



TUALATIN CITY COUNCIL AND TUALATIN DEVELOPMENT COMMISSION

Monday, June 25, 2012

CITY COUNCIL CHAMBERS
18880 SW Martinazzi Avenue
Tualatin, OR 97062

WORK SESSION begins at 5:00 p.m.
REGULAR MEETING begins at 7:00 p.m.

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

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

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City website at www.tualatinoregon.gov/meetings, 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 City's website, 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, variances, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

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

TIME LIMITS FOR PUBLIC HEARINGS

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

EXECUTIVE SESSION INFORMATION

Executive session is a portion of the Council meeting that is closed to the public to allow the Council to discuss certain confidential matters. No decisions are made in Executive Session. The City Council must return to the public session before taking final action.

The City Council may go into Executive Session under the following statutory provisions to consider or discuss: *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)* non-public information or records; *ORS 192.660(2)(g)* matters of commerce in which the Council is in competition with other governing bodies; *ORS 192.660(2)(h)* current and pending litigation issues; *ORS 192.660(2)(i)* employee performance; *ORS 192.660(2)(j)* investments; or *ORS 192.660(2)(m)* security issues. **All discussions within this session are confidential.** Therefore, nothing from this meeting may be disclosed by those present. News media representatives are allowed to attend this session (unless it involves labor relations), but shall not disclose any information discussed during this session.



OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL FOR JUNE 25, 2012

A. CALL TO ORDER

Pledge of Allegiance

B. ANNOUNCEMENTS

1. Proclamation Declaring the Month of July 2012 as National Park and Recreation Month
2. Proclamation Honoring the City Attorney Upon the Occasion of Her Retirement

C. CITIZEN COMMENTS

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

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, 1) 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. Approval of the Minutes for the Meeting of June 11, 2012
2. Resolution Amending Sewer and Surface Water Management Rates Inside the City of Tualatin and Rescinding Resolution 5039-11
3. Resolution Authorizing Changes to the Adopted 2011-2012 Budget
4. Resolution Certifying City of Tualatin Municipal Services
5. Resolution Approving Amendment No. 1 to an Intergovernmental Agreement with Metro for the 2006 Natural Areas Bond Measure Local Share Component
6. Resolution Approving and Authorizing the Provision of Workers' Compensation Insurance Coverage to Volunteers of the City of Tualatin and Repealing Resolution No. 5032-11
7. Resolution Consenting to the Assignment of Development Agreement by Boones Ferry Road Apartments Investors LLC and National Bank of Arizona

E. SPECIAL REPORTS

1. Transportation System Plan (TSP) Online Open House Presentation

F. PUBLIC HEARINGS – Legislative or Other

1. Resolution Declaring the City's Election to Receive State Revenue Sharing Funds During Fiscal Year 2012-13
2. Resolution Adopting the City of Tualatin Budget for the Fiscal Year Commencing July 1, 2012, Making Appropriations, Levying Ad-Valorem Taxes, and Categorizing the Levies

G. PUBLIC HEARINGS – Quasi-Judicial

H. GENERAL BUSINESS

1. Resolution Approving an Agreement with Loaves & Fishes Centers, Inc. to provide a Nutrition Program at the Juanita Pohl Center
2. Resolution Recognizing the Formation of Citizen Involvement Organization Three (CIO 3)
3. An Ordinance Adopting the Core Area Parking District Tax Rate and Credit for Fiscal Year 2012/13
4. An Ordinance Updating the Road Utility Fee; and Amending TMC 3-4-080

I. 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.

J. COMMUNICATIONS FROM COUNCILORS

K. EXECUTIVE SESSION

L. ADJOURNMENT

City Council Meeting

B. 1.

Meeting Date: 06/25/2012

ANNOUNCEMENTS

Proclamation Declaring the Month of July 2012 as National Park and Recreation Month

SUMMARY

Each year since 1985, Americans have celebrated national Park and Recreation Month during the month of July to recognize the importance of parks and recreation in establishing and maintaining the quality of life for, and contributing to the physical, economic and environmental well-being of communities. Tualatin residents are encouraged to make a point of visiting a park or participating in a recreation program in July to celebrate their important role in our community.

Attachments

A - Proclamation

Proclamation

Proclamation Declaring the Month of July 2012 as National Parks and Recreation Month in the City of Tualatin

WHEREAS parks and recreation programs are an integral part of communities throughout this country, including Tualatin, and provide a place for children and adults to connect with nature, recreate outdoors, and have fun participating in the world around them; and

WHEREAS our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, provide peaceful and rejuvenating spaces for the weary which improve the mental and emotional health of all citizens; and

WHEREAS parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS parks and recreation areas are fundamental to the ecological and environmental well-being of our community by improving water quality, protecting groundwater, preventing flooding, improving the quality of the air we breathe, providing vegetative buffers to development, and producing habitat for wildlife; and

WHEREAS Tualatin residents recognize the benefits derived from parks and recreation resources and are dedicated and enthusiastic parks and recreation program users.

NOW, THEREFORE BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, that;

Section 1. All citizens are urged to celebrate our community's parks and recreation facilities and programs and learn more about how to support the places and programs that provide our community with so many benefits.

Section 2. The citizens of the City of Tualatin support the National Recreation and Park Association in their recognition of the value of parks and recreation by proclaiming the month of July as Parks and Recreation Month in Tualatin.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

City Council Meeting

B. 2.

Meeting

Date:

06/25/2012

ANNOUNCEMENTS

Proclamation Honoring the City Attorney Upon the Occasion of Her Retirement

Attachments

A - Proclamation

Proclamation

Proclamation Declaring Friday, June 29, 2012 as "Brenda Braden Day" in the City of Tualatin

WHEREAS Brenda Braden has provided professional legal services and advice to the City Council, Tualatin Development Commission, City staff, and City committees and boards for more than 17 years since starting work as Tualatin's City Attorney on October 17, 1994; and

WHEREAS Tualatin has benefited by Brenda's broad legal knowledge and expertise in many areas of law including Oregon land use, public meetings and public records, constitutional law, particularly the first amendment, employment law, legislation and elections law, and public contracting; and

WHEREAS Brenda has reviewed and drafted an assortment of legal documents, worked with outside legal counsel, and has represented the City in litigation and administrative proceedings; and

WHEREAS Brenda has a well-respected reputation and is known for her personal integrity, leadership style that promotes teamwork, and offering creative solutions to difficult issues through her collaborative resourceful problem-solving approach; and

WHEREAS Brenda has had the occasion to provide legal counsel on a cornucopia of legal topics and issues ranging from complicated public financing through urban renewal, to economic development on Tualatin Commons, Bridgeport Village, and other large projects; to the Declaration of Emergencies due to flooding and high wind conditions, to court decisions on the rights of "Stars" to bare all as freedom of expression, to the legal status of alligators not being domestic animals, to the legality of having chicken coops in backyards and dogs being freed from the leash in designated areas – through all the urgency and sincere debate, Brenda has calmly provided solid legal advice on whatever topics have emerged; and

WHEREAS Brenda has been an exceptional public employee who on many occasions has gladdened the hearts of fellow employees through her sage and timely legal advice and dry sense of humor, and has served her professional colleagues on executive committees and as President of the Oregon City Attorney's Association by which Brenda was recently presented its Lifetime Achievement Award.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, Oregon that:

Friday, June 29, 2012 is "**Brenda Braden Day**" in the City of Tualatin.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Maureen Smith, Deputy City Recorder

DATE: 06/25/2012

SUBJECT: Approval of the Minutes for the Meeting of June 11, 2012

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes of the meeting of June 11, 2012.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

Attachments: A - Meeting Minutes of June 11, 2012



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR JUNE 11, 2012

Present: Council President Monique Beikman; Councilor Wade Brooksby; Councilor Joelle Davis; Councilor Nancy Grimes; Councilor Ed Truax

Absent: Mayor Lou Ogden; Councilor Frank Bubenik

Staff Present: City Manager Sherilyn Lombos; City Attorney Brenda Braden; Community Development Director Alice Rouyer; Community Services Director Paul Hennon; Deputy City Manager Sara Singer; Parks and Recreation Manager Carl Switzer; Teen Program Specialist Julie Ludemann; Police Sergeant James A. Smith; Deputy City Recorder Maureen Smith

A. CALL TO ORDER

Mayor Pro tem Beikman called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was led by Councilor Brooksby.

B. ANNOUNCEMENTS

1. Employee Introductions - *David Abbey, Community Services/Library; Diane Parke, Community Development/Building Division; Lance Harris, Information Services Manager*
-

Community Services Director Paul Hennon introduced Senior Library Assistant David Abbey, and gave a brief background. Council welcomed David to the City.

Community Development Director Alice Rouyer introduced Permit Technician Diane Parke, and gave a brief background. Council welcomed Diane to the City.

City Manager Sherilyn Lombos introduced Information Services Manager Lance Harris and gave a brief background. Council welcomed Lance to the City.

2. Announcing the 2012 Tualatin Crawfish Festival
-

Chamber of Commerce CEO Linda Moholt was present and announced the 62nd Annual Tualatin Crawfish Festival. The festival is August 10 and 11th with the focus this year on food. Ms. Moholt gave a rundown of the events and activities for every age group.

Ms. Moholt also mentioned the upcoming launch of the Ice Age Tourism Plan, that will bring awareness to Tualatin's history, made possible by a tourism grant from the Washington County Visitors Association (WCVA). The Chamber is also unveiling a new website, outdoor kiosk, and roadside signage from I-5.

C. CITIZEN COMMENTS

Steve Titus, Tualatin OR , noted he participated in the recent Tualatin Police Experience Citizen Academy. He wanted to thank Police Chief Barker and his staff and commented that Tualatin has a great Police Department.

D. CONSENT AGENDA

Mayor Pro tem Beikman noted that Item D-3 was removed from the Consent Agenda to be placed on a future agenda.

MOTION by Councilor Joelle Davis, SECONDED by Councilor Nancy Grimes to approve the Consent Agenda as amended and read.

Vote: 5 - 0 MOTION CARRIED

1. Approval of the Minutes for the Work Session and Meeting of May 30, 2012
2. Authorizations for the Use of City Resources and Facilities by the Chamber of Commerce for the 2012 Crawfish Festival

E. SPECIAL REPORTS

1. Tualatin Youth Advisory Council Annual Report

Members of the Tualatin Youth Advisory Council (YAC) presented their 2011/12 Annual Report. A PowerPoint was given and YAC members reviewed the events and activities of the past year. The YAC strives to meet their goals through advocacy, activities, and education, and resulted in contributing 1,844 hours of service. The entire YAC membership were acknowledged and presented with a certificate of achievement for their involvement by the Mayor and Council.

2. Website Launch Demonstration

Deputy City Manager Sara Singer presented a PowerPoint on the launch of the City's new website, outlining the new features and enhancements. She noted that a lot of work has gone into the website redesign by staff. Over the next month we will be beta testing the website. Citizens will have an opportunity to review the site and provide their feedback on the site through a brief online survey. Council praised the new website and thanked Deputy City Manager Singer and staff for the work that went into redesigning the City's website.

F. PUBLIC HEARINGS – Legislative or Other

G. PUBLIC HEARINGS – Quasi-Judicial

H. GENERAL BUSINESS

I. ITEMS REMOVED FROM CONSENT AGENDA

J. COMMUNICATIONS FROM COUNCILORS

Council President Beikman noted her attendance at the Washington County Coordinating Committee (WCCC) and distributed the County's recommended list of transportation projects, that amounts to \$175 million over the next five years, funded from the voter-approved Major Streets Transportation Improvement Program (MSTIP). There are 18 projects on the list, including two Tualatin projects relating to 124th Avenue improvements. Although not part of this project list, the Grahams Ferry Road improvements will continue a priority and working towards acquiring funds.


K. EXECUTIVE SESSION - None.

L. ADJOURNMENT

MOTION by Councilor Joelle Davis, SECONDED by Councilor Ed Truax to adjourn the meeting at 7:35 p.m.

Vote: 5 - 0 MOTION CARRIED

Sherilyn Lombos, City Manager


Maureen Smith / Recording Secretary



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Don Hudson, Finance Director

DATE: 06/25/2012

SUBJECT: Resolution Amending Sewer and Surface Water Management Rates Inside the City of Tualatin and Rescinding Resolution 5039-11

ISSUE BEFORE THE COUNCIL:

The City Council will consider setting sewer and surface water management rates for service performed after June 30, 2012. The FY 12/13 Budget was prepared assuming the rates for service would be split between a Regional Rate, set by Clean Water Services (CWS), and a Local Rate, set by the City of Tualatin.

The monthly regional base sewer rate would increase from \$19.65 per Dwelling Unit (DU) to \$20.36/DU and the monthly regional use charge would increase from \$1.31 per Hundred Cubic Feet (CCF) to \$1.36/CCF. The local base rate and use charge would increase from \$4.443/DU to \$4.660/DU and from \$0.2990/CCF to \$0.3140/CCF, respectively. The Sewer System Development Charge would increase from \$4,500 per Dwelling Unit (DU) or Equivalent Dwelling Unit (EDU) to \$4,665/DU or EDU.

The monthly regional surface water management rate would increase from \$1.31 per Equivalent Service Unit (ESU) to \$1.44/ESU and the local rate would increase from \$4.10/ESU to \$4.20/ESU. There is no proposed change in the Surface Water Management System Development Charge.

RECOMMENDATION:

Staff recommends adopting the attached Resolution.

EXECUTIVE SUMMARY:

- This is not a public hearing.
- The FY 12/13 Budget was prepared using the CWS proposed regional increases and the City of Tualatin local increases.
- This proposed increase covers:
 - o Rising operating costs for utilities, chemicals and personnel used by CWS and the City.
 - o Increasing federal water quality requirements.

- o Paying for the upgrade and expansion of CWS's wastewater treatment facilities and system.

- o The debt service payment on the bonds issues by CWS.

OUTCOMES OF DECISION:

Adoption of the attached resolution sets new rates effective July 1, 2012.

FINANCIAL IMPLICATIONS:

With the new rates, the average monthly Tualatin residential sewer and surface water management bill will increase from \$42.37 to \$44.05, an increase of \$1.68/month. For a more detailed look at an average utility bill, see the attached chart.

Attachments: A - Resolution Sewer and Surface Water Mgmt Rates
 B - Average Residential Utility Bill

A RESOLUTION AMENDING SEWER AND SURFACE WATER MANAGEMENT RATES INSIDE THE CITY OF TUALATIN AND RESCINDING RESOLUTION 5039-11

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

Section 1. System Development Charges.

(a) The schedule for the Sewer System Development Charges, per Equivalent Dwelling Unit (EDU), as of July 1, 2012 is as follows:

	System Development Charge
Regional Rate	\$ 4,479.20
Local Rate	\$ 185.80

(b) The Surface Water Management System Development Charge will remain at \$500 per Equivalent Service Unit (ESU).

Section 2. Monthly Rates.

(a) The schedule of monthly sewer rates is amended as follows:

	BASE CHARGE (per Dwelling Unit, or EDU)	USE CHARGE Per CCF (hundred cubic feet), winter average
Regional Rate	\$ 20.360	\$ 1.3600
Local Rate	\$ 4.660	\$ 0.3140

(b) The schedule of monthly surface water management rates is amended as follows, per ESU:

	BASE CHARGE
Regional Rate	\$ 1.44
Local Rate	\$ 4.20

(c) The rate changes in this section shall take effect for sewer and surface water management after June 30, 2012.

Section 3. Effective Date. The effective date of this resolution is July 1, 2012.

INTRODUCED AND ADOPTED this 25th day of June 2012.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

An average **RESIDENTIAL** monthly utility bill would look like this:

Utility System	FY 11/12		FY 12/13		Change
Water:					
- 5/8" x 3/4" meter - 8 CCF used - Rates set by City Council	Facilities Charge	\$ 3.50	Facilities Charge	\$ 3.50	\$ -
	Service Charge	\$ 3.40	Service Charge	\$ 3.40	\$ -
	Consumption Charge @ \$2.29/CCF	\$ 18.32	Consumption Charge @ \$2.29/CCF	\$ 18.32	\$ -
	Monthly Total	\$ 25.22	Monthly Total	\$ 25.22	\$ -
Sewer:					
- 1 Dwelling Unit (DU) - Winter average water consumption = 8 CCF - Clean Water Services sets Regional rates; Tualatin sets Local rates	Regional Base Charge @ \$19.65/DU	\$ 19.65	Regional Base Charge @ \$20.36/DU	\$ 20.36	\$ 0.71
	Regional Use Charge @ \$1.31/CCF	\$ 10.48	Regional Use Charge @ \$1.36/CCF	\$ 10.88	\$ 0.40
	Local Base Charge @ \$4.443/EDU	\$ 4.44	Local Base Charge @ \$4.66/EDU	\$ 4.66	\$ 0.22
	Local Use Charge @ \$0.2990/CCF	\$ 2.39	Local Use Charge @ \$0.3140/CCF	\$ 2.51	\$ 0.12
	Monthly Total	\$ 36.96	Monthly Total	\$ 38.41	\$ 1.45
Surface Water Management:					
- 1 Equivalent Surface Unit (ESU) = 2,640 Sq Ft = 1 house - Clean Water Services sets Regional rates; Tualatin sets Local rates no increases since 1998	Regional SWM @ \$1.31/ESU	\$ 1.31	Regional SWM @ \$1.44/ESU	\$ 1.44	\$ 0.13
	Local SWM @ \$4.10/ESU	\$ 4.10	Local SWM @ \$4.20/ESU	\$ 4.20	\$ 0.10
	Monthly Total	\$ 5.41	Monthly Total	\$ 5.64	\$ 0.23
Road Maintenance:					
- Rates set by City Council - 1/7th goes to street light operation	Road Utility Fee @ \$1.42/house	\$ 1.42	Road Utility Fee @ \$1.42/house	\$ 1.42	\$ -
	Sidewalk/StreetTree Reverse Frontage	\$ 2.00	Sidewalk/StreetTree Reverse Frontage	\$ 2.50	\$ 0.50
	Monthly Total	\$ 3.42	Monthly Total	\$ 3.92	\$ 0.50
Net Change	\$ 71.01	\$ 73.19	\$ 2.18		

- All new rates take effect on July 1



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Don Hudson, Finance Director

DATE: 06/25/2012

SUBJECT: Resolution Authorizing Changes to the Adopted 2011-2012 Budget

ISSUE BEFORE THE COUNCIL:

Whether or not to approve changes to the adopted 2011–2012 budget.

RECOMMENDATION:

Staff recommends adopting the attached Resolution.

EXECUTIVE SUMMARY:

Occasionally, it becomes necessary after the budget is adopted to increase the total expenditures of a category within a fund. Oregon Revised Statutes (ORS) 294.480 dictates the process for a supplemental budget when an occurrence or condition which had not been ascertained at the time of the preparation of the current budget requires a change in financial planning.

The City does not set aside budget dollars for pay out of accrued vacation balances when an employee leaves employment with the City. In most cases, salary savings related to the open position are sufficient to cover the pay out. With the retirement of the City Attorney occurring on the last day of the fiscal year, there are not salary savings in FY 2011-2012 to cover this unfunded liability. Additionally, the City self insures for unemployment claims. We budget in General Fund Non-Departmental for payment of claims received during the year. With the downturn in the economy, our experience this year has been higher than anticipated, requiring an adjustment in the Non-Departmental budget. There are sufficient contingency dollars available for both of these adjustments.

All proposed changes to the adopted budget are included in Exhibit A, attached to the Resolution that follows.

OUTCOMES OF DECISION:

Failure to pass the resolution puts the City in danger of not complying with Local Budget Law.

FINANCIAL IMPLICATIONS:

The net effect to the affected funds is zero, as the resolution transfers existing appropriations from one account to another.

Attachments: Resolution Authorizing Changes to Adopted Budget

RESOLUTION NO. _____

RESOLUTION AUTHORIZING CHANGES TO THE ADOPTED 2011 - 2012
BUDGET

WHEREAS after the budget process for the 2011-2012 fiscal year was completed, an occurrence or condition arose that could not have been ascertained at the time of the budget preparation; and

WHEREAS in order to lawfully comply with the requirements of Local Budget Law, increases in budgeted resources and requirements are necessary; and

WHEREAS Oregon Revised Statutes (ORS) 294.480 allows for the preparation and adoption of a supplemental budget.

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

Section 1. The City Council wishes to comply with Local Budget Law, and authorize spending of additional resources; and

Section 2. Increased resources and requirements should be made as detailed in Exhibit A to this Resolution.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

Exhibit A-Resolution June 2012

City of Tualatin
Fiscal Year 2011 - 2012
Budget Changes, June 2012

<u>To</u>		<u>Amount</u>	<u>From</u>		<u>Amount</u>	<u>Notes</u>
Vacation Buy-Back	001-1040-511.11-10	\$ 16,285	Contingency	001-1990-511.97-01	\$ 42,000	Vacation Pay-Out and Unemployment
FICA	001-1040-511.11-02	\$ 1,250				
Pension	001-1040-511.11-04	\$ 2,600				
Unemployment	001-1990-511.11-05	\$ 21,865				



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Don Hudson, Finance Director

DATE: 06/25/2012

SUBJECT: Resolution Certifying City of Tualatin Municipal Services

ISSUE BEFORE THE COUNCIL:

To be eligible to receive state shared revenues (cigarette, liquor and highway taxes), the City must certify it provides four or more of certain municipal services.

RECOMMENDATION:

Staff recommends that the Council adopt the attached Resolution certifying City of Tualatin municipal services.

EXECUTIVE SUMMARY:

The State of Oregon requires that cities located in a county having more than 100,000 inhabitants according to the most recent decennial census, must provide four or more of certain municipal services to receive state shared revenues. Those services are: Police Protection; Fire Protection; Street Construction, Maintenance and Lighting; Sanitary Sewers; Storm Sewers; Planning, Zoning and Subdivision Control; and Water Utility Services. The City provides six of the seven listed municipal services (Fire Protection is provided by Tualatin Valley Fire & Rescue).

OUTCOMES OF DECISION:

If the Council approves the Resolution, the City will be eligible to receive state shared revenues. If the Council does not approve the Resolution, the City will not receive state shared revenues and we will need to reduce its expenditures or contingencies.

FINANCIAL IMPLICATIONS:

It is estimated, and budgeted, that the City will receive \$35,960 in Cigarette Taxes and \$312,350 in Liquor Taxes in the General Fund and \$1,465,855 in State Gas Taxes in the Road Operating/Gas Tax Fund.

Attachments: [A - Resolution Certifying City Services](#)

RESOLUTION NO. _____

RESOLUTION CERTIFYING CITY OF TUALATIN MUNICIPAL SERVICES

Oregon Revised Statutes (ORS) 221.760 provides that the officer responsible for disbursing funds to cities under ORS 323.455, 366.785 to 366.820 and 471.805 shall, in the case of a city located within a county having more than 100,000 inhabitants according to the most recent federal decennial census, disburse such funds only if the city provides four or more of the following services:

1. Police Protection
2. Fire Protection
3. Street Construction, Maintenance and Lighting
4. Sanitary Sewers
5. Storm Sewers
6. Planning, Zoning and Subdivision Control
7. Water Utility Services; and

WHEREAS the City Officials recognize the desirability of assisting the State officer responsible for determining the eligibility of cities to receive such funds in accordance with ORS 221.760.

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

Section 1. The City of Tualatin hereby certifies that it provides the following four or more services enumerated in Section 1, ORS 221,760:

1. Police Protection
2. Street Construction, Maintenance and Lighting
3. Sanitary Sewers
4. Storm Sewers
5. Planning, Zoning and Subdivision Control
6. Water Utility Services.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

Resolution No. _____



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

DATE: 06/25/2012

SUBJECT: Resolution Approving Amendment No. 1 to an Intergovernmental Agreement with Metro for the 2006 Natural Areas Bond Measure Local Share Component

ISSUE BEFORE THE COUNCIL:

The Council will consider approving an amendment to an intergovernmental agreement (IGA) with Metro for the 2006 Natural Areas Bond Measure Local Share Component to extend the expiration date to March 31, 2013.

RECOMMENDATION:

Staff recommends that the Council adopt the attached resolution.

EXECUTIVE SUMMARY:

The Council approved an intergovernmental agreement with Metro enabling Tualatin to receive funding for land acquisition through the 2006 Natural Areas Bond Measure Local Share Component on October 13, 2008 (See Attachment No. 1).

Amendment No. 1, (attached to the attached resolution) will extend the expiration date of the IGA with Metro for the 2006 Natural Areas Bond Measure Local Share Component to March 31, 2013 thereby allowing the City of Tualatin to obtain Local Share funds in the amount of \$353,801.95 for land acquisition within the boundaries of the Tualatin River Greenway.

Additional time is needed to pursue land acquisition of property from willing sellers that meets the requirements of being within the Tualatin River Greenway and can be purchased within the amount of available funds.

