



City of Tualatin

TUALATIN CITY COUNCIL

Monday, AUGUST 8, 2016

JUANITA POHL CENTER

8513 SW Tualatin Road

Tualatin, OR 97062

WORK SESSION- Canceled
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 your comments on its agenda, following Announcements, at which time citizens may address the Council concerning any item not on the agenda or to request to have an item removed from the consent agenda. If you wish to speak on a item already on the agenda, comment will be taken during that item. Please fill out a Speaker Request Form and submit it to the Recording Secretary. You will be called forward during the appropriate time; each speaker will be 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, 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. Council meetings can also be viewed by live *streaming video* on the day of the meeting at 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 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.



OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL MEETING FOR AUGUST 8, 2016

A. CALL TO ORDER

Pledge of Allegiance

B. ANNOUNCEMENTS

1. YAC Update for August 2016
2. New Employee Introduction- Matthew Palmer, Engineering Associate
3. New Employee Introduction- Andrew Albrecht, Police Officer

C. CITIZEN COMMENTS

This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent 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 ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, 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 Work Session and Regular Meeting of June 11, 2016 and the Regular Meeting of June 25, 2016
2. Consideration of **Resolution No. 5289-16** Authorizing the City Manager to Execute a Revocable Permit to Allow a Pacific Foods Wastewater Line to Cross SW Potano Street
3. Consideration of **Resolution No. 5290-16** Authorizing the City Manager to Sign a Professional Services Agreement With Wallis Engineering PLLC For Development of the Garden Corners Curves Conceptual Design Study
4. Consideration of **Resolution No. 5292-16** supporting designation of the Tualatin River Water Trail as a National Water Trail

E. GENERAL BUSINESS

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. 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.

1. Consideration of **Resolution No. 5291-16** Referring to the Electors of the City of Tualatin the Question of Imposing a Three Percent (3%) Tax on the Sale of Marijuana Items by a Marijuana Retailer within the City

F. 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.

G. COMMUNICATIONS FROM COUNCILORS

H. ADJOURNMENT

City Council Meeting

Meeting Date: 08/08/2016

ANNOUNCEMENTS: Tualatin Youth Advisory Council
Update for August 2016

ANNOUNCEMENTS

YAC Update for August 2016

A. YAC Update

Council Update August 8, 2016

TUALATIN YOUTH ADVISORY COUNCIL

Movies on the Commons

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





MOVIES ON THE COMMONS

Saturday Nights starting at sunset (9pm)

- July 2* **HAPPY FEET (PG)**
- July 9* **MINIONS (PG)**
- July 16* **OPEN SEASON SCARED SILLY (PG)**
- July 23* **HOTEL TRANSYLVANIA 2 (PG)**
- July 30* **STAR WARS: THE FORCE AWAKENS (PG-13)**
- August 13* **NORM OF THE NORTH (PG)**
- August 20* **JURASSIC WORLD (PG-13)**
- August 27* **ZOOTOPIA (PG)**
(at Ibach Park 10455 SW Ibach St.)

Movie titles are subject to change, based on availability. For more details visit:
www.tualatinoregon.gov/recreation/movies-commons

Come on out for free, family friendly movies at the Tualatin Commons this summer! Grab you blankets, buy popcorn from the Tualatin Youth advisory Council, and enjoy this Tualatin summer tradition.

Thanks to our Movie Sponsors!

SILVER SPONSORS //



Located in Bridgeport Village | VitalityNW.com



MAJOR SPONSORS //



BRONZE SPONSORS //

CREATIVE MINDS LEARNING CENTERS

CHAMPION // CLARK LUMBER CO.

Upcoming Activities

- New member recruitment ends September 16
- “Coffeehouse” nights resume in September
- West Coast Giant Pumpkin Regatta October 15
- Haunted House October 21, 22, 28, 29





STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Nicole Morris, Deputy City Recorder

DATE: 08/08/2016

SUBJECT: Consideration of Approval of the Minutes for the Work Session and Regular Meeting of June 11, 2016 and the Regular Meeting of June 25, 2016

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the Work Session and Regular Meeting of June 11, 2016 and the Regular Meeting of June 25, 2016.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

Attachments: [Work Session Meeting Minutes of July 11, 2016](#)
[Regular Meeting Minutes of July 11, 2016](#)
[Regular Meeting Minutes of July 25, 2016](#)



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

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Bill Steele; Community Services Director Paul Hennon; Finance Director Don Hudson; Deputy City Recorder Nicole Morris; Police Captain Mark Gardner; Assistant to the City Manager Tanya Williams; Assistant City Manager Alice Cannon; Library Manager Jerianne Thompson; Management Analyst II Zoe Monahan; City Engineer Jeff Fuchs; Human Resources Director Janet Newport; Public Works Director Jerry Postema

CALL TO ORDER

Mayor Ogden called the meeting to order at 5:33 p.m.

1. *Transit Project Updates.*

Management Analyst Zoe Monahan and Assistant City Manager Alice Cannon presented an update on transit projects. Analyst Monahan stated the Steering Committee selected light rail as the mode for the alignment. The committee also decided not to service Portland Community College Sylvania Campus directly via a tunnel, other options will be evaluated. The removal of alignments in Tigard where recapped. In July the committee will forward recommendations to JPAC and Metro for endorsements and notice of intent will be forward for the federal environmental planning process whereby the options will be evaluated for conformance with environmental and federal funding guidelines.

Analyst Monahan stated TriMet's new Bus Line 97 started service on June 6, 2016. She noted Line 97 meets most WES trains and provides an essential connection to employment opportunities along Tualatin- Sherwood Road. This service operates during commute hours.

Councilor Bubenik asked about the transit measure on the ballot in November. Mayor Ogden stated if the measure doesn't pass the project may not receive full funding.

Councilor Grimes asked about timing of the new route and potential additional costs to riders with the new line. Analyst Monahan said the timing had not been evaluated and costs would not change if riders were already on a Tri-Met line.

Mayor Ogden would like more information on the benefits of Line 97 and the ridership information.

2. *Hazelbrook Road Parking Concerns.*

City Engineer Jeff Fuchs stated the City received complaints regarding cars being parked along Hazelbrook Road making the road non-passable. Engineer Fuchs stated the City's options are to leave the road as is, prohibit parking along both sides of the road, prohibit parking along the west bound lane, install no parking on pavement signs, or install bike lanes in both directions.

Councilor Davis stated the perception is citizens are parking along the road to catch the bus stop along Hwy 99. She would like City staff to further evaluate the timing of the traffic in the area and look into possible park and ride solutions.

Councilor Truax would like to see staff work with Tri-Met on the issue.

3. *Local Tax on Marijuana.*

City Attorney Sean Brady stated HB 3400 passed which authorized local governments to enact a local sales tax on recreational marijuana. The tax cannot exceed three percent of gross sales. He added in order for the City to implement the tax it must be referred to the voters at a statewide general election. Attorney Brady stated staff is seeking Council direction on the matter.

Mayor Ogden stated he is not interested in referring the tax to voters as the City has already placed zoning restriction that make it difficult for a shop to open in Tualatin.

Councilor Bubenik stated he would like to refer the tax to the voters in case a shop opens. He stated the potential tax revenue if one were to open would help to cover any expenses the City may occur with regulating the shop.

Councilor Davis would like to refer the tax to the voters so the City's regulations are in line with those of the State.

Mayor Ogden asked how HB 3400 affects our current ordinance which places the tax at 10% on recreational usage. Attorney Brady stated the City would not be allowed to tax without being in compliance with the HB.

Councilor Grimes stated she would like to revise the current City ordinance and refer the tax to the voters.

Councilor Truax does not want to refer to the voters.

Mayor Ogden asked what it would entail to refer the tax to the voters. Attorney Brady stated the LOC has put forth a template for staff to work with.

Council President Beikman stated she is in favor of referring to voters.

Council consensus was reached to refer the tax to voters. Staff will bring back a ordinance on July 25 for consideration.

4. *2017 Legislative Agenda for the League of Oregon Cities.*

Assistant to the City Manager Tanya Williams presented recommendations for the League of Oregon (LOC) 2017 Legislative Agenda. She stated LOC suggested 29 broad topics and asked each City to weigh in. Staff met and is recommending the council consider the following topics as top priorities to forward to LOC:

- Marijuana and Vaping Taxes
- Continue Marijuana Legalization Implementation
- Property Tax Reform
- Remove Qualification Based Selection Mandate
- Veterans Preference Clarifications
- Comprehensive, Multi-modal Transportation Funding and Policy Package
- Funding for Water System Resilience

The Council recommended forwarding all seven recommendations to LOC.

5. Council Meeting Agenda Review, Communications & Roundtable.

Mayor Ogden stated the Oregon Business Council has partnered with the Oregon Healthy State Initiative to make Oregon the healthiest state in the nation. The group has contracted with Healthy Ways to start the Blue Zone Project. The project is currently selecting the last of two demonstration cities. Mayor Ogden would like to see Tualatin be selected for the project and asked for the Council's support.

ADJOURNMENT

The work session adjourned at 6:55 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR JUNE 11, 2016

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

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Bill Steele; Deputy City Recorder Nicole Morris; Assistant to the City Manager Tanya Williams; Assistant City Manager Alice Cannon; Library Manager Jerianne Thompson

A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:04 p.m.

B. ANNOUNCEMENTS

1. Tualatin Youth Advisory Council Update for July 2016

Members of the Youth Advisory Committee (YAC) presented a PowerPoint on their latest activities and upcoming events. The Kaleidoscope Run was held on June 17 in collaboration with the Teen Library Committee. The YAC is selling concessions at the Movies on the Commons, held every Saturday in July and August, to raise funds to attend the National League of Cities Conference.

2. ArtSplash Art Show & Sale

Program Specialist Heidi Marx announced the 21st annual ArtSplash Art Show & Sale to be held July 22-24 at the Tualatin Commons. She noted this year there will be 46 artists, three days of concerts, kids activities, and food carts.

3. New Employee Introduction- Police Chief Bill Steele

City Manager Sherilyn Lombos introduced Police Chief Bill Steele. The Council welcomed him.

C. CITIZEN COMMENTS

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None.

D. CONSENT AGENDA

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MOTION by Council President Monique Beikman, SECONDED by Councilor Nancy Grimes to adopt the consent agenda.

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

MOTION CARRIED

1. Consideration of Approval of the Minutes for the Work Session and Regular Meeting of June 27, 2016
2. Consideration of **Resolution No. 5288-16**, A Resolution Authorizing the City Manager to Execute an Intergovernmental Agreement to Provide Municipal Court Services to the City of Durham
3. Consideration of **Resolution No. 5286-16** Authorizing an Intergovernmental Agreement with Metro for Participation with the Regional Illegal Dumping (RID) Patrol
4. Consideration of Approval of a New Liquor License Application for Interrobang LLC
5. Consideration of **Resolution No. 5281-16** Authorizing the City Manager to Execute a Collective Bargaining Agreement with the Tualatin Police Officers Association

E. GENERAL BUSINESS

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. 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.

