such as refrigerators, freezers, washing machines, and dryers.

(4) Auto body and/or paint shop; auto machine shop; auto radiator repair shop; general auto and light truck repair, including but not limited to, repairing and rebuilding engines and repair of transmissions, drivelines and rear-ends except not allowed in the Special Commercial Setback, TDC 61.035(1-3).

(5) Chemical warehouse and distribution.

- (6) Cold storage plant.
- (7) Concrete batch plant, except not allowed in the Leveton Tax Increment District.
- (8) Manufacture of the following types of products:
  - (a) Batteries.
  - (b) Boilers.
  - (c) Bottles.
  - (d) Brick, tiles, or terra cotta.
  - (e) Cans.
  - (f) Chainsaws.
  - (g) Electric generators.
  - (h) Electric motors.
  - (i) Electric transformers.
  - (j) Engines, larger gasoline or diesel.
  - (k) Heating and cooling equipment.
  - (l) Industrial gases, excluding chlorine.
  - (m) Ladders.
  - (n) Lawnmowers.
  - (o) Manufactured Dwellings.
  - (p) Motor vehicles.
  - (q) Paint.
  - (r) Pet food.
  - (s) Prefabricated building or structural members for buildings.
  - (t) Rototillers.
  - (u) Signs and display structures.
  - (v) Windows.

- (9) Metal casting (small to large size).
- (10) Metal fabrication (light to medium) (of unfinished or semi-finished metals).
- (11) Petroleum product distribution and storage.
- (12) Planning mill.
- (13) Processing, assembly, packaging, and other treatment of small products manufactured from sheet metal, wire larger than 1/4 inch (0.25") in diameter, or tobacco.
- (14) Production of agricultural crops.
- (15) Sale, service and rental of industrial machinery including machine tools, processing, and packaging machinery, forklifts, hoists and conveyors.
- (16) Sandblasting.
- (17) Storage and retail sale of rock, gravel, barkdust, sawdust, coal or topsoil except not allowed in the Special Commercial Setback, TDC 60.035(1-3).
- (18) Structural-mechanical testing laboratories.
- (19) Welding shop.
- (20) Wireless communication facility attached.
- (21) Wireless communication facility.
- (22) Other uses of a similar character found by the Planning Director to meet the purpose of this district, as provided in TDC 31.070.
- (23) Sale, service and rental of construction and industrial equipment to contractors and industrial firms only.

**Section 10.** TDC 61.021 is amended to read as follows:

**Section 61.021**      Restrictions on Permitted Uses.

The following restrictions shall apply to those uses listed as permitted uses in TDC 61.020:

- (1) The use must be conducted wholly within a completely enclosed building, except off-street parking and loading, utility facilities, wireless communication facilities, outdoor storage of materials and products directly related to the permitted use, and outdoor play areas of child day care centers as required by state day care certification



standards, and mobile food and flower vendors in conformance with TDC 34.013.

(2) The retail sale of products manufactured, assembled, packaged or wholesaled on the site is allowed provided that the retail sale area, including the showroom area, shall be no greater than 5% of the gross floor area of the building not to exceed 1,500 square feet.

(3) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:

(a) Retail uses on land designated Employment Area or Corridor on Map 9-4 shall not be greater than 60,000 square feet of gross floor area per building or business.

(b) Retail commercial, retail service and professional service uses on land designated Industrial Area on Map 9- 4 shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following ~~two~~ three exceptions, which shall not be subject to the size limitations stated in this sub-section:

(i) Commercial uses within the Special Setbacks for Commercial Uses Area, shown on Map 9-5, and as specified in TDC 61.035, except 61.035(4)(b).

(ii) Development approved through the application of the Industrial Business Park Overlay District to certain properties, as specified in TDC Chapter 69.

(iii) Development approved through the application of standards for additional small-scale mixed uses in ML as specified in TDC 60.037-60.038.

**Section 11.** TDC 62.010 is amended to read as follows:

Section 62.010 Purpose.

The purpose of this district is to provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities. Such permitted uses shall not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazard or other wastes emanating from the property. The district is to provide for an

aesthetically attractive working environment with park or campus like grounds, attractive buildings, ample employee parking and other amenities appropriate to an employee oriented activity. It also is to protect existing and future sites for such uses by maintaining large lot configurations or a cohesive planned development design and limiting uses to those that are of a nature so as to not conflict with other industrial uses or surrounding residential areas. It also is intended to allow the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the building area used for such retail selling is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet. In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, and TDC 62.023-62.024 selected small-scale mixed uses that are supportive of and secondary to industrial uses are allowed to provide services to businesses and employees.

**Section 12.** TDC 62.020 is amended to read as follows:

Section 62.020      Permitted Uses.

No building, structure or land shall be used in this district except for the following uses as restricted in 62.021.

- (1) Chemical and physical science offices and laboratories.
- (2) Engineering and cartographic offices and laboratories.
- (3) Manufacture, assembling and packaging of electronic equipment, instruments and devices.
- (4) Manufacture, assembling and packaging of optical equipment, instruments and devices.
- (5) Research offices and laboratories.
- (6) Testing offices and laboratories.
- (7) Manufacture, assembling and packaging of sporting goods providing however that primary processing of organic materials such as tanning of leather or rough milling of lumber is specifically prohibited.
- (8) Manufacture, assembling and packaging of textiles and clothing.
- (9) Manufacture, assembling and packaging of musical instruments and toys.
- (10) Printing and publishing.

(11) Other uses of similar character found by the Planning Director to meet the purpose of this district, as provided by TDC 31.070.

(12) Offices when part of a manufacturing use as listed in (1) through (11) above or when permitted under TDC 62.023.

(13) Corporate, regional, or district office headquarters for any use permitted in this Code, provided that the offices occupy at least 20,000 square feet and that no manufacturing is conducted where not otherwise permitted in this chapter.

(14) Private parking lot improved and landscaped in accordance with TDC Chapter 73.

(15) Accessory facilities and activities customarily associated with or essential to permitted uses, and operated incidental to the principal use.

(16) Sewer and water pump stations, pressure reading stations, water reservoir.

(17) Child day care center, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.

(18) Greenways and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.

(19) Electrical substation.

(20) Natural gas pumping station.

(21) Wireless communication facility attached.

(22) Wireless communication facility.

(23) Transportation facilities and improvements.

(24) Shared service facilities.

**Section 13.** TDC 62.021 is amended to read as follows:

Section 62.021                      Restrictions on Permitted Uses

The following restrictions shall apply to those uses listed as permitted uses in TDC 62.020:

(1) The use must be conducted wholly within a completely enclosed building,

except off-street parking and loading, utility facilities, wireless communication facilities, ~~and~~ outdoor storage occupying less than ten percent of the total site area, and mobile food and flower vendors in conformance with TDC 34.013.

(2) The retail sale of products manufactured, assembled, packaged or wholesaled on the site is allowed provided that the retail sale area, including the showroom area, shall be no greater than 5% of the gross floor area of the building not to exceed 1,500 square feet.