FINANCIAL IMPLICATIONS:


Amendment No. 1 will enable the City of Tualatin to obtain Local Share funds in the amount of \$353,801.95 for a total contract amount not to exceed \$786,506 for land acquisition within the boundaries of the Tualatin River Greenway. These funds are budgeted in the Park Development Fund (Fund 36).


Attachments: A - Staff Report and Intergovernmental Agreement
B - Resolution and Amendment No. 1



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 

DATE: October 13, 2008

SUBJECT: RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH METRO FOR THE 2006 NATURAL AREAS BOND MEASURE LOCAL SHARE COMPONENT

ISSUE BEFORE THE COUNCIL:

The Council will consider approving an intergovernmental agreement (IGA) with Metro for the 2006 Natural Areas Bond Measure Local Share Component. This will enable the City of Tualatin to obtain Local Share funds in the amount of \$786,506 for land acquisition within the boundaries of the Tualatin River Greenway.

RECOMMENDATION:

Staff recommends that the Council adopt the attached resolution.

EXECUTIVE SUMMARY:

On November 7, 2006, electors of Metro approved Ballot Measure 26-80 authorizing Metro to issue \$227.4 million in bonds to preserve natural areas, clean water, and protect fish and wildlife (the "Measure").

The Measure provided that \$44 million from bond proceeds be expended by local parks providers for specified projects between April 1, 2007 and March 31, 2012. The Local Share Partner is a local government jurisdiction who has received approval for funding for projects as specified in the Measure. The City of Tualatin is a Local Share Partner.

The purpose of the attached IGA is to implement the Measure by funding projects on the Local Share Project List. In order to receive Tualatin's portion of the Local Share funding, the City must enter into the attached IGA. Local Share funding is subject to the terms and conditions as provided for in the Measure including use of Local Share funds only for projects included on the Local Share Project List. A local funding match is not

STAFF REPORT: RESOLUTION APPROVING AN INTERGOVERNMENTAL
AGREEMENT WITH METRO FOR THE 2006 NATURAL AREAS BOND MEASURE
LOCAL SHARE COMPONENT

October 13, 2008

Page 2 of 3

required. Local Share Partners may increase the amount of local funds from other sources spent on projects. Bond funds must be used only on a "willing seller" basis.

On February 27, 2006, prior to the November 7, 2006 election, the Council passed Resolution No. 4487-06 approving the City of Tualatin's Local Share Project List designating that Local Share funds would be used solely for land acquisition within the boundaries of the Tualatin River Greenway.

The Project Description for land acquisition within the Tualatin River Greenway states that the Tualatin Parks and Recreation Master Plan identifies the need for land acquisition along the entire southern bank of the river, and a portion of the north bank directly across from Tualatin Community Park, for the purposes of preserving the scenic value of the Tualatin River, enhancing air and water quality, preserving fish and wildlife habitat, and providing public pedestrian and bicycle access within the Tualatin River Greenway.

The Council will determine the property(s) the City will acquire with the Local Share funds based on the goals, current priorities, and acquisition opportunities within the Tualatin River Greenway.

All real property acquired by the Local Share Partners with funding provided by Metro pursuant to this IGA shall be maintained as parks, open space, natural areas, or trails.

The IGA includes provisions for termination that is in the public interest, or for cause. The IGA also includes provisions for project records, audits, and inspection of records to ensure compliance with the Measure.

FINANCIAL IMPLICATIONS:

Metro's financial obligation under this IGA for Tualatin's Local Share funds is limited to \$786,506. Funds will be reimbursed or transferred to escrow to complete land acquisitions. These funds are budgeted in the Park Development Fund (Fund 36).

Attachments:

- A. Intergovernmental Agreement for Natural Areas Bond Measure Local Share Component
- B. Resolution

C: Members of Tualatin Park Advisory Committee
Jim Desmond, Director of Sustainability Center, Metro

RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH METRO FOR THE 2006 NATURAL AREAS BOND MEASURE LOCAL SHARE COMPONENT

WHEREAS on November 7, 2006, electors of Metro approved Ballot Measure 26-80 authorizing Metro to issue \$227.4 million in bonds to preserve natural areas, clean water, and protect fish and wildlife (the "Measure"); and

WHEREAS the Measure provided that \$44 million from bond proceeds be expended by local parks providers for specified projects between April 1, 2007 and March 31, 2012, and the City of Tualatin is a Local Share Partner; and

WHEREAS the purpose of the attached IGA is to implement the Measure by funding projects on the Local Share Project List and the City must enter into the attached IGA in order to receive Tualatin's \$786,506 portion of the Local Share funding; and

WHEREAS on February 27, 2006, prior to the November 7, 2006 election, the Council passed Resolution No. 4487-06 approving the City of Tualatin's Local Share Project List designating that Local Share funds would be used solely for land acquisition within the boundaries of the Tualatin River Greenway for the purposes of preserving the scenic value of the Tualatin River, enhancing air and water quality, preserving fish and wildlife habitat, and providing public pedestrian and bicycle access within the Tualatin River Greenway.

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

Section 1. The Mayor is authorized and instructed to execute the attached Intergovernmental Agreement with Metro for the Natural Areas Bond Measure Local Share Component.

INTRODUCED AND ADOPTED this 13th day of October, 2008.

CITY OF TUALATIN, OREGON

BY 

Mayor

ATTEST:

BY 

City Recorder

Approved as to legal form:



City Attorney

INTERGOVERNMENTAL AGREEMENT

Natural Areas Bond Measure
Local Share Component

This Intergovernmental Agreement (hereinafter the "Agreement"), entered into under the provisions of ORS chapter 190 and effective on the date the Agreement is fully executed (the "Effective Date"), is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and the City of Tualatin, located at 18880 SW Martinazzi Avenue, Tualatin, Oregon 97062-7092 (hereinafter referred to as the "Local Share Partner"), and shall remain in full force and effect for the period from April 1, 2007, until June 30, 2027.

RECITALS

WHEREAS, the electors of Metro approved Ballot Measure 26-80 on November 7, 2006, authorizing Metro to issue \$227.4 million in bonds to preserve natural areas, clean water, and protect fish and wildlife (the "Measure"); and

WHEREAS, the Measure provided that \$44 million from bond proceeds be expended by local parks providers for specified projects; and

WHEREAS, the Local Share Partner is a local government jurisdiction who has received approval for funding for projects as specified in the Measure; and

WHEREAS, Metro and the Local Share Partner desire to enter into this Agreement to provide for funding of the Local Share Partner's projects subject to terms and conditions as provided for in the Measure;

NOW THEREFORE, the parties agree as follows:

1. Declaration of Projects

Metro hereby approves the project proposals described in the "Local Share Project List," attached hereto as Attachment A to this Agreement (each individual proposal on the Local Share Project List is referred to hereinafter as a "Project"), and Metro authorizes the Local Share Partner to proceed with Projects on the Local Share Project List in accordance

with Attachment A. All real property interests acquired pursuant to this Agreement shall be held in the name of the Local Share Partner.

2. Funding

Metro's financial obligation under this Agreement is limited to \$786,506. Payment of funds by Metro to the Local Share Partner is subject to the procedures set forth in the "Procedures for Payment of Funds By Metro," attached hereto as Attachment B to this Agreement.

3. Funding Limitations

A. The sole purpose of this Agreement is to implement the Measure by funding Projects on the Local Share Project List. Except as described in Section 4 with respect to Metro's provision of property acquisition technical services, Metro shall have no obligations under this Agreement other than for the payment of funds pursuant to the procedures described in Attachment B to this Agreement.

B. Except as described in Section 4 with respect to Metro's provision of property acquisition technical services, Metro shall have no supervisory responsibility regarding any aspect of any Project and Metro neither intends nor accepts any direct involvement in any Project that can or could be construed to result in supervisory responsibility during the course of the Project. Upon completion of a Project and payment of funds, as provided for in Attachment B, Metro shall have no further obligations.

C. The Local Share Partner shall comply with this Agreement, the provisions of the Measure, and the Local Share Guidelines attached as Attachment C to this Agreement.

D. Metro shall not be obligated to make any payments or reimbursements pursuant to this Agreement that were incurred by the Local Share Partner prior to the Effective Date of this Agreement.

E. Metro shall not reimburse the Local Share Partner for any administrative costs, including staff, overhead and indirect costs, in excess of ten percent (10%) of the cost of a Project.

4. Land Acquisitions Technical Assistance

Provided that the Local Share Partner agrees to the terms of a separate "Land Acquisition Services" intergovernmental agreement ("IGA") with Metro substantially similar to the IGA attached as Attachment D to this Agreement prior to April 1, 2007, Metro shall provide the Local Share Partner with technical assistance regarding real estate negotiation and

related due diligence services for any Project that calls for real property acquisitions. Metro shall provide such technical assistance as provided in such Land Acquisition Services IGA and subject to the availability of Metro staff and resources as determined by Metro at its sole discretion. Metro's obligation to provide such technical services pursuant to such Land Acquisition Services IGA may be extended beyond the initial term of such IGA with the mutual written consent of Metro and the Local Share Partner.

5. Projects Not on the Local Share Project List

The Local Share Partner may substitute a different Project for a Project described in Attachment A, or may add a new Project, only if the following conditions are met:

- A. The Local Share Partners, through its governing body, finds that one or more of the Projects described in Attachment A have become degraded, are cost prohibitive, or are otherwise unfeasible, or that a Project can be accomplished for less funds than estimated, thereby making such savings available for use in a new Project;
- B. The Local Share Partner, through its governing body, shall conduct a public process, including holding a public meeting in accord with its adopted public meeting procedures, and determine the substitute or new Project consistent with the provisions of the Measure and Attachment C (this provision may be satisfied during the course of the Local Share Partner's capital improvement plan or budgeting process); and
- C. The substitute or new Project is subject to administrative approval by Metro's Regional Parks and Greenspaces Department Director, and such approval shall not be unreasonably withheld.

6. Increasing Spending on a Project on the Local Share Project List

The Local Share Partner may spend more on a Project than the Project cost described in Attachment A only if the following conditions are met:

- A. The Local Share Partner, through its governing body, finds that the Project described in Attachment A will cost more than anticipated, but that it remains a priority Project;
- B. The Local Share Partner, through its governing body, shall conduct a public process, including holding a public meeting in accord with its adopted public

meeting procedures, and determine that increasing the allocated spending on the Project is consistent with the provisions of the Measure and Attachment C (this provision may be satisfied during the course of the Local Share Partner's capital improvement or plan budgeting process); and

- C. The increase in spending on the Project is subject to administrative approval by Metro's Regional Parks and Greenspaces Department Director, and such approval shall not be unreasonably withheld.

7. Term

Metro's obligation to provide funds pursuant to this Agreement shall terminate March 31, 2012, and all other provisions of this Agreement shall terminate on June 30, 2027. It is the intent of the parties for the Local Share Partner to have completed the Project, and for all Metro funding obligated under this Agreement to have been paid, prior to March 31, 2012. Metro's obligation to provide funds may be extended by mutual written consent of Metro and the Local Share Partner. The provisions of Sections 8, 9, 10 and 11 shall continue in effect after the Local Share Partner's completion of any Project pursuant to this Agreement.

8. Limitations on Use of Property

A. Acquired Real Property and Associated Buildings and Improvements.

All real property acquired by the Local Share Partner with funding provided by Metro pursuant to this Agreement shall be maintained as parks, open space, natural areas, or trails. The Local Share Partner may not sell or otherwise authorize use of such property pursuant to this Agreement in a manner inconsistent with the intended and stated purposes of the Measure, that is, for a use other than as parks, open space, natural areas, trails or other uses associated with use of such property as parks, open space, natural areas or trails (e.g., when a de minimis portion of such property is required to be put to another use, such as for a road dedication, as part of a land use review proceeding initiated to use the overall property consistent with the intended and stated purposes of the Measure), unless the Local Share Partner complies with all of the following conditions:

- (1) The Local Share Partner's decision to sell or use the property in a manner inconsistent with the intended and stated purposes of the Measure is the result of unforeseen circumstances;

- (2) The Local Share Partner's intent, at the time it purchased the property, was to use it in a manner consistent with the intended and stated purposes of the Measure, that is, for a use as a park, open space, natural area, or trail;
- (3) The Local Share Partner provides Metro 180 days advance written notice of its intent to authorize the change in use or the sale of the property to a third party;
- (4) The Local Share Partner holds at least one public hearing regarding the matter, consistent with its adopted public meeting procedures, prior to making a final decision to sell or change the use of the property, and adopts a resolution or ordinance that includes findings that the conditions in subsections 8(A)(1) through (4) of this Agreement have been satisfied and that the Local Share Partner has satisfied or will satisfy its obligations as described in subsections 8(A)(5) and (6) of this Agreement;
- (5) Metro has approved the Local Share Partner's determination of the appraisal value of the property pursuant to the following steps:
 - i. At least 90 days prior to making a final decision to change the use of, or sell, the property, the Local Share Partner shall provide Metro with an independent MAI appraisal of the fair market value of the property assuming that the property was subject to the same use restrictions as were in place at the time the Local Share Partner purchased the property. Such appraisal shall not be subject to any other extraordinary assumptions; and
 - ii. Not later than 60 days after receiving the appraisal obtained by the Local Share Partner, Metro shall inform the Local Share Partner whether Metro has approved the appraisal, which decision shall be made in good faith and based on whether the appraisal is complete and reasonable. Metro's review shall include having the appraisal reviewed by a review appraiser hired by Metro to conduct a review in accordance with USPAP and general appraisal standards. If Metro does not approve the appraisal, then Metro shall inform the Local Share Partner the reasons for not approving the appraisal and the Local Share Partner may resubmit a revised appraisal

to Metro pursuant to subsection 8(A)(5)(i) of this Agreement; and

- (6) Within 180 days after selling the property or authorizing the change in use of the property, the Local Share Partner shall apply toward completion of a Project listed on Attachment A, or a substitute Project selected consistent with the provisions of Section 5 of this Agreement, an amount equal to the greater of either (a) the appraisal value of the property, as determined pursuant to subsection 8(A)(5) of this Agreement, or (b) the amount of Measure funding that Metro provided to the Local Share Partner to purchase the property.

B. Construction of Buildings or Other Improvements.

All buildings and other improvements constructed by the Local Share Partner using funding provided by Metro pursuant to this Agreement shall be maintained for use in conjunction with parks, open space, natural areas, or trails. The Local Share Partner may not sell or otherwise authorize use of such buildings or improvements pursuant to this Agreement in a manner inconsistent with the intended and stated purposes of the Measure, that is, for a use other than in conjunction with parks, open space, natural areas, or trails, unless it complies with all of the following conditions:

- (1) The Local Share Partner's decision to sell or use such buildings or improvements in a manner inconsistent with the intended and stated purposes of the Measure is the result of unforeseen circumstances;
- (2) The Local Share Partner's intent, at the time it constructed such buildings or improvements, was to use them in a manner consistent with the intended and stated purposes of the Measure, that is, for a use in conjunction with a park, open space, natural area, or trail;
- (3) The Local Share Partner provides Metro 180 days advance written notice of its intent to authorize the change in use or the sale of such buildings or improvements to a third party;
- (4) The Local Share Partner holds at least one public hearing regarding the matter, consistent with its adopted public meeting procedures, prior to making a final decision to sell or change the use of such buildings or

improvements, and adopts a resolution or ordinance that includes findings that the conditions in subsections 8(B)(1) through (4) of this Agreement have been satisfied and that the Local Share Partner has satisfied or will satisfy its obligations as described in subsections 8(B)(5) and (6) of this Agreement;

- (5) Metro has approved the Local Share Partner's determination of the appraisal value of such buildings or improvements pursuant to the following steps:
 - i. At least 90 days prior to making a final decision to sell or change the use of such buildings or improvements, the Local Share Partner shall provide Metro with an independent MAI appraisal of the fair market value of such buildings or improvements. Such appraisal shall not be subject to any extraordinary assumptions; and
 - ii. Not later than 60 days after receiving the appraisal obtained by the Local Share Partner, Metro shall inform the Local Share Partner whether Metro has approved the appraisal, which decision shall be made in good faith and based on whether the appraisal is complete and reasonable. Metro's review shall include having the appraisal reviewed by a review appraiser hired by Metro to conduct a review in accordance with USPAP and general appraisal standards. If Metro does not approve the appraisal, then Metro shall inform the Local Share Partner the reasons for not approving the appraisal and the Local Share Partner may resubmit a revised appraisal to Metro pursuant to subsection 8(B)(5)(i) of this Agreement; and
- (6) Within 180 days after selling such buildings or improvements or authorizing the change in use of such buildings or improvements, the Local Share Partner shall apply toward completion of a Project listed on Attachment A, or a substitute Project selected consistent with the provisions of Section 5 of this Agreement, an amount equal to the greater of either (a) the appraisal value of such buildings or improvements, as determined pursuant to subsection 8(B)(5) of this Agreement, or (b) the amount of Measure funding that Metro provided to the Local Share Partner to construct such buildings or improvements.

9. Oregon Constitution and Tax Exempt Bond Covenants

The Local Share Partner acknowledges that Metro's source of funds for this Program is from the sale of voter-approved general obligation bonds that are to be repaid using ad valorem property taxes exempt from the limitations of Article XI, sections 11, 11b, 11c, 11d, and 11e of the Oregon Constitution, and that the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. The Local Share Partner covenants that it will take no actions that would cause Metro not to be able to maintain the current status of the real property taxes imposed to repay these bonds as exempt from Oregon's constitutional property tax limitations or the income tax exempt status of the bond interest under IRS rules. In the event the Local Share Partner breaches this covenant, the Local Share Partner shall undertake whatever remedies are necessary to cure the default and to compensate Metro for any loss it may suffer as a result thereof, including, without limitation, reimbursement of Metro for any Projects funded under this Agreement that resulted in the Local Share Partner's breach of its covenant described in this section.

10. Funding Recognition

The Local Share Partner shall recognize and document on-site, for each Project whether an acquisition or a capital improvement, and in any publications, media presentations, or other presentations referencing such Project that are produced by or at the direction of the Local Share Partner, that funding for the Project came from the Metro Natural Areas Bond Measure. Such recognition shall comply with the recognition guidelines detailed in Attachment E to this Agreement.

11. Mutual Indemnification

The Local Share Partner shall indemnify and hold Metro and Metro's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the performance of this Agreement by the Local Share Partner or the Local Share Partner's officers, agents, or employees, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30. Metro shall indemnify and hold the Local Share Partner and the Local Share Partner's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the

performance of this Agreement by Metro or Metro's officers, agents, or employees, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30.

12. Termination for Cause

A. Metro may terminate this Agreement, in full or in part, at any time during the term of the Agreement if Metro reasonably determines, in its sole discretion, that the Local Share Partner has failed to comply with any provision of this Agreement and is therefore in default. Metro shall promptly document such default and notify the Local Share Partner in writing of Metro's determination as required in Section 12 of this Agreement, below.

Notwithstanding any termination for cause, the Local Share Partner shall be entitled to receive payments for any work completed or for which the Local Share Partner was contractually obligated on the date that Metro provided written notice of default, except that Metro shall not be obligated to make any payment other than for work specifically provided for in this Agreement.

B. Prior to termination under this Section 12 of this Agreement, Metro shall provide the Local Share Partner with written notice of default that describes the reason(s) that Metro has concluded that the Local Share Partner is in default and includes a description of the steps that the Local Share Partner shall take to cure the default. The Local Share Partner shall have 90 days from the date of the notice of default to cure the default. In the event the Local Share Partner does not cure the default within 90 days, Metro may terminate all or any part of this Agreement. Metro shall notify the Local Share Partner in writing of the reasons for the termination and the effective date of the termination, which shall not be earlier than 90 days from the date of the notice of default. The Local Share Partner shall be entitled to receive payments for any work completed, including any contractual obligations entered, after the date of the notice of default and before the date that Metro provided written notice of termination, provided that such work or contractual obligations were undertaken by the Local Share Partner in a good faith effort to comply with one of the steps to cure the default described by Metro in the notice of default, except that Metro shall not be obligated to make any payment other than for work specifically provided for in this Agreement.

C. The Local Share Partner shall be liable to Metro for all reasonable costs and damages incurred by Metro as a result of and in documentation of the default.

D. If, after notice of termination, Metro agrees or a court finds that the Local Share Partner was not in default or that the default was excusable, such as due to a labor strike, fire, flood, or other event that was not the fault of, or was beyond the control of the Local Share Partner, Metro shall allow the Local Share Partner to continue work, or both parties may treat the termination as a joint termination for convenience whereby the rights of the Local Share Partner shall be as outlined as provided in Section 13 of this Agreement.

13. Joint Termination for Convenience

Metro and the Local Share Partner may jointly terminate all or part of this Agreement based upon a determination that such action is in the public interest. Termination under this provision shall be effective upon ten (10) days written notice of termination issued by Metro subject to that mutual agreement. Within 30 days after termination pursuant to this provision, the Local Share Partner shall submit an itemized invoice for all unreimbursed Project work completed before the effective date of termination. Metro shall not be liable for any costs invoiced later than 30 days after termination; provided, however, that Metro may reimburse additional costs, at Metro's sole discretion, if Metro reasonably determines that the delay was due to factors beyond the Local Share Partner's control.

14. Project Records, Audits, and Inspections

A. The Local Share Partner shall maintain comprehensive records and documentation relating to any Project for which it seeks payment from Metro pursuant to this Agreement, including, without limitation, the establishment and maintenance of books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all direct and indirect costs of any nature that the Local Share Partner incurred or anticipated to be incurred for the performance of this Agreement (hereinafter "Project Records"). Project Records shall include all records, reports, data, documents, systems, and concepts, whether in the form of writings, figures, graphs, or models, that are prepared or developed in connection with any Project, including any substitute Project selected consistent with Section 5 of this Agreement.

B. The Local Share Partner shall maintain all fiscal Project Records in accordance with generally accepted accounting principles. In addition, the Local Share Partner shall maintain any other records necessary to clearly document:

- (1) The Local Share Partner's performance of this Agreement, including but

not limited to the Local Share Partner's compliance with the Agreement, compliance with fair contracting and employment programs, compliance with Oregon law on the payment of wages and accelerated payment provisions;

- (2) Any claims arising from or relating to the performance of the Local Share Partner under this Agreement or any public contract entered into by the Local Share Partner that is related to this Agreement;
- (3) Any cost and pricing data relating to this Agreement; and
- (4) Payments made to all suppliers and subcontractors engaged in any work for the Local Share Partner related to this Agreement.

C. The Local Share Partner shall maintain Project Records for the longer period of either (a) six years from the date of termination of Metro's obligation to provide funds pursuant to this Agreement, which date is provided in Section 7 of this Agreement, or (b) until the conclusion of any audit, controversy, or litigation that arises out of or is related to this Agreement and that commences within six years from the date of termination of Metro's obligation to provide funds pursuant to this Agreement.

D. The Local Share Partner shall make Project Records available to Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of Metro, the Local Share Partner agrees to bear all of the costs for Metro employees, and any necessary consultants hired by Metro, including but not limited to the costs of travel, per diem sums, salary, and any other expenses that Metro incurs, in sending its employees or consultants to examine, audit, inspect, and copy those records. Such costs paid by the Local Share Partner to Metro for inspection, auditing, examining and copying such records shall not be recoverable costs in any legal proceeding.

E. The Local Share Partner authorizes and permits Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, to inspect, examine, copy and audit the books and Project Records of the Local Share Partner, including tax returns, financial statements, other financial documents and any documents that may be placed in escrow according to any requirements of this Agreement.

Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provisions of Section 14(F) of this Agreement.

F. The Local Share Partner agrees to disclose Project Records requested by Metro and agrees to the admission of such records as evidence in any proceeding between Metro and the Local Share Partner, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

G. The Local Share Partner agrees that in the event such Project Records disclose that Metro is owed any sum of money or establish that any portion of any claim made against Metro is not warranted, the Local Share Partner shall pay all costs incurred by Metro in conducting the audit and inspection. Such costs may be withheld from any sum that is due or that becomes due to the Local Share Partner from Metro.

15. Public Records

All Project Records shall be public records subject to the Oregon Public Records Law, ORS 192.410 to 192.505. Nothing in this section shall be construed as limiting the Local Share Partner's ability to consider real property transactions in executive session pursuant to ORS 192.660(1)(e) or as requiring disclosure of records that are otherwise exempt from disclosure pursuant to the Public Records Law (ORS 192.410 to 192.505) or Public Meetings Law (ORS 192.610 to 192.690).

16. Law of Oregon, Public Contracting Provisions

The laws of the state of Oregon shall govern this Agreement and the parties agree to submit to the jurisdiction of the courts of the state of Oregon. All applicable provisions of ORS chapters 187, 279A, 279B, and 279C, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, are hereby incorporated as if such provisions were a part of this Agreement. Specifically, it is a condition of this Agreement that the Local Share Partner and all employers working under this Agreement are subject employers that will comply with ORS 656.017.