1. Tualatin City Hall Decision on Next Steps

Assistant to the City Manager Tanya Williams presented background information on the Tualatin Civic Center project. She recapped the public involvement outreach. Manager Williams stated staff is looking for Council direction on the topic.

Mayor Ogden complimented staff on their work on the public involvement process.

Councilor Brooksby stated he is not interested in placing a measure on the ballot at this time.

Councilor Davis would like to place a measure on the November ballot and she is interested in presenting the two-story commons site.

Councilor Grimes is in favor of placing a measure on the ballot.

Council President Beikman would like to work on an education plan for a ballot measure for next election cycle. City Manager Lombos stated staff would need to work on next steps and bring back in the future for more discussion.

Councilor Bubenik stated he doesn't feel there is enough support to place a measure on the ballot. He would like to work on an education campaign and reevaluate for the May election.

Mayor Ogden stated he thinks a ballot measure would need to have more citizen support to move forward.

Councilor Truax is not interested in placing a measure on the ballot.

MOTION by Councilor Joelle Davis, SECONDED by Councilor Nancy Grimes to place a measure on the November Ballot for a two story Civic Center at the Tualatin Commons Site.

Aye: Councilor Joelle Davis, Councilor Nancy Grimes

Nay: Mayor Lou Ogden, Council President Monique Beikman, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Ed Truax

MOTION Failed

F. 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.

G. COMMUNICATIONS FROM COUNCILORS

Councilor Davis announced the Tualatin Police Department will be receiving a grant from Firehouse Subs to help purchase AED devices.

H. ADJOURNMENT

Mayor Ogden adjourned the meeting at 7:32 p.m.

Sherilyn Lombos, City Manager

_____ / Nicole Morris, Recording Secretary

_____ / Lou Ogden, Mayor



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR JULY 25, 2016

Present: Mayor Lou Ogden; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Nancy Grimes

Absent: Council President Monique Beikman; Councilor Ed Truax

Staff Present: City Attorney Sean Brady; Police Chief Bill Steele; Deputy City Recorder Nicole Morris; Assistant to the City Manager Tanya Williams; Assistant City Manager Alice Cannon

A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:02 p.m.

B. CITIZEN COMMENTS

This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent 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.

Bryan Jensen presented concerns regarding an Airbnb rental next to his home. He stated the rental is creating parking and safety concerns. The Council directed staff to bring back information regarding transient rentals for further discussion at a work session.

Linda Moholt presented concerns regarding IP28-Gross Receipts Tax for Businesses over \$25 million, stating it is bad for local business. She requested the Council take a formal position against the measure in the form of a resolution.

C. GENERAL BUSINESS

If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. 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.

1. Consideration of **Ordinance No. 1396-16** Imposing a Three Percent Tax on the Sale of Marijuana Items by a Marijuana Retailer and Referring the Ordinance to Voters

City Attorney Sean Brady introduced the ordinance. He stated Council gave staff direction to bring this ordinance back for consideration at the previous work session. In addition, he noted this tax will only apply to recreational marijuana sales and not medical marijuana.

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

Aye: Mayor Lou Ogden, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Joelle Davis, Councilor Nancy Grimes

Other: Council President Monique Beikman (Absent), Councilor Ed Truax (Absent)

MOTION CARRIED

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

Aye: Mayor Lou Ogden, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Joelle Davis, Councilor Nancy Grimes

Other: Council President Monique Beikman (Absent), Councilor Ed Truax (Absent)

MOTION CARRIED

MOTION by Councilor Frank Bubenik, SECONDED by Councilor Wade Brooksby to adopt Ordinance No. 1396-16 imposing a three percent tax on the sale of marijuana items by a marijuana retailer and referring the ordinance to voters.

Aye: Mayor Lou Ogden, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Joelle Davis, Councilor Nancy Grimes

Other: Council President Monique Beikman (Absent), Councilor Ed Truax (Absent)

MOTION CARRIED

D. COMMUNICATIONS FROM COUNCILORS

Councilor Davis announced the Post Office is holding a meeting on July 26 regarding relocating. She is very disappointed with this decision and urged citizens to attend.

Councilor Bubenik agreed with Councilor Davis. He added the proposed location is not served by the bus line making it difficult for citizens to reach.

Councilor Grimes concurred with both Councilors. She added the City had no voice in the matter in regards to the move.

Assistant City Manager Cannon stated citizens can submit written comment directly to the Post Office before August 25. Information will be available on the City's website.

Councilor Bubenik asked for more information regarding the Clackamas County Gas Tax. Mayor Ogden stated the County has complete control over the tax including how it set and distributed. He added that if the City does not support the County tax they will not receive any of the tax revenue.

Councilor Davis stated Tualatin does not have any gas stations in Clackamas County. Mayor Ogden stated Tualatin would still receive revenue because the tax will be distributed based on population.

Assistant City Manager Cannon stated the approximate yearly revenue would be \$50,000.

Councilor Bubenik announced the Tualatin America's Best Community Committee is holding a logo contest. All entries are due by August 5.

E. ADJOURNMENT

Mayor Ogden adjourned the meeting at 7:46 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, City Manager

FROM: Tony Doran, Engineering Associate
Jeff Fuchs, City Engineer

DATE: 08/08/2016

SUBJECT: Consideration of **Resolution No. 5289-16** Authorizing the City Manager to Execute a Revocable Permit to Allow a Pacific Foods Wastewater Line to Cross SW Potano Street

ISSUE BEFORE THE COUNCIL:

City Council will consider authorizing the City Manager to execute a Revocable Permit to allow a Pacific Foods wastewater line to cross SW Potano Street.

RECOMMENDATION:

Staff recommends Council consider the attached resolution.

EXECUTIVE SUMMARY:

As a byproduct of their production, Pacific Foods creates wastewater with solid vegetable components that can cause difficulties for the Clean Water Services treatment facility at Durham. Pacific Foods has a private pretreatment facility located at 19350 SW 97th Street on a private lot owned by Pacific Foods. This pretreatment facility breaks down solid vegetable components and reduces the amount of solids that flow to the Clean Water Services treatment plant.

Pacific Foods has a manufacturing building located on a separate lot at 19505 SW 97th Street. The manufacturing building is located on the opposite side of SW Potano Street (a public street) from the treatment facility. Pacific Foods received a permit from the City to construct a private wastewater pipe under SW Potano Street to connect the manufacturing building on 19505 SW 97th Street with the pretreatment facility at 19350 SW 97th Street.

A revocable permit is needed for the private wastewater line where it cross under public right-of-way for SW Potano Street between the manufacturing building and the pretreatment facility.

Approval of this resolution will authorize the City Manager to allow the Pacific Foods wastewater line to be located within a 10-foot easement across the SW Potano Street

right-of-way. The City would not be liable for the wastewater line or any consequences from use or maintenance of the easement. The permit is revocable with 180 days notice with removal of the wastewater line and repair of SW Potano Street at Pacific Foods expense and performance.

Attachments: Reso 5289-16-Pacific Foods Revocable Permit
 Revocable Permit - Pacific Foods
 C - Vicinity Map
 D - Easement
 E - Legal Description

RESOLUTION NO. 5289-16

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A REVOCABLE PERMIT FOR A PRIVATE PROCESS WASTEWATER LINE IN SW POTANO STREET

WHEREAS, the City owns the right-of-way at SW Potano Street; and

WHEREAS, Pacific Foods Properties, LLC has requested to place a private process wastewater line within the right-of-way of SW Potano Street adjacent to 19505 SW 97th Street; and

WHEREAS, Pacific Foods needs to construct this process wastewater line to provide pre-treatment of process wastewater prior to entering the public sanitary sewer system; and

WHEREAS, granting the revocable permit is in the public good;

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

Section 1. The City Manager is authorized to execute a Revocable Permit, which is attached as Exhibit 1 and incorporated by reference.

Section 2. Section 2. The City Manager is authorized to revoke the permit for any reason and at any time with 180 days prior notice to the permittee.

Section 3. This resolution is effective upon adoption.

Adopted by the City Council this 8th day of August, 2016.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

After recording return to:
City of Tualatin, Oregon
18880 SW Martinazzi Ave.
Tualatin, OR 97062-7092



REVOCABLE PERMIT (Right-of-Way)

The City of Tualatin (“City”), pursuant to Resolution No. 5289-16, hereby grants Pacific Foods Properties, LLC (“Permitee”) the nonexclusive right to encroach upon and occupy a portion of public right-of-way, as more particularly described in Exhibit A (“Legal Description”) and as depicted on Exhibit B (“Map”) for the purpose of crossing the right-of-way with a private process wastewater lateral (“Encroachment”), subject to the terms and conditions set forth herein.

The City grants the permit on the condition that Permitee promises and agrees to comply with the following terms, conditions, and restrictions:

1. The Encroachment as constructed must pass inspection by the City confirming it complies with all applicable Codes of the City of Tualatin including, but not limited to, structural safety, traffic, sanitation, land use, and fire requirements.
2. In constructing and maintaining the Encroachment, Permitee agrees to comply with the plans and specifications approved by the City and all applicable permits.
3. Permitee must maintain the Encroachment in good order and must immediately notify the City of any dangers to person or property, or any dangerous conditions, that exist with regard to the Encroachment, which are either known or discovered by Permitee.
4. Permitee assumes all risk of damage to its Encroachment, and any buildings, structures, utilities, or other appurtenances connected to the Encroachment, resulting from, or arising out of, any and all uses of the public right-of-way by the City, its officers, employees, agents, and the general public.

5. Permittee must defend, indemnify, and hold harmless the City, its officers, agents, and employees, against any and all claims for damages of any kind attributable to Permittee and which is caused or alleged to have been caused as a result of the Encroachment or this Permit, whether such damage or injury results from normal operation or accident or any other cause.
6. The placing of the Encroachment in a portion of the aforesaid public right-of-way is nonexclusive and does not give Permittee, or anyone else, any permanent right to its continued or exclusive occupancy.
7. This Permit is revocable by the City, in its sole discretion, for any reason. City will provide Permittee at least 180 days' prior written notice and provide the effective date of the revocation in the notice, On or before the effective date of the revocation, Permittee, at its own expense, will remove the Encroachment from City's right-of-way; and, failing to do so, the City may cause removal of the Encroachment at the cost and expense of Permittee, including any and all legal costs and attorney fees..
8. Permittee's obligations under the provisions of this Permit are binding upon all of the heirs, successors, and assigns of Permittee.
9. In the event Permittee includes more than one person or entity, all such persons or entities are jointly and severally liable for all conditions herein.
10. Any construction within the right-of-way requires a Public Works Permit and compliance with all applicable codes and regulations.

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ACCEPTED, and the conditions hereof acknowledged and agreed to the _____ day of _____, 2016.

Permitee:

Pacific Foods Properties, LLC

By: _____

Its: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 20____, by _____, known to me to be the _____ of Pacific Foods Properties, LLC.

Notary Public—State of Oregon
My commission expires: _____

Witness my hand this _____ day of _____, 20____.