(3) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:

(a) Retail uses on land designated Employment Area or Corridor on Map 9-4 shall not be greater than 60,000 square feet of gross floor area per building or business.

(b) Retail commercial, retail service and professional service uses on land designated Industrial Area on Map 9- 4 shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following exception, which shall not be subject to the size limitations stated in this subsection:

(i) Development approved through the application of standards for additional small-scale mixed uses in MP as specified in TDC 62.023-62.024.

**Section 14.** A new section is added to TDC Chapter 62 to read as follows:

Section 62.023 Additional Permitted Mixed Uses in MP.

(1) In addition to any other uses permitted in the MP Planning District, the uses set forth in subsection (2) are permitted uses provided:

(a) the site is used substantially for industrial purposes; and

(b) the non-industrial use complies with TDC 62.024:

(2) Permitted uses:

(a) Office Uses:

(i) Business and commercial offices.

(ii) General offices, but not government offices.

(iii) Real estate offices.

(b) Retail Uses:

(i) Food or convenience store.

(ii) Restaurant or deli, with or without drive-up or drive through facilities.

(iii) Mobile food and flower vendors in conformance with TDC 34.013.

(c) Service Uses:

(i) Correspondence, trade and vocational schools, except vocational high schools.

(ii) Health or fitness facility.

(iii) Job training and related services.

(iv) Mailing operations.

(v) Reproduction, photocopying.

(vi) Branch banks and banking kiosks, with or without drive-up or drive through facilities.

(vii) Dry cleaning.

(viii) Medical and healing arts.

(d) Other uses of a similar character found by the Community Development Director to meet the purpose of this section as provided in TDC 31.070.

(3) The office, retail, and service uses may be located in a stand-alone building or combined in a building with other permitted uses.

**Section 15.** A new section is added to TDC Chapter 62 to read as follows:

Section 62.024      Restrictions on Additional Permitted Mixed Uses in MP.

(1) **Mixed Use Percentage.** The uses allowed in TDC 62.023 must comply with the following:

(a) Office uses listed in Section 60.037 must not exceed 25 percent of the total gross floor area of all buildings on the development site.

(b) Individual Retail and Service. Retail and service uses listed in TDC 62.023 must not exceed 5,000 square feet for any individual retail or service use.

(c) Combined Retail and Service Uses. The total of all retail and service uses on a development site must not exceed 20,000 square feet of the total gross floor area of all buildings on the development site.

(2) **Setback Requirements.**

(a) The uses allowed in TDC 62.023 must comply with setback requirements in TDC 62.060.

(b) In addition to the setback requirements in TDC 62.060 retail and service uses in TDC 62.023 must be set back not less than 80 feet from:

(i) any Residential Planning District; and

(ii) SW Tualatin-Sherwood Road right-of-way.

(3) **Access.** Uses provided in TDC 62.023 must comply with the Access Management Standards in TDC Chapter 75 and the underlying ML District, except that retail and service uses when located in a stand-alone building must not have direct access onto any arterial or collector street.

**Section 16.** TDC 69.010 is amended to read as follows:

Section 69.010      Purpose.

The purpose of this district is to recognize and accommodate the changing Industrial Commercial marketplace by allowing mixed uses within the context of an enforceable Master Plan reviewed and approved during Architectural Review. Industrial uses are emphasized, but office and selected service and retail uses are allowed through the operation of the Industrial Business Park Overlay District. A second purpose of this district is to recognize that it is not necessarily appropriate to assume that all industrial, office, service and retail uses are incompatible and, therefore, must be separated based on planning districts. The Industrial Business Park Overlay District

allows flexibility in the uses permitted for ~~properties in the Light Manufacturing (ML) District and for~~ selected General Manufacturing (MG) District areas. Further, the purpose of this district is to allow selected retail and service uses that are supportive of and secondary to the industrial and office uses.

**Section 17.** TDC 69.020 is amended to read as follows:

Section 69.020                      Permitted Uses.

(1) The following additional uses are permitted when the Industrial Business Park Overlay District is applied to ~~a property in the Light Manufacturing (ML) District or to a property in~~ one of the selected General Manufacturing (MG) District areas and the site is 10 acres or greater:

- (a) Business offices.
- (b) Commercial offices.
- (c) Branch banks and banking kiosks, with or without drive-up or drive through facilities.
- (d) General offices, but not government offices.
- (e) Medical and healing arts offices.
- (f) Real estate offices.
- (g) Child day care center, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.

(2) The following additional uses are permitted when the Industrial Business Park Overlay District is applied to ~~a property in the Light Manufacturing (ML) District or to a property in~~ one of the selected General Manufacturing (MG) District areas and the site is 20 acres or greater:

- (a) Retail Uses:
  - (i) Food or convenience store of less than 4,000 square feet of gross floor area.
  - (ii) Restaurant or deli, with or without drive-up or drive through facilities.

(iii) Mobile food and flower vendors in conformance with TDC 34.013.

(b) Service Uses:

(i) Correspondence, trade and vocational schools, except vocational high schools.

(ii) Health or fitness facility.

(iii) Job training and related services.

(iv) Mailing operations.

(v) Reproduction, photocopying.

(vi) Dry cleaning.

(3) The properties in the General Manufacturing (MG) District where the Industrial Business Park Overlay District may be applied in accordance with TDC 69.040 are:

(a) North of the G.I. Joe's/Safeway Shopping Center and more particularly described as:

(i) Tax Map T2S, R1W, Section 13A, Tax Lot 800. (As of September 1, 1994 described as T2S, R1W, 13AA, Tax Lot 1200).

(ii) Tax Map T2S, R1E, Section 18BB, Tax Lots 2200, 2300, and 2400.

(iii) Tax Map T2S, R1E, Section 18BC, Tax Lots 200, 300, and 400. (As of September 1, 1994 described as T2S, R1E, 18BC, Tax Lots 200, 202, 300, and 400).

(b) PacTrust Area (Upper and Lower Boones Ferry Road) and more particularly described as Tax Map T2S, R1W, Section 24B, Tax Lots 1000, 1007, and 1008.

(c) Drake Management Company ownership at the northwest corner of SW Tualatin-Sherwood Road and Avery Street and more particularly described as Tax Map TS1, R1W, Section 27B, Tax Lots 100, 102 and 200.

**Section 18.** TDC 69.030 is amended to read as follows:



Section 69.030      Prohibited Uses.

As per the underlying ~~ML District~~ or MG District, except as permitted in TDC 69.020.

**Section 19.** TDC 69.040 is amended to read as follows:

Section 69.040      Implementation of the Industrial Business Park Overlay District.

At the time of application for Architectural Review, the applicant shall state in writing if the proposed project is to be developed under the provisions of the Industrial Business Park Overlay District. Selection of the overlay district is at the option of the developer and application of the overlay district shall be implemented upon the developer's statement as part of the Architectural Review application. No public hearing shall be held to decide to apply the overlay district. The overlay district shall only be used in conjunction with the ~~ML District~~ and selected MG District areas. The Architectural Review decision may include conditions of approval in accordance with TDC 73.055.