17. Notices and Parties' Representatives

Any notices permitted or required by this Agreement, other than reimbursement requests required pursuant to Attachment B, shall be addressed to the other party's representative(s) designated in this Section of this Agreement and shall be deemed provided (a) on the date they are personally delivered, (b) on the date they are sent via facsimile, or

(c) on the third day after they are deposited in the United States mail, postage fully prepaid, by certified mail return receipt requested. Either party may change its representative(s) and the contact information for its representative(s) by providing notice in compliance with this Section of this Agreement.

Local Share Partner's Designated Representative(s):

Paul Hennon
Community Services Director
City of Tualatin
18880 SW Martinazzi Avenue
Tualatin, OR 97062-7092
Tel (503) 691-3060
Fax (503) 691-9786
phennon@ci.tualatin.or.us

Metro's Designated Representatives:

Natural Areas Bond Program Manager
Metro Regional Center
600 N.E. Grand Ave.
Portland, OR 97232
Fax (503)-797-1849

with copy to:

Office of Metro Attorney
600 N.E. Grand Ave.
Portland, OR 97232
Fax (503) 797-1792

18. Assignment

The Local Share Partner shall not assign any of its responsibilities under this Agreement without prior written consent from Metro, which shall not be unreasonably withheld, except that the Local Share Partner may delegate or subcontract for performance of any of its responsibilities under this Agreement.

19. Severability

If any covenant or provision in this Agreement shall be adjudged void, such

adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.

20. Entire Agreement; Modifications

This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The Parties, by the signatures below of their authorized representatives, hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year indicated below.

CITY OF TUALATIN



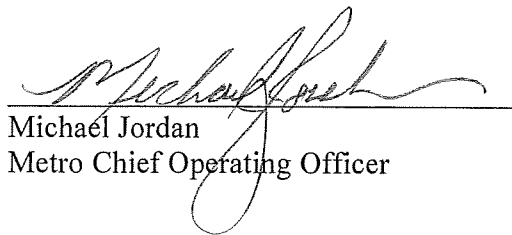
Signature

Print Name: Lou Ogden

Title: Mayor

Date: 10-13-08

METRO



Michael Jordan
Metro Chief Operating Officer

Date: 11/12/08

APPROVED AS TO FORM BY:

Brenda L. Braden

Signature

Print Name: Brenda L. Braden

Title: Tualatin City Attorney

Date: 10/14/08

Paul A. Garrahan

Paul A. Garrahan
Senior Assistant Metro Attorney

Date: 10/12/08

Local Share Project List for
City of Tualatin

Project Name:

Land acquisition within the boundaries of the Tualatin River Greenway

Project Description:

The Tualatin Park and Recreation Master Plan identifies the need to land acquisition for the Tualatin River Greenway along the entire southern bank of the river, and a portion of the north bank directly across from Tualatin Community Park, for the purposes of preserving the scenic value of the Tualatin River, enhancing air and water quality, preserving fish and wildlife habitat, and providing public pedestrian and bicycle access within the Tualatin River Greenway.

Project Funds Required (including other funding sources, if any):

\$786,506

Project Timeline:

2008 - 2012

Project Location:

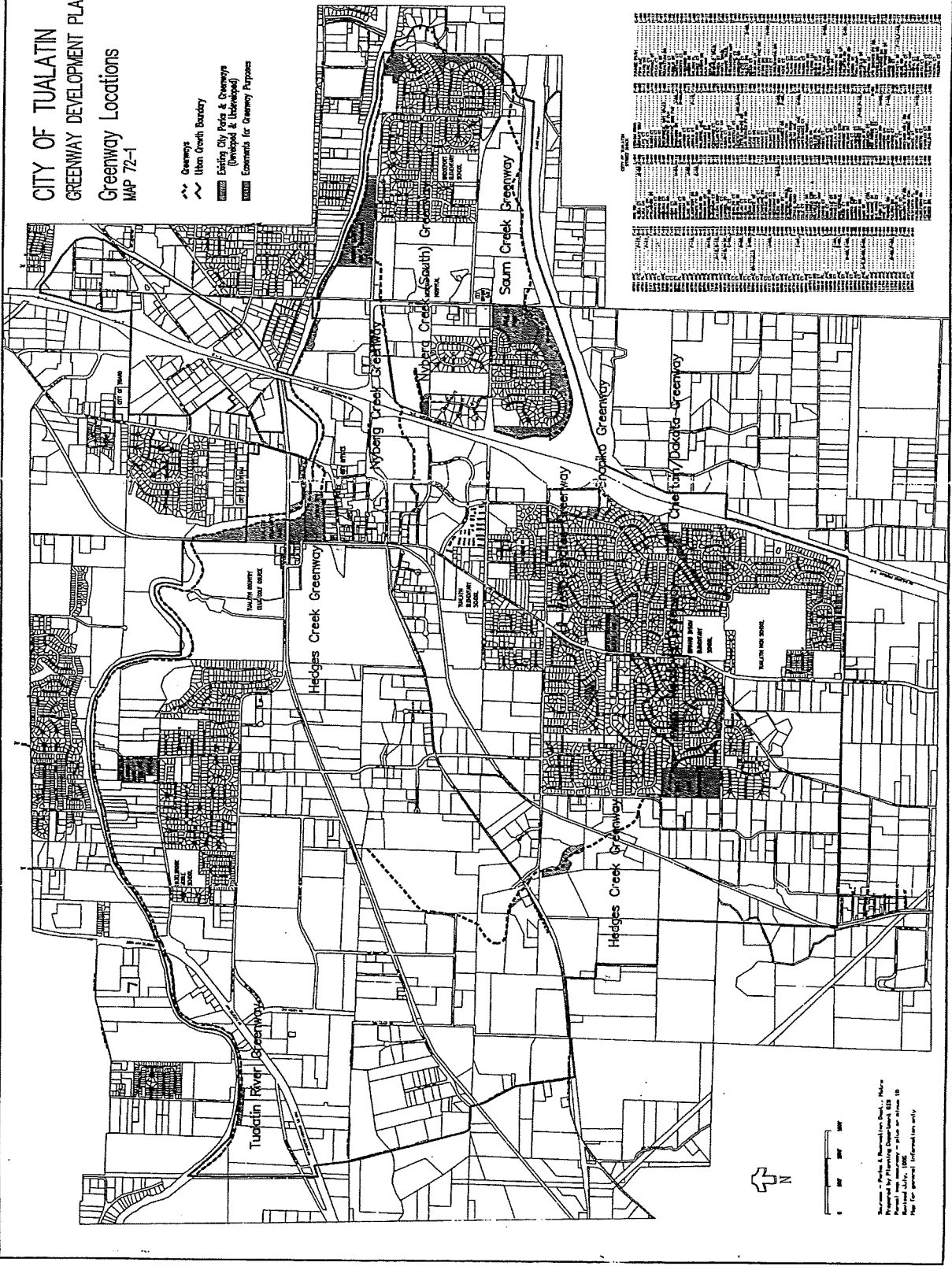
Tualatin River Greenway. See attached map.

Project Contact Information:

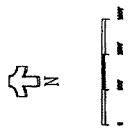
Paul Hennon
Community Services Director
18880 SW Martinazzi Avenue
Tualatin, OR 97062-7092
Tel (503) 691-3060
Fax (503) 691-9786
phennon@ci.tualatin.or.us

**CITY OF TUALATIN
GREENWAY DEVELOPMENT PLAN
Greenway Locations
MAP 72-1**

- Greenways
- - - Urban Growth Boundary
- ▨ Existing City Parks & Greenways
(Developed & Underdeveloped)
- ▩ Elements for Greenway Purposes



Greenway Name	Start Point	End Point	Notes
Tualatin River Greenway	1st St	10th St	Along riverbank
Hedges Creek Greenway	1st St	10th St	Along creek
Young Creek Greenway	1st St	10th St	Along creek
Wabers Creek (South) Greenway	1st St	10th St	Along creek
Sauam Creek Greenway	1st St	10th St	Along creek
Clatskanie Greenway	1st St	10th St	Along creek



Prepared by Planning Department, 2002
Revised July, 2005
Not for general information only

Attachment B

PROCEDURES FOR PAYMENT OF FUNDS BY METRO NATURAL AREAS BOND PROGRAM LOCAL SHARE

Metro has committed to pay to local jurisdictions (Local Share Partners) amounts specified for approved projects under the local share component of the 2006 Natural Areas Bond Measure. Under the Measure, funds must be expended on projects for acquisition and capital construction and improvements that result in the creation or acquisition of a capital asset, consistent with generally accepted accounting principles. For purposes of reimbursement, all of the following also apply:

- Capital cost may include not only the purchase price or cost of construction, but also any other costs incurred to place the asset in its intended location and condition for use;
- Each project shall be an improvement to non-federal, publicly owned property, or, in the case of acquisition, the ownership of the property shall be by a non-federal public agency or jurisdiction;
- Each project shall be real property (including buildings on such real property) or a building or other tangible improvement to real property, not intellectual or other intangible property; and
- The Local Share Partner shall properly record the acquisition or improvement as an asset in the jurisdiction's audited financial statements, and the accounting treatment for this project shall be consistent with the Local Share Partner's treatment of other similar transactions.

Examples of potentially eligible costs include the following, provided that they are costs that can be capitalized under generally accepted accounting principles:

- Legal and title fees
- Closing costs (including escrow fees and recording fees)
- Negotiation costs
- Due diligence costs (including costs of appraisals, land surveys and environmental investigations)
- Land preparation costs
- Demolition cost (associated with new construction)
- Architect and engineering fees
- Insurance premiums during the construction phase
- Transportation and freight charges
- Staff overhead costs, meeting federal guidelines under the Single Audit Act of 1984, which are directly related to the acquisition of a natural area asset.

Payments to Local Share Partners will be processed as reimbursement for costs incurred and paid by the Local Share Partner. Only in the case of land acquisition will transfers be made prior to expenditure, with said transfer into escrow accounts for land acquisition transactions.

Prior to any reimbursement or transfer of funds to escrow the Local Share Partner must sign a designation of signature authority form.

REIMBURSEMENT PROCEDURES

For each request for reimbursement, the Local Share Partner shall provide to Metro:

- A completed Request for Release of Funds, signed by an authorized representative of the Local Share Partner certifying appropriateness of the charges,
- A schedule of charges being submitted for reimbursement including the name of the vendor or person who was paid, description of charge and amount, and
- Applicable documentation to support the schedule of charges, including copies of invoices, statements, receipts, payroll reports, and/or other evidence of expenditures incurred.

Such documents shall be submitted to:

Local Share Coordinator
Metro Regional Parks and Greenspaces
600 N.E. Grand Avenue
Portland, OR 97232-2736

Upon Metro's receipt of a request for reimbursement:

- Metro's Local Share Coordinator shall review the submitted documents and recommend approval for payment to the Program Director, or request additional information from Local Share Partner as needed.
- Metro Accounts Payable will process a reimbursement check to the Local Share Partner within thirty (30) days of the date of receipt of completed reimbursement documents by Metro. All reimbursements will be made payable to the Local Share Partner jurisdiction. Reimbursement may be by electronic funds transfer, warrant or check.

ESCROW TRANSFER PROCEDURES

If the Local Share Partner requires a wire transfer of funds to escrow to complete land acquisition transactions, a wire transfer information request form must be completed. A preliminary closing statement that details the price of the property and all related closing costs should be included to document each request submitted.

Funds will be transferred as required within five business days of written or faxed notice submitted to the attention of:

Local Share Coordinator
Metro Regional Parks and Greenspaces
600 N.E. Grand Avenue
Portland, OR 97232-2736

Fax number: 503-797-1849

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Attachment C

Local Share Guidelines

The Metro Council established these Local Share Guidelines with its adoption of Metro Resolution No. 06-3672B, which resolution submitted the Measure to the voters of the Metro region. As provided in Exhibit B to that resolution, only agencies that were public park providers as November 6, 2006 are eligible to receive funds. Funds from the bond measure shall not be used to replace local funds on any project and funds from the bond measure should be used to leverage other sources of revenue when possible. Local share funds should be used to the greatest extent possible to fund new projects and not pay agency overhead or indirect costs. In no event shall the staff, overhead and indirect costs on local share projects exceed 10% of the cost of any project. In addition, such funds may be expended only on projects related to natural areas or acquisition of land for natural areas, open space, parks or trails, including:

Real Property Acquisition:

- Fee Simple (or easement) purchase of real property for use as parks, open space, natural areas, or trails, including natural areas, wildlife and trail corridors identified in the Metropolitan Greenspaces Master Plan, the Regional Greenspaces System Concept Map (adopted 2002), the Regional Trails Plan Map (adopted 2002), the Nature in Neighborhood Map (Fish & Wildlife Habitat Protection Program, Resource Classification Map), and locally determined significant natural areas, neighborhood and pocket parks, wildlife habitat and trail corridors.

Capital Improvement Projects:

- Restoration or enhancement of fish and wildlife habitat.
- Improvements to existing parks to enhance the integrity of habitat and increase natural plantings.
- Improvements to existing natural area amenities to provide universal access to the public (meets Americans with Disabilities Act requirements).
- Public use facilities such as trailheads, rest rooms, picnic tables and shelters, children's play areas, viewing blinds, water systems, camp sites and barbeque pits, fishing piers, associated accessories such as information signs, fences, security lighting, and circulation facilities (i.e., entry, egress and circulation roads, parking areas).
- Environmental education structures or accessories (e.g., nature centers and/or interpretive displays).
- Trail design, engineering, construction and landscaping.

Attachment D

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE LOCAL SHARE PARTNER and METRO
FOR LAND ACQUISITION SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT ("IGA"), entered into under the provisions of ORS chapter 190 and effective on the date the IGA is fully executed (the "Effective Date"), is entered into by and between the _____, located at _____ ("Local Share Partner") and Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 Northeast Grand Avenue, Portland, Oregon 97232-2736 ("Metro").

RECITALS

WHEREAS, the goal of this IGA is for Metro to provide land acquisition services for the Local Share Partner for acquisitions pertaining to the 2006 Natural Areas Bond Measure (the "Measure");

WHEREAS, the Local Share Partner has executed an intergovernmental agreement with Metro pertaining to the Local Share Component of the Measure;

WHEREAS, the Local Share Partner is involved in various projects that require land acquisition and due diligence services in relation to parcel and easement purchases;

WHEREAS, the Local Share Partner does not have the in-house staff to perform these land acquisition and due diligence services;

WHEREAS, Metro has determined that there is available Metro staff capacity within the existing Natural Areas Work Plan to provide limited technical assistance to the Local Share Partner for land acquisition and due diligence services; and

WHEREAS, the purpose of this IGA is to identify the responsibilities and compensation for land acquisition and due diligence services to be provided by Metro to Local Share Partner;

NOW THEREFORE, the parties agree as follows:

1. SCOPE OF METRO'S SERVICES

Metro shall provide to Local Share Partner services as shown in the attached Scope of Work (Exhibit A). In addition, each project shall require a project specific scope of work (consistent with this IGA) and a written notice to proceed from Local Share Partner prior to Metro commencing work. Local Share Partner shall be entitled to copies of all products prepared by Metro hereunder, upon request, including but not limited to due

iligence process reports and legal documents and instruments (agreements of purchase and sale, appraisals, environmental assessments, preliminary title reports, negotiated conditions, deeds, easements, and leases).

2. SCOPE OF LOCAL SHARE PARTNER'S SERVICES

Local Share Partner shall provide written direction to Metro regarding the services to be performed by Metro under this IGA. Local Share Partner shall also provide the input and review as described in Exhibit A.

3. PAYMENTS FOR SERVICES

A. Costs that Metro incurs to obtain any services from third parties under this IGA shall be deducted from the total amount of funds available to the Local Share Partner under the terms of the Measure. Such deduction shall occur at the time that Metro makes payment for such services. Such costs may include, without limitation, the costs for Metro to obtain appraisals, appraisal reviews, preliminary title reports, environmental site assessments (e.g. "Phase I" and "Phase II" investigations), and land surveys. Metro shall provide Local Share Partner with written notice of all such deductions related to each project within 30 days of either (a) closing, if the project is a successful real property acquisition, or (b) the date that Metro determines, at its sole discretion, that a proposed acquisition is infeasible, at least in the short term.

B. Metro shall provide all other land acquisition and due diligence services described herein, other than those services described in Section 3A of this IGA, at no cost to the Local Share Partner.

4. TERM AND RENEWALS

The Term of this IGA shall be for five (5) years following the Effective Date. However, this IGA shall automatically renew for successive one-year terms unless terminated by either party by written notice at least 30 days prior to expiration of the initial term or any renewal term.

5. MODIFICATION, AMENDMENT OR TERMINATION OF AGREEMENT

Metro and Local Share Partner, by mutual written agreement signed by both parties, may modify, amend, or terminate this IGA at any time. Either party also may unilaterally terminate this IGA by providing the other party with written notice of termination. Such notice shall comply with the provisions of Section 13 of this IGA, and such termination shall be effective 30 days after providing such notice. Metro shall be entitled to deduct from the total amount of funds available to the Local Share Partner under the terms of the Measure any costs, as described in Section 3 of this IGA, that Metro had incurred or for which Metro was contractually obligated on the date that Metro provided or received written notice of default.

6. MUTUAL INDEMNIFICATION

The Local Share Partner shall indemnify and hold Metro and Metro's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the performance of this Agreement by the Local Share Partner or the Local Share Partner's officers, agents, or employees, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30. Metro shall indemnify and hold the Local Share Partner and the Local Share Partner's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the performance of this Agreement by Metro or Metro's officers, agents, or employees, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30.

7. FUNDS

Local Share Partner shall be responsible for insuring that sufficient funds are available for each Project.

8. PROJECT MANAGER

Each party designates the following as its representative for purposes of administering this IGA:

Local Share Partner:

Metro: Natural Areas Bond Manager
Metro Regional Center
600 NE Grand Avenue
Portland, OR 97232

Either party may change its designated representative by giving written notice to the other as provided in Section 13.

9. The laws of the state of Oregon shall govern this IGA and the parties agree to submit to the jurisdiction of the courts of the state of Oregon. All applicable provisions of ORS chapters 187, 279A, 279B, and 279C, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, are hereby incorporated as if such provisions were a part of this IGA. Specifically, it is a condition of this Agreement that

the Local Share Partner and all employers working under this Agreement are subject employers that will comply with ORS 656.017.

10. SEVERABILITY

If any covenant or provision in this IGA shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this IGA.

11. ENTIRE AGREEMENT

This IGA constitutes the entire agreement between the parties and supersedes any prior oral or written agreements or representations relating to this IGA. No waiver, consent, modification or change of terms of this IGA shall bind either party unless in writing and signed by both parties.

12. NOTICES

Except as specifically otherwise provided in this IGA, any notices permitted or required by this contract shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, return receipt requested and addressed to the representative designated in Section 9. Either party may change its address by notice given to the other in accordance with this paragraph.

13. ARBITRATION

Any controversy regarding the terms and conditions of this IGA shall be submitted to arbitration. Any party may request arbitration by written notice to the other. If the parties cannot agree on a single arbitrator within 15 days from the giving of notice, each party shall within five days select a person to represent that party and the two arbitrators shall immediately select a third impartial person to complete a three member arbitration panel. If the two arbitrators cannot agree within 15 days on the third arbitrator, then either party may petition the Presiding Judge of the Multnomah County Circuit Court to select the third arbitrator. The panel shall conduct the arbitration in accordance with the provisions of ORS Chapter 33, or the corresponding provisions of any such future law. The arbitrator(s) shall assess all or part of the cost of the arbitration, including attorney fees, to any or all parties.

LOCAL SHARE PARTNER:

METRO:

By: _____
Print Name:

By: _____
Michael Jordan, Chief Operating Officer

Date: _____

Date: _____

By: _____
Print Name

By: _____
Jim Desmond, Parks Director

Date: _____

Date: _____

Approved as to Form:

Approved as to Form:

By: _____
for the Local Share Partner, Oregon

By: _____
Paul A. Garrahan
Senior Assistant Metro Attorney

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Exhibit A
Land Acquisition Services IGA

SCOPE OF WORK

TASK 1 Local Share Partner Preliminary and General Services

Objective: Initiate project and facilitate mutual understanding of the project scope.

Description: Meet with Metro real estate negotiator on a project-by-project basis, to confirm roles, responsibilities and expectations for each specific project in relation to the IGA. Establish clear lines of communication. Discuss project goals and identify specific concerns. Review the project and the land acquisition schedule.

Local Share Partner Products:

Provide project-specific goals, target properties, budget and desired schedule, including key project deadlines and milestones. Schedule and host initial project meeting. Provide the names and addresses of the owners of targeted properties, and tax identification information for such properties. Provide direction as appropriate. Information to be provided includes:

- Written description of the target property, property contact information (including history of communication), specific approval schedule, deadlines, authorization procedures, and required communication procedures.
- Whether review by the Local Share Partner's attorney is required, and, if so, the points during the project timeline when such review must occur.
- Whether and when approval(s) by the Local Share Partner's governing body is required. Describe the process and estimated time lines for such approval(s).
- A completed Signature Authority form provided by Metro.
- Identification of any other approval(s) or review periods that the Local Share Partner will require.

TASK 2 Metro Negotiation and Related Services

Objective: Conduct "willing seller" land acquisition negotiations with the purpose of acquiring properties targeted by the Local Share Partner for land acquisition services. When directed in writing by Local Share Partner, conduct such land acquisition negotiations in accord with federal acquisition guidelines.

Description: Metro will perform land acquisition negotiations. Steps to be taken include the following activities:

- 2.1 Setup negotiation files to preserve documents and a record of the negotiations.

- 2.2 Setup and maintain diaries documenting property owner(s) contacts.
- 2.3 Prepare the appropriate documents for review by the Local Share Partner's Project Manager and attorney, including, but not limited to, Metro's standard form Agreement of Purchase and Sale, modified or supplemented with property specific detail, deeds, easements, legal descriptions and other documents and instruments, as needed.
- 2.4 Prepare offer letters and other communications required to establish contact with property owner(s).
- 2.5 Explain the offer to the property owner(s) or a representative and provide an understanding of the land acquisition process.
- 2.6 Comply with federal and state acquisition and relocation guidelines and requirements, when directed in writing to do so by the Local Share Partner.
- 2.7 Advise and coordinate with the Local Share Partner's Project Manager.

Metro Products:

Maintain property specific negotiation files including diaries, offer letters, and documentation of other communications. Transaction specific preparation of the Purchase and Sale Agreement, and other documents, as requested. Provide negotiation files to Local Share Partner upon request.

TASK 3 Metro Due Diligence Services

Objective: Perform due diligence substantially satisfying the standards set forth in Metro's Natural Areas Implementation Workplan.

Description: Metro will conduct due diligence in good faith and as Metro determines necessary at its sole discretion. Steps to be taken may include the following activities:

- 3.1 Obtain an independent MAI appraisal of the proposed acquisition property subject to no extraordinary assumptions and confirmed by an appraisal review conducted in accordance with USPAP and general appraisal standards. Alternatively, if the Seller obtains an independent MAI appraisal, then Metro shall obtain an appraisal review of Seller's appraisal, conducted in accordance with USPAP and general appraisal standards, and such appraisal review must verify the accuracy of Seller's appraisal, including confirming that it is subject to no extraordinary assumptions.

- 3.2 Paralegal review of title reports, title exception documents, vesting deed, existing surveys, plats, legal description and other documents.
- 3.3 Perform a site visit and visual inspection of boundaries and access; identify possible hazards, unrecorded easements, and trespassers.
- 3.4 Obtain a Phase I Environmental Assessment and conduct further environmental investigation only if necessary to conduct "All Appropriate Inquiry" into the environmental condition of the Property, in accord with the Standards and Practices for All Appropriate Inquiry set forth in the Code of Federal Regulations, Chapter 40, Part 312.
- 3.5 Obtain survey services for a land use application or to resolve uncertainties as to property lines or easement location.
- 3.6 Obtain land use approvals if required under the Purchase and Sale Agreement.
- 3.7 Provide Metro Attorney review of documents. The Metro Attorney shall advise Metro negotiators regarding their work under this Agreement and shall oversee Metro's due diligence work, but shall not provide legal advice directly to the Local Share Partner. If the Local Share Partner feels it needs legal advice regarding any matter it shall seek such advice from its own attorney.

Metro Products:

Due diligence conforming substantially to Metro Natural Areas Implementation Workplan standards. Copies of all pertinent legal documents will be provided as appropriate.

Local Share Partner Products:

Local Share Partner's Project Manager and attorney review, direction of the due diligence process, review and approval of the closing checklist.

TASK 4 Metro Purchase and Closing Services/Escrow Liaison

Objective: Conduct escrow and closing services.

Description: Metro shall perform the following services in good faith and as Metro determines necessary at its sole discretion:

- 4.1 Communicate with property owners, or their representatives, in a timely and professional manner.
- 4.2 Open escrow.