By: _____
City Manager

STATE OF OREGON)
) ss.
County of _____)



This instrument was acknowledged before me on _____, 20____, by Sherilyn Lombos, as the City Manager for the City of Tualatin, Oregon.

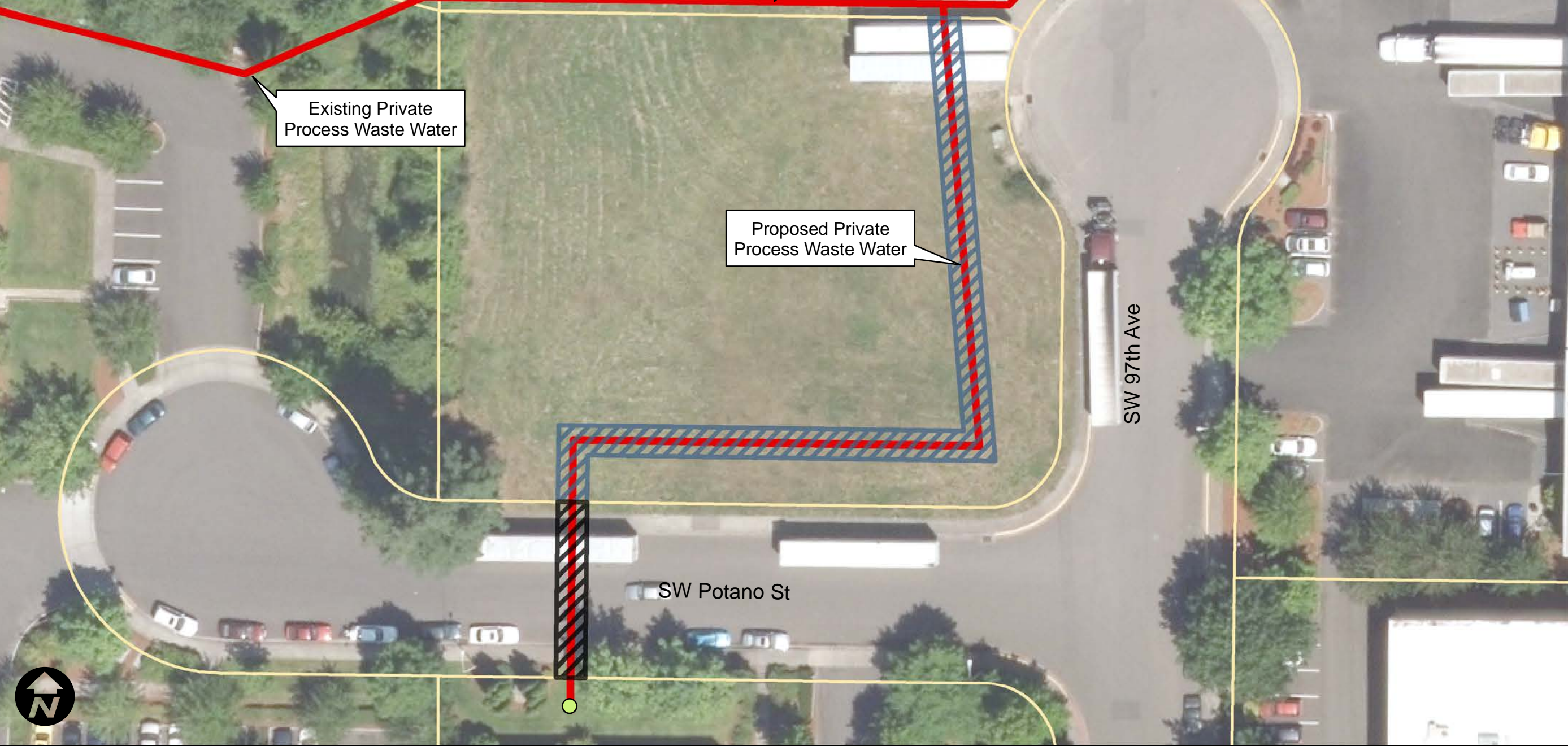
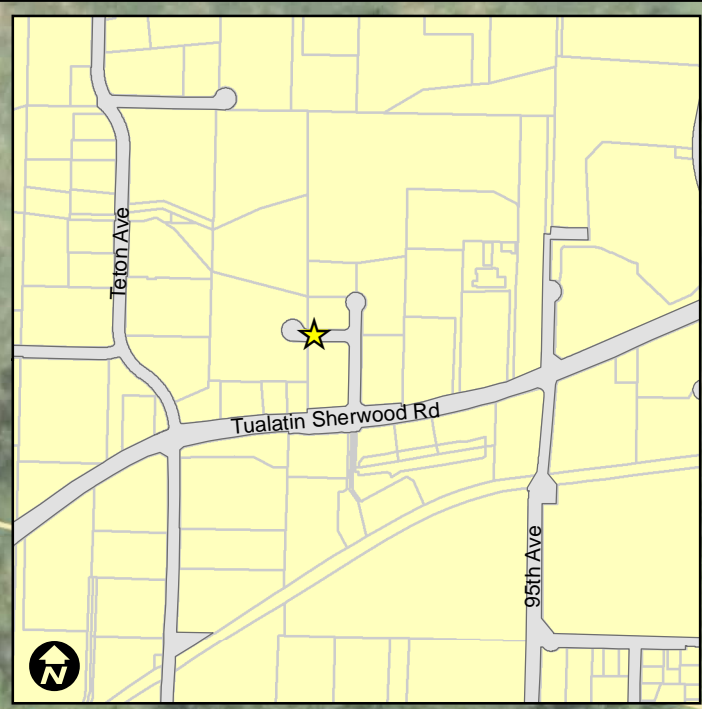
Notary Public—State of Oregon
My commission expires: _____

APPROVED AS TO FORM:

By: _____
City Attorney

Revocable Permit Pacific Foods

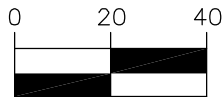
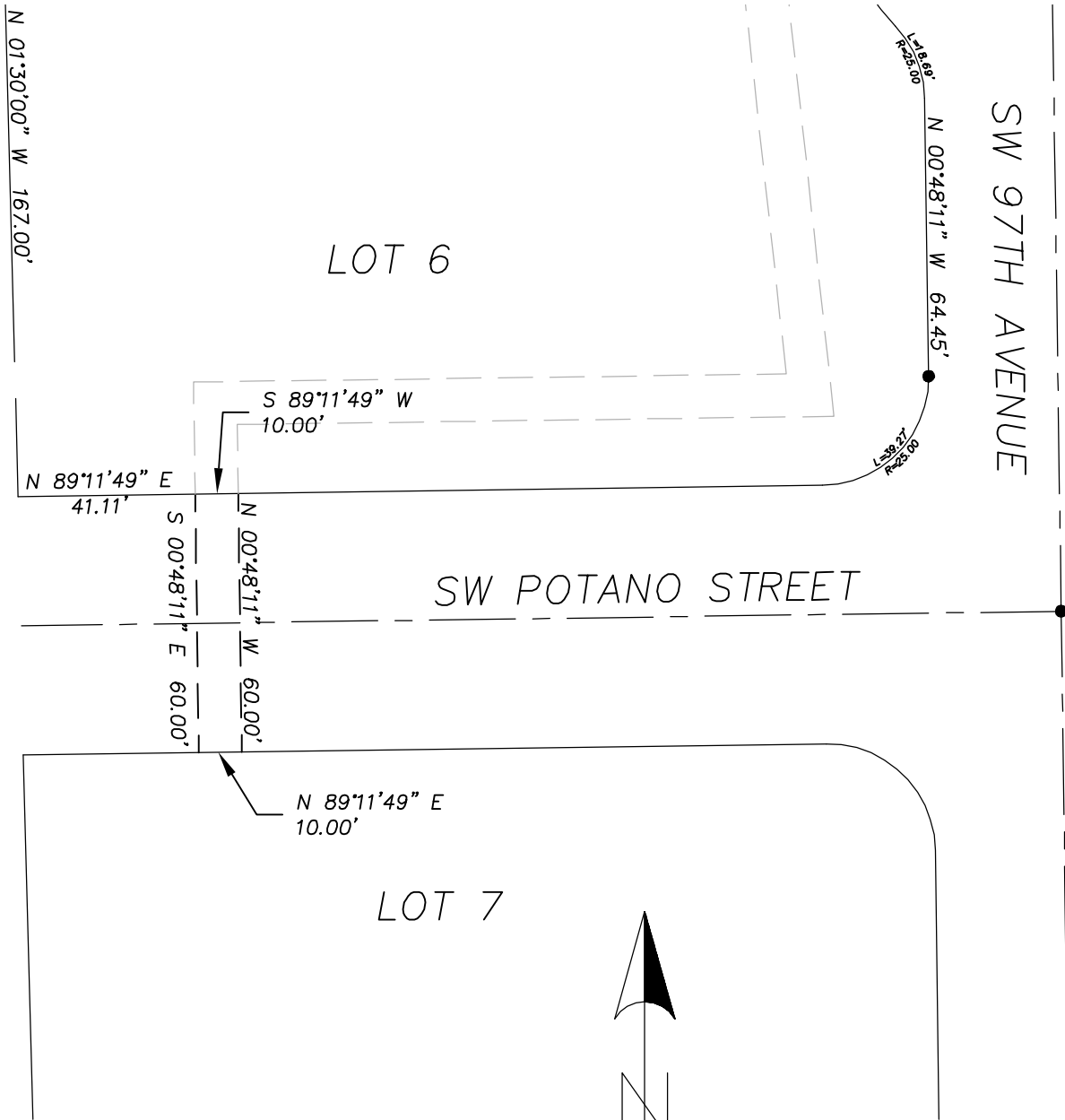
-  Revocable Permit Area
-  Sewer Easement



RF 1:450

This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". -IS Dept.
Printed: 6/20/2016

EXHIBIT B



1 inch = 40 ft.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

[Signature]

OREGON
JULY 19, 1994
FREDERIC C. FORD
2665

12-31-17
RENEWAL DATE



Ford Engineering, Inc.
Civil Engineering & Land Surveying

12205 Ioka Way NW
Silverdale, Washington

Phone (360) 588-2124
Fax (503) 296-2374

EXHIBIT A

A STRIP OF LAND LOCATED WITHIN SW POTANO STREET IN THE SW QUARTER OF SECTION 23, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WM, IN THE CITY OF TUALATIN, WASHINGTON COUNTY OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 6 OF THE ARGONAUT PARK SUBDIVISION, THENCE RUNNING ALONG THE SOUTH LINE OF SAID LOT 6 AND THE NORTH RIGHT OF WAY LINE OF SAID SW POTANO STREET NORTH 89°11'49" EAST 41.11 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 0°48'11" EAST 60.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF SAID SW POTANO STREET; THENCE NORTH 89°11'49" EAST ALONG SAID SOUTH LINE 10.00 FEET; THENCE LEAVING SAID SOUTH LINE AND RUNNING NORTH 0°48'11" WEST 60.00 FEET TO SAID NORTH LINE OF SW POTANO STREET; THENCE SOUTH 89°11'49" WEST ALONG SAID NORTH LINE 10.00 FEET TO THE TRUE POINT OF BEGINNING.