**Section 20.** TDC 69.055 is amended to read as follows:

Section 69.055      Lot Size.

As per the underlying ~~ML District~~ or MG District.

**Section 21.** TDC 69.060 is amended to read as follows:

Section 69.060 Urban Renewal Area - Lot Size.

As per block area requirements in the underlying ~~ML District~~ or MG District.

**Section 22.** TDC 69.070 is amended to read as follows:

Section 69.070      Setback Requirements.

As per the underlying ~~ML or~~ MG District, except that retail and service uses be set back from any designated arterial or collector street right-of-way and any Residential District not less than 80 feet.

**Section 23.** TDC 69.090 is amended to read as follows:

Section 69.090      Structure Height.

~~(1) No structure which is in the ML District and is overlaid by the Industrial Business Park Overlay District shall exceed a height of 70 feet, except as provided pursuant to TDC Chapter 32, in which case the maximum permitted structure height may be increased to 85 feet, provided that all yards adjacent to the structure are not less than a distance equal to 1½ times the height of said structure.~~

~~(2)~~ (1) No structure which is in the MG District and is overlaid by the Industrial Business Park Overlay District shall exceed a height of 70 feet, except as provided in TDC Chapter 32, in which case the maximum permitted structure height may be increased to 100 feet, provided that all yards adjacent to the structure are not less than a distance equal to the height of the structure.

~~(3)~~ (2) Height Adjacent to a Residential District. Where a property line or alley separates ML and MG land from land in a residential district, a building shall not be greater than 28 feet in height at the setback line. No building or structure shall extend above a plane beginning at 28 feet in height above the setback line and extending inward and upward at a slope of 45 degrees, subject always to the maximum height limitation set in subsection (1) and ~~(2)~~ above.

## **Attachment B**

### **PTA 14-01: Analysis and Findings**

Plan Text Amendment (PTA) 14-01 is to amend Tualatin Development Code (TDC) Chapters 60, 61, 62 and 69 to allow more flexibility in uses and support transit use. Changes to TDC Chapter 34 also are proposed to ensure consistency and clarity. These changes are proposed to help implement selected land use recommendations in the Linking Tualatin Final Plan.

#### **Plan Amendment Criteria (TDC Section 1.032)**

This document contains findings of fact to demonstrate that the proposed amendments are consistent with the approval criteria for a PTA per Section 1.032 of the TDC. These criteria must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below.

**Before granting an amendment to the Plan Text or Plan Map of the Tualatin Development Code (TDC), including the Tualatin Community Plan, the Council shall find that:**

#### **1. Granting the amendment is in the public interest.**

The proposed text amendments help implement the Linking Tualatin Final Plan, which was accepted by City Council on June 24, 2013, in order to increase transit readiness throughout the City's employment areas and guide public investments to link people to the places they need to go via transit.

As identified by staff, the public interest is to:

- 1) Update the Tualatin Development Code (TDC) to allow more flexibility and support transit use by:
  - a. Allowing for a broader set of uses in the western industrial areas of the City;
  - b. Emphasizing a transition to office use in the light manufacturing area north of the Tualatin River east of I-5;
  - c. Allowing for supportive small-scale mixed uses within other manufacturing and light manufacturing districts in Tualatin.
- 2) Permit small-scale mixed uses in areas where they are not currently permitted to provide the flexibility called for in the Linking Tualatin Final Plan.
- 3) Implement Linking Tualatin and ensure that the TDC supports creation of transit-ready places. Providing more service and retail uses in industrial/manufacturing areas will allow workers to meet their day-to-day needs without driving, increasing their ability to use transit to commute to work.

For the above reasons, Criterion 1 is met.

## **2. The public interest is best protected by granting the amendment at this time.**

The proposed text amendments implement the Linking Tualatin Final Plan, which has been accepted by the City Council and serves as a guide to creating more transit-ready places in Tualatin over the 20-year planning horizon and beyond. Amendments to the TDC are called for in the Linking Tualatin Final Plan as part of the near-term implementing actions. Adopting PTA-14-01 now will ensure that the code is consistent with Linking Tualatin recommendations and will result in future development that better supports transit readiness. Without the proposed text amendments, the goals of Linking Tualatin may be delayed. Therefore, the public interest is best served by adopting these amendments now.

For these reasons, Criterion 2 is met.

## **3. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.**

The following sections of the Tualatin Community Plan have objectives that are applicable to the proposed amendments:

### **Chapter 4 Community Growth, Section 4.050 General Growth Objectives**

#### **(6) Arrange the various land uses so as to minimize land use conflicts and maximize the use of public facilities as growth occurs.**

The proposed amendments are intended to allow for more small-scale mixed uses in the ML, MG and MP Districts in order to provide convenient amenities for employees in those districts and maximize their ability to take transit to work. The uses are limited in size in order to minimize conflict with manufacturing uses and preserve the general industrial character of the districts. In addition, the size limitations help ensure that the mixed uses will be intended to serve employers and employees in the area and not the general public; they are not intended to be “destination” uses that would attract people from outside the immediate district. These amendments are proposed in order to implement Linking Tualatin and help create more transit-ready places in Tualatin. As such, objective (6) will be met.

#### **(16) Encourage energy conservation by arranging land uses in a manner compatible with public transportation objectives.**

The proposed amendments are intended to help implement Linking Tualatin by providing more service and retail uses to serve employees in industrial areas. This is part of the overall Linking Tualatin objective of creating more transit-ready places in Tualatin to support development of future public transit facilities. Increased use of public transit provides energy conservation benefits by reducing the number of single-occupancy commuting vehicles. Reducing the distance that employees need to travel to meet their daily needs for eating and shopping also will enhance energy conservation. Therefore, objective (16) will be met.

## **Chapter 7 Manufacturing Planning Districts, Section 7.030 Objectives**

### **(1) Encourage new industrial development.**

The proposed amendments will allow more flexibility for employers in the ML, MG and MP Districts to provide appropriately scaled mixed uses to serve their employees. This will increase employees' ability to meet their daily needs near their work site and reduce the need for individual vehicle travel, thereby enhancing their ability to take transit to work. This flexibility to provide employee amenities, along with the potential for future transit options, may serve as a selling point for employers to locate their manufacturing business in one of these districts. Therefore, objective (1) above will be met.

### **(4) Preserve and protect, with limited exceptions, the City's existing industrial land.**

The proposed amendments will allow more flexibility for small-scale retail, office and service uses to be located in the manufacturing districts. However, those mixed uses will be limited by type and size. The proposed amendments limit office space to 25 percent of the total floor area of buildings on a site, thus preserving the majority of the site for manufacturing uses. The size limitations for retail and service uses are consistent with Metro regional policies to protect industrial lands. The limitations are intended to allow uses that will serve businesses and employees of the manufacturing districts while ensuring that industrial lands in Tualatin remain industrial in terms of primary uses and overall character.