- 4.3 Prepare escrow instructions.
- 4.4 Place documents in escrow.
- 4.5 Coordinate payments to Title/Escrow Company related to closing.
- 4.6 Assist in obtaining releases, if necessary.
- 4.7 Review closing statements, escrow instructions, title insurance policies, and vesting documents, and make recommendations to Local Share Partner or work with the title company to correct errors.
- 4.8 Deliver documents for recording and track the recording process to ensure that recording has occurred.

Metro Products:

Escrow instructions, Escrow account setup, documents placed in escrow, payment coordination, closing statements, recorded documents. Provide recorded documents to Local Share Partner with recording numbers.

Local Share Partner Products:

Local Share Partner's Program Manager and attorney review of closing documents and instruments. Provide documentation to authenticate that the individual signing all closing documents has authority to sign on behalf of the Local Share Partner.

Attachment E

Funding Recognition

As provided in this document, the Local Share Partner shall recognize that funding to complete the project was provided from the Metro 2006 Natural Areas Bond Measure. Such project recognition shall be included in and on on-site documentation, any published final products and visual presentations, web site information, collateral materials, newsletters, and press releases.

At or before project completion of a project, signage shall be installed at the project site in prominent and highly visible locations near each primary public access point or viewing access area (but not located in a manner that would have a detrimental impact on any natural area viewshed) to acknowledge Metro's funding of the project and any other project partners (as necessary) that have provided project funding. Signage shall be either:

- a. A standard, free-standing sign provided by Metro, which Metro shall make available to Local Share Partners upon request; or
- b. Inclusion of Metro's logo and script in other signage, with Metro's logo and script of a size in comparable proportion to the relative amount of funding provided by the Metro Bond Measure for the project being recognized, in relation to other agencies recognized on such signage. In no event, however, must Metro's logo and script be larger than the logo and script of the Local Share Provider. Metro shall make its graphics available upon request.

When the project is opened to the public, the Local Share Partner shall plan and hold at least one community/media event to publicize the project and its relationship to the Metro 2006 Natural Areas Bond Measure. The Local Share Partner agrees to provide the Metro Natural Areas Program Manager with written notice of such event at least three weeks prior to the scheduled event in order to coordinate with and allow for participation by Metro staff and elected officials.

At least once during the term of the Agreement, the Local Share Partner shall hold a public meeting with members of the Local Share Partner's governing body, at which the Local Share Partner shall recognize the Local Share Partner's partnership with Metro to complete the Local Share Partner's Bond Measure-funded projects. The Local Share Partners shall provide the Metro Natural Areas Program Manager with written notice of such public meeting at least three weeks prior to the scheduled event in order to coordinate with and allow for participation by Metro staff and elected officials.

RESOLUTION NO. _____

RESOLUTION APPROVING AMENDMENT NO. 1
TO AN INTERGOVERNMENTAL AGREEMENT WITH METRO FOR THE
2006 NATURAL AREAS BOND MEASURE LOCAL SHARE COMPONENT

WHEREAS, the Council approved an intergovernmental agreement with Metro enabling Tualatin to receive funding for land acquisition through the 2006 Natural Areas Bond Measure Local Share Component on October 13, 2008, and

WHEREAS, Amendment No. 1 will extend the expiration date of the IGA with Metro for the 2006 Natural Areas Bond Measure Local Share Component to March 31, 2013, thereby allowing the City of Tualatin to obtain Local Share funds in the amount of \$353,801.95 for a total contract amount not to exceed \$786,506 for land acquisition within the boundaries of the Tualatin River Greenway; and

WHEREAS, additional time is needed to pursue land acquisition of property from willing sellers that meets the requirements of being within the Tualatin River Greenway and can be purchased within the amount of available funds; and

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

Section 1. The Mayor is authorized and instructed to execute the attached Intergovernmental Agreement with Metro for the Natural Areas Bond Measure Local Share Component.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

CITY OF TUALATIN, OREGON

By _____
Mayor

ATTEST:

By _____
City Recorder

Resolution No. _____



600 NE Grand Ave.
Portland, OR 97232-2736
503- 797-1700

Amendment

AMENDMENT NO. 1

CONTRACT NO. 927851

This Amendment hereby amends the above titled contract between Metro, a metropolitan service district organized under the law of the State of Oregon and the Metro Charter, and City of Tualatin, hereinafter referred to as "Local Share Partner."

This amendment is a change order to the original Scope of Work as follows:

Metro's funding obligation expiration date is extended from March 31, 2012 to March 31, 2013 to allow Local Share Partner to finish project planning, to leverage resources and complete Land Acquisitions in the Tualatin River Greenway.

Metro shall pay Local Share Partner for services performed and materials delivered under this amendment in the amount not to exceed THREE HUNDRED FIFTY THREE THOUSAND EIGHT HUNDRED ONE AND 95/100THS DOLLARS (\$353,801.95), for a total contract amount not to exceed SEVEN HUNDRED EIGHTY SIX THOUSAND FIVE HUNDRED SIX AND 00/100THS DOLLARS (\$786,506.00).

Except for the above, all other conditions and covenants remain in full force and effect.

IN WITNESS TO THE ABOVE, the following duly authorized representatives of the parties referenced have executed this Amendment.

CITY OF TUALATIN

METRO

By _____

By _____

Print Name _____

Print Name _____

Date _____

Date _____

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STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Janet Newport, Human Resources Manager

DATE: 06/25/2012

SUBJECT: Resolution Approving and Authorizing the Provision of Workers' Compensation Insurance Coverage to Volunteers of the City of Tualatin and Repealing Resolution No. 5032-11

ISSUE BEFORE THE COUNCIL:

The City of Tualatin will provide for workers' compensation insurance coverage to classes of volunteer workers for policy year 2012-2013.

RECOMMENDATION:

Staff respectfully requests the City Council adopt the attached resolution approving and authorizing the provision of workers' compensation insurance coverage to volunteers of the City of Tualatin and repeal Resolution No. 5032-11.

EXECUTIVE SUMMARY:

The City Council wishes to protect its volunteers from injuries arising out of, or in the scope of, their service to the City. The City elects, pursuant to ORS 656.031, to provide workers' compensation insurance coverage to volunteers listed on the electronically submitted CIS Volunteer Election form.

Attachments: [A - Resolution](#)

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING THE PROVISION OF WORKERS' COMPENSATION INSURANCE COVERAGE TO VOLUNTEERS OF THE CITY OF TUALATIN AND REPEALING RESOLUTION NO. 5032-11

WHEREAS the City of Tualatin elects the following:

Pursuant to ORS 656.031, workers' compensation coverage will be provided to the classes of volunteer workers listed on the electronically submitted City/County Insurance Services (CIS) Volunteer Election form; and

WHEREAS an assumed monthly wage of \$800 will be used for public safety volunteers; and

WHEREAS an aggregate assumed annual wage of \$2,500 will be used per volunteer board, commission and/or council for the performance of administrative duties; and

WHEREAS non-public safety volunteers will keep track of their hours and have their assumed payroll reported in the correct class code listed on the CIS Payroll Schedule for the type of work being performed using Oregon minimum wage; and

WHEREAS court-mandated community service workers/inmates on work release may be covered for workers' compensation benefits by the sentencing court. Coverage will be determined prior to work inception and stipulated to in writing between the City of Tualatin and respective sentencing court. Court-mandated volunteers will keep track of their hours and have their assumed payroll reported in Class Code 7720V using Oregon minimum wage; and

WHEREAS a roster of active volunteers will be kept monthly for reporting purposes. It is acknowledged that CIS may request copies of these rosters during year-end audit; and

WHEREAS unanticipated volunteer projects or exposure not addressed herein will be added onto the City of Tualatin's coverage agreement (1) by endorsement, (2) with advance notice to CIS, and (3) allowing two weeks for processing. It is hereby acknowledged that coverage of this type cannot be backdated.

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

Section 1. The City of Tualatin provide for workers' compensation insurance coverage as indicated above for Policy Year 2012-2013.

Section 2. This resolution repeals Resolution No. 5032-11, dated June 13, 2011.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

Resolution No. _____



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Brenda Braden, City Attorney

DATE: 06/25/2012

SUBJECT: Resolution Consenting to the Assignment of Development Agreement by Boones Ferry Road Apartments Investors LLC and National Bank of Arizona

ISSUE BEFORE THE COUNCIL:

Council will consider whether to consent to the assignment of a Development Agreement to and for the National Bank of Arizona.

RECOMMENDATION:

Staff recommends that Council consent to the assignment.

EXECUTIVE SUMMARY:

On June 9, 2008 the City entered into a Development Agreement with Bridgeport Apartments LLC regarding the development of the former site of the Schneider Trucking and Lane International facilities on Lower Boones Ferry Road. The agreement set out certain requirements for the development and referred to some sewer improvements that the developer was willing to do once a study was complete. On November 19, 2008, Trammell Crow Residential, a member of the LLC, memorialized in a letter agreement more specifically what sewer improvements it would make. However, due to the downturn in the economy, the project did not go forward.

Now the project is being sold to the Boones Ferry Road Apartment Investors, LLC. As part of the closing documents, the Boones Ferry Road Apartment Investors, LLC's financier, National Bank of Arizona, is requiring that the Development Agreement and subsequent letter agreement be assigned to it, so that in the event that the Boones Ferry Road Apartment Investors, LLC does not complete the project, the National Bank may step in and complete the project according to the terms of the agreements.

Because the Development Agreement requires the City to consent to any assignment of the agreement, staff is bringing this resolution forward to formally approve of and consent to the assignment.

OUTCOMES OF DECISION:

RESOLUTION NO. _____

RESOLUTION CONSENTING TO THE ASSIGNMENT OF A
DEVELOPMENT AGREEMENT BY BOONES FERRY ROAD
APARTMENTS INVESTORS LLC

WHEREAS the City of Tualatin and Bridgeport Apartments LLC entered into a Development Agreement dated June 9, 2008, regarding the proposed development on the former site of the Schneider Trucking and Lane International facilities on Lower Boones Ferry Road; and

WHEREAS Bridgeport Apartments LLC is in the process of selling all of its interests in the property to Boones Ferry Road Apartment Investors LLC, ("Boones Ferry Apartments") including transferring its rights and responsibilities in the Development Agreement and the subsequent letter agreement from Trammell Crow Residential dated November 19, 2008; and

WHEREAS Boones Ferry Apartments wishes to assign, transfer and set over its right, title and interest in the Development Agreement and letter to and for the benefit of its lender, the National Bank of Arizona, at closing;

WHEREAS the Development Agreement requires consent from the City to before such assignment can occur.

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

Section 1. The City Council consents to the assignment of the Development Agreement, including the November 9, 2008 letter agreement by Boones Ferry Road Apartments Investors LLC to and for the benefit of National Bank of Arizona.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

CITY OF TUALATIN, OREGON

By _____
Mayor

ATTEST:

By _____
City Recorder

Resolution No. _____

ASSIGNMENT OF DEVELOPMENT AGREEMENT WITH CITY

THIS ASSIGNMENT OF DEVELOPMENT AGREEMENT WITH CITY ("Assignment") is made and entered into as of June 20, 2012, by BOONES FERRY ROAD APARTMENTS INVESTORS LLC, a Delaware limited liability company ("Assignor"), to and for the benefit of NATIONAL BANK OF ARIZONA, a national banking association ("Assignee").

FOR VALUE RECEIVED, Assignor does hereby collaterally assign, transfer, and set over to Assignee all of its right, title and interest in and to that certain Development Agreement, last dated June 9, 2008, by and between City of Tualatin ("City") and Assignor, and all amendments, modifications, supplements, general conditions, change orders and addenda thereto, including, without limitation, that certain letter agreement from Trammell Crow Residential dated November 19, 2003, to the City of Tualatin regarding Acknowledgment of Offsite Sewer Upgrade Work (collectively, the "Agreement"), heretofore and hereafter entered into in connection with the development of certain real property (the "Premises") more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

A. THIS ASSIGNMENT IS MADE FOR THE PURPOSE OF SECURING:

(1) The payment of all indebtedness evidenced by that certain Secured Promissory Note of even date herewith in the maximum principal amount of Forty-Three Million Seven Hundred Forty-Two Thousand Six Hundred Thirty-One and No/100 Dollars (\$43,742,631.00) with interest thereon, executed by Assignor and delivered to Assignee (as it may be amended, modified, extended, restated [in whole or in part], and renewed from time to time) (the "Note").

(2) The performance of and compliance with all of the terms, covenants and conditions set forth herein, in that certain Construction Loan Agreement of even date herewith, executed by Assignor, as Borrower, and Assignee, as Lender (as it may be amended, modified, extended, restated in whole or in part, and renewed from time to time) (the "Loan Agreement"), in the Note, the Deed of Trust, or any other Loan Document (all as defined in the Loan Agreement), and in any other loan agreement, promissory note or other agreement now or hereafter executed by Assignor which recites that performance of the obligations thereunder is secured hereby.

B. CONCURRENTLY HERewith ASSIGNOR HAS GRANTED TO ASSIGNEE A SECURITY INTEREST IN THE AGREEMENT PURSUANT TO THE SECURITY AGREEMENT CONTAINED IN THE DEED OF TRUST.

C. ASSIGNOR AGREES:

(1) To faithfully abide by, perform and discharge each and every material obligation, covenant and agreement of the Agreement to be performed by Assignor thereunder, at no cost or expense to Assignee, and: (a) to use commercially reasonable efforts to enforce or secure the performance of each and every material obligation, covenant, condition and agreement contained in the Agreement and to be performed by City; and (b) except as permitted under the Loan Agreement, not to modify, extend or in any way alter the terms of the Agreement in any material

manner or accept a surrender thereof, or to waive, excuse, condone or in any manner release or discharge City of or from the obligations, covenants, conditions and agreements to be performed by City in the manner and at the place and time specified therein. Subject to the provisions of the Loan Agreement, Assignor hereby expressly releases, relinquishes and surrenders unto Assignee all its right, power and authority to materially amend, modify, cancel, terminate or in any way materially alter the terms or provisions of the Agreement in any material manner without the prior written consent of Assignee, which consent shall not be unreasonably withheld or delayed.

(2) That, at no cost or expense to Assignee, Assignor shall appear in and defend any action or proceeding arising under, growing out of or in any manner connected with the Agreement or the obligations, duties or liabilities of Assignor thereunder, and shall pay all costs and expenses of Assignee, including reasonable attorneys' fees and expenses, in any action or proceeding concerning the Agreement in which Assignee may appear.

(3) That, if Assignor fails to make any payment or to do any act as herein provided or fails to do so promptly upon demand by Assignee, and does not promptly cure such failure within the time periods provided in the Loan Agreement, then Assignee shall have the right, but without the obligation so to do, without releasing Assignor from any obligation hereof and without notice to or demand upon Assignor, to make such payment or to do such act in such manner and to such extent as Assignee may deem necessary to prevent the material impairment of the security hereof, including, without limiting the generality of the foregoing, the right to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Assignee, and to perform and discharge each and every obligation, covenant and agreement of Assignor contained in the Agreement, and in exercising any such rights or powers to employ counsel and pay such costs and expenses as Assignee shall incur, including, without limitation, reasonable attorneys' fees.

(4) To pay promptly upon demand all sums expended by Assignee under the authority hereof, together with interest thereon at the Agreed Rate (as defined in the Deed of Trust).

D. THE PARTIES HERETO MUTUALLY AGREE THAT:

(1) As long as no Event of Default has occurred and is continuing under the Loan Documents (as Event of Default is defined therein), Assignor shall have the right to exercise all of its rights (other than its rights to materially amend, modify, cancel, terminate or in any way alter the terms of the Agreement except as aforesaid and subject to the provisions of the Loan Agreement) under the Agreement.

(2) Assignor agrees that Assignee does not assume any of Assignor's obligations or duties concerning the Agreement until and unless Assignee shall exercise its rights hereunder.

(3) Assignee shall not exercise its rights under this Assignment until the occurrence and during the continuation of an Event of Default under any of the Loan Documents. Upon the occurrence and during the continuation of such an Event of Default, Assignee may, at its option, upon written notice to City, exercise all of its rights granted under this Assignment. Upon giving

such notice to City, Assignee shall thereby assume all obligations of Assignor under the Agreement, including, without limitation, the right to receive and collect all moneys and other payments receivable by, or payable to, Assignor under the Agreement, the right to give and receive copies of all notices and other instruments or communications, and the right to cure or take action with respect to a default under the Agreement. Assignor hereby irrevocably constitutes and appoints Assignee, upon the occurrence and during the continuation of an Event of Default, as its attorney-in-fact to demand, receive and enforce Assignor's rights with respect to the Agreement, to give appropriate receipts, releases and satisfactions for and on behalf of Assignor, and to do any and all acts in the name of Assignor or in the name of Assignee with the same force and effect as Assignor could do if this Assignment had not been made. The exercise of any of the foregoing rights or remedies by Assignee under this Assignment shall not cure or waive, modify or affect any notice of Event of Default under any of the foregoing, or invalidate any act done pursuant to any such notice. Assignee may exercise its rights under this Paragraph 3 as often as any such Event of Default may occur and be continuing. The exercise of such rights shall not constitute a waiver of any of the remedies of Assignee under the Loan Documents, or any other document or agreement existing at law or in equity, by statute or otherwise.

(4) Assignor shall and does hereby agree to indemnify, defend and hold Assignee harmless for, from and against any and all liability, loss or damage which it may or might incur under the Agreement or under or by reason of this Assignment and for, from and against any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking in its part to perform or discharge any of the terms, covenants or agreements contained in the Agreement or under or by reason of this Assignment, except for gross negligence or willful misconduct of Lender and its agents and assigns. Except as expressly provided in the preceding sentence, should Assignee incur any such liability, loss or damage under the Agreement or under or by reason of this Assignment, or in the defense of any such claim or demand, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest thereon at the Agreed Rate, shall be secured hereby, and Assignor shall reimburse Assignee therefor promptly upon demand.

(5) Until the indebtedness secured hereby shall have been paid in full and all obligations secured hereunder shall have been satisfied, Assignor covenants and agrees to transfer and assign to Assignee any and all subsequent agreements which are entered into pursuant to, in replacement of or to serve substantially the same purpose as, the Agreement, upon the same or substantially the same terms and conditions as herein contained, and to make, execute and deliver to Assignee, upon demand, any and all instruments that may be necessary therefor.

(6) Upon payment in full of all indebtedness secured hereby, this Assignment shall become and be void and of no effect, but the affidavit of any officer or loan correspondent of Assignee showing any part of said indebtedness remaining unpaid or any obligation not satisfied shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment, and any person may and is hereby authorized to rely thereon. Upon such termination, all the estate, right, title, interest, claim and demand of Assignee under the Agreement shall revert to Assignor, and Assignee shall, at the request of Assignor, deliver to Assignor an instrument canceling the Assignment and reassigning the Agreement to Assignor.

(7) Assignor warrants that the Agreement has not been amended or modified except as set forth herein, that no default by Assignor exists thereunder, that no event has occurred or exists which, with notice or lapse of time or both, would constitute a default by Assignor thereunder, and that, to the best knowledge of Assignor, no default by City exists which, with notice or lapse of time or both, would constitute a default by City thereunder.

(8) All notices, requests and demands to be made hereunder to the parties hereto shall be in writing and shall be delivered by hand, or sent via overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested, through the United States Postal Service to the addresses set forth in the Loan Agreement or such other addresses which the parties may provide in accordance therewith. Such notices, requests and demands, if sent by mail, shall be deemed given three (3) business days after deposit in the United States mail, and if delivered by hand or overnight delivery service, shall be deemed given when delivered.

(9) Assignor hereby represents and warrants to Assignee that no previous assignment of its interest in the Agreement has been made and, except for transfers to Assignee, Assignor agrees not to assign, sell, pledge, transfer, or otherwise encumber its interest in the Agreement so long as this Assignment is in effect.

(10) This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, or successors in interest of the Assignor and Assignee.

(11) This Assignment shall be governed by and construed and interpreted in accordance with the laws of the State of Arizona, without giving effect to conflict of laws principles.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed as of the day and year first above written.

BOONES FERRY ROAD APARTMENTS
INVESTORS LLC, a Delaware limited liability
company

By: MCRT Bridgeport LLC, a Delaware limited
liability company, its managing member

By: _____
Name: Eric J. Lezak
Title: Chief Financial Officer

"ASSIGNOR"

CONSENT TO ASSIGNMENT OF DEVELOPMENT AGREEMENT WITH CITY

In consideration of NATIONAL BANK OF ARIZONA, a national banking association ("Assignee"), making a loan to BOONES FERRY ROAD APARTMENTS INVESTORS LLC, a Delaware limited liability company ("Assignor"), for Forty-Three Million Seven Hundred Forty-Two Thousand Six Hundred Thirty-One and No/100 Dollars (\$43,742,631.00), for the purpose, among other things, of financing the development of certain real property (the "Premises") described in and to be constructed under that certain Development Agreement, last dated June 9, 2008, by and between City of Tualatin ("City"), and Assignor, and all amendments, modifications, supplements, general conditions, change orders and addenda thereto, including, without limitation, that certain letter agreement from Trammell Crow Residential dated November 19, 2003, to the City of Tualatin regarding Acknowledgment of Offsite Sewer Upgrade Work (collectively, the "Agreement"), City hereby consents to the assignment to Assignee by Assignor of all of Assignor's right, title and interest in, to and under the Agreement, and agrees with Assignee as follows:

1. Representations. In connection with the Loan and the assignment of the Agreement by Assignor to the Assignee, the City certifies and represents to the Assignee that:

(a) The Agreement has not been altered, amended or modified since the date of its original execution, and is presently in full force and effect.

(b) As of this date, the City has fulfilled all of its duties and obligations under the Agreement to be fulfilled as of this date and is not in default under the terms, conditions, covenants and obligations of the Agreement. To the best of the City's actual knowledge, and as of this date, Assignor is not in default under the terms, conditions, covenants and obligations of the Agreement.

(c) The City acknowledges the collateral assignment of the Agreement from Assignor to Assignee as security for the Loan.

(d) During the term of the Loan, the City shall not enter into any agreement with Assignor to modify the Agreement or any attachment thereto without the prior written consent of Assignee, which consent shall not be unreasonably withheld or delayed.

(e) Whenever the City shall deliver any notice of default to Assignor with respect to the Agreement, the City shall, at the same time, deliver to Assignee a copy of such notice of default.

(f) Upon an Event of Default by Assignor under the Loan Documents, Assignee, upon satisfying all of Assignor's obligations under the Agreement, and the continued satisfaction of all of Assignor's obligations under the Agreement, shall be entitled to all of the rights and benefits of Assignor under the Agreement.

(g) The City shall take no action to terminate or cancel the Agreement for any reason including any breach by Assignor unless and until it shall have given Assignee fifteen (15) days prior written notice advising Assignee of the action proposed to be taken

and the reasons therefor. During such fifteen (15) day period, Assignee may, at its option, and without relieving Assignor of any of its obligations under any Loan Document, the Agreement or hereunder, take any actions necessary in order to eliminate the reasons for the proposed action of the City, provided, however, in the event a default by Assignor is not reasonably curable by Assignee within any time limitations or deadlines under the Agreement, Assignee shall have such longer period of time as may be reasonably necessary to effect such cure, so long as Assignee promptly cures such defaults and at all times diligently pursues such cure.

(h) The City warrants that this Consent to Assignment and the Agreement have been duly authorized.

2. Waiver and Discharge. To the extent that the City renders performance to Assignee under the Agreement pursuant to any notice delivered by Assignee to the City pursuant to the attached Assignment of Development Agreement or this Acknowledgment, the City shall, to the extent of such performance, be discharged under the Agreement and Assignor waives any claim or demand it might otherwise have against the City and the City acting in reliance upon any notice delivered by Assignee to the City pursuant to this Acknowledgment or the attached Assignment of Development Agreement.

[SIGNATURE PAGES FOLLOW]

Dated: June 20, 2012.

CITY OF TUALATIN

By: _____
Name: _____
Title: _____

“City”

ATTEST:

APPROVED AS TO FORM:

By: _____
City Attorney

Date: _____

BOONES FERRY ROAD APARTMENTS
INVESTORS LLC, a Delaware limited liability
company

By: MCRT Bridgeport LLC, a Delaware
limited liability company, its managing
member

By: _____
Name: Eric J. Lezak
Title: Chief Financial Officer

“Assignor”

STATE OF OREGON)
) ss.
County of Washington)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, the _____ of the CITY OF TUALATIN.

NOTARY PUBLIC

My commission expires:

STATE OF CALIFORNIA)
) SS
COUNTY OF _____)

On _____ before me, _____, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A

Legal Description of Premises

PARCEL I:

Lot 62, TUALATIN VALLEY HOMES, in the City of Tualatin, County of Washington and State of Oregon, and that part of Lot 72, described as the Southeasterly 196.33 feet of Tract 72, TUALATIN VALLEY HOMES, in the City of Tualatin, County of Washington and State of Oregon, the Northwesterly line of the tract being parallel to the Southeasterly line of said Tract 72.