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Jeff Fuchs, City Engineer
Alice Cannon, Assistant City Manager

DATE: 08/08/2016

SUBJECT: Consideration of **Resolution No. 5290-16** Authorizing the City Manager to Sign a Professional Services Agreement With Wallis Engineering PLLC For Development of the Garden Corners Curves Conceptual Design Study

ISSUE BEFORE THE COUNCIL:

Consider authorizing City Manager to sign the Professional Services Agreement with Wallis Engineering, PLLC for Engineering Services to prepare the Garden Corners Curves Conceptual Design Study.

RECOMMENDATION:

Staff recommends that Council adopt the attached resolution to authorize the City Manger to sign the Professional Services Agreement with Wallis Engineering, PLLC that will authorize Wallis Engineering, PLLC to begin the concept design study.

EXECUTIVE SUMMARY:

Garden Corner Curves, a roadway alignment including SW 105th Avenue, SW Blake Street, and SW 108th Avenue, is a narrow, constrained roadway with sight distance issues and limited pedestrian and bicycle facilities. The corridor is located adjacent to steep slopes and within environmentally sensitive lands. The goal of this project is to develop conceptual solutions that balance cost, safety for all users, stakeholder desires, environmental impacts, and right-of-way.

A Concept Study will be prepared, evaluating and recommending solutions. It will have the following objectives: conducting public involvement and outreach to solicit input for the study; providing a methodology to evaluate the developed alternatives, including cost estimates and implementation schedules; identifying opportunities to phase interim improvements; identifying final build-out design alternatives that improve safety and mobility for all users through the corridor; and coordinating with the City to rank the alternatives and provide a recommendation. The concept study will involve significant public outreach and involvement to identify and evaluate schematic designs that will ultimately lead to a preferred alternative.

The Request for Proposals was advertised in the *Daily Journal of Commerce* on March 28, 2016. Four proposals received on April 25, 2016 were evaluated based on a specific set of evaluation criteria. A Notice of Intent to Award was issued to Wallis Engineering, PLLC on June 1, 2016. City staff and Wallis Engineering negotiated the scope of work and fee for a time and materials contract.

This project was included in the 2016/2017 CIP and funding for development is included in the 2016/17 Annual Budget.

FINANCIAL IMPLICATIONS:

Funds for this project are available and are included in the 2016/2017 Annual Budget in the Gas Tax Fund. The time and materials not to exceed contract amount is \$195,789.

Attachments: [Attachment A - Resolution](#)
 [Attachment B - PSA Wallis](#)

RESOLUTION NO. 5290-16

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH WALLIS ENGINEERING PLLC FOR DEVELOPMENT OF THE GARDEN CORNERS CURVES CONCEPTUAL DESIGN STUDY

WHEREAS, the Request for Proposals was advertised in the Daily Journal of Commerce on March 28, 2016; and

WHEREAS, four proposals were received on April 25, 2016 and subsequently evaluated on a qualifications basis; and

WHEREAS, a Notice of Intent to Award was issued to Wallis Engineering, PLLC on June 1, 2016; and

WHEREAS, City staff entered into and completed negotiations with Wallis Engineering, PLLC on the scope of work and fee estimate for a time and materials contract; and

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

WHEREAS, this project is identified in the 2016/2017 Capital Improvement Program; and

WHEREAS, funds are available for this project in the 2016/2017 BUDGET in the Gas Tax Fund;

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

Section 1. The City Manager is authorized to execute a Professional Service Agreement with Wallis Engineering, PLLC, which is attached as Exhibit 1 and incorporated by reference.

Section 2. The City Manager is authorized to approve changes to contract scope and not to exceed contract amount.

Section 3. This resolution is effective upon adoption.

Adopted by the City Council this 8th day of August, 2016.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

BY _____
City Attorney

ATTEST:

BY _____
City Recorder

CITY OF TUALATIN PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES 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 Wallis Engineering, PLLC ("Contractor").

Section 1. Contract Documents. The Contract Documents, which together form the complete Agreement between the parties, consists of the following documents in descending order of precedence: (i) this Agreement; (ii) any documents specifically referenced in this Agreement; and (iii) the attached Scope of Work (Exhibit A); (iv) the attached hourly rate schedule (Exhibit B); (v) the invitation to bid/propose; (vi) the Tualatin Public Works Design Standards; and (vii) Contractor's bid/response. To the extent there is any conflict between the Contract Documents, the conflict is resolved by the order of precedence above. There are no other Contract Documents other than those listed.

Section 2. Work.

- A. Completion.** Contractor must complete all Work that is generally described as set forth in Exhibit A, which is incorporated into this Agreement as if fully set forth.
- B. Authenticity by Contractor.** All written documents, drawings, and plans submitted by Contractor in completing the Work must be stamped with the engineer, land surveyor, architect, or design professional's professional stamp and bear that professional's signature or initials.
- C. Qualified Professionals.** All Work must 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 must 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.** Contractor is 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 Contractor or any of Contractor's subcontractors or Contractors, except for those items identified as the responsibility of the City.
- F. Sufficient Plans.** Contractor warrants that the Agreement specifications and plans, if any, prepared by Contractor 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 does 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 Contractor makes no warranty that City's actual project costs, financial aspects, economic feasibility, or schedules will not vary from Contractor's opinions, analyses, projections, or estimates.
- H. Subsurface Investigations.** City acknowledges Contractor 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. Contractors to provide additional services not included in the Work described on Exhibit A, the parties will enter into a written amendment to include such Work. The Agreement price for such additional Work will not exceed Contractor's hourly rate as agreed to in Exhibit A. No compensation for additional services will 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 both Parties sign this Agreement ("Effective Date"). If the parties sign on separate dates, the date of the last signature is the Effective Date.

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

Section 5. Standard of Care. In the performance of its professional or technical services, Contractor must use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of its profession practicing in the Portland Metropolitan Area. Contractor will reperform any services not meeting this standard without additional compensation. Contractor's reperformance of any services, even if done at City's request, will not be considered as a limitation or waiver by City of any other remedies or claims it may have arising out of Contractor'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, Contractor 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, Contractor must give prompt written notice to City's Project Manager.

Section 7. Independent Contractor; Responsibility for Taxes and Withholding.

- A. Independent Contractor.** Contractor will 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 Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.
- B. Not an Officer, Employee or Agent.** Contractor is not an "officer", "employee", or "agent" of the City, as those terms are used in ORS 30.265.
- C. Federal and State Taxes.** Contractor is responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Agreement and, unless Contractor is subject to backup withholding, City will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from City under this Agreement. Contractor 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. Except for those subcontracts identified in Exhibit A, Contractor's services are unique and as such, will not enter into any subcontracts for any of the Work required by this Agreement without City's prior written consent. Any subcontract will not relieve Contractor of any of its duties or obligations under this Agreement. All subcontracts for services must be issued under written agreements that include all provisions required under Oregon Public Contracting law. Upon request by the City, Contractor must provide City a copy of all agreements with subcontractors who are performing work under this Agreement.

Section 9. 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 Exhibit B, which is attached hereto and incorporated into this Agreement as if fully set forth.
- B. Maximum Fee.** In no event will City pay Contractor a price not to exceed \$195,789.00, which is inclusive of all hours necessary to complete the Work.

Section 10. City Funds for Payment. (Check One Below)

- City certifies that it has sufficient funds currently authorized to finance the full costs of this Agreement.
- Contractor 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 11. Payment Process.

- A. Invoices.** Contractor must furnish City an invoice for services on a monthly basis. The invoice must contain an itemized statement showing the number of hours worked on the project by Contractor and the specific Work or portions of the Work performed.
- B. Reimbursable Expenses.** City's Payment for reimbursable expenses is limited to those reimbursable expenses set forth on Exhibit A, which are actually incurred by Contractor and itemized on Contractor's invoice for services.

- C. Payment for Services.** City will pay Contractor for services invoiced within thirty (30) days of receiving an itemized invoice (“net thirty”), unless City disputes the invoice, in which case City will only pay for those services not in dispute.

Section 12. Contractor’s Representations.

- A.** In order to induce City to enter into this Agreement Contractor makes the following representations and warranties:
- (i) Contractor has the power and authority to enter into and perform his Agreement;
 - (ii) This Agreement, when executed and delivered, is a valid and binding obligation of Contractor enforceable in accordance with its terms;
 - (iii) Contractor has examined and carefully studied all Contract Documents and the other related data identified in the Contract Documents;
 - (iv) Contractor has become familiar with all conditions that may affect cost, progress, and performance of the Work;
 - (v) Contractor has the skill and knowledge possessed by well informed members of its industry, trade or profession and Contractor 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 Contractor’s industry, trade or profession;
 - (vi) Contractor must, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
 - (vii) Contractor 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 13. Suspension of Work. The City may suspend work by causing a written “stop work order” to be sent to Contractor as provided in the notice provisions of this Agreement and documenting the reasons for stopping the work. Contractor must stop all work upon receiving the “stop work order.”

Section 14. Notice to Parties. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder must be given in writing by personal delivery, mail facsimile, or email.

- A. Notice by Personal Delivery.** Any communication or notice given by personal delivery is effective when actually delivered.
- B. Notice by Mail.** Notice given by mail must be by postage prepaid, to Contractor or City at the address, set forth herein, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed is effective five (five) days after mailing.
- C. Notice by Email.** Any communication or notice given by email is 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.
- D. Party to be Notified.** Unless otherwise notified in writing as set forth above, notices must be given to the Project Managers. If a Party’s Project Manager is changed, notification of the change must 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 must be promptly furnished.
- 1. **City’s Project Manager: Dominique Huffman, Project Engineer, 18880 SW Martinazzi Ave Tualatin OR 97062-7092, Phone: 503-691-3036, Fax: 503-692-0147, dhuffman@ci.tualatin.or.us**
 - 2. **Contractor’s Project Manager: David Brokaw, PE, Project Manager, 215 W. 4th Street, Suite 200,**

Section 15. City's Obligations. In addition to obligations of City described in other parts of the Agreement Documents, City is responsible for providing the following:

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

Section 16. 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 17. Successors and Assigns. The provisions of this Agreement are binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.

Section 18. 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 will not be affected, and the rights and obligations of the parties must be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

Section 19. Merger Clause; Waiver. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement will 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, is effective only in the specific instance and for the specific purpose given.

Section 20. 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 will apply.

Section 21. Ownership of Intellectual Property.