In addition, large-scale office uses are not expected to locate in these areas for two reasons. First, the local and regional supply of land zoned for office use is generally more suitable for those types of uses and can be expected to be used before larger office developments seek to locate in industrial areas in Tualatin. Second, developers of office space typically desire a concentration of amenities in close proximity to future office uses such as multiple eating and drinking establishments, parks and open spaces. Tualatin's industrial areas do not currently contain these amenities. While the proposed amendments will allow for some of these amenities to be developed, that is not expected to result in large-scale office development in these areas. For these reasons, objective (4) will be met.

## **Chapter 7 Manufacturing Planning Districts, Section 7.040 Manufacturing Planning District Objectives**

### **(1) Manufacturing Park Planning District (MP).**

**(a) The purpose of this district is to provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities...The district is to provide for an aesthetically attractive working environment with park or campus-like grounds, attractive buildings, ample employee parking and other amenities appropriate to an employee oriented activity.**

**(b) It also is to protect existing and future sites for such uses by maintaining large lot configurations and limiting uses to those that are of a nature to not conflict with other industrial uses or surrounding residential areas.**

**(c) It also is intended to provide for a limited amount of commercial uses designed for the employees of the primary uses and to provide for a limited amount of retail selling of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet.**

The proposed amendments will allow small-scale mixed uses to be located in the Manufacturing Park District in order to provide more flexibility for uses that will serve employers and employees. This supports the objective of the MP District by creating opportunities for more employee amenities (personal services, cafés, etc.) to be conveniently located within the district. Large lot configurations will not be altered or impeded by the proposed amendments. The proposed mixed uses will not conflict with surrounding industrial or residential uses because they will be limited in size and type. The sale of manufacturing products as outlined in (c) above will not be impacted by the proposed amendments. For these reasons, objectives for the MP District will be met.

## **(2) Light Manufacturing Planning District (ML)**

**(a) Suitable for warehousing, wholesaling and light manufacturing processes that are not hazardous and that do not create undue amounts of noise, dust, odor, vibration, or smoke...Also suitable is the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet...**

**(b) The following uses within the Light Manufacturing District shall comply with the following size limits established by Metro. Retail sale, retail service and professional service uses shall be no greater than 5,000 square feet of sales or service area per outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following exceptions.**

**(i) Application of the Industrial Business Park Overlay District (TDC Chapter 69).**

...

**(d) In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, selected office and retail uses are allowed to provide services to businesses and employees...**

The proposed amendments will allow a broader range of retail, personal service and office uses and more flexibility for locating such uses within the ML District. These amendments are consistent with the objective of providing selected mixed uses to serve businesses and employees, as stated in (d) above. The size limitations established by the proposed amendments (5,000 and 20,000 square feet) are consistent with the Metro requirements outlined in (b) above. The sale of manufacturing products per (a) above will not be impacted by the proposed amendments. Based on this information, the objectives for the ML District will be met.

### **(3) General Manufacturing Planning District (MG)**

**(a) Suitable for light manufacturing uses and also for a wide range of heavier manufacturing and processing activities...Also suitable is the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet...**

**(b) The following uses within the General Manufacturing District shall comply with the following size limits established by Metro. Retail sale, retail service and professional service uses shall be no greater than 5,000 square feet of sales or service area per outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following exceptions.**

**(i) Application of the Industrial Business Park Overlay District (TDC Chapter 69).**

...

**(c) In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, selected office and retail uses are allowed to provide services to businesses and employees...**

The proposed amendments will allow a broader range of retail, personal service and office uses and more flexibility for locating such uses within the MG District. These amendments are consistent with the objective of providing selected office and retail uses to serve businesses and employees, as stated in (c) above. The size limitations established by the proposed amendments (5,000 and 20,000 square feet) are consistent with the Metro requirements outlined in (b) above. The sale of manufacturing products per (a) above will not be impacted by the proposed amendments. Based on this information, the objectives for the MG District will be met.

Based on the findings for each applicable objective above, the proposed amendments are in conformity with the applicable objectives of the Tualatin Community Plan and therefore, Criterion 3 is met.

**4. The following factors were consciously considered: the various characteristics of the areas in the City; the suitability of the areas for particular land uses and improvements in the areas; trends in land improvement and development; property values; the needs of economic enterprises and the future development of the area; needed right-of-way and access for and to particular sites in the area; natural resources of the City and the protection and conservation of said resources; prospective requirements for the development of natural resources in the City; and the public need for healthful, safe, aesthetic surroundings and conditions. Proof of change in a neighborhood or area, or a mistake in the Plan Text or Plan Map for the property under consideration are additional relevant factors to consider.**

Of the factors listed in Criterion 4 above, the following are relevant to the proposed text amendments: characteristics of the areas in the city; and suitability of areas for particular land uses and improvements. The remainder of the factors listed above will



not be impacted by the proposed text amendments and are therefore not addressed in these findings.

In order to support Linking Tualatin recommendations and recognize the changing nature of the industrial marketplace, the proposed amendments will allow more flexibility for small-scale mixed uses within the manufacturing districts. The amendments include type and size limitations on those uses in order to ensure they provide convenient amenities for businesses and employees while maintaining the overall industrial character of the districts. Office spaces are limited to 25 percent of the total floor area of buildings on a site and retail/service uses are limited to 5,000 square feet for an individual use or 20,000 square feet for combined uses on a site. Those limitations are consistent with Metro's objective of preserving industrial lands for industrial uses.

For these reasons, Criterion 4 is met.

**5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment. The Tigard-Tualatin School District's School Facility Plan criteria (formula) for new school capacity are: ...**

Criterion 5 is not applicable because the proposed text amendments do not involve a comprehensive plan amendment or amendments to a residential land use regulation.

**6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules, including compliance with the Transportation Planning Rule (TPR) (OAR 660-012-0060).**

The proposed amendments represent relatively small revisions to the Tualatin Development Code manufacturing districts and do not impact the overall land use designations as identified in the Tualatin Community Plan. The proposed amendments have been shown to be consistent with the Tualatin Community Plan, which was developed to be consistent with state regulations. As such, findings of compliance with Statewide Planning Goals and Administrative Rules are not necessary. Therefore, Criterion 6 does not apply.

**7. Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.**

Title 4 of the Metro Functional Plan addresses protection of industrial areas and is relevant to the proposed amendments. Findings for Title 4 are provided below.

**Title 4 – Industrial and Other Employment Areas**

**3.07.420 Protection of Regionally Significant Industrial Areas**

**A. Regionally Significant Industrial Areas (RSIAs) are those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on**



non-industrial uses in this section and the need to achieve a mix of employment uses.

**B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers – such as financial, insurance, real estate, legal, medical and dental offices – to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 3,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:**

- 1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and**
- 2. Training facilities whose primary purpose is to provide training to meet industrial needs.**

There are no regionally significant industrial areas within the ML, MG and MP Planning Districts affected by the proposed PTA-14-01.