EXCEPTING THEREFROM that portion thereof granted to the City of Tualatin for street, road, right of way and public utility purposes described in Deed recorded June 29, 1987 as Recorder's Fee No. 87-033303.

TOGETHER WITH an Easement for landscaping and sidewalks, over portions of Lots 73 and 74, TUALATIN VALLEY HOMES, described more fully in Agreement recorded December 26, 2008 as fee no. 2008-100456.

PARCEL II:

Lots 63 and 64, TUALATIN VALLEY HOMES, in the City of Tualatin, County of Washington and State of Oregon. EXCEPTING THEREFROM, the South 148.5 feet of said Lot 64, as described in Deed to Joe A. Mayfield, recorded in Book 239, Page 665, Washington County Deed Records.

EXCEPTING THEREFROM that portion thereof conveyed to Washington County, a political subdivision of the state of Oregon, by right-of-way Dedication Deed recorded October 3, 2008 as fee no. 2008-083153.

PARCEL III:

THE SOUTH 148.5 FEET OF LOT 64, TUALATIN VALLEY HOMES, A PLAT OF RECORD IN WASHINGTON COUNTY, SITUATED IN THE SOUTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 13, TOWNSHIP 2 SOUTH, RANGE 1 WEST, W.M., WASHINGTON COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID LOT 64 WITH THE NORTHWESTERLY RIGHT OF WAY LINE OF SW LOWER BOONES FERRY ROAD AS DEDICATED TO WASHINGTON COUNTY IN DOCUMENT NUMBER 2008-083153, WASHINGTON COUNTY DEED RECORDS, SAID POINT OF BEGINNING BEARS N37°28'21"W, 4.02 FEET FROM THE MOST SOUTHERLY CORNER OF SAID LOT 64; THENCE ALONG THE WEST LINE OF SAID LOT 64, N37°28'21"W, 145.17 FEET; THENCE LEAVING

SAID LINE, ALONG A LINE PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID LOT 64, N47°01'32"E, 220.90 FEET TO A POINT ON THE NORTHEASTERLY LINE OF SAID LOT 64; THENCE ALONG SAID LINE, S37°28'41"E, 145.17 FEET TO SAID NORTHWESTERLY RIGHT OF WAY LINE; THENCE ALONG SAID LINE, S47°01'32"W, 220.92 TO THE POINT OF BEGINNING.

**DEVELOPMENT AGREEMENT BETWEEN THE CITY OF TUALATIN AND
BRIDGEPORT APARTMENTS LLC**

RECITALS

- A. This development agreement ("Agreement") is entered into between the City of Tualatin ("Tualatin" or "City") and Bridgeport Apartments LLC, a Delaware limited liability company ("Bridgeport Apartments").
- B. The subject property, which was formerly the site of the Schneider Trucking and Lane International facilities, includes approximately 4.61 acres within the City of Durham ("Durham") and approximately 4.35 acres within Tualatin (Exhibit A).
- C. On January 9, 2008, Tualatin and Durham entered into an Urban Services Intergovernmental Agreement ("IGA") in which both cities agreed to "work with the developer of the Site to negotiate a development agreement that addresses development-related issues, such as, but not limited to, limiting traffic impacts, number of residential units, required off-site improvements and applicable criteria." IGA, Section 2.3.6 (Exhibit B).
- D. An entity which is affiliated with Bridgeport Apartments or managed by Bridgeport Apartments (such entity is referred to as "Developer") intends to be the developer of the Site (defined in Section 1 of this Agreement). Developer intends to redevelop the Site with a mixed-use project titled the Alexan Bridgeport Project for which an Architectural Review application was submitted to Tualatin on April 14, 2008 (the "Project") and subsequently modified on May 28, 2008. The Scope of Development is defined in Section 3 of this Agreement.
- E. The Parties desire to enter into this Agreement, in accordance with IGA Section 2.3.6, for the purpose of addressing the Project's development-related issues (such as, but not limited to, number of residential units, vehicular circulation and pedestrian connectivity, traffic impacts, and off-site improvements) for Developer's proposed development of the Site (see Section 1). Because the Project is subject to land use approval by the City, the City cannot predetermine conditions of approval; however, the Agreement sets forth the Parties' expectations for the Project.
- F. This Agreement is not a statutory development agreement (ORS Chapter 94).

NOW, THEREFORE, the Parties hereby agree as follows:

SECTION 1. AREA AFFECTED BY THIS AGREEMENT. The area affected by this Agreement is property generally referred to as that portion of the former Schneider Trucking site and Lane International facility located at 18045, 18067 and 18075 SW Lower Boones Ferry Road and comprising approximately 4.35 acres in Tualatin (Tax Lots 1300, 1800, and 1900 of Map 2S113DC). The entire Alexan Bridgeport project site also includes approximately 4.61

acres in Durham (Tax Lot 1400 of Map 2S113DC) and, therefore, is comprised of a total of approximately 8.96 acres as shown on Exhibit A, however, the area affected by this Agreement is only that portion located within Tualatin.

SECTION 2. PROJECT AFFECTED BY THIS AGREEMENT. This Agreement shall apply only if the Site is developed as the Project.

SECTION 3. SCOPE OF DEVELOPMENT. If the Site is developed as the Project, Developer shall cause to be completed a development with the following characteristics:

3.1 A mixed-use development including a maximum of 370 multifamily residential units (apartments and live-work units) and a maximum of 24,000 square feet of retail and restaurant space on the 8.96-acre Site of which approximately 4.61 acres are in Durham and approximately 4.35 acres are in Tualatin. An Architectural Review application was submitted to Tualatin on April 14, 2008, which includes the following distribution of multifamily residential units and commercial space between Tualatin and Durham:

	Tualatin	Durham	Total
Residential Dwelling Units			
Studio	0	19	19
1 Bedroom	115	102	217
2 Bedroom	23	71	94
3 Bedroom	8	4	12
Live/Work (1 Bedroom)	0	12	12
Townhouse (2 Bedroom)	8	6	14
Total	154	214	368
Commercial ^{*1}			
Specialty Retail	18,000	0	18,000
Restaurant	6,000	0	6,000
Total	24,000	0	24,000

^{*1} April 14, 2008 Architectural Review application indicates 22,603 square feet of retail space; however, the Transportation Impact Analysis prepared by Kittelson & Associates, Inc. (March 2008) assumes 24,000 square feet of retail space including a 6,000 square foot restaurant and 18,000 square feet of specialty retail.

Exhibit C includes a site plan for the proposed Project. The Parties acknowledge that the Architectural Review application was modified on May 28, 2008, and may be further modified through the land use process.

3.2 Development that reflects the architectural richness and quality of the design concepts and elevations, and that includes building materials and detailing similar to that discussed at the Joint Design Advice Charette for the Alexan Bridgeport Project in Durham and Tualatin with the Tualatin Architectural Review Board and Durham Planning Commission and Design Review Board on November 29, 2007 (Exhibit D), and that is compatible with, appropriate to, and compliments the design of other development in the general vicinity with

respect to location, design, size, color and materials of the exterior of all structures. The design presented in the Architectural Review submittal on April 14, 2008, and revised on May 28, 2008, per staff comments, represents Developer's efforts to respond to the comments received at the Joint Design Advice Charette. The Parties expect that the design concepts will continue to be refined through the land use process.

3.3 Development consistent with the purposes of the Mixed Use Commercial Overlay District (MUCOD) including: (1) To recognize and accommodate the changing commercial/residential marketplace by allowing commercial and residential mixed uses in the Durham Quarry Site and Durham Quarry Area. Retail, office business services and personal services are emphasized, but residential uses are also allowed. (2) To recognize that when developed under certain regulations commercial and residential uses may be compatible in the General Commercial District. [TDC 57.010]

3.4 Development consistent with all the design standards of the MUCOD with particular emphasis on the following: New development is expected to create a high-quality mixed-use area, provide a convenient pedestrian and bikeway system and utilize streetscape to create a high-quality image for the area [TDC 57.200(1)(a)]. New development is expected to contribute to the character and quality of the area [TDC 57.200(1)(b)]. Mixed-use development is defined as "development of a tract of land, building or structure with a variety of complementary and integrated uses, such as but not limited to, residential, office, research and development, retail, public or entertainment, in a compact urban form" [TDC 57.005].

3.5 Development that complies with the criteria and standards for Architectural Review Approval as specified in TDC 73.050 including: (1)(a) The proposed site development, including the site plan, architecture, landscaping, parking and graphic design, is in conformance with the standards of this and other applicable City ordinances insofar as the location, height, and appearance of the proposed development are involved; (b) The proposed design of the development is compatible with the design of other development in the general vicinity; and (c) The location, design, size, color and materials of the exterior of all structure are compatible with the proposed development and appropriate to the design character of other developments in the vicinity.

SECTION 4. TRAFFIC IMPACTS FROM THE PROJECT

4.1 Transportation Impact Analysis. The Transportation Impact Analysis for the Project (Kittelson & Associates, Inc., March 2008) follows up on the zone change traffic impact analysis, which was required to examine the reasonable worst-case traffic scenario for the Site. The March 2008 Project-specific report demonstrates the following:

4.1.1 Trip Generation. Traffic impacts from the Project will be significantly less than the reasonable worst-case scenario for the Site. For example, the zone change traffic analysis estimated 720 p.m. peak hour trips as the reasonable worst-case scenario. The Project-specific report demonstrates that the Project will generate only 255 p.m. peak hour trips. Overall, the Project is estimated to generate approximately 2,865 net new trips on a typical weekday, including 195 during the a.m. peak hour and 255 during the p.m. peak hour.

4.1.2 Study Intersections. Kittelson concluded that, with mitigation to be provided in connection with the Project, all of the study intersections will operate at acceptable levels of service. All of the study intersections are forecast to operate at acceptable levels of service (LOS D or better) during the weekday a.m. and p.m. peak hours, with the following exceptions:

4.1.2.1 The critical eastbound through-left movements at the SW Lower Boones Ferry Road/Project primary access intersection will operate at LOS F and will be over capacity during both the a.m. and p.m. peak hours. This intersection will meet operating standards if mitigated with a traffic signal.

4.1.2.2 The critical eastbound approach of the SW Lower Boones Ferry Road/Private Driveway intersection (rear access serving the REI, Whole Foods, etc., via the Gionet property) will operate at LOS F during the weekday; however, there is adequate capacity ($v/c = 0.41$) to accommodate the approximately 30 vehicles at this approach, and vehicles have alternative access via the main entry which is a traffic signal at SW Bridgeport Road.

4.1.2.3 Weekday p.m. peak hour queues at the SW Upper Boone Ferry Road/Lower Boones Ferry Road intersection would not be significantly increased by the proposed project. Nevertheless, Kittelson noted that the existing queuing issues, not caused by the Project, could be slightly improved by modifying the traffic signal timing to provide protected/permitted left turns at the east and west approaches.

4.1.3 Recommended Mitigation. The Transportation Impact Analysis (Kittelson & Associates, Inc., March 2008) for the Project provides the following list of recommended mitigation measures:

4.1.3.1 The primary site access intersection on SW Lower Boones Ferry Road should be constructed with a southbound right-turn deceleration lane for vehicles entering the site. A traffic signal should be constructed to accommodate future year total traffic volumes.

4.1.3.2 The secondary access driveway, necessary for emergency access, should be restricted to right-out movements from the site, with a traversable median on SW Lower Boones Ferry Road to allow emergency vehicle access.

4.1.3.3 Landscaping, signage, and above ground utilities should be located and maintained to preserve adequate intersection sight distance at the access points.

4.1.3.4 Crashes at the SW Lower Boones Ferry Road/SW Bridgeport Road intersection should be monitored to determine whether recent changes in crash frequencies indicate any safety mitigations are needed.

4.2 Traffic Signal at Primary Site Access onto SW Lower Boones Ferry Road. The Transportation Impact Analysis includes a signal warrant analysis for the proposed SW Lower Boones Ferry Road/Primary Access intersection. The analysis was conducted according to the procedures outlined in the Manual of Uniform Traffic Control Devices (MUTCD) for future year total traffic conditions. This analysis demonstrates that Warrant 1 (8 hour), Warrant 2 (4 hour), and Warrant 3 (peak hour) for a traffic signal (the "Traffic Signal") and related right turn deceleration lane into the Site (the "Turn Lane") will be met with build out of the commercial

development and occupancy of 250 residential units of the Project. See Exhibit E for a detail of the Site Access and Right Turn Deceleration Lane.

4.2.1 Washington County has jurisdiction over SW Lower Boones Ferry Road in the vicinity of the Site and will determine if the Traffic Signal and Turn Lane are warranted. Washington County's May 15, 2008 Staff Report responding to the Project's land use submission includes conditions to construct the deceleration right turn lane and traffic signal which suggests they will likely approve the construction of these improvements. Additionally, the County will make the determination on when the signal will become operational.

4.2.2 If the Traffic Signal and Turn Lane are approved by Washington County, the Developer agrees to dedicate required right-of-way/easements, obtain necessary permits, construct the required improvements, and pay all associated costs of permitting, construction and installation. The Developer will receive no traffic impact fee (TIF) credit for these improvements.

4.3 Frontage Improvements Along SW Lower Boones Ferry Road. As a part of this Agreement and in accordance with Section 2.3.4 of the IGA (the "Frontage Improvements"), the Developer agrees to obtain necessary permits, construct the required improvements, and pay all associated costs of permitting, construction and installation of the required improvements along the Site's frontage on SW Lower Boones Ferry Road.

4.3.1 Undergrounding Utilities on SW Lower Boones Ferry Road. As part of the frontage improvements on SW Lower Boones Ferry Road, the Developer will underground any overhead utility lines located on the Project's side of SW Lower Boones Ferry Road.

4.3.2 Accelerated Site Work. Frontage improvements and utility work within the right of way must be approved by Washington County through several different permits. A Facilities Permit application cannot be submitted until a staff report is issued in the City's land use process, and typical processing time for the Facilities Permit is up to six months after application. The City agrees to work with Developer to issue City permits for on-site work before the County Permits are issued. The Developer will be required to be deemed complete at the County with an approximate review timeline, have an approved Public Works Permit (except for the County permit), and an approved Water Quality Permit before any acceleration will be considered. The Developer also agrees that all work undertaken prior to obtaining a County permit will be done at their own risk. The Parties agree that under no circumstances shall a Certificate of Occupancy or Temporary Certificate of Occupancy be issued before the Developer completes all required work within the right of way and the work is accepted by the appropriate agency.

4.4 Secondary Project Access onto SW Lower Boones Ferry Road. Developer agrees that secondary Project access (west end of the Project) will be limited to a right-out egress, with a traversable median on SW Lower Boones Ferry Road to allow emergency vehicle ingress. If allowed by Washington County, the Developer will landscape and irrigate the median and be responsible for ongoing maintenance. Exhibit E shows the proposed location of the secondary access and traversable median on SW Lower Boones Ferry Road.

4.5 Traffic Mitigation at SW Lower Boones Ferry Road/SW Upper Boones Ferry Road Intersection. As discussed in Section 4.1.2.3 above, Kittelson's Transportation Impact Analysis determined that weekday p.m. peak hour queues at the SW Upper Boone Ferry Road/Lower Boones Ferry Road intersection would not be significantly increased by the Project. Kittelson also noted an existing queuing issue, not caused by the Project, and stated that the existing problem could be slightly improved by modifying the traffic signal timing to provide protected/permitted left turns at the east and west approaches. Kittelson did not conclude that traffic signal timing was required to mitigate impacts from the Project. However, as a gesture of Developer's willingness to cooperate in the effort to improve traffic conditions in the general area, Developer will deposit with the City \$20,000.00 to be applied toward retiming the traffic signal at the SW Lower Boones Ferry Road/SW Upper Boones Ferry Road Intersection at a future date.

SECTION 5. OTHER OFF-SITE IMPROVEMENTS

5.1 Pedestrian Connectivity. Facilitating pedestrian connectivity within the Site as well as off-site to surrounding properties is a priority of the Parties. The area in the vicinity of the Site is emerging as a dynamic mixed-use area, with retail, office, entertainment, residential and service uses, all within walking distance of one another. Pedestrian connectivity is another traffic mitigation measure because it enables people to avoid using vehicles for short trips, thus preserving the capacity of the transportation system.

In accordance with Tualatin's Pedestrian Plan [TDC 11.640(1)] providing a connected network of pedestrian facilities is important for: (a) serving shorter pedestrian trips from neighborhoods to area activity centers, such as schools, churches, and neighborhood commercial uses; (b) providing access to public transit; and (c) meeting residents' recreational needs." The City's street standards call for sidewalks to be provided along all new streets, and identifies the part of Tualatin in which the Site is located as a Pedestrian District per Metro's Regional Transportation Plan (RTP) and Tualatin's Transportation System Plan (TSP) [TDC 11.640(4); Figure 11-4]. A Pedestrian District is defined in the RTP (p. 1-57, 8-10-00) as an area of "high, or potentially high, pedestrian activity where the region places priority on creating a walkable environment... These areas will be characterized by buildings oriented to the street and boulevard-type street design features such as wide sidewalks with buffering from adjacent motor vehicle traffic, marked street crossings at all locations with special crossing amenities at some locations, special lighting, benches, bus shelters, awnings, and street trees." Because the Site is located in a Pedestrian District, as well as in the MUCOD, which similarly requires pedestrian connectivity both within a site and to abutting street frontages [TDC 57.300(8)], and subject to the provisions of Architectural Review [TDC Chapter 73], the City will require pedestrian connectivity both internal and external to the Site in connection with development applications for the Site and for adjacent properties that may develop or redevelop in the future. Exhibit F indicates the general location of pedestrian connections internal and external to the Site.

5.1.1 As a good faith effort to encourage adjacent property owners to allow pedestrian connections across their property, once the Project is constructed and prior to obtaining a Certificate of Occupancy (CO), the Developer agrees to grant easements to the public allowing pedestrian access across the Site in designated pedestrian accessways that are maintained by the Developer (or the Developer's assignee) at their own expense. One easement

shall be perpendicular to SW Lower Boones Ferry Road (roughly northwest-southeast in orientation) along the eastern part of the Site, as generally depicted on Exhibit G. Developer shall provide City notice of any closure of the pedestrian access for 72 hours or longer.

5.1.2 To achieve the pedestrian connectivity goals stated above, Tualatin, where appropriate, may assist the Developer in negotiating off-site public pedestrian access easements over properties neighboring the Site. Specific assistance includes, but is not limited to, the Verizon-owned parcel to the north of the Site, the REI-owned parcel to the north and east of the Project, and the Gionet-owned parcel to the east of the Project.

5.2 Sanitary Sewer. Tualatin has identified potential existing sanitary sewer capacity restrictions downstream of the Site, due to the approved Plan Text and Plan Map Amendments. The Project will contribute waste to the Pipe Sections, which may warrant the need to upgrade the Pipe Sections to mitigate capacity impacts from the Project. The Developer needs to provide a sewer modeling analysis to determine if the Project warrants upgrades to the Pipe Sections (the "Pipe Sections Upgrades"). If the modeling analysis concludes that upgrades are warranted, those upgrades will be constructed by either by the City or by Developer, depending upon whether the upgrades fall within the City's Capital Improvement Project as provided below. All work associated with replacement of the Pipe Sections shall be complete prior to issuance of a Certificate of Occupancy for any building on the Site. If the City's project is not complete, the Developer will need to construct the improvements necessary to provide sanitary sewer service for this Project.

5.2.1 Upgrades to be Constructed by the City. For Pipe Section upgrades that already are part of the City's Capital Improvement Project work program, the City will construct the Pipe Section replacements and Developer will pay its proportional share of the needed improvement, in addition to any Sanitary Sewer System Development Charges.

5.2.2 Upgrades to be Constructed by Developer. For Pipe Section upgrades that are not part of the City's Capital Improvement Project work program, or if the City's project does not occur, Developer will cause the Pipe replacements to be constructed at its cost, including the required permits. Developer will pay all Sanitary Sewer System Development Charges, but may be eligible for credits against those charges if Pipe Section upgrades constructed by Developer create additional sewer capacity beyond that necessary to serve the Project.

5.3 Timing of Paying System Development Charges ("SDCs") and Traffic Impact Fees ("TIFs"). In order to construct the Project, it is expected that Developer will need to seek a number of permits that may be considered building permits, such as, but not limited to, demolition permits, site work permits, plumbing permits for site work, and permits to pour concrete. The Developer shall pay the applicable SDCs and TIFs at the time an approved major building permit for a multifamily residential or retail structure is retrieved by the Developer (i.e., not the minor permits described above).

SECTION 6. ON-SITE IMPROVEMENTS AND SERVICES.

6.1 Garbage and Recycling Service. Allied Waste Services ("Allied") typically provides garbage and recycling service in Tualatin, and Pride Disposal Company ("Pride") typically provides garbage and recycling service in Durham. Although Section 4.5.1 of the IGA indicates that a separate agreement may need to be entered into to determine how garbage and recycling service will be provided to the Site because the Site includes property within each city and each garbage/recycling provider's territory, it is expected that garbage and recycling services within the Project will be handled as provided in this Section, unless an alternative written agreement is reached between Allied and Pride and approved by the City with respect to the Project.

6.1.1 Garbage and recycling enclosures for residential and commercial development located within Tualatin will be located on the Tualatin portion of the Site and will be serviced by Allied Waste Services.

6.1.2 Garbage and recycling enclosures for residential and commercial development located within Durham will be located on the Durham portion of the Site and will be serviced by Pride Disposal Company.

6.2 Tree Planting by City Using Kearney Tree Restitution Monies. The City has \$2,974.16 in account 001-0000-481.01-03 (posted April/May 2004) paid by Robert Kearney in restitution for illegally cutting down 25 trees on the property he then owned at 18045 SW Lower Boones Ferry Road (former Schneider Trucking Facility site). The money is to be used to plant trees on the site at such time as it is redeveloped. The trees must be planted by the City, but are to be maintained by the developer of the property. Therefore, pursuant to court order, the Developer agrees to grant the City a right of entry to plant trees, in addition to those proposed by Developer as landscaping, on the Tualatin portion of the Site in mutually agreed upon locations with mutually agreed upon tree species and caliper size using the restitution monies. Developer further agrees to maintain the trees planted by the City as part of the landscaping of the Site.

SECTION 7. TERM OF AGREEMENT. This Agreement shall be effective upon final signature and shall remain in effect until the final Certificate of Occupancy is obtained for the Project. If the Developer chooses not to develop the Site as the Project, the Developer shall provide City with a written Notice of Intent to Terminate the Agreement. This Notice shall be presented to the City Council. Upon the termination of this Agreement, Parties shall be released from all obligations under this Agreement.

SECTION 8. ASSIGNMENT OF AGREEMENT. As provided in Section 2, this Agreement applies only if the Site is developed as the Project. If the Developer chooses to transfer the Site to another entity ("Transferee") and Transferee intends to develop the Site as the Project, the Developer shall provide City with a written Notice of Intent to Transfer the Site. This Notice shall be presented to the City Council. After the transfer is presented to City Council, the Agreement shall be assigned to Transferee and Developer shall be released from all obligations under this Agreement. If the Transferee intends to develop the Site for a use other than the Project, upon the transfer of the Site to Transferee, Developer and City shall be automatically released from all obligations under this Agreement. If the Transferee chooses to assign or

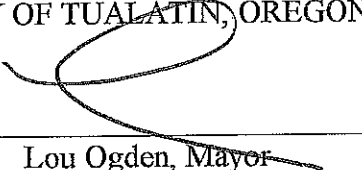
terminate this Agreement, Transferee shall provide City with written notice of any assignment or termination. This notice shall be presented to the City Council. Subject to the foregoing, this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

SECTION 9. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state and local ordinances, statues and regulations that are applicable to the services provided under this Agreement.

SECTION 10. MODIFICATION. This writing is intended as the final expression of the agreement between the parties with respect to the included terms and as complete and exclusive statement of the terms of the Agreement. Amendments to this Agreement are valid only if made in writing and signed by both Parties.

In WITNESS THEREOF, the parties have executed this Agreement on the date set below their signatures.