- A. Original Works.** All Work Product created by Contractor 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 Contractor 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," Contractor 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, Contractor will execute such further documents and instruments necessary to fully vest such rights in City. Contractor 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 Contractor under this Agreement is a derivative work based on Contractor Intellectual Property, or is a compilation that includes Contractor Intellectual Property, Contractor 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 Contractor 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 Contractor under this Agreement is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Contractor 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. If the Work Product is the property of the Contractor-Architect, by execution of this Agreement, the Contractor-Architect grants to City an exclusive and irrevocable license to use the Work Product.
- B. Contractor Intellectual Property.** All pre-existing trademarks, service marks, patents, copyrights, trade secrets, and other propriety rights of Contractor are and will remain the exclusive property of Contractor. Notwithstanding the foregoing, Contractor hereby grants to City an irrevocable, nonexclusive, perpetual, royalty free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Contractor Intellectual Property, and to authorize others to do the same on City's behalf.

C. Third Party Works. In the event that Work Product is Third Party Intellectual Property, Contractor 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 Third Party Intellectual Property, and to authorize others to do the same on City's behalf.

Section 22. Records Maintenance; Access. Contractor must maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles, and any other records pertinent to this Agreement in such a manner as to clearly document Contractor's performance, for a minimum of three (3) years following final payment or termination of this Agreement. City may have access to all, documents, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts.

Section 23. No Third-Party Beneficiaries. There are no intended third-party beneficiaries to this Agreement. Contractor 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.

Section 24. Nondiscrimination; Compliance with Applicable Law. Contractor 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. Contractor must comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement.

Section 25. Public Contracting Requirements. Contractor must comply with provisions of ORS 279A.110; 279B.220, 279B.225, 279B.230, and 279B.235, which are incorporated by reference herein. City's performance under the Agreement is conditioned upon Contractor's compliance.

Section 26. Certification of Compliance with Tax Laws. As required by ORS 279B.110(2)(e), Contractor represents and warrants that Contractor has complied with the tax laws of this state, the City, and applicable political subdivisions of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318, hereafter ("Tax Laws"). Contractor further covenants to continue to comply with the Tax Laws during the term of this Agreement and Contractor covenants and acknowledges that the failure to comply with the Tax Laws is a default for which City may terminate this Agreement and seek damages.

Section 27. Registered in Oregon and City of Tualatin. If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor must 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. Contractor must demonstrate its legal capacity to perform the Work under this Agreement in the State of Oregon prior to entering into this Agreement. Contractor must have or acquire a City business license prior to executing this Agreement.

Section 28. Use of Recycled Products. Contractor 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 29. Force Majeure. Neither City nor Contractor will 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 Contractor, respectively. Contractor must make all reasonable efforts to remove or eliminate such a cause of delay or default and must diligently pursue performance of its obligations under this Contract.

Section 30. Survival. All rights and obligations of the parties will 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 31. Joint and Several Liability. In the event Contractor includes more than one person or entity, all such persons or entities will be jointly and severally liable for all conditions herein.

Section 32. Indemnification.

A. General Indemnity. Contractor must 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 Contractor or its officers, employees, subcontractors, or agents under this Agreement.

Notwithstanding the foregoing, Contractor's indemnity and defense obligations arising out of professional errors and omissions is provided to the extent caused by Contractor's negligent acts, errors, or omissions.

- B. Control of Defense and Settlement.** Contractor will have control of the defense and settlement of any claim that is subject to this Section; however, neither Contractor nor any attorney engaged by Contractor will 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 will Contractor 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 Contractor 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 33. Insurance. Contractor must 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, must be furnished to City. Unless specifically set forth on Exhibit A, insurance and related costs must be borne by Contractor. All policies must be written on an "occurrence basis," except for Contractor's Professional Liability Insurance which may be written on a "claims made" basis, and maintained in full force for not less than three (3) years following Contractor's performance under this Agreement. All policies must 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 must 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 Contractor to proceed with work; pay an insurance carrier (either Contractor's or a substitute) the premium amount and withhold the amount from payment to Contractor; 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 Contractor or of any of its employees, agents, or subcontractors, with \$2,000,000 per occurrence and in the aggregate.
- C. Professional Liability.** Professional Liability Insurance of \$2,000,000 per occurrence and in the aggregate, including contractual liability coverage. If Contractor proposes using subcontractors, City may require subcontractors to provide professional liability insurance, provided the amount and form of coverage complies with this Section.
- D. Policy Coverage.** Coverage provided by this policy(ies) must be primary and any other insurance carried by City is excess. Contractor will be responsible for any deductible amounts payable under all policies of insurance.
- E. Workers Compensation.** Contractor, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Worker's Compensation Law and must comply with ORS 656.017.

Section 34. Default; Remedies; Termination.

- A. Default by Contractor.** Contractor is in default under this Agreement if Contractor 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 Contractor'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 Contractor's Default.** In the event Contractor is in default, 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 Contractor 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 Contractor was not in default, then Contractor is entitled to the same remedies as if this Agreement was terminated.

C. Default by City. City is in default under this Agreement if:

- (i) City fails to pay Contractor any amount pursuant to the terms of this Agreement, and City fails to cure such failure within thirty (30) calendar days after Contractor's notice or such longer period as Contractor 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 Contractor's notice or such longer period as Contractor may specify in such notice.

D. Contractor'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 Contractor elects to exercise its right to terminate the Agreement, Contractor's sole monetary remedy is (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 Contractor. In no event will City be liable to Contractor for any expenses related to termination of this Agreement or for any anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this subsection, Contractor must 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 Contractor;
- (ii) Immediately upon written notice if City fails to receive funding or 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) Immediately upon written notice by City to Contractor if Contractor is in default of this Agreement.

F. Termination by Contractor. Contractor 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 Contractor any amount pursuant to the terms of this Agreement, and City fails to cure such failure within thirty (30) calendar days after Contractor's notice of the failure to pay or such longer period as Contractor 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 Contractor's notice or such longer period as Contractor may specify in such notice.

G. Return of Property upon Termination. Upon termination of this Agreement for any reason whatsoever, Contractor must 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 Contractor 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, Contractor must immediately cease all activities under this Agreement, unless City expressly directs otherwise in such notice of termination. Upon City's request, Contractor must 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 Contractor's breach without the requirement that City first terminate this Agreement.

Section 35. Dispute Resolution.

- A. Process.** If Contractor is not in agreement with a decision of the City under this Agreement, Contractor must comply with the following process:
- (i) Contractor must file a written notice of appeal with the City's Project Manager within fifteen (15) days following receipt of the City's written decision.
 - (ii) The City's Project Manager will have sixty (60) days for review of the appeal prior to presenting a decision to Contractor. During the sixty (60) day period, the City's Project Manager will 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, Contractor, and any employee of City.
 - (iii) Prior to the end of the sixty (60) day review period, the City's Project Manager will issue a written decision to Contractor. If Contractor is agreeable with this decision, a Change Order will be processed consistent with the decision.
- B. Exhaustion of Remedies.** If Contractor is not in agreement with the written decision of Public Works Director, Contractor will 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 in the appropriate court as provided in this Agreement. 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 will select the mediator. Only if the dispute cannot be resolved by mediation, will the parties proceed to litigate the claim in court.

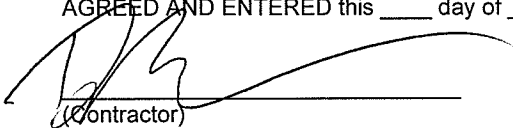
Section 36. Attorney Fees. If any suit, action, arbitration or other proceeding is instituted upon this Agreement or to enforce any rights herein or otherwise pursue, defend or litigate issues related to this Agreement, each party will be liable for their own attorneys' fee and costs, including those on appeal. The parties each agree and hereby waive any right to attorney fees granted by statute or rule that conflicts with this provision.

Section 37. Execution of Agreement; Electronic Signature. This Agreement may be executed in one or more counterparts, all of which when taken together 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 constitutes an original. A signature of a party provided by email, "pdf," or other electronic data file constitutes an original signature of that party.

Section 38. Governing Law; Venue; Consent to Jurisdiction. This Agreement is governed by and will be 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 Contractor 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 will this Section be construed as a waiver of any form of defense or immunity from any Claim or from the jurisdiction of any court. Contractor, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

Section 39. Authority to Bind. City and Contractor 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 Contractor, respectively, for the acts, expenditures, and obligations contemplated in this Agreement to be performed by each of them. BY EXECUTION OF THIS AGREEMENT, EACH PARTY HEREBY ACKNOWLEDGES THAT THEY HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

AGREED AND ENTERED this ____ day of _____, 20____.



(Contractor)

By David Brokaw
Title Project Manager
Address 215 W. 4th Street, Suite 200
Vancouver, WA 98660

Telephone 360-852-9153

91-1944973
Contractor's Federal ID Number

By _____

Sherilyn Lombos
CITY MANAGER
18880 SW Martinazzi Ave.
Tualatin, Oregon 97062
Telephone (503) 691-3010

APPROVED AS TO LEGAL FORM

City Attorney

WALLIS ENGINEERING
EXHIBIT A – SCOPE OF WORK
CITY OF TUALATIN GARDEN CORNER CURVE CONCEPT STUDY
July 2016
WE #1427A

GENERAL SCOPE OF PROJECT

The SW 105th Avenue, SW Blake Street, SW108th Avenue corridor (hereinafter referred to as Garden Corner Curve) is a narrow, constrained roadway with sight distance issues and limited pedestrian and cyclist facilities. The corridor is located adjacent to steep slopes and within environmentally-sensitive lands. The goal of this project is to develop conceptual solutions that balance cost, safety for all users, stakeholder desires, environmental impacts, and right-of-way. A Concept Study will be prepared, evaluating and recommending solutions. It will have the following objectives:

- Conducting public involvement and outreach to solicit input for the study.
- Providing a methodology to evaluate the developed alternatives, including cost estimates and implementation schedules.
- Identifying opportunities to phase interim improvements.
- Identifying final buildout design alternatives that improve safety and mobility for all users through the corridor.
- Coordinating with the City to rank the alternatives and provide a recommendation.

SPECIFIC SCOPE OF WORK

Task 1 Project Initiation

Task 1 Objective: Provide project management and administration for work associated with each project. This task includes technical and financial management of the project.

Task 1 Approach:

1.1 Project Kickoff Meeting. The consultant will meet with City staff and stakeholders' representatives to introduce the project, identify contacts and roles, discuss objectives, and decision points. An agenda and meeting summary will be provided.

1.2 Project Management. Prepare and implement a Project Management Plan (PMP) to define and provide project management, schedule, coordination, and direction to the City staff and design team to successfully complete the project. Confirm the goals, objectives and potential impacts of the project with the City project manager. Establish quality control management and procedures and designate responsibility for all technical work and deliverables. Implementation of the PMP will include the following:

- Comprehensive project management to ensure the scope, schedule and budget are met. Provide a point contact person for the City while coordinating with the project team.
- Schedule and participate in bi-weekly coordination conference calls with the City Project Manager and other staff at their request.
- Provide maintenance of a comprehensive Microsoft Project schedule with individual task milestones, task duration, individual responsibilities of subconsultants and City staff, agencies, and utilities.
- Monthly progress reports will be submitted with invoices. Monthly progress reports will include task level budget status, schedule status, and brief summary of work completed along with any upcoming

scope, schedule or budget concerns. Billings will include staff, title, hourly rate, and hours charged to the project.