### **3.07.430 Protection of Industrial Areas**

**A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses— such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area.**

**One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:**

- 1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and**
- 2. Training facilities whose primary purpose is to provide training to meet industrial needs.**

The proposed amendments will allow more flexibility for mixed uses to be located within the Tualatin manufacturing districts. The uses allowed are intended to serve the needs of employees in the districts while maintaining the overall industrial character of the

areas. The uses are limited in size and scope in order to ensure that land in the manufacturing districts is primarily available for industrial uses. Per the proposed amendments, office space is limited to 25 percent of the total floor area of the buildings on a site, meaning the majority of floor area is reserved for manufacturing uses. The size limitations for retail and services uses are consistent with the limitations listed in Section 3.07.430 above. Therefore, Criterion 7 will be met.

**8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.**

The Transportation System Plan (TSP) update process, which occurred concurrently with the Linking Tualatin project, provided an opportunity to evaluate the impact of land use changes proposed as part of Linking Tualatin on the city's overall transportation system. This analysis, prepared by DKS, assessed two scenarios: 1) one scenario looked at the net new trips for proposed land uses and added them to the transportation analysis zones (TAZs) in the regional travel demand model; and 2) one scenario that reduced the trips for TAZs within approximately ¼ mile of proposed land use areas by 10% to represent potential for reduction in trips based on added infrastructure of high capacity (or new) transit. Only p.m. peak hour trips were assessed at 14 intersections in the city. While LOS was affected at three of the analyzed intersections, the jurisdictional standard as outlined in Criterion 8 was not exceeded. Therefore, Criterion 8 is met.

**9. Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020, water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.**

The proposed amendments are not relevant to the water service policies and objectives in TDC 12.020. Water management requirements will continue to apply in the areas impacted by the proposed amendments; development in those areas will be responsible for ensuring adequate water service and management.

Therefore, Criterion 9 is met.

**10. The applicant has entered into a development agreement.**

**(a) This criterion shall apply only to an amendment specific to property within the Urban Planning Area (UPA), also known as the Planning Area Boundary (PAB), as defined in both the Urban Growth Management Agreement (UGMA) with Clackamas County and the Urban Planning Area Agreement (UPAA) with Washington County. TDC Map 9-1 illustrates this area.**

**(b) This criterion is applicable to any issues about meeting the criterion within 1.032(9). [Ord. 964-96, §2, 6/24/96; Ord. 1026-99, §2, 8/9/99; Ord. 1103-02, 03/25/02; Ord. 1310-10 §2, 9/13/10; Ord. 1354-13 §1, 02/25/13]**

Criterion 10 is not applicable because the proposed text amendments are not specific to property in the UPA.



UNOFFICIAL

**TUALATIN PLANNING COMMISSION -**

**MINUTES OF February 20, 2014**

**TPC MEMBERS PRESENT:**

Bill Beers  
Nic Herriges  
Jeff DeHaan  
Cameron Grile  
Mike Riley  
Steve Klingerman

**STAFF PRESENT**

Aquilla Hurd-Ravich  
Cindy Hahn  
Lynette Sanford

**TPC MEMBER ABSENT:** Alan Aplin

**GUESTS:**

**1. CALL TO ORDER AND ROLL CALL:**

Mr. Beers, Vice Chair, called the meeting to order at 6:31 pm. Roll call was taken.

**2. APPROVAL OF MINUTES:**

Mr. Beers asked for review and approval of the January 16, 2014 TPC minutes. MOTION by Riley SECONDED by Klingerman to approve the January 16, 2014 minutes. MOTION PASSED 6-0.

**3. COMMUNICATION FROM THE PUBLIC (NOT ON THE AGENDA):**

Cathy Holland, [tualatincommercialcio@gmail.com](mailto:tualatincommercialcio@gmail.com) spoke about the Oak Tree Business Park, Sites 28 and 29. Ms. Holland stated that as a representative of the Citizen Involvement Organization, she is working with the property owners and added that the Plan Text Amendment 14-01 will help some of them. Ms. Holland stated that this area she's referring to is in a light industrial zone with an urban renewal district overlay. She met with City staff to interpret the information and stated that in order to solve this, she will recommend to City Council a quasi-judicial Plan Text Amendment for these two specific blocks. Ms. Holland explained that the CCIO members are asking for additional analysis because this is restricting property owners from bringing in tenants. Blocks 28 and 29 are on Tualatin Sherwood Rd and were part of the downtown center plan that was left behind in the Plan Text Amendment.

Scott Miller, a Commercial Real Estate Broker, [scottm@capacitycommerical.com](mailto:scottm@capacitycommerical.com), stated that there is a sense of urgency since these blocks are not leasable due to the

These minutes are not verbatim. The meeting was recorded, and copies of the recording are retained for a period of one year from the date of the meeting and are available upon request.

zoning.

**4. ACTION ITEMS:**

**A. Consideration of Plan Text Amendment (PTA) 14-01 Amending Chapters 60, 61, and 62 of the Tualatin Development Code (TDC) to allow small-scale mixed uses and modifications to Chapters 34 and 69 to implement recommendations from Linking Tualatin. (Legislative Matter)**

Cindy Hahn, Associate Planner, discussed the above referenced Plan Text Amendment which included a PowerPoint presentation. The purpose is to consider the PTA which will allow more flexibility with the ML (Light Manufacturing), MG (General Manufacturing) and MP (Park Manufacturing) districts, support transit, and help implement the Linking Tualatin Final Plan

Ms. Hahn stated that in June, 2013 the Linking Tualatin Final Plan was accepted. In November 2013, the draft code was presented to the Planning Commission and in December, 2013 it was presented to the City Council. The proposed amendments this evening are the same uses are previously mentioned, but at Council direction there are two differences: Restaurant or deli drive-up and drive through and the mixed uses incorporated into ML, MG, and MP districts have less reliance on the Industrial Business Park Overlay District. The three specific locations in the MG planning district are the Franklin Business Park, Meridian Business Park, and the PacTrust site. Ms. Hahn added that the industrial uses must be primary, it limits percentage of mixed uses, and limits an 80-foot setback to SW Tualatin Sherwood Rd and residential districts.

Ms. Hahn noted that if the Planning Commission recommends approving PTA-14-01, it will allow more flexibility in uses and supports transit. If they recommend denying the PTA, there will be no revision to the Tualatin Development Code. Other alternatives are to recommend the City Council approve with alterations, or continue to discuss and return at a later date.

Mr. Riley inquired about the Urban Renewal District. Ms. Hahn explained that the Urban Renewal District is no longer in existence but its plan and requirements are still in effect. Mr. Klingerman asked what is driving these changes. Ms. Hahn answered it's from the Linking Tualatin Plan which included a recommendation for more flexibility in industrial use for small scale commercial. The purpose of this is to have services for employees in these areas so they don't have to use their car, which may encourage them to take transit to and from work. It would also cut down on car trips from the industrial area into downtown at the lunch hour and other parts of the day. Ms. Hurd-Ravich added this will also increase employment density, which will make it more attractive to employers.