CITY OF TUALATIN, OREGON

By: 
Lou Ogden, Mayor
City of Tualatin

Date: June 9, 2008

ATTEST:

By: 
City Recorder

Approved as to legal form:

By: 
City Attorney

DEVELOPER

Bridgeport Apartments LLC, a Delaware limited liability company

By: NW 114 Bridgeport Apartments Limited Partnership, a Delaware limited partnership, its member

By: NW 115 Bridgeport Apartments GP LLC, a Delaware limited liability company, its general partner

By: 
Its: VICE PRESIDENT

Date: 6/2/08

EXHIBITS:

- A. Site Map
- B. Urban Services Intergovernmental Agreement Between The City of Durham and The City of Tualatin
- C. Site Plan, April 14, 2008
- D. PowerPoint Presentation from Joint Design Advice Charette for the Alexan Bridgeport Project in Durham and Tualatin with the Tualatin Architectural Review Board and Durham Planning Commission and Design Review Board , November 29, 2007
- E. Right Turn Deceleration Lane, Traffic Signal, and Right Out Emergency Access on SW Lower Boones Ferry Road
- F. Pedestrian Connectivity and Potential Public Easements



630 NW 10th Avenue
Portland, OR 97209
Tel: (503) 241-2989
Fax: (503) 241-3462

November 19, 2008

VIA ELECTRONIC MAIL

Mike McKillip
City Engineer
City of Tualatin
18880 SW Martinazzi Avenue
Tualatin, OR 97062

Re: Acknowledgment - Off-Site Sewer Upgrade Work - Bridgeport
Apartments (AR-08-09)

Dear Mike:

Your office has directed Bridgeport Apartments, LLC ("Bridgeport Apartments"), to upgrade an off-site segment of the City of Tualatin ("City") sewer system—specifically, to upsize BFR 13 from 10 inches to 12 inches in the manner described in detail below ("the sewer upgrade"). Bridgeport Apartments agrees, as a condition of its development, to undertake this work at its cost because the upgrade will be a long-term benefit to the City and the Bridgeport Apartments project approved in AR-08-09 ("the Project"). (To be clear, Bridgeport Apartments does not agree to undertake the sewer upgrade if it does not develop the Project.)

To ensure that a shared understanding of this situation exists, our agreement to undertake this work, is conditioned upon you acknowledging, by placing your signature below, that the contents of this letter are accurate with respect to the Project.

Bridgeport Apartments acknowledges that the CESNW Report shows that the Project will cause some sewer pipes to become surcharged. However, Bridgeport Apartments does not agree that any City Code provision can be interpreted to require the sewer upgrade in connection with developing the Project. By agreeing to voluntarily undertake the sewer upgrade, Bridgeport Apartments does not implicitly agree that the City's demand that Bridgeport Apartments perform the sewer upgrade is justified by law. Nonetheless, Bridgeport Apartments agrees that it will voluntarily perform the sewer upgrade according to the terms of this letter and will not challenge, seek damages or restitution, by filing a claim for a constitutional takings violation or inverse condemnation under Dolan or asserting any other a claim against the City with regard to the City's requirement that Bridgeport Apartments perform the sewer upgrade. This provision shall be binding on any successors in interest or assigns with respect to the Project.

Mr. Mike McKillip
November 19, 2008
Page 2 of 4

Scope of Sewer Upgrade

Subject to your acknowledgment of this letter, Bridgeport Apartments will upsize BFR 13 from 10 inches to 12 inches in the manner described in detail below. This description constitutes the entire scope of work required by the City and agreed to by Bridgeport Apartments and the City agrees that it will not require Bridgeport Apartments to undertake any additional sewer upgrades in connection with the Project.

The improvements within Boones Ferry Road shall include replacement of one pipe run that is an existing 10 inch diameter sanitary sewer line with a proposed 12" diameter line, as identified in the downstream sewer analysis prepared by CES NW, dated July 22, 2008 as pipe section "BFR-13," which is located within ODOT right-of-way in between existing manholes "21017" and "21016." The length of sanitary sewer pipe to be installed shall be between manholes "21018" and "21016" and will run adjacent to the existing sanitary sewer system, which will be abandoned in place. It is assumed that the new alignment will require a grind and overlay to be performed up the existing western fog line to match existing roadway surface improvements and will require replacement of approximately 90 lf of curb and 450 SY of sidewalk. The existing effluent will require bypass pumping measures during construction. ODOT approved traffic control will also be required during construction. Permit coordination will be required through ODOT, Portland & Western Railroad, and the City of Tualatin. Bridgeport Apartments will apply for, obtain, and comply with, at its sole cost, all permits necessary to complete the sewer upgrade, and the City will cooperate with Bridgeport Apartments as necessary to obtain those permits.

1. Logistics, permitting, and timing

Surcharging is not an unsafe sanitary sewer condition in this instance, and the sewer upgrade is not necessary for the safe functioning of the Project or other upstream parties using this sewer line. Therefore, no City permits will be delayed or withheld for reasons related to the off-site sewer upgrade (other than certificates of occupancy, in the circumstances described below).

Bridgeport Apartments will use all commercially available reasonable efforts to complete the off-site sewer upgrade prior to receiving a final certificate of occupancy for the Project. The City will grant temporary certificates of occupancy for the Project so long as Bridgeport Apartments is making substantial progress toward completion of the sewer upgrade.

The final certificate of occupancy for Bridgeport Apartments may be granted prior to completion of the sewer upgrade only upon a showing by Bridgeport Apartments that:

- a. It is making substantial progress toward completion of the sewer upgrade; and
- b. It has used reasonable efforts and made substantial progress toward design, permitting and construction; and

Mr. Mike McKillip
November 19, 2008
Page 4 of 4

Accepted and acknowledged
on behalf of the City of Tualatin by:

Michael G. McKillip
Mike McKillip, City Engineer

Date: 11/19/08

Approved as to form by:

Brenda L. Braden

Brenda Braden, City Attorney

cc: Kaaren Hoffman
Dayna Webb
Eric Underwood
Doug Rux
Noel Johnson

Mr. Mike McKillip
November 19, 2008
Page 3 of 4

- c. It has experienced delays due only to one or more of the following:
- i. Unforeseen weather conditions or force majeure;
 - ii. Permitting or approval delays caused by involved agencies, such as but not limited to the Oregon Department of Transportation, City of Tualatin, Clean Water Services, and the Portland & Western Railroad.

If the City grants the final certificate of occupancy before the sewer upgrade is complete, Bridgeport Apartments agrees to complete the sewer upgrade not later than one year after the City issues the final certificate of occupancy.

Bridgeport Apartments will undertake all usual and appropriate bonding mechanisms for the sewer upgrade. This bonding will provide the City with additional assurance that the sewer upgrade will be completed, even if unforeseen events prevent completion of the sewer upgrade before issuance of the final certificate of occupancy for the Project.

2. Prevailing wages

Because the City has required the sewer upgrade to be built by, and at the sole cost of, Bridgeport Apartments, the sewer upgrade project will not be subject to prevailing wage rates and the City agrees to provide whatever assistance Bridgeport Apartments reasonably requires to support this determination should any person or entity claim that the sewer upgrade is subject to prevailing wage rates. Bridgeport Apartments and the City intend that any future payment of SDC credits, if any, will not affect the non-applicability of prevailing wage rates.

3. Conclusion

Subject to your acknowledgment of the terms of this letter, Bridgeport Apartments agrees to undertake the City's requested sewer upgrade as a condition of its development approval that will benefit the City and the Project.

Sincerely,

Bridgeport Apartments LLC, a Delaware limited liability company

By: NW 114 Bridgeport Apartments Limited Partnership, a Delaware limited partnership, its member

By: NW 115 Bridgeport Apartments GP LLC, a Delaware limited liability company, its general partner

By: 
Thomas A. DiChiara

Its: Vice President

Date: 11/19/08

City Council Meeting

E. 1.

Meeting
Date: 06/25/2012

SPECIAL REPORTS

Transportation System Plan (TSP) Online Open House Presentation

SUMMARY

We will be presenting a preview of the Online Open House which will be available from July through August. The online open house will include an interactive map with projects proposed to be included in the TSP.



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Don Hudson, Finance Director

DATE: 06/25/2012

SUBJECT: Resolution Declaring the City's Election to Receive State Revenue Sharing Funds During Fiscal Year 2012-13

ISSUE BEFORE THE COUNCIL:

Whether or not to receive State Revenue Sharing Funds.

RECOMMENDATION:

Staff recommends adopting the attached Resolution after conducting the required public hearing.

EXECUTIVE SUMMARY:

In order for the City to receive state shared revenues, the City must have levied property taxes in the prior fiscal year, pass a resolution approving participation in the program and hold two public hearings on the use of state revenue sharing funds. The first public hearing, before the budget committee, is to discuss possible uses of the funds. That public hearing was held on May 30, 2012. The second public hearing, before the City Council this evening, is to discuss the proposed uses of the funds.

The City is set to receive \$254,800 in State Revenue Sharing Funds in 2012-13. This amount is a portion of the Liquor Tax and is apportioned to cities based upon a calculation defined in Oregon Revised Statutes (ORS) 221.770 using factors such as adjusted population and state per capita income.

The City also receives allocations for another portion of Liquor Tax funds, as well as Cigarette and Gas Taxes, based upon a per capita distribution. These funds are governed under ORS 221.760. The law provides that cities located within a county having more than 100,000 inhabitants, must provide four or more municipal services (out of a list of seven types of services) to be eligible to receive these revenues. Council must pass a resolution stating that these services are provided (on this evening's Council Agenda), and are therefore not part of tonight's public hearing.

These revenues are not restricted by the State and are therefore used as a General Fund revenue source.

OUTCOMES OF DECISION:

If the Council approves the Resolution, the City will be eligible to receive state shared revenues. If the Council does not approve the Resolution, the City will not receive state shared revenues and will need to reduce its expenditures or contingencies.

FINANCIAL IMPLICATIONS:

The City has budgeted \$254,800 of state shared revenues in the General Fund for general city operations in Fiscal Year 2012-2013.

Attachments: [A -Resolution](#)

RESOLUTION NO. _____

A RESOLUTION DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUE SHARING FUNDS DURING THE 2012-13 FISCAL YEAR

WHEREAS Oregon Revised Statutes (ORS) 221.770 requires that the City Council pass a resolution declaring the City's election to receive State Revenue Sharing funds; and

WHEREAS the 2012-13 budget for the City of Tualatin contains State Shared Revenues as a resource in the budget year beginning July 1, 2012; and

WHEREAS the Budget Advisory Committee held a public hearing to discuss the possible uses of state revenue sharing funds on May 30, 2012 and the City Council held a public hearing on June 25, 2012 to discuss the proposed use of the funds for Fiscal Year 2012-13.

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

Section 1. Pursuant to ORS 221.770, the City hereby elects to receive State Revenue Sharing Funds for Fiscal Year 2012-13.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Don Hudson, Finance Director

DATE: 06/25/2012

SUBJECT: Resolution Adopting the City of Tualatin Budget for the Fiscal Year Commencing July 1, 2012, Making Appropriations, Levying Ad-Valorem Taxes, and Categorizing the Levies

ISSUE BEFORE THE COUNCIL:

Adoption of the Fiscal Year 2012–2013 budget, after conducting a public hearing to consider public input on the Fiscal Year 2012–2013 Budget. The City of Tualatin Budget Advisory Committee approved the proposed budget on May 30, 2012. The total of the Fiscal Year 2012-2013 Budget is \$66,362,995 and includes changes proposed this evening.

The tax rate for general government would be approved at \$2.2665 per \$1,000 taxable assessed value, with \$995,000 to be levied for bonded debt. The bond levy is excluded from limitation for local government operations.

Oregon State law requires the City Council adopt a budget prior to July 1, 2012.

RECOMMENDATION:

Staff recommends adoption of the attached resolution, which includes the Budget Committee Approved Fiscal Year 2012-2013 Budget, with additional changes as outlined below.

EXECUTIVE SUMMARY:

The City of Tualatin budget is made up of 22 funds, divided among five different categories: General Fund, Special Revenue Funds, Debt Service Funds, Capital Projects Funds and Enterprise Funds. Urban Renewal Funds are presented in the Tualatin Development Commission budget, which will be heard in a separate public hearing later this evening.

The General Fund is the primary operating fund of the City and supports general government services. Special Revenue Funds account for the proceeds of specific revenue sources that are legally restricted to expenditure for specific purposes, including the Building Fund, Operations Fund, street funds, as well as miscellaneous funds such as Core Area Parking, Tualatin Science and Technology Scholarship and the 9-1-1 Emergency Communication Tax Fund. Debt Service Funds record revenues and expenditures for our general obligation and Bancroft bond debt. Capital Project Funds record capital projects that are funded from restricted funds, such

as local improvement districts, park development funds, as well as the Infrastructure Reserve Fund. The Enterprise Funds include all funds related to the following systems: Water, Sewer, Storm Drain. These funds account for the infrastructure systems covering water, sewer and storm drain and their revenues are derived from sources that are specifically earmarked, or restricted for these specific purposes.

Despite continuing tough economic times facing the State of Oregon and our region, the City is once again presenting a fiscally responsible budget, while continuing to provide the services our residents desire, at the levels they have come to enjoy and expect from the City. The City budget is seeing an increase in operating costs due to increases in fuel and utility costs, as well as existing contractual obligations. While continuing to provide quality services, the City is able to fund one-time expenditures, maintain funding related to community engagement and improve operational efficiencies through technology. The budget also includes funding of an economic development program, designed to provide services to the existing business community, as well as assist in bringing jobs and development to the community.

While some revenues are increasing and some are decreasing, overall, the City's total revenues for Fiscal Year 2012-2013 are stable. Given the economic environment of the past few years, the City is pleased with a stable revenue stream that continues to allow for prudent financial management.

In addition to the budget approved by the budget committee, the City Council has the ability to change the approved budget in each fund by no more than 10% of the total budget. Typical changes that the Council may make are related to unanticipated lags in completion of projects, or delays in receiving budgeted products or services, that necessitate adjustments to future year budget(s). The majority of the adjustments included in the attached resolution fall into this category.

The carry-forward changes are "self-funding" because the beginning fund balance for 2012-2013 is increased by the amount budgeted and not spent in the current fiscal year (2011-2012). This increases both the revenue and the expenditure appropriations in the affected fund.

Changes proposed this evening are in the General Fund, the Building Fund, and the Road Utility Fee Fund. None of the carry-forwards exceed 10% of the approved budget and are, therefore, allowed to be added by the City Council at the public hearing.

- General Fund

- A federal grant received by the Library to provide intergenerational learning opportunities will not begin prior to July 1st, so the complete amount of the \$38,055 grant will need to be programmed into the FY 2012-2013 budget.
- Changes to the management of the Juanita Pohl Center will require new furniture and equipment, funded by the return of previously paid contributions by the City to Loaves and Fishes. The City has received the money back from Loaves and Fishes, but will be unable to procure the furnishings prior to the end of the current fiscal year, requiring a carry-over of the funds (\$12,140) into FY 2012-2013.
- Clean Water Services will be providing a donation of \$8,000 towards the Ice Age Tourism project, thereby adding to that project.
- With the Community Involvement Organizations still being formed, expenditures related to the support of this process will likely occur after July 1st, resulting in a \$20,000 carry-over.

- Police technology needs are being evaluated, so \$4,000 originally planned to be expended in FY 2011-2012 will be carried over into the next fiscal year.
- Building Fund
 - The new economic development program will be providing assistance and services to the development and business community, so the transfer to the General Fund will be increased by \$40,000 to pay for a share of the program, which is funded in the General Fund.
- Road Utility Fee Fund
 - Overlay and Slurry Seal Projects timing require a carryover of \$80,000.

For more detailed information, the City's Proposed 2012-2013 Budget can be found at <http://www.tualatinoregon.gov/finance/city-tualatin-budget>. The final adopted budget document will be posted to the website in early July.

OUTCOMES OF DECISION:

By adopting the budget before July 1st, the City will be able to operate, expend money and incur liabilities for fiscal year 2012-2013.

Attachments: A - Resolution Adopting City of Tualatin FY 12-13 Budget

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE CITY OF TUALATIN'S BUDGET FOR THE FISCAL YEAR COMMENCING JULY 1, 2012, MAKING APPROPRIATIONS, LEVYING AD VALOREM TAXES, AND CATEGORIZING THE LEVIES

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

Section 1. The City Council of the City of Tualatin hereby adopts the Budget as approved by the Budget Committee and adjusted by the Council. The total sum of the budget is \$66,362,995 (including \$1,721,310 of unappropriated and \$10,094,750 in reserves) and is now on file at the City Offices.

Section 2. The amounts for the fiscal year beginning July 1, 2012, and for the purposes shown below, are hereby appropriated as follows:

GENERAL FUND

City Council	\$	169,050	
Administration		821,265	
Finance		867,750	
Legal Services		187,080	
Municipal Court		341,065	
Planning		888,225	
Engineering		1,062,800	
Information Systems		838,335	
Police		6,310,065	
Fleet		460,535	
Building Maintenance		810,420	
Parks Maintenance		1,310,820	
Community Services		916,480	
Library		1,853,360	
Non-Departmental		616,350	
Contingency		2,615,040	
Total GENERAL FUND Appropriations			\$20,068,640
Reserves		830,000	
Unappropriated		<u>1,721,310</u>	
Total GENERAL FUND			<u>\$22,619,950</u>

BUILDING FUND

Personal Services	\$ 508,425	
Material & Services	81,600	
Transfers	205,045	
Contingency	113,260	
Total BUILDING FUND Appropriations		\$ 908,330
Reserved Funds	<u>856,310</u>	
Total BUILDING FUND	\$ 1,764,640	

OPERATIONS FUND

Administration	\$ 497,340	
Water Division	762,075	
Sewer Division	325,945	
Street Division	586,715	
Non-Departmental	165,740	
Contingency	331,960	
Total OPERATIONS FUND Appropriations		\$ 2,669,775
Reserved Funds	<u>845,610</u>	
Total OPERATIONS FUND	\$ 3,515,385	

WATER FUND

Material & Services	\$ 2,316,800	
Capital Outlay	857,000	
Transfers	2,386,995	
Contingency	1,196,570	
Total WATER FUND Appropriations		\$ 6,757,365
Reserved Funds	<u>4,296,075</u>	
Total WATER FUND	\$ 11,053,440	

SEWER FUND

Material & Services	\$ 5,622,220	
Capital Outlay	595,000	
Transfers	1,039,630	
Contingency	220,735	
Total SEWER FUND Appropriations		\$ 7,477,585

STORM DRAIN FUND

Material & Services	\$ 747,865
Capital Outlay	306,000
Transfers	951,415
Contingency	185,530

Total STORM DRAIN FUND\$ 2,190,810

ROAD UTILITY FEE FUND

Material & Services	\$ 1,294,985
Transfers	328,010
Contingency	231,450

Total ROAD UTILITY FEE FUND Appropriations.....\$ 1,854,445

Reserved Funds	<u>218,985</u>
Total ROAD UTILITY FEE FUND	\$ 2,073,430

ROAD GAS TAX FUND

Material & Services	\$ 921,150
Capital Outlay	445,000
Transfers	732,525
Contingency	103,700

Total ROAD GAS TAX FUND\$ 2,202,375

CORE AREA PARKING DISTRICT

Material & Services	\$ 21,775
Capital Outlay	49,435
Transfers	68,345
Contingency	28,030

Total CORE AREA PARKING DISTRICT Appropriations\$ 167,585

Reserved Funds	<u>98,275</u>
Total CORE AREA PARKING DISTRICT	\$ 265,860

TUALATIN SCIENCE AND TECHNOLOGY SCHOLARSHIP FUND

Material & Services	\$	900	
Total TUALATIN SCHOLARSHIP FUND Appropriations	\$		900
Principal Reserves		<u>50,075</u>	
Total TUALATIN SCHOLARSHIP FUND	\$	50,975	

9-1-1 EMERGENCY COMMUNICATION TAX FUND

Material & Services	\$	135,000	
Total 9-1-1 EMERGENCY COMMUNICATION TAX FUND.....	\$		135,000

GENERAL OBLIGATION BOND FUND

Debt Service	\$	963,290	
Total GO BOND DEBT FUND Appropriations.....	\$		963,290
Reserves		<u>62,220</u>	
Total GO BOND DEBT FUND	\$	1,025,510	

BANCROFT BONDED DEBT FUND

Material & Services	\$	300	
Debt Service		230,340	
Total BANCROFT BONDED DEBT FUND Appropriations.....	\$		230,640
Reserved Funds		<u>197,300</u>	
Total BANCROFT BONDED DEBT FUND	\$	427,940	

ENTERPRISE BOND FUND

Material & Services	\$	225	
Debt Service		538,285	
Total ENTERPRISE BOND FUND Appropriations.....	\$		538,510
Reserved Funds		<u>442,175</u>	
Total ENTERPRISE BOND FUND	\$	980,685	

LOCAL IMPROVEMENT DISTRICT

Material & Services	\$ 52,500	
Capital Outlay	100,000	
Contingency	319,710	
Total LOCAL IMPROVEMENT DISTRICT Appropriations	\$	472,210

WATER DEVELOPMENT FUND

Capital Outlay	\$ 500,000	
Transfers	5,295	
Contingency	290,500	
Total WATER DEVELOPMENT FUND Appropriations	\$	795,795

SEWER DEVELOPMENT FUND

Material & Services	\$ 192,000	
Capital Outlay	200,000	
Transfers	4,570	
Contingency	3,424,245	
Total SEWER DEVELOPMENT FUND Appropriations	\$	3,820,815

ROAD DEVELOPMENT FUND

Contingency	\$ 585,770	
Total ROAD DEVELOPMENT FUND Appropriations	\$	585,770

STORM DRAIN DEVELOPMENT FUND

Contingency	\$ 223,130	
Total STORM DRAIN DEVELOPMENT FUND Appropriations	\$	223,130

PARK DEVELOPMENT FUND

Material & Services	\$	5,300
Capital Outlay		824,520
Transfers		13,690
Total PARK DEVELOPMENT FUND Appropriations		\$ 843,510

TRANSPORTATION DEVELOPMENT TAX FUND

Contingency	\$	1,330,455
Total TRANSPORTATION DEVELOP TAX FUND Appropriations.....		\$ 1,330,455

INFRASTRUCTURE RESERVE FUND

Transfers	\$	310,000
Total INFRASTRUCTURE RESERVE FUND Appropriations		\$ 310,000
Reserve for Sewer		1,981,130
Reserve for Road		127,445
Reserve for Storm Drain		<u>89,150</u>
Total INFRASTRUCTURE RESERVE FUND	\$	<u>2,507,725</u>

TOTAL		\$ 54,546,935
TOTAL RESERVES		<u>10,094,750</u>
TOTAL APPROPRIATED ALL FUNDS		\$ 64,641,685
TOTAL UNAPPROPRIATED ALL FUNDS		\$ <u>1,721,310</u>
TOTAL BUDGET		\$ <u><u>66,362,995</u></u>

Section 3. The City Council of the City of Tualatin hereby imposes the taxes provided for in the adopted budget at the rate of \$2.2665 per \$1,000 assessed value for operations and in the amount of \$995,000 for bonds; and that these taxes are hereby imposed and categorized for tax year 2012-13 upon the assessed value of all taxable property within the district.

General Government Limitation	Excluded from Limitation
General Fund...\$2.2665/\$1,000	Debt Service Fund...\$995,000

Section 4. The Finance Director shall certify to the County Assessors of Washington County and Clackamas County, Oregon, the tax levy made by this resolution; and file with the County Clerks a true copy of the Budget as finally adopted.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder



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

DATE: 06/25/2012

SUBJECT: Resolution Approving an Agreement with Loaves & Fishes Centers, Inc. to provide a Nutrition Program at the Juanita Pohl Center

ISSUE BEFORE THE COUNCIL:

The Council will consider adopting a resolution approving an agreement with Loaves & Fishes Centers, Inc. to provide a Nutrition Program at the Juanita Pohl Center.

RECOMMENDATION:

The staff respectfully recommends Council adopt the attached resolution authorizing the City Manager to execute the attached agreement with Loaves & Fishes Centers, Inc. to provide a Nutrition Program at the Juanita Pohl Center.

EXECUTIVE SUMMARY:

Attached is an agreement between the City of Tualatin (City) and Loaves & Fishes Centers, Inc. (Loaves & Fishes) for Loaves & Fishes to provide a Nutrition Program, including weekday on-site lunch meals and Meals-On-Wheels services to homebound elderly in the area through the Juanita Pohl Center (Pohl Center), located in Tualatin Community Park.

The Agreement is needed because the City will begin managing and staffing the Pohl Center and the current agreement with Loaves & Fishes needs to be replaced to reflect its role in providing the Nutrition Program.

The City has partnered with Loaves & Fishes since 1982 for management and staffing of the Pohl Center to provide nutrition, social, and recreational programs for older adults. Recently, Loaves & Fishes and several Tualatin residents have suggested that the City consider assuming responsibility for managing the Pohl Center, while continuing its partnership with Loaves & Fishes to provide the Nutrition Program.

In this way, Loaves & Fishes can focus its limited resources on the Nutrition Program which is its primary mission and the City can better leverage its Community Services Department resources to achieve the Council Goal of developing recreation, fitness, social, arts and cultural, life-long learning, and other programs for older adults and people of all ages by managing the Pohl Center, Van Raden Community Center, and Lafky House as a multigenerational complex.