1.3 Public Engagement Plan. Alta will coordinate with Wallis and the City to prepare a Public Engagement Plan to identify project stakeholders and define the timeframes and approach to engagement. A meeting will be held to jointly develop and refine the Public Engagement Plan. Our public engagement process envisions an ongoing process integrated with design development. The objective and approach of the public engagement effort is defined below under Task 3.

Task 1 Assumptions:

- City will provide a large printed map and computer for kickoff meeting.
- This contract will span a 9-month period.
- Bi-weekly project coordination conference calls will be held with the City.
- Monthly progress reports will be submitted with invoices. These will include task level budget status and schedule status. Billings will be invoiced by task and will include staff classification, hourly rate, and hours charged to the project.
- Wallis Engineering and Alta will attend the Kickoff Meeting and Public Engagement Plan review meeting.
- City to identify stakeholders and affected property owners and provide introductions.

Task 1 Deliverables:

- Kickoff Meeting Agenda and Minutes
- Project Scope and Fee
- Draft and Final Project Management Plan
- Draft and Final Public Engagement Plan
- Monthly progress reports submitted with invoices
- Updated Schedule in Microsoft Project format, as needed

Task 2 Base Mapping

Task 2 Objective: To develop a base map of the project area for design and visualization overlays.

Task 2 Approach:

2.1 Review Existing Data. Review available background information relating to this project. The anticipated information, in electrical format, includes:

- Constraints and Opportunities: SW 105th/Blake Street/SW 108th Concepts Study
- City of Tualatin 2014 Transportation System Plan
- As-builts for existing Pedestrian Warning Signal
- CWS as-builts
- Road and utility as-builts as available
- City provided GIS layers (flood plain mapping, wetlands, city/county boundary, rights of way and property boundaries, etc.)

2.2 Base Map Development. Wallis Engineering will prepare a base map for the development of schematic designs. This base map will incorporate GIS planning maps, the latest LIDAR (2' interval) contours provided by METRO, and available as-built drawing information. A site visit will be undertaken to corroborate GIS mapping in field, photographing the project corridor and determining areas where

supplemental drone photography is warranted. We will also complete investigative work and field measurements to document the existing flasher system.

Task 2 Assumptions:

- No topographic or right-of-way surveys will be prepared at this time.
- No environmental delineation will be prepared at this time.
- Current LIDAR data will be provided by METRO.
- City will provide applicable GIS base layers
- 1 site visit for base mapping efforts.
- City will complete supplemental traffic counts as necessary. A supplemental contract will need to be prepared if DKS is desired to complete traffic counts.

Task 2 Deliverables:

- Site Base Map

Task 3 Public Involvement and Schematic Design

Task 3 Objective: To understand the interests, goals and desires of project stakeholders. To develop and refine alternative design solutions informed by community desires that are consistent with acceptable engineering standards defined in industry standards such as AASHTO, MUTCD, or NACTO guidelines.

Task 3 Approach:

3.1 Initial Public Outreach. The first phase of public outreach will be limited to listening to key stakeholders as identified in Task 1.3 to determine their interests, goals, and desires for the corridor. Alta will develop initial outreach materials package/graphic template for City review and approval, and prepare one project FAQ/meeting notice mailer and one project summary poster for use throughout the project. Each is assumed to be updated twice during the course of the project to reflect current information.

No design intentions will be conveyed with this task. We anticipate work to include:

- **Community Stakeholder briefings (up to 6).** Alta and Wallis will attend and present to up to 6 community groups to be determined during the development of the Public Engagement Plan. The briefings included in this task are for the purpose of listening, gathering ideas, and discussing the project goals. At the briefings, a synopsis of corridor history, accident data, and constraints will be presented to frame the problem. A map of the corridor will be presented for each stakeholder group to sketch their ideas.
- **Project Website Development.** Alta will develop a project website as a simple 1-4 page site within the City's website, and matching the City's branding. The website may have its own friendly URL established by the City. It will be developed featuring basic elements such as a news feed, calendar, photos/slideshow, video contact function, social media links and/or other content pertinent to the communications strategy. The website interface design will prioritize clarity of content, site functionality, and ease of navigation. Alta will be responsible for producing client-approved website copy and content for the duration of the project contract. Alta will be responsible for publishing and managing website content, site maintenance, and updates to the site for the duration of the project.
- **Small Group "Kitchen Table" Meetings (6).** Small group "kitchen table" meetings will be held, attended by Alta and Wallis staff. These meetings allow hosts to invite their neighbors to the discussion, and speak directly with the design team. Emphasis for these meetings is on communication with the potentially affected property owners. The meetings held in this task will be for the purpose of listening, gathering ideas, and explaining the project goals.

- **Community Values/Project Goals Online Survey.** As a key strategy to decisively select one community-preferred concept for advancing to design, Alta will develop an online survey platform (e.g. SurveyMonkey) that links to the project website for project background information, mapping, links to video clips, and evaluation criteria. This website-survey union will be an efficient way to convey highly visual and complicated information for each alternative, to quantify public preferences, and to build an email contact list for project updates. Alta will prepare the draft survey questions and the online survey form for City staff review, and will provide one round of revisions to the final survey.
- **Existing Conditions/Opportunities & Constraints Video.** Alta will create an opportunity and constraints video clip to provide a brief tour of the corridor highlighting key issues via pop up callouts (4-8). The video clip will be uploaded to the project website to provide a virtual site tour that allows busy community members to remain actively involved in the outreach process. The video can also be linked to the online surveys. Alta will provide one round of revisions to the opportunity and constraints video clip.
- **Workshop #1.** The purpose of this initial workshop is to engage potentially affected residents and property owners in a dialogue on their vision and concerns for the project, build trust in the project development process and to gain an understanding of key locations/issues for design investigation. The Workshop will include presentation of relevant materials, such as maps and data regarding existing conditions and facilities, opportunities and constraints. Alta will prepare a PowerPoint presentation to include potential project goals, basic site conditions, and potential design/performance evaluation criteria. For the remainder of the workshop, Alta will facilitate a “hands on” planning exercise to channel energies toward productive, mutually beneficial outcomes (2 Alta staff).

3.2 Schematic Design Development. The focus of this task is on incorporating community input into conceptual alternatives. Based upon input from initial public “listening efforts” in Task 3.1, Wallis Engineering will prepare three conceptual designs for public input. These schematic designs will be limited to concept level plan view and cross section, as outlined below.

Alta will utilize the base CAD files prepared by Wallis to develop digital 3-dimensional models of each concept alternative to allow stakeholders to understand and experience the concept alternatives. Alta will prepare up to three (3) color sections for each of the three (3) concepts along 105th/Blake Street/108th and up to three (3) color sections for up to two (2) trail alignments connecting to Ibach Park.

Alta will utilize stills from drone flight photography to develop up to three (3) color perspective renderings for each of the three design concepts. We propose to use a clean and simple graphic style to visually communicate in three-dimensions the functional qualities of the designs. The perspective locations and views for the renderings will be approved by the City before the Alta Team prepares the final presentation exhibits of the renderings.

3.3 Schematic Design Outreach. This task will involve an update to the project website and a briefing to City Council after the initial listening sessions (but before kicking off concept design) to update them on the community feedback received to date. It will also include:

- **Walking Tour.** We propose to close the 105th/Blake Street/108th corridor for 2-4 hours to allow stakeholders and residents the opportunity to walk the corridor at the start of the project to solicit input before any initial public outreach meeting. The walking tour, led by Alta and attended by an engineer from Wallis Engineering, could include a discussion of opportunities and constraints along the corridor and flagging of potential alignments.

Wallis will provide alignment staking if needed. The City will be responsible for scheduling tour, traffic control, and communicating and coordinating with affected residents, stakeholders, city

council, city executives, BPAC and CIO's to participate in the event. Alta will be responsible for the development of one event-specific community outreach flyer, web content to help announce and advertise the event, and leading the tour (2 Alta staff).

Highlights and discussion from the tours, recorded through notes, map graphics and digital photos, will be summarized in website posts and included as part of the Concept Study Report.

- **Drone Flight Photography.** Alta will use drone flight photography to analyze the 105th/Blake Street/108th corridor. For safety reasons, drone flight photography for this corridor needs to be conducted during the planned corridor closure for the onsite walking tour. The video will capture views at roughly eye level and at approx. 20' above the roadway.
- **CC, BPAC and CIO briefings (6).** Alta and Wallis will present at up to five (5) briefings with CIOs and BPAC, and one (1) briefing to City Council.

3.4 Conceptual Alternative Development. Three schematic designs will be developed based upon the public input above and discussions with City staff, prepared in graphic form with a narrative for each.

3.5 Presentation of Refined Conceptual Alternatives. The purpose of the public outreach in this task is to update the community on the progress since the initial outreach in Task 3.1, share the feedback received, provide a virtual tour of the conceptual alternatives developed in Task 3.4 with the community and solicit feedback.

Alta will prepare a PowerPoint presentation, up to eight (8) large-scale presentation boards (at least 24" x 36") of the three schematic design alternatives, and an updated online survey. Alta will also create a concept alternatives video that will include an edge outline showing the ROW expansion for each option and stills that pause to show 2-3 rendered views for each of the three concepts. Alta will upload the video to the project website to provide a virtual tour of the concept alternatives. The videos can also be linked to the online surveys. Alta will provide one round of revisions to the concept alternatives video.

These materials will be presented at the following meetings:

- **CC, BPAC and CIO briefings (6).** Alta and Wallis will attend and present to up to 6 community groups, similar to those described in Task 3.1. These briefings will be for the purpose of discussing pros, cons, and considerations of the proposed alternatives.
- **Small Group "Kitchen Table" Meetings (6).** Small group "kitchen table" meetings will be held, similar to those in Task 3.1. The meetings held in this task will be for the purpose of discussing pros, cons, and considerations of proposed alternatives.
- **Final Event Tabling.** Alta will staff a booth or table at a community-sponsored event at Ibach Park, similar to those in Task 3.1. This final tabling event will be for the purpose of presenting the conceptual alternatives to the public.
- **Workshop #2.** The purpose of this workshop is to engage in a discussion of the schematic alternatives. The Workshop will include presentation of relevant materials, such as maps and data regarding existing conditions and facilities, opportunities and constraints, and proposed alternatives.

3.6 Confirmation of Preferred Alternative (Workshop #3). A third and final workshop will be held to present the results of the final concept study report from Task 5.11. This will be an important workshop to reconfirm the community's vision, as well as to build excitement and support for project implementation.

Alta will prepare a PowerPoint presentation and up to four (4) large-scale presentation boards (at least 24" x 36") of the preferred concept design and present the project information to the public at the final public workshop.