Mr. Herriges had concerns about the maximum gross floor areas and thought it may be a disadvantage for businesses. Mr. Riley inquired about the 80 foot setback requirement. Ms. Hurd-Ravich responded that the limit pertains to the SW Tualatin Sherwood Road and residential districts. Mr. DeHaan mentioned that it could be

problematic for businesses who want visibility. Mr. Riley inquired about drive through access for businesses and thought it could create a traffic issue. Mr. Herriges added that drive throughs are counterproductive to what we're trying to accomplish, which is public transit. Ms. Hurd-Ravich responded that the City Council's concern was that in industrial areas, there are varied shifts in a 24 hour period and there could be a security concern. Ms. Hurd-Ravich added that public transit is also not usually operating at that time, so the night shift workers will most likely drive their cars. Matt Hastie, Angelo Planning Group, stated there are currently no transit stops but in the Linking Tualatin Plan, there are recommendations for them. Mr. DeHaan stated that he is in favor of the PTA, which allows entrepreneurship, but is opposed to drive throughs. Scott Miller mentioned that drives throughs are a benefit to the retailer. He feels that in the daylight hours, most people will be walking. In the night hours, it's nice to have the option of driving. Mr. Grile added with drive throughs, you will have a higher trip count.

Ms. Hurd-Ravich asked about the possibility of altering the drive through option as a Conditional Use Permit. Mr. DeHaan answered affirmatively. Mr. DeHaan also brought up the issue of food carts and stated that those are the types of businesses that serve employees in an industrial area.

After a brief discussion, the Planning Commission recommended approval of PTA 14-01 with two code language changes: one to add language to acknowledge the allowance of mobile carts, and one to require a conditional use permit for drive-up or drive through facilities for restaurants or delis and branch banks or banking kiosks.

In addition, the Planning Commission recommended that City Council direct staff to initiate work on a subsequent Plan Text Amendment to TDC 34.013 to expand mobile food and flower vendors to include larger dimension mobile carts and pods. In the existing regulations, a mobile food or flower vendor may occupy no more than 16 square feet of ground area and may not exceed three feet in width, excluding wheels; six feet in length, including any handles; and no more than five feet in height, excluding any canopies, umbrellas, or transparent enclosure.

MOTION by Riley, SECONDED by DeHaan to approve PTA-14-01 with the two code language changes. MOTION PASSED 6-0.

## **B. 2013 Annual Report of the Tualatin Planning Commission**

Ms. Hurd Ravich presented the 2013 Annual Report of the Planning Commission, which will be sent to City Council. Ms. Hurd-Ravich discussed the activities which include the review of three Plan Text Amendments. Mr. DeHaan stated that there should be an addition to the report that captures the Planning Commission presenting the Plan Text Amendments to the City Council.

Ms. Hurd-Ravich asked Mr. Beers to present the Linking Tualatin plan to City Council on March 10<sup>th</sup>, to which he agreed, and Mr. Riley agreed to present the 2013 Annual Report.



MOTION by DeHaan, SECONDED by Herriges to approve the TPC Annual Report with a sentence added that reads "After each Plan Text Amendment, a presentation was made to the City Council by a designated representative of the Planning Commission."  
MOTION PASSED 6-0.

**5. COMMUNICATION FROM CITY STAFF:**

**6. FUTURE ACTION ITEMS**

Ms. Hurd-Ravich stated that the March 20<sup>th</sup> TPC meeting has been rescheduled to March 6<sup>th</sup>. At that time, the Variance application from Verizon Wireless will be discussed and the Plan Map Amendment for the Espedal property may be presented. The Sign Variance applications from the Nyberg Rivers development have not yet been submitted, but are expected in April or May.

**7. ANNOUNCEMENTS/PLANNING COMMISSION COMMUNICATION**

Mr. Dehaan inquired about the Nyberg Rivers development. Ms. Hurd-Ravich responded that construction on Cabela's is underway. Other tenants will include Home Goods, New Seasons, LA Fitness, BJ's Brewhouse, and a small wood-fired pizza restaurant.

**8. ADJOURNMENT**

MOTION by RILEY SECONDED by Herriges to adjourn the meeting at 7:55 pm.  
MOTION PASSED 6-0.

\_\_\_\_\_ Lynette Sanford, Office Coordinator



## OFFICIAL MINUTES OF TUALATIN CITY COUNCIL WORK SESSION FOR DECEMBER 9, 2013

---

Present: Mayor Lou Ogden; Council President Monique Beikman; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Nancy Grimes; Councilor Ed Truax

Staff City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker;

Present: Assistant City Manager Alice Rouyer; Community Services Director Paul Hennon; Finance Director Don Hudson; Deputy City Manager Sara Singer; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris; Associate Planner Cindy Hahn; Engineering Manager Kaaren Hofmann; Maintenance Services Division Manager Clayton Reynolds; Management Analyst Ben Bryant; Public Works Director Jerry Postema

### CALL TO ORDER

Mayor Ogden called the meeting to order at 5:00 p.m.

#### 1. **2015-2019 Capital Improvement Plan**

Engineering Manager Kaaren Hofmann and Assistant City Manager Alice Cannon presented the 2015-2019 Capital Improvement Plan (CIP). The purpose of the plan is to create an overall picture of the City's infrastructure systems and long range plan. The CIP coordinates projects and purchases greater than \$10,000 which fall into five categories including utilities, facilities and equipment, parks and recreation, and transportation. The CIP evaluates needs, prioritizes schedules, and alternate financial capacity in annual budgets. Manager Hofmann presented the project summary by category for the next five years.

Councilor Grimes asked if the \$80,000 set aside for Neighborhood Transportation Solutions is covering all requested projects. Manager Hofmann stated this year's dollars are fully committed and no projects were turned away.

Councilor Davis asked about the process for requesting Neighborhood Transportation Solutions. Manager Hofmann noted information is available on the city's website and anyone can request a project.

Councilor Truax would like to see the 105<sup>th</sup>/Blake Street design project moved up on list. Mayor Ogden and Councilor Davis concurred.

Manager Hoffman presented a sample project worksheet. She noted each project has a worksheet that lists specific information including funding sources and descriptions. Projects to be included in the FY 14/15 budget were reviewed. Next steps include the final CIP being distributed and inclusions in the FY 14/15 budget.

Mayor Ogden presented concern with the Police Department roof needing

replacement.

Mayor Ogden presented concerns regarding how the general fund is being affected by these projects. He would like to see a sinking fund for CIP projects put in place. City Manager Lombos explained that options for a sinking fund will be presented during the budget cycle.

## **2. *Linking Tualatin – Draft Code Amendments***

Associate Planner Cindy Hahn, Planning Manager Aquilla Hurd-Ravich, and Assistant City Manager Alice Cannon presented draft amendments to the Industrial Business Park overlay. Associate Planner Hahn presented background on the Linking Tualatin Plan including its adoption and actions for implementation. Tonight's discussion will focus on preparing code changes which will allow greater flexibility and support transit use. The purpose of the Industrial Business Park overlay is to recognize and accommodate the changing industrial commercial marketplace by allowing small scale mixed uses through the Architectural Review process. Associate Planner Hahn stated possible code changes will allow additional flexibility by making minor modifications to the standards for the overlay. The intent of these changes is to provide mixed uses that support employees in these areas.