The relationship between the City and Loaves & Fishes is strong and mutually supportive. The intention is to continue the partnership with roles that are sustainable and that enable each organization to realize its goals. The proposed agreement is modeled after a successful one between the Tualatin Hills Park and Recreation District and Loaves & Fishes where the District owns and operates the Elsie Stuhr Center and Loaves & Fishes provides the Nutrition Program as one of the many services and programs available through the center.

The attached agreement replaces the existing agreement between the City and Loaves & Fishes. The agreement provides that Loaves & Fishes will operate the Nutrition Program including a daily lunch meal and Meals on Wheels services to homebound elderly in the Tualatin area Monday through Friday on a year-round basis. The Nutrition Program will be provided in compliance with the Loaves & Fishes Senior Nutrition Contract with Washington County Department of Disability Aging and Veterans Services.

The agreement will become effective August 1, 2012, or sooner if by written agreement, and will continue until terminated by the parties. The agreement can be terminated for any reason by either party with six months' written notice to the other party.

As in the current agreement with Loaves & Fishes, this agreement stipulates that the City will provide Loaves & Fishes exclusive use of the kitchen and dining area during specific times and the City will use those spaces at other times of the day for its purposes. The City will also provide Loaves & Fishes with monthly meeting space in private rooms as schedule and space permits for its Nutrition Program Steering Committee meetings.

The City will continue to provide building maintenance, utilities, custodial, trash and recycling service, kitchen equipment, dishes and silverware, pans and cooking utensils. The agreement also allows Loaves & Fishes shared use of office space, parking lot, and Internet service via private cable and the City's phone system without charge, so long as there are no additional service costs to the City.

FINANCIAL IMPLICATIONS:

Revenues collected through the Nutrition Program and related fundraising by or donated to Loaves & Fishes will be retained by Loaves & Fishes and all other revenues generated through the Pohl Center will be retained by the City to offset the City's operating costs. The City will neither charge Loaves & Fishes any fees for use of the Pohl Center nor pay or make annual contributions to Loaves & Fishes for the Nutrition Services covered under this agreement. The City reserves the right to request assistance or shared cost of maintenance with notice during the term of this agreement.

Provisions of the agreement also call for Loaves & Fishes to indemnify the City and to provide public liability and property damage insurance with initial limits of not less than \$2,000,000 for each occurrence, naming the City as an additional insured.

Effective FY 12/13, the City will discontinue making an annual contribution to Loaves & Fishes in the amount of \$35,600 and will use those funds for City management and staffing of the Pohl Center. These funds and the related revenues and costs of operating the Pohl Center are included in the FY 12/13 Annual Budget that was approved by the Budget Committee and is now under consideration for adoption by the Council.

Attachments: A - Resolution and Agreement

RESOLUTION NO. _____

RESOLUTION APPROVING AN AGREEMENT WITH
LOAVES & FISHES CENTERS, INC. TO PROVIDE A
NUTRITION PROGRAM AT THE JUANITA POHL CENTER

WHEREAS, the City of Tualatin (City) has partnered with Loaves & Fishes Centers, Inc. (Loaves & Fishes) since 1982 for management and staffing of the Pohl Center to provide nutrition, social, and recreational programs for older adults; and

WHEREAS, recently Loaves & Fishes has suggested that the City consider assuming responsibility for managing the Pohl Center, while continuing its partnership with Loaves & Fishes to provide a Nutrition Program, including weekday on-site lunch meals and Meals-On-Wheels services to homebound elderly in the area; and

WHEREAS, with this change Loaves & Fishes can focus its limited resources on the Nutrition Program which is its primary mission and the City can better leverage its resources to achieve the Council Goal of developing recreation and other programs for older adults and people of all ages by managing the Pohl Center, Van Raden Community Center, and Lafky House as a multigenerational complex; and

WHEREAS, the relationship between the City and Loaves & Fishes is strong and mutually supportive and the intention is to continue the partnership with roles that are sustainable and that enable each organization to realize its goals.

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

Section 1. The attached Agreement is approved.

Section 2. The City Manager is authorized to sign the attached Agreement and execute changes.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

Resolution No. _____

CITY OF TUALATIN
AGREEMENT WITH LOAVES & FISHES CENTERS, INC.

THIS AGREEMENT entered into by and between the City of Tualatin (CITY) and Loaves & Fishes Centers, Inc. (LOAVES & FISHES), constitutes a mutual understanding between these two parties to cooperate in the use of space and program operation at the Juanita Pohl Center (Pohl Center), 8513 SW Tualatin Road, Tualatin, OR 97062.

WHEREAS, CITY has partnered with LOAVES & FISHES since 1982 for management and staffing of the Juanita Pohl Center to provide nutrition, social, and recreational programs for older adults; and

WHEREAS, CITY will begin managing and staffing the Pohl Center, the Van Raden Community Center, and Lafky House as a multigenerational complex to expand recreation opportunities for people of all ages; and

WHEREAS CITY and LOAVES & FISHES desire to enter into this Agreement to continue a partnership with LOAVES & FISHES to provide a Nutrition Program, including weekday on-site lunch meals and Meals-On-Wheels (MOW) services to homebound elderly in the area.

NOW THEREFORE, the parties agree as follows:

CITY OF TUALATIN AGREES:

1. To allow the LOAVES & FISHES the use of space and equipment at the Juanita Pohl Center to operate a Nutrition program as follows:

Days of Operation: Monday through Friday, and weekends as needed and as the schedule allows.

Hours of Operation: Kitchen Facilities - 7:00 am to 2:30 pm
Dinning Room Facilities - 10:30 am to 1:00 pm
Shared Office Space - 6:30 am to 5:00 pm

Miscellaneous Other: Pantry storage space and a shared work station with space for a lockable file cabinet.

Internet via private cable utility and shared use of CITY phone system without charge, so long as there is no service cost to CITY.

2. To allow LOAVES & FISHES to provide noon- time senior dining, Monday through Friday, as defined by the Senior Nutrition Contract/Washington County Aging and Veterans Services, including and/or in addition to dates when the Pohl Center offers special event luncheons.

3. To provide one (1) key or keyless entry card and security access codes for the alarm system to enable access to the building by site staff when the Pohl Center is officially closed (to provide the MOW program to their participants).
4. To provide and maintain a freezer, refrigerator/freezer, refrigerator, regular oven, convection oven, steamer with three trays, stand-alone steamer, salad bar, dishwasher, microwave, dishes, silverware, pans and cooking utensils, which may be used by both the LOAVES & FISHES Nutrition Program and CITY, and to include annual cleaning of the grill hood and exhaust system. City reserves the right to request assistance or shared cost of maintenance with notice during the term of this Agreement.
5. To provide utility, custodial, garbage, and recycling services, and to leave the kitchen and dining area clean after each use.
6. To provide social, recreational, fitness, health and wellness and other activities to congregate participants through scheduled activities. All above events are coordinated through CITY staff.
7. To provide written notice and information regarding special events which the Juanita Pohl Center wishes to schedule in the dining room and/or kitchen and that will impact LOAVES & FISHES senior meal service.
8. To allow shared use of parking spaces by staff, volunteers, and Meals-On-Wheels drivers.
9. To provide regular monthly meeting space in private rooms as schedule and space permits.
10. Use of dining room three times a year other than regular LOAVES & FISHES hours for fund raising purposes for LOAVES & FISHES, as schedule and space permits.

LOAVES & FISHES AGREES:

1. To make all meals, programs and events available without regard to race, color, religion, national origin, sex, age, marital status, domestic partnership, mental or physical disability, familial status, sexual orientation, gender identity and source of income.
2. To provide certain reports and records in connection with its use of CITY's facilities and permit CITY to inspect these records at reasonable times. Such records include LOAVES & FISHES operating budget, list of employees that will be working at the facility, personnel rules, copies of insurance policies, maintenance logs, etc. LOAVES & FISHES conducts criminal background checks through the Department of Human Services for qualifying volunteers in compliance with State of Oregon regulations. Inspection would be allowed if there is a need to know the information and the person requesting is an Authorized Designee (OAR section 407-007-0340). In addition, all court ordered community service volunteers shall not be allowed if the offence includes theft, drugs, and/or violence.

3. To keep the kitchen and dining area clean in accordance with the State of Oregon and Washington County Health Department's standards including washing tables and cleaning of the dining area floor daily after the meal program. LOAVES & FISHES will be prohibited from making repairs or alterations to the facility without CITY's advance written consent.
4. Ownership of all equipment that has been purchased by LOAVES & FISHES shall remain property of Loaves & Fishes, Inc.
5. To coordinate with CITY any media statement regarding the Pohl Center prior to publication (inclement weather announcements included). All marketing of the Nutrition Program shall indicate that it is provided at the Pohl Center by Loaves & Fishes.
6. To relocate the senior meal program during any required maintenance-related closures.
7. To provide written notification to CITY of any compliance changes in Local/Federal requirements regarding nutritional delivery.
8. To adhere to the policies and procedures set forth by CITY regarding the operation of the Pohl Center facility and program.
9. To provide written notice and information regarding special events which LOAVES & FISHES wishes to schedule, one month prior to the event.
10. To indemnify, defend and hold harmless CITY, its officers, officials, employees and agents from and against any claims, liability, loss, damage, expense or costs (including attorney fees) arising out of this Agreement or LOAVES & FISHES's use of CITY's facilities and caused in whole or in part by LOAVES & FISHES's acts or omissions.
11. To continuously maintain, during the term of this Agreement, public liability and property damage insurance with initial limits of not less than \$2,000,000 for each occurrence, naming CITY as an additional insured. CITY may upon 30 days notice demand that such coverage be increased. The insurance shall be in a form sufficient to protect leaser and lessee against claims by third persons for personal injury, death or property damage arising from the use and occupancy or condition of the premises.
12. In the event that LOAVES & FISHES vacates the Center, to enter into negotiations with the CITY regarding any equipment that has been purchased cooperatively. Stand alone hard wired appliances that are placed on site shall remain the property of CITY, upon the termination of this Agreement all equipment purchased by CITY shall remain its property at termination.
13. To continue its tax-exempt status as a non-profit entity and file any and all tax related documents with Washington County and pay any taxes as required.
14. To acquire and post any and all licenses or permits which may be required for the administration of the Nutrition Program at the Pohl Center.

15. To conform to all applicable laws and regulations of any public authority governing the premises and their use and correct at LOAVES & FISHERS own expense any failure of compliance created through LOAVES & FISHERS fault or by reason of LOAVES & FISHERS use, but LOAVES & FISHERS shall not be required to pay for any structural changes to effect such compliance (unless such changes are required because of LOAVES & FISHERS specific use).
16. To refrain from any activity that would make it impossible to insure the premises against casualty, increase the insurance rate, or prevent CITY from taking advantage of any ruling of the Oregon Insurance Rating Bureau or its successor allowing CITY to obtain reduced premium rates for long-term fire insurance policies, unless LOAVES & FISHERS pays the additional cost of the insurance.
17. To refrain from any use that would be reasonably offensive to other users or CITY or users of neighboring premises or that would tend to create a nuisance or damages the reputation of the premises.
18. To refrain from loading the floors beyond the point considered safe by a competent engineer or architect selected by CITY.
19. To assure that building is locked and secured at all times when CITY staff is not on site.
20. To refrain from assigning its rights and obligations under this Agreement to any other party without CITY's prior written consent.

BOTH PARTIES FURTHER AGREE THAT:

1. This agreement shall replace the existing Agreement between the parties dated August 9, 1982, become effect on August 1, 2012 or sooner, if by written agreement, and shall continue until terminated by the parties.
2. Upon the effective date of transition of management of the Pohl Center to CITY from LOAVES & FISHERS, all revenue currently collected by LOAVES & FISHERS shall go to the CITY except for those revenues generated through the Nutrition Program or are expressly fundraised by or donated to LOAVES & FISHERS. Any funds previously donated to and retained by or on behalf of LOAVES & FISHERS for use at the Pohl Center may be retained by LOAVES & FISHERS, provided they are used in support of the Pohl Center, and an annual accounting of any such funds is provided the CITY.
3. To provide two (2) weeks advance notice when changes in the mode of operation as outlined in this agreement are necessary.
4. Replacement and/or repair of kitchen equipment shall be the responsibility of CITY, unless damaged by LOAVES & FISHERS through improper use, and in that instance shall be replaced and/or repaired by LOAVES & FISHERS and donated to CITY.
5. Failure to provide service in accordance with this Agreement to a party's satisfaction may result in that party describing the inadequacies to the other party in writing and providing specific remedies to correct the inadequacies. The corrections must be made

within sixty (60) days from the date the notification was sent, unless the other party grants a longer time. Failure to correct deficiencies may result in termination of the Agreement.

6. The parties will endeavor to resolve any disputes that arise under the Agreement between them and in good faith. Persons designated by the parties shall resolve disputes.
7. Either party may terminate this Agreement for any reason with six months' written notice to the other party.
8. Any modification of this Agreement shall be mutually agreed upon and reduced to writing, and to the extent it does not affect a major business term of the Agreement, may be done for the CITY, by its City Manager.

APPROVED AND ENTERED this 25th day of June, 2012.

LOAVES & FISHES CENTERS, INC.
7710 SW 31st Avenue
Portland, OR 97280
503.736.6325

CITY OF TUALATIN
18880 SW Martinazzi Avenue
Tualatin, OR 97062
503.692.2000

Joan Smith
Executive Director

Sherilyn Lombos
City Manager

Approved as to Form:

City Attorney



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Sara Singer, Deputy City Manager

DATE: 06/25/2012

SUBJECT: Resolution Recognizing the Formation of Citizen Involvement Organization Three (CIO 3)

ISSUE BEFORE THE COUNCIL:

According to Chapter 11-9-040 of the Tualatin Municipal Code, Citizen Involvement Organizations must meet the minimum standards set forth in the Code to be recognized by the City Council.

RECOMMENDATION:

Staff recommends adopting the attached Resolution Recognizing the Formation of Citizen Involvement Organization Three (CIO 3).

EXECUTIVE SUMMARY:

In July 2011, the City Council adopted Chapter 11-9 of the Tualatin Municipal Code which establishes and creates the Citizen Involvement Organization Program (CIOP). Included with the adoption of the code language was also the adoption of the CIOP Boundary Map (see Attachment A). The approved boundary map outlines six residential Citizen Involvement Organizations (CIOs), a Commercial CIO, and a Manufacturing CIO. The Code allows for citizens to come together and form their CIO by meeting the following standards in the Code:

- 1) The CIO must hold an annual election of officers;
- 2) All meetings shall be publicized at least seven days in advance of the meeting date, except in case of emergency, in which case at least 24 hours advance notice shall be given;
- 3) A current list of the names and addresses of the officers must be provided to the City;
- 4) After their initial organizational meeting in the first year of recognition, a minimum of two general meetings each year with time, place and purpose well publicized throughout the CIO prior to each meeting; and
- 5) CIOs must provide an executed copy of their current bylaws.

RESOLUTION NO. _____

RESOLUTION RECOGNIZING THE FORMATION OF CITIZEN INVOLVEMENT ORGANIZATION THREE

WHEREAS the Citizen Involvement Organization Program (CIOP) was established and created to provide an opportunity for members of the CIOP to meaningfully cooperate with each other and the City of Tualatin on matters affecting the neighborhoods and the City consistent with Tualatin's Principles of Citizen Involvement; and

WHEREAS the Citizen Involvement Organization Three (CIO 3) has determined that they would like to form to promote communication and a sense of community in their neighborhood.

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

Section 1. The City Manager has confirmed that:

- 1) CIO 3 has conducted an annual election of officers, and
- 2) The bylaws adopted by CIO 3 provide that meetings be publicized 7 days in advance of the meeting date, except in case of emergency, in which case at least 24 hours advance notice shall be given, and
- 3) A current list of the names and addresses of the officers has been provided to the City, and
- 4) The bylaws adopted by CIO 3 provide that a minimum of two general meetings each year with the time, place and purpose well publicized throughout the CIO prior to each meeting, and
- 5) CIO 3 has provided an executed copy of their bylaws.

By satisfying the standards of Chapter 11-9-40 of the Tualatin Municipal Code, CIO 3 is eligible to be recognized by the City Council.

INTRODUCED AND ADOPTED this 25th day of June, 2012.

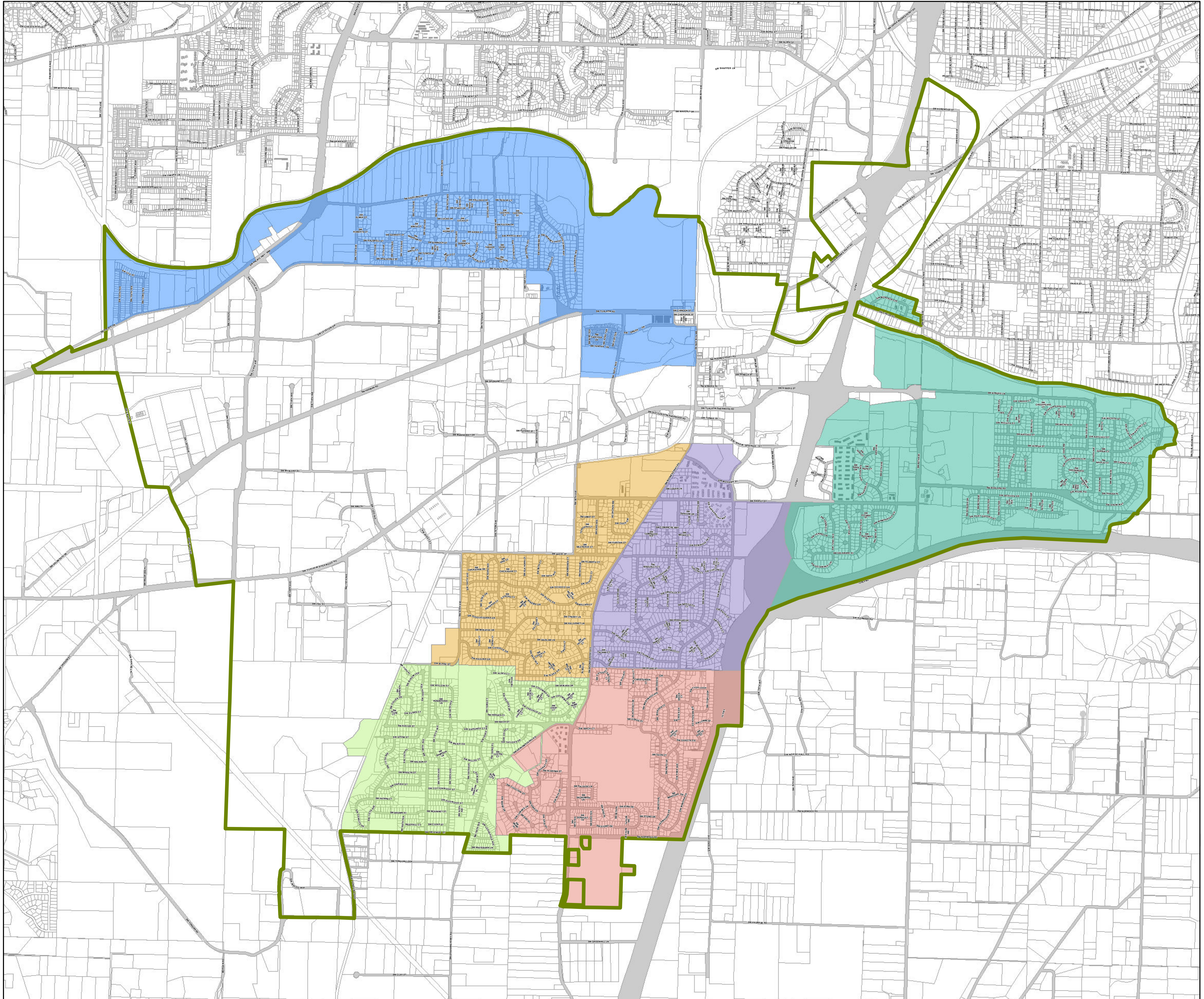
CITY OF TUALATIN, OREGON

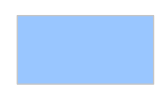







BY _____
Mayor

ATTEST:

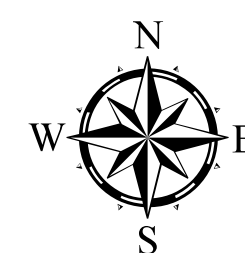
BY _____
City Recorder

Citizen Involvement Organizations



- | | | |
|--|---|--|
|  CIO 1 |  CIO 4 |  Taxlots |
|  CIO 2 |  CIO 5 |  Planning Area Boundary |
|  CIO 3 |  CIO 6 | |

RF 1:14,400



This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tual, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". - Engineering and Building Dept. Printed 7/7/2011

**TUALATIN
CITIZEN INVOLVEMENT ORGANIZATION- 3
BYLAWS
As approved April 26, 2012**

**ARTICLE 1
ORGANIZATION**

Section 1. Name.

The name of this Organization shall be Tualatin Citizen Involvement Organization Number Three (“CIO-3”) (hereinafter referred to as “the CIO”).

Section 2. Purpose.

The general purpose of the Citizen Involvement Organization (CIO), as organized and authorized by City of Tualatin Municipal Code Chapter 11-9, is (1) to provide an opportunity for members to meaningfully cooperate with each other and with the City of Tualatin on matters affecting the neighborhoods and the City, (2) to facilitate citizen participation in land use related matters, consistent with Oregon Statewide Land Use Goal 1, and (3) to promote a sense of community within our neighborhood. Using best efforts to ensure opportunities for involvement and engagement by all CIO members, the means of accomplishing this purpose shall include but not be limited to:

- A.** Providing public forums for the review and evaluation of issues affecting the neighborhood, the CIO, and the City; providing for the education of citizens, groups and government bodies with respect to such issues; and providing for an exchange of views and opinions on such issues;
- B.** Providing public forums for CIO members to present their views and provide input to private and public bodies such as City Council, its advisory boards and committees, and other governmental and community bodies on issues having an impact on either the CIO, the City, or the region;
- C.** Providing a formalized channel of communication and dissemination of accurate and timely information between the City government, other governmental bodies, and the CIO and the CIO’s members;
- D.** Providing input to City Council and other governmental bodies on land use and other matters which affect the neighborhoods.

Section 3. Boundary.

The CIO boundary shall be as indicated on the attached map and the map is hereby incorporated by reference. The Tualatin City Council may amend the boundaries of the CIO per Tualatin Municipal Code 11-9-060. The CIO, through the Executive Board, will petition the City Council to amend the CIO boundaries only upon consideration and vote in favor of such petition by the membership taken at an Annual Meeting pursuant to Article III, below.

**ARTICLE II
MEMBERSHIP**

Section 1. Eligibility.

Membership shall be open to any person, 16 years of age or older, who is a Tualatin resident, and who either resides within the recognized CIO-3 boundaries, or is the owner (or authorized representative of the owner) of rental residential property located within the CIO-3 boundaries. The CIO shall not deny membership rights or access to the benefits of the CIO to any individual on the basis of race, color, gender, heritage, national origin, sex, age, disability, sexual orientation, religion, political affiliation, or marital status.

Section 2. Membership Dues. No dues or fees shall be required.

Section 3. Voting Rights.

Each member of the CIO present at meetings shall have one vote, as specified in these Bylaws. Voting shall be done in person only. All rights, privileges, and responsibilities of membership, including the right to vote on CIO business, shall accrue to all members. Members who own or have interest in multiple properties within the CIO boundaries are nonetheless limited to one vote.

**ARTICLE III
MEMBER MEETINGS**

Section 1. Meetings.

The CIO shall hold at least two general meetings each year. Meetings shall be called and held at a location determined by the Executive Board, but within or near the CIO boundaries.

A. Annual Meeting. One of the general meetings shall be the Annual Meeting, at which election of officers and other business designated by these bylaws and by the CIO's Executive Board shall occur. Notice of the Annual Meeting will be provided to members at least 14 days in advance of the meeting, and shall include the date, time, location, and purpose of the Annual Meeting. The Annual Meeting shall be held in the month of April of each year.

B. General Meetings. A general meeting or meetings in addition to the Annual Meeting shall be called by the Executive Board and held at least once yearly. Notice of a general meeting shall be given at least seven days in advance.

C. Special Meetings. If a "special meeting" is found to be necessary by the Executive Board because of the urgent or time-sensitive nature of an issue, reasonable effort will be made to provide at least two days advance notice to members.

Section 2. Notice.

The Executive Board shall provide notice of upcoming meetings, as specified above, by written or electronic means reasonably calculated to reach the membership. Posting notice of meetings on public City of Tualatin written or electronic newsletters and/or event calendars shall be considered sufficient notice.

Section 3. Quorum.