Task 3 Assumptions:

- City staff will be responsible for printing and mailing meeting notices.
- The City will be responsible for scheduling meetings, mailing/distribution of formal notices, reserving meeting space, and providing food and beverages for workshops (if needed).
- City staff will be responsible for identifying events for Ibach Park Event Tabling.
- City staff will be responsible for updating the project contacts database from scanned sign-in sheets from public meetings and events.
- The City will website branding templates for use in preparing project website.
- The City will be responsible for managing the project website after the project contract expires.
- The City will be responsible for distributing online public surveys.
- The City will be responsible for scheduling tour, traffic control, and communicating and coordinating with affected residents, stakeholders, city council, city executives, BPAC and CIO's to participate in the Walking Tour event.
- Additional meetings will require authorization from the City.
- Project team to coordinate notification for drone flight through Neighborhood CIOs.

Task 3 Deliverables:

- Initial outreach materials package/graphic template
- Website development and content creation/updates
- Corridor map for each Community Stakeholder Briefing (6).
- Kitchen table/stakeholder interviews/meetings (12)
- Online survey and update
- Existing conditions/opportunities & constraints video
- Workshops (3)
- Draft and final meeting agendas and summaries
- Large-scale presentation boards (at least 24" x 36") of the three schematic design alternatives from Task 3.5 (up to 8)
- Large-scale presentation boards (at least 24" x 36") of the preferred concept design from Task 3.6 (up to 4)
- Contact information via sign-in sheets
- Three concept level schematic design alternatives (plan view and cross section), for each of the three (3) concepts along 105th/Blake Street/108th and up to three (3) color sections for up to two (2) trail alignments connecting to Ibach Park
- Up to three (3) color perspective renderings for each of the three design concepts for the 105th/Blake Street/108th corridor
- Project team/stakeholder walking tour (1)
- Drone flight photography
- BPAC, CC and CIO briefings (12 total)
- Attendance at three City Council Meetings (3)
- PowerPoint presentation (2)
- Site analysis/design assumptions meeting (1)
- Draft and final public outreach summary

- Three refined concept level alternatives in graphic form with narrative

Task 4 Warning Signal Modifications

Task 4 Objective: Evaluate effectiveness of existing pedestrian activated warning system and recommend changes to make it function in a safe more intuitive manner. The design efforts completed for the warning signal are to be independent of the conceptual design and public involvement completed for the Garden Corner Curves Corridor.

Task 4 Approach:

4.1 Draft Warning Signal Modification Alternatives Memorandum. Wallis Engineering will prepare a draft memorandum with exhibit including a review of the existing conditions, discussion of the deficiencies associated with the existing system, ADA deficiencies, and recommendations for mitigation of safety concerns.

The recommendations will be limited to short term fixes that can be implemented quickly. A meeting with City staff will be held to discuss and determine modifications

4.2 Final Warning Signal Modification Alternatives Memorandum. Based upon City review of the draft memorandum, the selected modifications will be determined and summarized in an updated memorandum. A conceptual level opinion of cost will be developed and exhibit showing the selected modifications.

Task 4 Assumptions:

- Construction and Bidding documents will not be prepared.
- No public involvement process or stakeholder input is anticipated for signal modification.

Task 4 Deliverables:

- Draft Warning System Modification Alternatives Memorandum
- Final Warning System Modification Alternatives Memorandum

Task 5 Draft and Final Concept Study

Task 5 Objective: Finalize three selected conceptual designs based upon public outreach and design development, evaluate, provide recommendation and present in Concept Study.

Task 5 Approach:

5.1 Concept Level Alternative Refinement. The three conceptual design alternatives presented to the public will be refined based on public input from Task 3.3 and discussions with City staff.

5.2 Environmental Permitting Evaluation. Campbell Environmental will perform fieldwork to identify the location and approximate boundaries of wetlands and other waters that may occur within the project study area. Following completion of the fieldwork, a location sketch map showing the approximate boundaries of wetlands and waters within the project study area shall be provided to help identify potential impacts associated with the proposed design alternatives.

A Natural Resource Assessment (NRA) will be completed to identify sensitive areas and vegetated corridors (as defined by Clean Water Services [CWS]) within the project study area. This assessment shall identify the quality of the associated vegetated corridors and the potential for project related impacts.

Following completion of fieldwork, the Consultant shall develop an Environmental Permitting Memorandum that summarizes the associated environmental permitting requirements, potential mitigation requirements, and associated permitting timelines for each of three (3) proposed concept design alternatives. The memorandum

may also include discussion of potential avoidance measures and best management practices (BMPs) that can be implemented in order to minimize impacts to protected resources and potentially reduce associated mitigation costs. This process may include coordination with federal, state, and local agencies, including the U.S. Army Corps of Engineers (Corps), National Marine Fisheries Service (NMFS), Oregon Department of State Lands (DSL), Oregon Department of Fish and Wildlife (ODFW), CWS, and City of Tualatin.

5.3 Stormwater System Evaluation. Wallis Engineering will identify potential stormwater impacts and mitigation options in order to provide realistic cost estimates. Contributing impervious areas will be calculated using SLOPES V. Low Impact Development (LID) design will utilize the CWS LIDA handbook to determine applicable LID methods and design criteria. Possible LID opportunities include pervious pavement, infiltration planters (outside of steep slope areas), swales, filter strips, and extended dry basins. Water quality, quantity, and conveyance facility design will utilize CWS design and construction standards.

5.4 Fish Passage Evaluation. Columbia Pacific Engineering will review existing data, including prior hydrologic and hydraulic modeling, maintenance history, and downstream hydraulic controls. One field visit will be undertaken to establish physical stream parameters. A memorandum will be prepared summarizing potential impacts by proposed designs on the existing stream channel will be weighed and a planning level cost for fish passage improvements will be provided.

5.5 Right-of-Way Evaluation. Wallis Engineering will evaluate each of the proposed conceptual design alternatives for right-of-way impacts. Costs for property acquisition and an estimate of right-of-way procurement required will be included in the project cost estimate. Right-of-way lines and proposed improvements will be based upon available City GIS data.

5.6 Utility Evaluation. Wallis Engineering will assess impacts to public and private utility systems, including ditch improvements along the embankment on the inside of the SW 105th and SW Blake Street corner and the 14" DIP sanitary sewer main owned by CWS which parallels Hedges Creek.

5.7 Lighting Evaluation. Wallis Engineering will estimate approximate spacing and planning level costs for lighting improvement for the three alternatives. Lighting analysis and preliminary cost estimates will be provided for up to three alignment alternatives. Consideration will be given to adequately lighting all areas of the roadway, including bike facilities, intersections, and sidewalks. No plan sheets will be prepared under this task.

5.8 Traffic Evaluation. Based on traffic data provided by the City and future traffic volume forecasts included in the Tualatin Transportation Plan (TSP), DKS will evaluate traffic conditions along the SW 105th Avenue/SW Blake Street/SW 108th Avenue alignment for up three alternatives developed by the design team. This task assumes both existing (2016) and future (approximately year 2035) analysis at up to two unsignalized intersections for the AM and PM peak periods. Analysis will use Highway Capacity Manual (HCM) methodology. A draft memorandum summarizing the analysis results will be prepared and submitted to the City. DKS will prepare a final version of the memorandum, which will incorporate City comments from the draft version.

5.9 Cost Estimate Preparation. An AACE Class 5 cost estimate will be prepared to evaluate design, construction, permitting, and mitigation costs associated with each alternative.

5.10 Draft Concept Study. Based upon the three conceptual design alternatives developed in Task 5, Wallis Engineering will make final revisions to the alternatives. A draft Concept Study will be prepared presenting these alternatives, incorporating work completed in Tasks 5.1 through 5.9. The Study will include graphic representations for all of alternatives, and include documentation of public outreach efforts completed to date. The final prioritized list of alternatives will be presented in an evaluation matrix documenting the

design and construction impacts and costs associated with each alternative. The matrix will be based upon a

+, -, 0 methodology with a recommendation for a preferred alternative. The Study will include a discussion of implementation of the preferred alternative, including options for phased improvements and potential funding sources. The Draft Study will be presented to the City for review and comment.

5.11 Final Concept Study. The study will be finalized following the incorporation of comments from the City for presentation, and as part of Workshop #3 in Task 3.6.

Task 5 Assumptions:

- No more than one day of fieldwork will be required for the environmental field investigation.
- No HEC-RAS modeling or fish passage design will be completed.
- No more than three concepts will be refined and evaluated.
- Wetland Delineation fieldwork does not include formal data collection, wetland boundary flagging, or preparation of a formal Wetland Delineation Report (WDR) or NRA report.
- Cost Estimate will be AACE Class 5.
- There will be no evaluation of historic resources.
- The City will provide traffic data.
- No traffic data collection is included in this task.

Task 5 Deliverables:

- Environmental Permitting Memorandum (Campbell)
- Fish Passage Memorandum (Columbia Pacific)
- Draft and Final Lighting Analysis Memorandum (DKS)
- Cost Estimate for Three Alternatives
- Draft Concept Study
- Final Concept Study



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Paul Hennon, Community Services Director
Rich Mueller, Parks and Recreation Manager

DATE: 08/08/2016

SUBJECT: Consideration of **Resolution No. 5292-16** supporting designation of the Tualatin River Water Trail as a National Water Trail

ISSUE BEFORE THE COUNCIL:

Council consideration of a resolution supporting submittal of an application by the Tualatin Riverkeepers to the Secretary of the Interior through the National Park Service for the Tualatin River Water Trail to receive designation as a National Water Trail.

RECOMMENDATION:

Staff recommends Council support an application by the Tualatin Riverkeepers to the Secretary of the Interior through the National Park Service for the Tualatin River Water Trail to receive designation as a National Water Trail, and authorize the City Manager to sign the letter of consent included as Exhibit 1 to the attached resolution.

EXECUTIVE SUMMARY:

The National Water Trails System is a distinctive national network of exemplary water trails that are cooperatively supported and sustained. More specifically, the National Water Trails System has been established to:

- Protect and restore America's rivers, shorelines, and waterways.
- Increase access to outdoor recreation on shorelines and waterways.

Benefits of designation into the National Water Trails System include:

- Designation by the Secretary of the Interior, including a letter and certificate announcing the designation as a national water trail.
- National promotion and visibility, including use by the management entity of use the National Water Trails System logo in appropriate settings and trail publications.
- Mutual support and knowledge sharing as part of a national network.
- Opportunities to obtain technical assistance and funding for planning and implementing water trail projects.

As a result of designation, national water trails may provide:

- Positive economic impact from increased tourism.
- Assistance with stewardship and sustainability projects.
- Increased protection for outdoor recreation and water resources.
- Contribution to public health and quality of life from maintaining and restoring watershed resources.
- Access to networking and training opportunities.
- Assistance with recognition and special events highlighting the trail.

All national water trails will be included in the online searchable database of trails and have a page on this site to share trail information including water trail descriptions, maps, photographs, water trail manager contact information, links to applicable websites, and best management strategies and practices. This designation will help draw attention to the Tualatin River access points in the City of Tualatin as well as other access points along the river.

The National Water Trail designation will apply to the 38.5-mile navigable portion of the Tualatin River between Rood Bridge Park in Hillsboro and the confluence with the Willamette River, including the entire length of river as it passes through the City of Tualatin.

The City of Tualatin owns and/or manages and maintains access to the Tualatin River at Brown's Ferry Park, Pacific Highway (99W) & Hazelbrook Road Canoe and Kayak Launch (State property), Jurgens Park, and Tualatin Community Park.

The Tualatin River is an outstanding natural resource for recreation and tourism. There have been recent efforts to increase public awareness of access to the Tualatin River. The Washington County Visitors Association (WVCA) has made the Tualatin River Water Trail a keystone in their nature-based tourism target market and published *A Paddler's Access Guide to the Lower Tualatin River*. Roadside signs indicating Tualatin River access points have been installed along the river and informational wayfinding maps showing Tualatin River access points, boater safety and other information have been installed at access points along the river.

FINANCIAL IMPLICATIONS:

The designation requires that the trail be open to the public, remain open for public use for at least the next 10 years, be designed, constructed and maintained according to best management practices, and comply with all applicable land use plans and environmental laws. The City's Tualatin River access points all currently comply with these requirements.

Attachments: Attachment A: Resolution No. 5292-16, including Exhibit 1, Letter of Consent

RESOLUTION NO. 5292-16

RESOLUTION SUPPORTING DESIGNATION OF THE TUALATIN RIVER
WATER TRAIL AS A NATIONAL WATER TRAIL

WHEREAS, the Tualatin River Water Trail is an outstanding resource for recreation; and

WHEREAS, the Washington County Visitors Association has made the Tualatin River Water Trail a keystone in their nature-based tourism target market and published *A Paddler's Access Guide to the Lower Tualatin River*; and

WHEREAS, the Tualatin Riverkeepers, in cooperation with the City of Tualatin and local stakeholders, is completing an application to the U.S. Secretary of the Interior to designate the Tualatin River Water Trail as a National Water Trail; and

WHEREAS, the National Water Trails System is a distinctive national network of exemplary water trails that are cooperatively supported and sustained, and has been established to protect, restore and increase access to outdoor recreation on America's rivers, shorelines, and waterways; and

WHEREAS, the National Water Trail designation will apply to the 38.5-mile navigable portion of the Tualatin River between Rood Bridge Park in Hillsboro and the confluence with the Willamette River, including the entire length of river as it passes through the City of Tualatin; and

WHEREAS, the City of Tualatin owns and/or manages and maintains access to the Tualatin River at Brown's Ferry Park, Pacific Highway (99W) & Hazelbrook Road Canoe and Kayak Launch (State property), Jurgens Park, and Tualatin Community Park; and

WHEREAS, the designation requires that the trail be open to the public, remain open for public use for at least the next 10 years, be designed, constructed and maintained according to best management practices, and comply with all applicable land use plans and environmental laws; and

WHEREAS, the benefits of the National Water Trail designation include increased visibility and prestige of being part of the National Trails System, use of the National Water Trail logo, access to funding opportunities, training, and technical assistance, and inclusion in the online National Water Trail database.

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

Section 1. The City Manager is hereby authorized and directed to execute the attached letter of consent (Exhibit 1) on behalf of the City for the National Water Trail application.

Section 2. This resolution is effective upon adoption.

Adopted by the City Council this 8th Day of August, 2016

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder



City of Tualatin

www.tualatinoregon.gov

LETTER OF CONSENT – NATIONAL WATER TRAIL DESIGNATION

The City of Tualatin, Oregon owns, manages, and maintains access facilities on the Tualatin River Water Trail at Brown’s Ferry Park, Jurgens Park, and Tualatin Community Park. The City has also built and manages and maintains river access at the Pacific Highway (99W) & SW Hazelbrook Road Canoe and Kayak Launch through a Public Recreation Facility License from the Oregon Department of State Lands and a permit from the Oregon Department of Transportation.

The City of Tualatin supports the designation of the Tualatin River Water Trail as a National Water Trail and gives its full consent to the application for that designation.

SIGNATURE: _____

NAME (Printed): _____

DATE: _____

TITLE: City Manager _____

DEPARTMENT: OFFICE OF THE CITY MANAGER _____

AGENCY: CITY OF TUALATIN _____



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Sean Brady, City Attorney

DATE: 08/08/2016

SUBJECT: Consideration of **Resolution No. 5291-16** Referring to the Electors of the City of Tualatin the Question of Imposing a Three Percent (3%) Tax on the Sale of Marijuana Items by a Marijuana Retailer within the City

ISSUE BEFORE THE COUNCIL:

Consideration of Resolution No. 5291-16 Referring to the Electors of the City of Tualatin the Question of Imposing a Three Percent (3%) Tax on the Sale of Marijuana Items by a Marijuana Retailer within the City.

RECOMMENDATION:

Staff recommends Council consider Resolution No. 5291-16.

EXECUTIVE SUMMARY:

Adopting Resolution No. 5291-16 places a measure on the November 8, 2016 general election ballot for Tualatin voters to consider imposing a three percent (3%) sales tax on recreational marijuana sales within the City.

HB 3400 (2015), codified as ORS 475B.345, authorizes local governments to enact a local sales tax on marijuana of up to three percent (3%) by referring an ordinance to the voters at a statewide general election. ORS 475B.445 authorizes the sales tax to be placed on the sale of marijuana items from those with recreational retail licenses.

On July 25, 2016, the Council adopted Ordinance No. 1396-16 to establish a three percent (3%) sales tax on marijuana retail sales and proposed to refer the ordinance to the voters for consideration. This resolution would refer Ordinance No. 1396-16 to the voters of Tualatin for consideration at the November 8, 2016 general election. The resolution also approves a ballot title and explanatory statement for the measure, which are attached to the resolution as Exhibits 2 and 3 respectively.

If the voters approve the measure at the November 8, 2016, general election, the measure would impose a three percent (3%) tax on recreational marijuana sales within the City of Tualatin. Medical marijuana would not be taxed.

Attachments: Resoe 5291-16-Referral MJ Tax to Voters

Exhibit 1 - Reso 5291-16

Exhibit 2 - Reso 5291-16

Exhibit 3 - Reso 5291-16

RESOLUTION NO. 5291-16

A RESOLUTION REFERRING TO THE ELECTORS OF THE CITY OF TUALATIN THE QUESTION OF IMPOSING A THREE PERCENT (3%) TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER WITHIN THE CITY.

WHEREAS, section 34a of House Bill 3400 (2015), codified as ORS 475B.345, provides that a city council may adopt an ordinance to be referred to the voters that imposes a three percent (3%) tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City of Tualatin; and

WHEREAS, the City Council adopted Ordinance No. 1396-16, which imposes a three percent (3%) tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City of Tualatin;

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

Section 1. Measure. A measure election is hereby called for the purpose of submitting to the electors of the City of Tualatin a measure imposing a three percent (3%) tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City, a copy of which is attached hereto as "Exhibit 1," and incorporated herein by reference.

Section 2. Election Conducted by Mail. The measure election shall be held in the city of Tualatin on November 8, 2016 for the next general election. As required by ORS 254.465, the measure election shall be conducted by mail and according to the procedures adopted by the Oregon Secretary of State.

Section 3. Delegation. The City of Tualatin authorizes the City Manager, or the City Manager's designee, to act on behalf of the City and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

Section 4. Ballot Title. The ballot title for the measure is set forth in Exhibit 2, which is attached and incorporated herein.

Section 5. Notice of Ballot Title and Right to Appeal. Upon receiving the ballot title for this measure, the city elections official shall publish in the next available edition of a newspaper of general circulation in the city a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.

Section 6. Explanatory Statement. The explanatory statement for the measure is as set forth in Exhibit 3, which is attached and incorporated by reference.

Section 7. Filing with County Elections Office. The city elections officer shall file the appropriate documents to refer the measure to the voter with the County elections officials for inclusion on the ballot for the November 8, 2016 election.

Section 8. Effective Date. This resolution is effective upon adoption.

ADOPTED this _____ day of _____, 2016.

CITY OF TUALATIN OREGON

BY _____
Mayor

APPROVED AS TO LEGAL FORM

ATTEST

BY _____
City Attorney

BY _____
City Recorder

EXHIBIT 1
Resolution No. 5291-16

ORDINANCE NO. 1396-16

AN ORDINANCE IMPOSING A THREE PERCENT TAX ON THE SALE
OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND
REFERRING THE ORDINANCE TO VOTERS

WHEREAS, section 34a of House Bill 3400 (2015), codified as ORS 475B.345, provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

WHEREAS, the Council wants to impose a tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City of Tualatin;

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Tualatin Municipal Code Chapter 13-1 is amended to read as follows:

TMC 13-1-010. Definitions. Unless the context clearly requires otherwise, the following words and phrases used in this Chapter have the following meanings:

- (1) "Marijuana item" has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.
- (2) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.
- (3) "Retail sale price" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

TMC 13-1-020. Tax Imposed. As provided in ORS 475B.345, the City of Tualatin imposes a tax of three percent (3%) on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the City of Tualatin.

TMC 13-1-030. Collection. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

Section 2. Ordinance No. 1376-14, adopted September 29, 2014, is repealed.

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Section 3. Referral. This ordinance shall be referred to the electors of the City of Tualatin at the next statewide general election to be held on Tuesday, November 8, 2016.

ADOPTED this 25 day of July, 2016.

CITY OF TUALATIN OREGON

BY _____
Mayor

APPROVED AS TO LEGAL FORM

BY S-B
City Attorney

ATTEST

BY ac
City Recorder *Pro Tem*

EXHIBIT 2
Resolution No. 5291-16
(Referring Marijuana Tax to Voters)

BALLOT TITLE

Imposes city tax on marijuana retailer's sale of marijuana items.

QUESTION

Shall the City of Tualatin impose a three percent tax on the sale of marijuana items by marijuana retailers?

SUMMARY

Under state law, a city council may adopt an ordinance to be referred to the voters of the city imposing up to a three percent (3%) tax or fee on the sale of marijuana items in the city by a licensed marijuana retailer. Approval of this measure would impose a three percent (3%) tax on the sale of marijuana items in the City of Tualatin by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer.

EXHIBIT 3
Resolution No. 5291-16
(Referring Marijuana Tax to Voters)

EXPLANATORY STATEMENT

Approval of this measure would impose a three percent (3%) tax on the sale of marijuana items by a marijuana retailer within the City of Tualatin.

Under Measure 91, adopted by Oregon voters in November 2014 and codified in ORS chapter 475B and amended by the Legislature in 2016, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. ORS 475B.345 provides that a city council may adopt an ordinance imposing up to a three percent (3%) tax on the sale of marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the City. ORS 475B.345 requires also a city council to refer an ordinance adopting the tax to the voters at a statewide general election.

The City of Tualatin City Council has adopted an ordinance imposing a three percent (3%) tax on the sale of marijuana items by a retail licensee in the City of Tualatin and has referred this measure to the voters.

If the voters approve the measure, the three percent (3%) tax would apply only to the retail sales of recreational marijuana. Medical marijuana would not be taxed under the measure.

ORS 475B does not restrict how the City may use the revenues generated by this tax. Revenues from the tax may, therefore, be used for any City purpose determined by the City Council through the local budget process.