Planner Hahn presented possible code amendments including expanded permitted uses, removing minimum site size thresholds, simplification of mixed use percentages, and limiting 80 foot setbacks to retail on SW Tualatin-Sherwood Road and from residential districts. Next steps include returning to the Planning Commission for recommendations on the Plan Text Amendment (PTA) in January. Those recommendations will be presented to Council at a public hearing in February.

Councilor Davis asked about allowing drive-up windows in this overlay district. Planner Hahn stated the language does not specify the use of drive-ups. Planning Manager Hurd-Ravich said staff could look into drive-up windows as a conditional use for the area.

Councilor Truax asked about past conversations protecting industrial land for industrial uses only. Assistant City Manager Cannon stated it is a matter of balancing industrial land with the needs of the employees who work in these areas. She noted when the amendments are prepared staff will research past conversations regarding the industrial areas and bring the information back.

## **3. *Medical Marijuana Dispensaries***

Deputy City Manager Sara Singer presented background information on HB 3460 regarding Medical Marijuana Dispensaries. She noted the Oregon Health Authority (OHA) will have rules in place to license and regulate dispensaries by January 31, 2014 and applications will be accepted starting March 1, 2014. Options for regulating dispensaries in the city were presented.

Mayor Ogden stated last spring he attended a League of Oregon Cities board meeting where there was discussion regarding medical marijuana dispensaries. It was mentioned that several cities had banned dispensaries through the business

license process. He then brought this information back to work session and at that time there was Council support to proceed with banning dispensaries. Mayor Ogden asked the Council if there is a desire to ban dispensaries or how the Council would like to go about regulating them.

Councilor Davis stated she would like to see the Council regulate dispensaries through the zoning process. She believes that the city could make the zoning regulations complex enough that it would be more appealing for dispensaries to locate elsewhere.

Councilor Davis asked about placing a moratorium on dispensaries until the Council can put zoning restrictions in place. She expressed the City should not rush the process, and a moratorium could allow more time to examine the issues. City Attorney Sean Brady stated that the Council could go through the Plan Text Amendment (PTA) process to put a moratorium in place or go thru the business license process.

Council gave direction to proceed with researching the process for adopting a temporary moratorium to allow council time to look at other options for regulating medical marijuana dispensaries.

#### **4. *Crawfish Festival***

Community Services Director Paul Hennon briefed the Council on the transition of management for the Crawfish Festival. He noted recruitment of a new management entity is underway. Two proposals have been received and interviews for interested parties will be held this week. The first party, Class Act, proposed minor program enhancements, similar in-kind resources from the city, and a first right of refusal after three years. The second party, Social Media NW, proposed major program enhancements, larger in-kind resources and financial backing from the city, and a five year contract. He noted the intent of the interviewing committee is to authorize an agreement by the end of the year.

City Manager Lombos asked the Council if they were interested in keeping funding and in-kind services at the same level or if there was interest in increasing funding. Council consensus was to hear specifics on where the funding would be going before making a decision.

#### **5. *Tualatin Tomorrow***

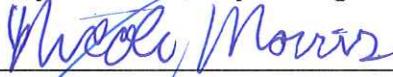
Deputy City Manager Sara Singer updated the Council on the Tualatin Tomorrow Vision and Strategic Action Plan update. She provided information on the process, upcoming public involvement events and the next steps for plan adoption. The project was organized into three phases and the committee is at the end of phase two. The Community Priorities Survey will be open until January 6th and will be followed by a Community Forum held on January 29th. The updated Vision Action Plan will come back to Council in February for adoption.

#### **6. *Council Meeting Agenda Review, Communications & Roundtable.***

## ADJOURNMENT

The work session adjourned at 6:46 p.m.

Sherilyn Lombos, City Manager



/ Nicole Morris, Recording Secretary



/ Lou Ogden, Mayor



# PTA 14-01 AMENDING THE TDC TO HELP IMPLEMENT LINKING TUALATIN

TUALATIN CITY COUNCIL  
MARCH 10, 2014



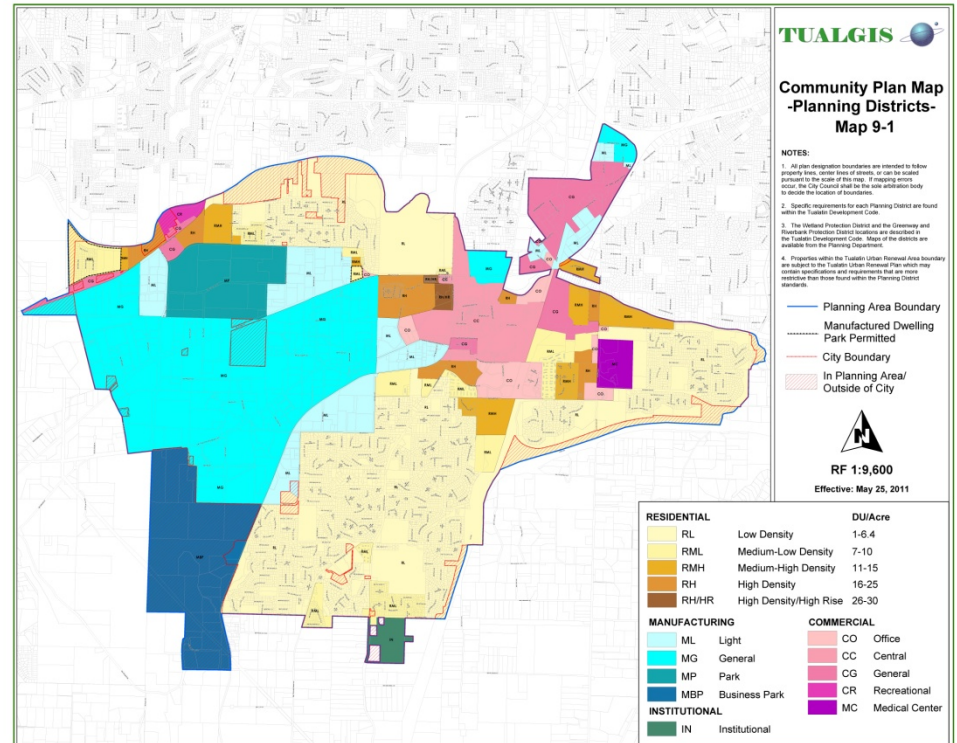


# PURPOSE OF TONIGHT'S MEETING

## ► Consider PTA 14-01

- Allow more flexibility within ML, MG and MP Districts
- Support transit
- Help implement Linking Tualatin Final Plan

## ► Provide direction to staff



# BACKGROUND

## vision and Next Steps

Linking Tualatin from a long-term vision to a more transit ready, to a set of investment strategies, as well as to improve transit service and transit-

community workshop to develop the Linking Tualatin Ideas Report will serve as a foundation built upon in future planning efforts

Options for land use changes that would be implemented throughout the city's employment center to better link people to the places they work, linking employees to their jobs, and linking the rest of the region. Some of the options and discussion with affected communities translated into implementation through such actions as amendments to the Tualatin Development Code (TDC), inclusion in the Capital Improvement Plan (CIP) in the City's Parks and Recreation

can be implemented immediately in the next 1-2 years, while longer-term elements can occur as the Southwest Corridor Plan analysis and implementation proceeds over the next 2-5 years.

Next steps in the Linking Tualatin planning process are envisioned to include:

- ▶ Complete the Linking Tualatin planning process with City Council adoption of a resolution accepting the Linking Tualatin Final Plan, including acknowledging completion of key documents included in that process, such as the Linking Tualatin Community Involvement Ideas Report.
- ▶ Prepare a Plan Text Amendment (PTA) to the Tualatin Development Code (TDC) with land use code changes implementing some of the recommendations in the Linking Tualatin Final Plan that will allow for greater flexibility and support transit use.
- ▶ Prepare PTA amending the TSP to include local street connections. As funding becomes available, potentially include these improvements in a future Capital Improvement Plan (CIP).
- ▶ Review paths and trails unique to the Linking Tualatin Final Plan as part of the Parks and Recreation Master Plan Update process.
- ▶ Continue to provide input reflecting the Linking Tualatin Final Plan

- ▶ **June 2013:** Linking Tualatin Final Plan accepted
- ▶ **November 2013:** Draft code presented to Planning Commission
- ▶ **December 2013:** Draft code presented to City Council



# PROPOSED CODE AMENDMENTS

---

- ▶ **Same uses:**

- ▶ Office
- ▶ Retail
- ▶ Service
- ▶ Other uses of similar character

- ▶ **Two differences:**

- ▶ Restaurant or deli drive-up and drive through
- ▶ Mixed uses incorporated into ML, MG and MP Districts
  - ▶ Less reliance on IBPO



# PROPOSED CODE AMENDMENTS

ML

- Chapter 60
- ML Permitted Uses
- **ML Additional Permitted Mixed Uses**
- ML Conditional Uses

MG

- Chapter 61
- MG + ML Permitted Uses **Including ML Additional Mixed Uses**
- MG + ML Conditional Uses

MP

- Chapter 62
- MP Permitted Uses
- **MP Additional Permitted Mixed Uses**
- MP Conditional Uses

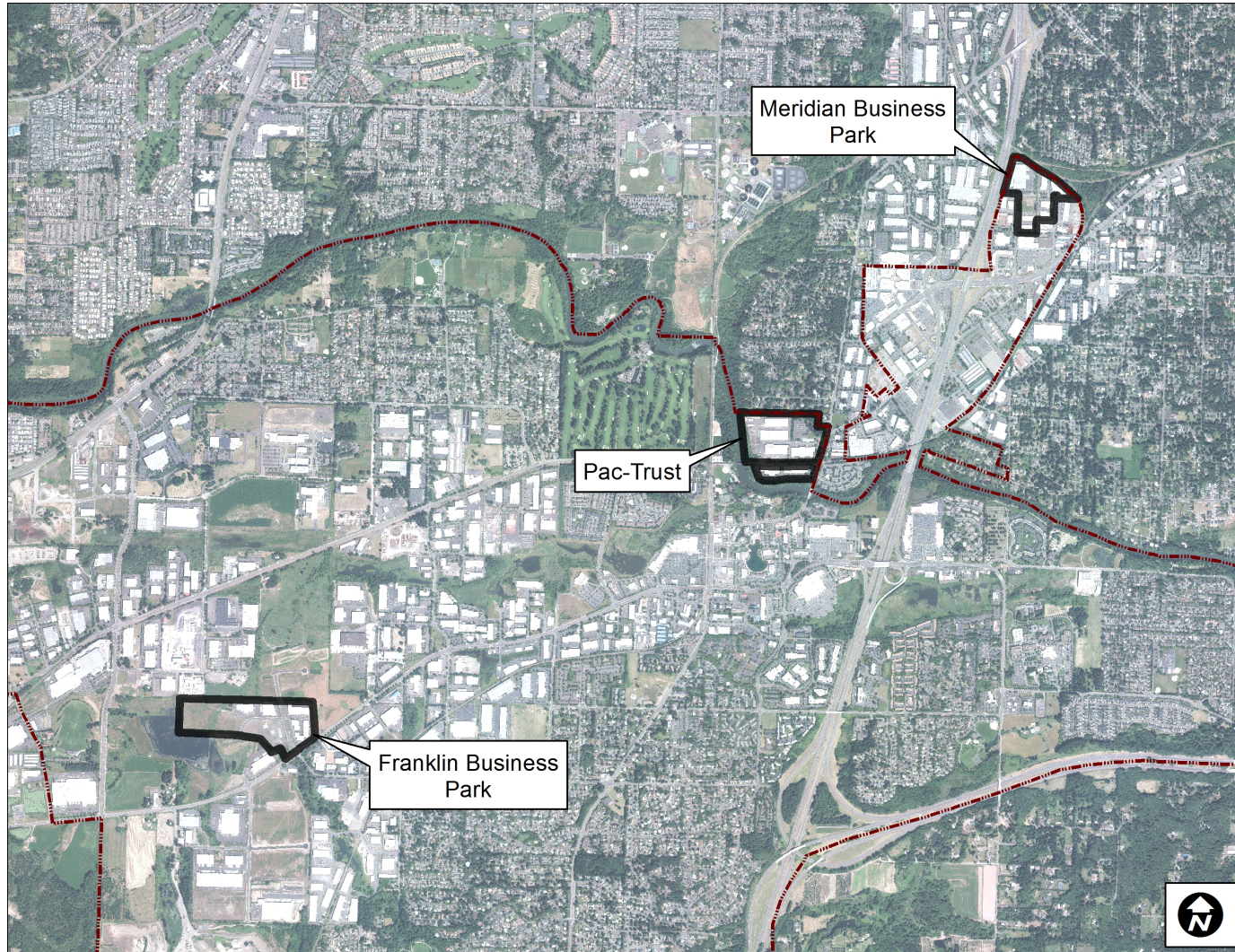
IBPO

- Chapter 69
- IBPO Permitted Uses + **Additional Permitted Mixed Uses**
- **Applies to Three Specific Locations in MG**





# PROPOSED CODE AMENDMENTS



# PROPOSED CODE AMENDMENTS

---

- ▶ Industrial uses must be primary
- ▶ Limits percentage of mixed uses
- ▶ Limits 80-foot setback to SW Tualatin-Sherwood Road and Residential Districts





# PLANNING COMMISSION RECOMMENDATION

---

- ▶ Approve PTA 14-01 with two changes:
  - ▶ Acknowledge allowance of mobile carts
  - ▶ Require conditional use permit for drive-up or drive through facilities
- ▶ Initiate work on new PTA to include larger dimension mobile carts and pods



# DECISION ON PTA 14-01

---

## Outcomes of Decision:

- ▶ Approve PTA 14-01
  - ▶ Allow more flexibility in uses and support transit
- ▶ Deny PTA 14-01
  - ▶ No revision to TDC

## Alternatives to Recommendation:

- ▶ Approve PTA 14-01 without alterations
- ▶ Approve PTA 14-01 with one or more changes recommended by Planning Commission
- ▶ Deny PTA 14-01



---

# QUESTIONS / COMMENTS