A quorum for the first Annual Meeting shall be 18 members present. Before the next general meeting, the minimum numbers of required members present to constitute a quorum at annual, general or emergency meetings shall be determined by the Executive Board, and which may be amended from time to time by the Board. Decisions requiring a vote at annual, general, and emergency meetings shall be made by a majority vote of those members present at such meeting, except for amendments or changes to the Bylaws or CIO boundaries, as per these Bylaws.

Section 4. Process.

All meetings will be open to members and to the public, and generally follow Robert's Rules of Order. Members shall have the right to introduce agenda items; proposed agenda items shall be given the President at least 14 days in advance of a meeting. Minutes will be taken and made available to the members, and the minutes shall include a summary of the consensus reached, or if a consensus was not reached, then the general views of the majority and minority, including the approximate numbers of each.

Section 5. Decorum.

Members shall conduct themselves in all meetings in a manner exhibiting common courtesy and fairness. The President may exclude Members who unreasonably disrupt a meeting, or who act in a hostile, threatening or coercive manner toward any fellow member. Any member excluded from a meeting under this section shall forfeit his or her right to speak, vote, or otherwise participate in the balance of that meeting.

**ARTICLE IV
EXECUTIVE BOARD, ELECTION, AND MEETINGS**

Section 1. Officers and Executive Board.

The officers of the CIO shall be a President, Vice President, Secretary, Treasurer, and Land Use Officer. No more than two offices shall be held by a single person at a time. The Executive Board shall consist of the officers and the chairpersons of standing committees. The Executive Board has the responsibility to act in the best interest of the CIO; and using best efforts that members are generally made aware of pertinent issues and matters which may affect them. A list of current Executive Board members and contact information shall be kept on file with the City of Tualatin and be available to the members. Regardless of the number of offices held by any one person, each Board member shall have one vote on any issue or matter.

Section 2. Election and Term of Office.

The officers shall be elected at the Annual Meeting by the membership. All nominees shall be submitted to the members present. Every member present shall be entitled to one vote for each executive board office to be elected. The nominee receiving a majority of the votes cast for each office shall be deemed elected. Each Board member shall hold office until the successor has been duly elected and taken office. In the event of a vacancy, the vacancy shall be filled by a majority vote of the remaining members of the Executive Board, and the member so elected fills the position until the next annual meeting. Two officers shall be selected by the Executive Board to serve on the Citizen Involvement Coordinating Committee.

Section 3. Powers and Duties. The duties of each office are:

- A. President.** Shall set the agenda and preside at all meetings of the CIO and of the Executive Board; have the authority to speak on behalf of the CIO and the Executive Board; serve as a contact for all written/oral communications from the City regarding CIO matters; perform all the duties of supervision and management as pertains to the office of president; ensure that the organization complies with the requirements of the CIO's Bylaws; and perform those duties as may be designated by the Board. After formation, the President shall be elected in odd numbered years.
- B. Vice President.** Shall serve in the absence of the President; shall assist the President; serve as the chair of the nominating committee, if required; and perform other duties as designated by the Board. After formation, the Vice President shall be elected in even numbered years.
- C. Secretary.** Shall keep accurate minutes of each meeting, including attendance records, a summary of the consensus reached or the general statements of majority/minority views and approximate numbers of the majority/minority views; ensure that meeting notices are made; maintain and provide current lists of officers and committee chair members' names and contact information and a copy of current bylaws are provided to the City and made available to the membership; maintain a copy of meeting minutes for no less than three years, and make such minutes available to the members and the City within a reasonable time; and perform other duties as designated by the Board. A copy of minutes shall be maintained for no less than 3 years. After formation, the Secretary shall be elected in odd numbered years.
- D. Treasurer.** Shall receive, deposit, disburse, and account for all CIO funds; prepare and present operating statements at each general meeting or as otherwise requested by the Executive Board; and perform other duties as designated by the Board. After formation, the Treasurer shall be elected in even numbered years.
- E. Land Use Officer.** Shall keep current on land use issues pertinent to the CIO; shall have the authority to speak on behalf of the Executive Board and CIO pertaining to land use issues; shall be a member of the Land Use Committee; shall make available to membership pertinent land use information; and perform other duties as designated by the Board. After formation, the Land Use Officer shall be elected in odd numbered years.

Section 4. Executive Board Meetings.

Executive Board meetings will be held periodically at such time and place as determined by the Board; however the Board shall hold at least two meetings each year, open to the public, with notice provided as with General Meetings, and at least seven days in advance. Robert's Rules of Order will generally be followed. Board decisions requiring a vote shall be decided by affirmative vote of a majority of those voting members present but no vote is valid unless a quorum is present. A quorum for the Executive Board shall be 51% of officers and board members, no fewer than 2 of which shall be officers, except in the initial year when a quorum may be 2 officers.

ARTICLE V COMMITTEES

Section 1. Standing Committees.

Committees shall be designated and responsibilities assigned to them by the Executive Board. Each committee shall develop a statement of organization and implementation methods to be approved by the Executive Board. A Chairperson shall be elected from the committee by a simple majority vote of those in attendance. The Chairperson of any committee shall serve on the Executive Board. Membership on a committee shall be from the CIO membership; however, each Committee shall have at least one Board member on the Committee.

- A. Community Connection.** This Committee shall be a permanent committee with the primary purpose to engage members in events and issues which build and increase a sense of community. Such activities and events may be, but not limited to, Neighborhood Night Out, emergency preparedness, events which care for and enhance public spaces in the neighborhood, and events which engage citizens interacting with each other. The Committee shall be responsible for the management and implementation of the Grant Funding Program of the CIO, funded by the City or other sources. The Committee shall identify, select, and recommend to the Executive Board for its approval events which are of significant community value to qualify as a Grant Funded Program; selected grant funded programs will be presented to the CICC for its review and comments. The approved program(s) shall then be submitted to the City Council for consideration and funding. The Committee will be composed of no less than three positions, and the Chairperson shall serve on the Executive Board.
- B. Land Use.** This Committee shall be a permanent committee with the primary purpose to engage members in the discussion of and provide timely information to members on land use matters of the City and the region. The Committee shall review such matters as, but not limited to, land use, traffic, development proposals, and zoning, providing a forum for member discussion of issues. The Committee shall keep minutes, making a good faith effort to accurately record a summary of the consensus reached or the general statements of majority/minority views and numbers of each, and record attendance. The Committee will be composed of no less than three positions, with the Land Use Officer as one of the committee's members, and the Chairperson shall serve on the Executive Board.

Section 2. General.

Meetings shall be open to the public, and notice requirements of a general meeting shall be followed. All decisions will be decided by a simple majority of those in attendance; the definition of a quorum shall be set before the first committee meeting by the Executive Board and may be amended from time to time by the Executive Board. Committees shall make recommendations on major issues to the Executive Board for approval; however, with specific authorization from the Executive Board, the Committees may have the power to act on behalf of the CIO and its Executive Board. Each Committee should meet at least twice yearly. Members shall conduct themselves in all meetings in a manner exhibiting common courtesy and fairness.

**ARTICLE VI
STANDARDS OF RECOGNITION**

Section 1. Recognition of CIO.

The CIO shall first submit an application for recognition to the City Manager or designee, and then to the City Council for final approval and recognition. The CIO shall meet and continue to maintain conformity with the following minimum recognition criteria:

- A.** Members shall meet the member eligibility as detailed in Article II, Section 1. A-B, of these Bylaws; and,
- B.** Members shall hold an initial annual meeting in the first year to adopt the bylaws and elect a minimum of two officers; and,
- C.** After at least one initial organizational/annual meeting in the first year, the CIO shall thereafter hold at least two general meetings annually, one of which is the annual meeting with election of officers as per these Bylaws; the time, place, and purpose will be well publicized in accordance with these Bylaws throughout the CIO prior to each meeting; and,
- D.** Comply with the Bylaws of the CIO and the City of Tualatin Ordinance #1328-11 as part of Tualatin Municipal Code 11-9. The CIO bylaws shall conform to the City of Tualatin Ordinance.

Section 2. Inactive Organization. If the CIO does not meet the above minimum criteria and comply with the Bylaws over a reasonable period of time as determined by the Citizen Involvement Coordinating Committee, the CIO shall be deemed to be inactive.

Section 3. Recognition of Citizens Involvement Coordinating Committee (CICC). Upon formation of a CICC as set out in Tualatin Municipal Code Chapter 11-9-100, the CIO will recognize and cooperate with the CICC in conjunction with other CIOs in Tualatin. The CIO Executive Board will make efforts to attend and participate in the CICC and to cooperate with efforts in furtherance of the CICC's stated goals.

**ARTICLE VII
MISCELLANEOUS**

Section 1. Grievances.

Any member objecting to or challenging any action of an officer, committee, or Executive Board shall provide written notice to the officer or members of the committee and to the Executive Board within 14 days of such action specifying the action objected to or challenged and the grounds for the objection or challenge. The Executive Board shall review the written objection or challenge and shall consider such action or refer the matter to the Citizen Involvement Coordinating Committee (CICC) if the objection or challenge involves a CIO officer or Executive Board member(s). The CICC may provide counsel and recommend resolution for such grievances to the Board. A grievance will only be considered if the grievance is an objection or challenge in which a representative of the CIO exceeded the authority granted by these Bylaws or an action was illegal.

Section 2. Nonpartisan. The CIO shall be nonpartisan and will not support or oppose candidates for public office.

Section 3. Notice. The requirements for notice to all members will be considered met when notice is provided and made available to members by written and/or electronic means, such as but not limited to posting on a CIO website.

**ARTICLE VIII
AMENDMENTS**

Section 1. Amendments. These Bylaws may be amended at the Annual Meeting of the general membership at which a quorum is present, by a two-thirds majority favorable vote of all members present, provided that notice and substance of such an amendment shall have been given to all members of the Executive Board and to the CIO's membership at least 14 days prior to the date on which the amendment is to be considered.

Section 2. Placement. A current version of the Bylaws shall be kept by the Secretary, with a copy provided to the City, and shall be available to the membership.

Approved by vote of the CIO-3 Membership at the First Annual Meeting, on April 26, 2012.

By:

_____, _____
_____, _____

**Citizen Involvement Organization 3
Officers**

Alex Simshaw - President

Phone: 503-754-4169

Email: alex.simshaw@gmail.com

Address: 10198 SW Siletz Drive
Tualatin, OR 97062

Elected: April 26, 2012

Stefan Feuerherdt - Vice President

Phone: (503) 737-5995

Email: stefan@feuerherdtlaw.com

Address: 9930 SW Killarney Ln
Tualatin, OR 97062

Elected: April 26, 2012

Tammy Palumbo - Secretary

Phone: (503) 612-9459

Email: tmpgarden@comcast.net

Address: 9510 SW Siuslaw Ln
Tualatin, OR 97062

Elected: April 26, 2012

Scott Alvey - Treasurer

Phone: (503) 789-2296

Email: AfamHouse@gmail.com

Address: 20900 SW Teton Ave.
Tualatin, OR 97062

Elected: April 26, 2012

Jim Muir - Land Use Officer

Phone: (503) 692-9051

Email: jimandkaren@frontier.com

Address: 9850 SW Avery St.
Tualatin, OR 97062

Elected: April 26, 2012



Recognizing the Formation of Citizen Involvement Organization 3 (CIO 3)

Tualatin
Citizen Involvement
Organizations
www.tualatincio.org

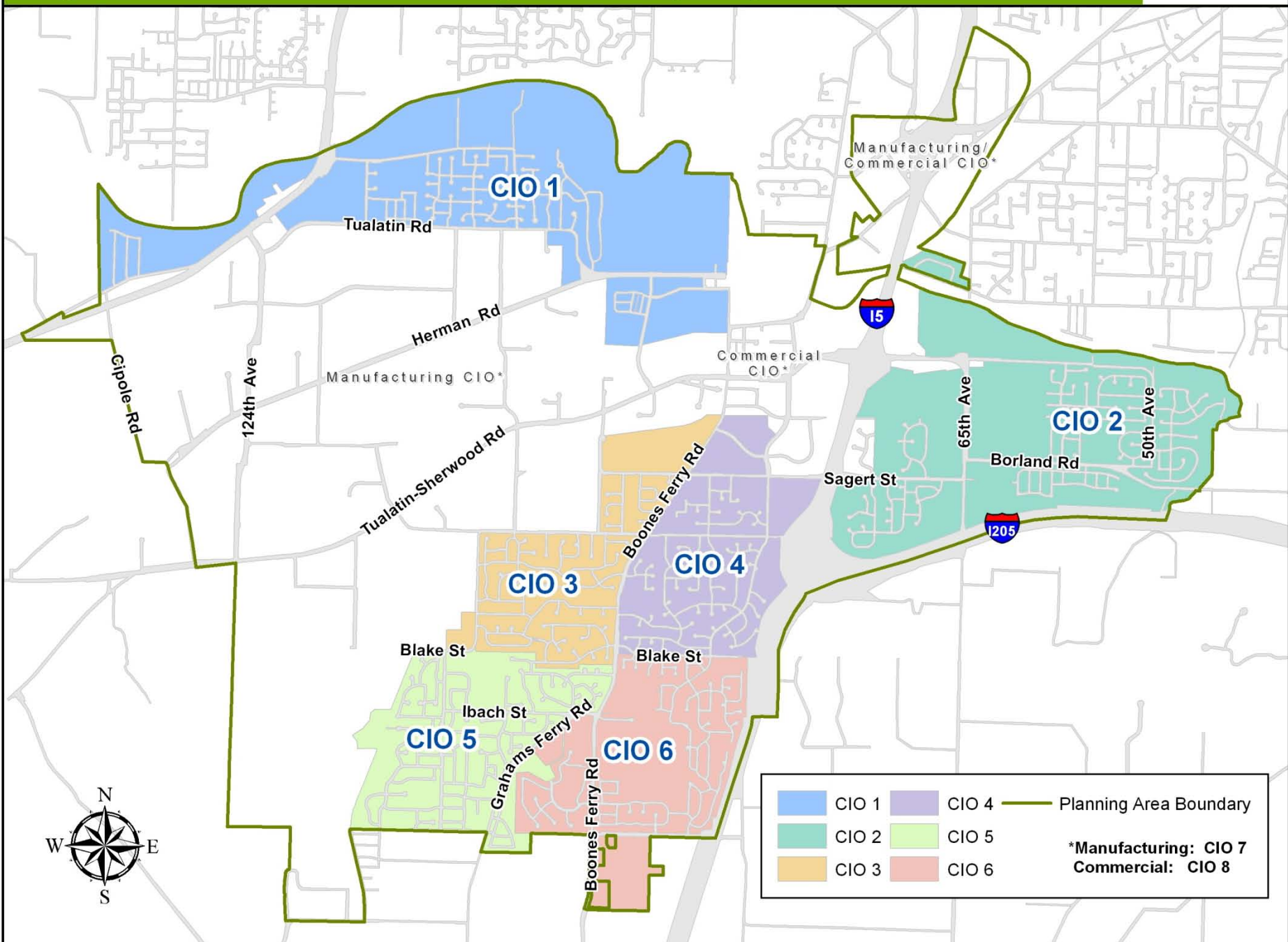
June 25, 2012

Background

- In July 2011, City Council adopted Chapter 11-9 of the Tualatin Municipal Code
- The Citizen Involvement Organization Program (CIOP) was created
- The CIOP allows for six residential CIOs, a Commercial CIO, and a Manufacturing CIO to form



Proposed Citizen Involvement Organizations (CIOs)



Municipal Code Minimum Requirements

CIO Code Minimum Requirements	Commercial CIO
1. The CIO must hold an annual election of officers.	On April 26, 2012, the Commercial CIO (CCIO) elected officers.
2. All meetings shall be publicized at least seven days in advance of the meeting date, except in case of emergency, in which case at least 24 hours advance notice shall be given.	The adopted bylaws of the CCIO include this requirement.
3. A current list of the names and addresses of the officers must be provided to the City.	This list has been included in the City Council packet materials.
4. After their initial organizational meeting in the first year of recognition, a minimum of two general meetings each year with the time, place and purpose well publicized throughout the CIO prior to each meeting.	The adopted bylaws of the CCIO include this requirement.
5. CIOs must provide an executed copy of their current bylaws.	The adopted bylaws have been included in the City Council packet materials.



www.tualatincio.org

QUESTIONS?

THANK YOU.





STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Ben Bryant, Management Analyst
Alice Rouyer, Community Development Director

DATE: 06/25/2012

SUBJECT: An Ordinance Adopting the Core Area Parking District Tax Rate and Credit for Fiscal Year 2012/13

ISSUE BEFORE THE COUNCIL:

Consideration of an ordinance establishing a Core Area Parking District (CAPD) tax rate of \$155.34 for Fiscal Year 2012/13.

RECOMMENDATION:

Staff recommends that the City Council consider approving the attached ordinance (Attachment A). The CAPD Board unanimously recommended approval of the tax rate at their May 22nd meeting.

EXECUTIVE SUMMARY:

On May 22, 2012, the CAPD Board met to discuss the financial state of the district and recommend a tax rate for FY 2012/13. The Board unanimously recommended that the tax rate remain at the current rate of \$155.34. This rate is multiplied by the number of parking spaces each tenant is estimated to need within the district. Credits are granted for private spaces provided by each tenant.

OUTCOMES OF DECISION:

Approval of the CAPD tax rate will result in the following:

1. Retain current CAPD tax rate while maintaining current services.
2. In FY 2012/13 the CAPD will continue to use reserves to balance its annual budget. In the long term, the CAPD Board and City Council will need to consider a sustainable funding solution to meet parking lot maintenance and service needs.

Denial of the CAPD tax rate will result in the following:

1. A tax rate will not be established by the beginning of the fiscal year.
2. Require the Board to revisit an increase or decrease in the tax rate for FY 2012/13.

FINANCIAL IMPLICATIONS:

Tax revenues support operation and maintenance of the Core Area District. With the current tax rate, the total estimated tax revenue for the District is \$54,200. With the proposal of utilizing reserves to cover the gap between current revenues and expenditures, the operating reserve balance at the end of fiscal year 2011-2012 is projected to be approximately \$63,150. The CAPD Board requested that a joint work session be held with the Board and City Council in the near future to evaluate the long-term funding options for the District.

Attachments: A - CAPD Tax Rate Ordinance

ORDINANCE NO. _____

ORDINANCE ADOPTING CORE AREA PARKING DISTRICT TAX RATE
AND CREDIT – FISCAL YEAR 2012/13

WHEREAS TMC 11-3-060 requires Council to establish a tax rate and credit for the annual Core Area Parking District tax, and

WHEREAS the Core Area Parking District Board recommends to Council that the tax rate be \$155.34 and that the credit remain unchanged; and

WHEREAS Council finds the tax rate and credit to be appropriate.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TMC Chapter 11-3 Schedule A is amended to read as follows:

The annual Core Area Parking District tax rate for Fiscal-Year 2012/13 is established as \$155.34.

Number of on-site parking spaces provided
Gross leasable area X space factor = "A"

If "A": is greater than or equal to 1.0, the credit is 50%

If "A": is less than 1.0, the credit is ("A" x 50%)

INTRODUCED AND ADOPTED this 25th day of June 2012.

CITY OF TUALATIN, Oregon

BY _____
Mayor

ATTEST:

BY _____
City Recorder

Ordinance No. _____



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Don Hudson, Finance Director

DATE: 06/25/2012

SUBJECT: An Ordinance Updating the Road Utility Fee; and Amending TMC 3-4-080

ISSUE BEFORE THE COUNCIL:

Whether to increase the Road Utility Fee for the sidewalk/street tree program.

RECOMMENDATION:

Staff recommends adopting the attached Ordinance.

EXECUTIVE SUMMARY:

The sidewalk/street tree program was added to the Road Utility Fee program in 2001 to repair sidewalks and replace street trees. The initial fee was \$1.50 per month, per road utility fee account. In August 2005, the fee was increased to \$2.00 per month to fund the lanscape enhancement program. This program maintains and improves landscaping in street and road rights-of-way on public property. In the past few years, more reverse frontage landscaping has been added around the City and the costs to maintain these new areas has increased. To help pay for the enhancement of the sidewalk/street tree/reverse frontage program, it is recommended that the fee be increased to \$2.50 per month, per road utility fee account.

OUTCOMES OF DECISION:

Adoption of the attached Ordinance sets the new rate effective July 1, 2012.

FINANCIAL IMPLICATIONS:

With the new rate, Tualatin single family residents will pay \$3.92 per month for the Road Utility Fee, to pay for road maintenance, sidewalk repair, and street tree and reverse frontage maintenance.

Attachments: [Ordinance Updating the Road Utility Fee](#)

ORDINANCE NO. _____

AN ORDINANCE UPDATING THE ROAD UTILITY FEE; AND AMENDING TMC
3-4-080

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TMC 3-4-080 is amended to read as follows:

(1) The Road Utility Fee shall be based on the following factors:

- (a) The developed use of the property which includes the amount of vehicular traffic generated by the property, as determined by the City Engineer.
- (b) For nonresidential uses the developed square footage on the property or parcel.
- (c) The traffic generation factor for each use category of developed property.
- (d) The base rate maintenance cost for each Customer Group, based on use category of the developed property.

(2) The City Engineer shall determine the category of use from the ITE Manual that shall apply to each developed lot or parcel within the City. In the absence of a specific use category from within the ITE Manual for a particular developed use, the City Engineer shall determine the appropriate category by interpreting the ITE Manual and assigning the category which most accurately reflects the traffic generated by the particular developed use. After determining the appropriate use category for a developed parcel, the City Engineer shall use the estimated vehicle trip generation figures for the assigned use category from the ITE Manual and designate the developed property to a particular Customer Group. For nonresidential developed uses the applicable Road Utility fee shall be based on the area of developed use measured in thousands of square feet or fractions of thousand square feet. The Customer Groups are as follows:

- (a) Single family residential;
- (b) Multi-family residential; and

(c) Non-residential uses. Trip generation rates per thousand square feet of developed area shall be assigned to one of the following four non-residential groups:

(i) Group 1 with 7 or fewer average daily vehicle trips per thousand square feet of developed area;

(ii) Group 2 with more than 7 but less than 21 average daily vehicle trips per thousand square feet of developed area;

(iii) Group 3 with 21 or more but less than 53 average daily vehicle trips per thousand square feet of developed area;

(iv) Group 4 with 53 or more but less than 151 average daily vehicle trips per thousand square feet of developed area;

(v) Group 5 with 151 or more but less than 400 average daily vehicle trips per thousand square feet of developed area;

(vi) Group 6 with 400 or more average daily vehicle trips per thousand square feet of developed area; and

(vii) Group 7 for specially assigned trip generation figures.

(3) For purposes of examining uses not explicitly listed in the ITE manual and thereby determining the appropriate Category of Use, the City Engineer shall consider at least the following factors as well as any other relevant information:

(a) the size of the site and the building;

(b) the number of employees;

(c) other developed sites operated by the same or an affiliated owner for a use generating comparable amounts of traffic;

(d) other developed sites operated by a different owner for a use generating comparable amounts of traffic;

(e) the number of work shifts;

(f) the number of hours of operation; and

(g) the planning district designation.

The City Engineer may require and consider the results of a traffic study, provided such study shall be conducted in conformance with the methodology outlined in the ITE Manual, and provided further such study shall include on site traffic counts not less than twice nor more than four times during the year immediately following the beginning of operation on site. In furtherance of this rule the City Engineer may assign a Use Category and Customer Group on an interim basis, provided it is not less than the lowest Customer Group among available residential or nonresidential groups. The determination of Use Category shall not be considered a land use decision as that term is defined in ORS 197.015.

(4) The monthly fee for each customer group is as follows:

- (a) Single family residential, ~~\$3.42~~ \$3.92 per unit;
- (b) Multi-family residential, ~~\$2.86~~ \$3.36 per unit;
- (c) Non-residential Group 1, \$0.75 per thousand square feet; plus an additional ~~\$2.00~~ \$2.50 flat fee;
- (d) Non-residential Group 2, \$1.66 per thousand square feet; plus an additional ~~\$2.00~~ \$2.50 flat fee;
- (e) Non-residential Group 3, \$4.39 per thousand square feet; plus an additional ~~\$2.00~~ \$2.50 flat fee;
- (f) Non-residential Group 4, \$11.08 per thousand square feet; plus an additional ~~\$2.00~~ \$2.50 flat fee;
- (g) Non-residential Group 5, \$29.51 per thousand square feet; plus an additional ~~\$2.00~~ \$2.50 flat fee;
- (h) Non-residential Group 6, \$72.73 per thousand square feet; plus an additional ~~\$2.00~~ \$2.50 flat fee; and
- (i) Non-residential Group 7, \$0.53 per thousand square feet, plus an additional ~~\$2.00~~ \$2.50 flat fee.

(5) The Council may revise the monthly fee to reflect actual revenues, anticipated maintenance and lighting requirements, improvements in the methods of calculating revenues or requirements and changes in conditions which the Council finds should be taken into consideration in rates.

INTRODUCED AND ADOPTED this 25th Day of June, 2012.

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder