

AGENDA

REGULAR CITY COUNCIL MEETING

January 14, 2013

5:30 p.m.

CITY HALL COUNCIL CHAMBER  
313 COURT STREET  
THE DALLES, OREGON

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. OATH OF OFFICE
5. APPROVAL OF AGENDA
6. PRESENTATIONS/PROCLAMATIONS
7. AUDIENCE PARTICIPATION

During this portion of the meeting, anyone may speak on any subject which does not later appear on the agenda. Five minutes per person will be allowed. If a response by the City is requested, the speaker will be referred to the City Manager for further action. The issue may appear on a future meeting agenda for City Council consideration.

8. CITY MANAGER REPORT
9. CITY ATTORNEY REPORT
10. CITY COUNCIL REPORTS
  - A. Selection of Council President
  - B. Assignment of City Councilors to Various Committees and Boards [**Agenda Staff Report #13-003**]

**CITY OF THE DALLES**

*"By working together, we will provide services that enhance the vitality of The Dalles"*

11. CONSENT AGENDA

Items of a routine and non-controversial nature are placed on the Consent Agenda to allow the City Council to spend its time and energy on the important items and issues. Any Councilor may request an item be “pulled” from the Consent Agenda and be considered separately. Items pulled from the Consent Agenda will be placed on the Agenda at the end of the “Action Items” section.

- A. Approval of December 10, 2012 Regular City Council Meeting Minutes
- B. Resolution No. 13-004 Concurring With the Mayor’s Appointments to Various Committees

12. PUBLIC HEARINGS

- A. Public Hearing Regarding Proposed Wastewater Rate Increase [**Agenda Staff Report #13-008**]

13. CONTRACT REVIEW BOARD ACTIONS

- A. Award 2012-13 Sanitary Sewer Slipline Contract [**Agenda Staff Report #13-002**]

14. ACTION ITEMS

- A. Lease Purchase Proposal With Local Girl Scouts for Property at 1325 Washington Street [**Agenda Staff Report #13-009**]
- B. Special Ordinance No. 13-552 Assessing the Property at 1509 Thompson Street for the Cost of Abatement of Junk and Hazardous Vegetation [**Agenda Staff Report #13-004**]
- C. Approval of Airport Ground Lease With MASI Air 100 LLC [**Agenda Staff Report #13-007**]
- D. Resolution No. 13-001 Affirming Planning Commission Resolution PC 526-12 Affirming the Planning Director’s Interpretation Regarding Off-Street Parking Requirements for 1215 and 1217 Blakely Way [**Agenda Staff Report #13-005**]
- E. Resolution No. 13-002 Electing to Have Municipal Court Defendants Perform Authorized Employment Under the Wasco County Work Crew Program Pursuant to ORS 656.041 [**Agenda Staff Report #13-006**]

15. DISCUSSION ITEMS

- A. Discussion Regarding Kelly Avenue Traffic Study and Recommended Improvements  
[Agenda Staff Report #13-001]

16. ADJOURNMENT

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**This meeting conducted in a handicap accessible room.**

Prepared by/  
Julie Krueger, MMC  
City Clerk



Handwritten signature of Julie Krueger in blue ink, positioned above a horizontal line.



**CITY of THE DALLES**

313 COURT STREET  
THE DALLES, OR 97058

PH. (541) 296-5481  
FAX (541) 296-6906

**AGENDA STAFF REPORT  
CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
January 14, 2013	City Council Reports	13-003

**TO:** Honorable Mayor and City Council

**FROM:** Julie Krueger, MMC, City Clerk

**THRU:** Nolan K. Young, City Manager

**DATE:** December 27, 2013

**ISSUE:** 2013 City Council Committee Assignments.

**RELATED CITY COUNCIL GOAL** N/A.

**PREVIOUS AGENDA REPORT NUMBERS** N/A.

**BACKGROUND:** Each January following a City Council election, the Mayor reviews the City Council's committee assignments. This is an opportunity for Councilors to request changes to their assignments, to keep the ones they are currently assigned, and to allow new Councilors an opportunity to serve on a City committee as the Council representative.

During the meeting the Council will also need to nominate and elect a Council President.

**BUDGET IMPLICATIONS:** None.

**ALTERNATIVES:**

- A. The City Council may consider and move to concur with the Mayor’s proposed committee assignments as outlined in the table below or propose amendments to the proposed assignments.

**CURRENT COMMITTEE ASSIGNMENTS**

<b>COMMITTEE</b>	<b>Currently Serving</b>	<b>Meetings</b>	<b>2013 Assignment</b>
BUDGET	All Councilors	2 weeks in May	All Councilors
AIRPORT	Jim Wilcox	3 <sup>rd</sup> Friday 7:00 a.m.	Tim McGlothlin
SISTER CITY	Jim Wilcox	varies	Dan Spatz
HISTORIC LANDMARKS	Carolyn Wood	4 <sup>th</sup> Wednesday 4:00 p.m.	Carolyn Wood
TRAFFIC SAFETY	Tim McGlothlin	3 <sup>rd</sup> Wednesday 7:00 a.m.	Tim McGlothlin
URBAN RENEWAL ADVISORY	Bill Dick	3 <sup>rd</sup> Tuesday 5:30p.m.	Linda Miller
QLIFE	Dan Spatz Brian Ahier	3 <sup>rd</sup> Thursday Noon	Bill Dick Carolyn Wood
MCEDD	Dan Spatz	3 <sup>rd</sup> Wednesday (quarterly) 4:00 p.m.	Dan Spatz
MCCOG	Brian Ahier	Bi-monthly, 4 <sup>th</sup> Tuesday, 3:00 p.m.	Carolyn Wood
OUTREACH TEAM	Jim Wilcox	varies/trips to DC	Steve Lawrence

**MOTION:** *Move to concur with the Mayor’s committee assignments as proposed.*

- B. Make changes to the assignments, then approve as amended.



**CITY of THE DALLES**

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**AGENDA STAFF REPORT**  
**CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
January 14, 2013	Consent Agenda 10, A - B	N/A

**TO:** Honorable Mayor and City Council

**FROM:** Julie Krueger, MMC, City Clerk

**THRU:** Nolan K. Young, City Manager

**DATE:** December 27, 2012

**ISSUE:** Approving items on the Consent Agenda and authorizing City staff to sign contract documents.

A. **ITEM:** Approval of December 10, 2012 Regular City Council Meeting Minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the December 10, 2012 regular City Council meeting have been prepared and are submitted for review and approval.

**RECOMMENDATION:** That City Council review and approve the minutes of the December 10, 2012 regular City Council meeting.

B. **ITEM:** Resolution No. 13-004 Concurring With the Mayor's Appointments to Various Committees

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The Mayor has selected Jim Wilcox to fill an unexpired term on the Airport Board (term to expire December 31, 2014) and has selected Chris Zukin for re-appointment to the Urban Renewal Advisory Committee (term to expire December 31, 2013).

**RECOMMENDATION:** That City Council adopt Resolution No. 13-004 concurring with the Mayor's appointments to various committees.

## MINUTES

REGULAR COUNCIL MEETING  
OF  
DECEMBER 10, 2012  
5:30 P.M.  
THE DALLES CITY HALL  
313 COURT STREET  
THE DALLES, OREGON

**PRESIDING:** Mayor Jim Wilcox

**COUNCIL PRESENT:** Bill Dick, Carolyn Wood, Tim McGlothlin

**COUNCIL ABSENT:** Brian Ahier, Dan Spatz

**STAFF PRESENT:** City Attorney Gene Parker, City Clerk Julie Krueger, Police Chief Jay Waterbury, Public Works Director Dave Anderson, Administrative Fellow Garrett Chrostek, Planning Director Dick Gassman, Engineer Dale McCabe, Airport Managers Rolf Anderson and Chuck Covert, Codes Enforcement Officer Nikki Lesich

### CALL TO ORDER

Mayor Wilcox called the meeting to order at 5:32 p.m.

### ROLL CALL

Roll call was conducted by City Clerk Krueger; Councilor Ahier and Spatz absent.

### PLEDGE OF ALLEGIANCE

Mayor Wilcox invited the audience to join in the Pledge of Allegiance.

### **APPROVAL OF AGENDA**

Mayor Wilcox asked to move Action Item 13, E to follow the Consent Agenda, so the representatives of The Dalles Disposal could leave to attend another meeting. It was moved by Wood and seconded by Dick to approve the agenda as amended. The motion carried unanimously, Ahier and Spatz absent.

### **PRESENTATIONS/PROCLAMATIONS**

Mayor Wilcox presented a Certificate of Recognition to Raelynn Ricarte for her devotion and work to support the military troops. He said she and the Gorge Heroes Club provided an important service in the community.

### **AUDIENCE PARTICIPATION**

None.

### **CITY ATTORNEY REPORT**

On behalf of City Manager Young, City Attorney Parker asked the Council if there were any changes to the proposed list of economic needs and issues priority list. He said Councilor Ahier had suggested reversing the order of #5 and #6 on the list, moving the Chenowith Storm Sewer System above the Downtown Streetscape, Phase III Project.

It was moved by Wood and seconded by McGlothlin to approve the list, with the amendment proposed by Councilor Ahier. The motion carried unanimously, Ahier and Spatz absent.

City Attorney Parker reported the appeal regarding storm water at the Airport had been denied and that issue was completed. Parker said he had been working with the Dog Control Officer regarding some minor changes to the dog ordinance and said he would bring those to a Council meeting in January for approval.

### **CITY COUNCIL REPORTS**

Councilor Wood reported the next Historic Landmarks Commission meeting would be on December 12 and the Commission would be discussing their goals for the upcoming year.

MINUTES (Continued)  
Regular Council Meeting  
December 10, 2012  
Page 3

Wood said there was an item on the Consent Agenda to change the name of a fund that was called Street and Bridge Replacement Fund. She noted that it was not an improper title because there were many bridges and footbridges in the City that had to be repaired or replaced over the years.

Councilor Dick reported the Urban Renewal Advisory Committee meeting for December had been cancelled.

Mayor Wilcox read a poem and said he wished to be known as a builder and not one who tore down, as the poem indicated. He said many things had been started by the City Council and he was proud to have been a part of it. Wilcox said the City Mission Statement also reflected the City's desire to work together to make the community a better place to live. He thanked all the Councilors and staff he had been privileged to work with and especially thanked the citizens who volunteered their time to serve on committees and task forces. Wilcox reviewed a list of items that had been accomplished during his tenure (attached as Attachment "A"). He encouraged the Council to continue to work to get the sign ordinance updated, the urban growth boundary expansion completed, and to continue to monitor barriers to business. Wilcox asked the Council to consider amendments to the Charter including changing the terms of the Mayor and Councilor at Large positions to three years, allowing the Mayor to vote, allowing someone else to sign documents the Mayor was not supportive of, and to consider compensation for the Mayor and Council. He said a special thank you to his wife, Lynn, for all her support.

### **CONSENT AGENDA**

It was moved by Dick and seconded by McGlothlin to approve the Consent Agenda as presented. The motion carried unanimously, Ahier and Spatz absent.

Items approved by Consent Agenda were: 1) approval of November 26, 2012 regular City Council meeting minutes; 2) approval of November 14, 2012 work session minutes; and 3) Resolution No. 12-025 authorizing the name of the Street/Bridge Replacement Fund to be changed to Transportation Systems Reserve Fund; retaining the original purpose of that fund as a reserve fund for the street systems of the City of The Dalles.

### **Resolution No. 12-024 Approving a Rate Increase for The Dalles Disposal Service for Operational Costs and Disposal of Material at Wasco County Landfill**

City Attorney Parker reviewed the staff report.

Jim Winterbottom said The Dalles Disposal was very sensitive to the rate payers and was asking only for a small increase to help offset increasing costs to the business.

Public Input

Dan Meader, 911 East Seventh Street, The Dalles, said he did not oppose the proposed rate increase but was concerned about fees charged to elderly customers if their garbage cans were too far from the curb. Meader said he had to haul the garbage cans for his elderly relatives every week so they didn't have to pay an extra fee they could not afford. He said the fees were inconsistent and very expensive. He said the fee for extra distance in Hood River was only \$6.00, compared to at least \$20.00 in The Dalles. Meader asked that consideration be given to waiving this fee for elderly.

Mr. Winterbottom said the fee was set at \$6.83 and he had not been made aware that anyone was trying to charge more than that. He said a program was also available through Community Action Program (CAP) to assist in reducing the fees for senior citizens.

Mayor Wilcox said he appreciated the community involvement of The Dalles Disposal. It was noted by the Councilors that they appreciated the well maintained site, assistance with community programs and the twice annual free yard debris program.

It was moved by Wood and seconded by Dick to adopt Resolution No. 12-024 approving a rate increase for The Dalles Disposal Service for operational costs and disposal of material at Wasco County landfill. The motion carried unanimously, Ahier and Spatz absent.

**PUBLIC HEARINGS**

Public Hearing to Receive Testimony Regarding Proposed Demolition of Structure at 600 East 12<sup>th</sup> Street

Mayor Wilcox reviewed the procedure to be followed for the public hearing.

Codes Enforcement Officer Lesich reviewed the staff report.

Testimony

No testimony was offered.

Resolution No. 12-019 Confirming the Determination that the Structure at 600 East 12<sup>th</sup> Street Constitutes a Public Nuisance as a Dangerous Building and Demolition of the Structure is an Appropriate Remedy

It was moved by Dick and seconded by McGlothlin to adopt Resolution No. 12-019 confirming the determination that the structure at 600 East 12<sup>th</sup> Street constitutes a public nuisance as a dangerous building and demolition of the structure is an appropriate remedy. The motion carried unanimously, Ahier and Spatz absent.

Public Hearing to Consider Appeal by Jennifer Blevins of Planning Commission Decision Affirming the Planning Director's Interpretation of Off Street Parking Requirements for 1215 Blakely Way

Mayor Wilcox reviewed the procedures to be followed for the public hearing. He asked if any Councilors wished to declare a conflict of interest or ex parte contact. Hearing none, he asked if any audience members wished to challenge any Councilor's ability to hear the case. Hearing none, the public hearing was opened.

City Attorney Parker reviewed the staff report. He emphasized the only issue to be considered in the hearing was the determination that there was adequate space for four vehicles to park on the property. He said the staff recommendation was to affirm the Planning Commission's interpretation that the off-street parking requirements for the property were met.

Appellant Testimony

Jennifer Blevins, 1212 Blakely Way, The Dalles, provided a handout (Attachment "B") of photographs which showed examples of improper parking on the property, with vehicles extending into the street. She said the property had a long history of zoning violations and that the non-conforming use duplex was located in a low density residential zone. Ms. Blevins said the Land Use Development Ordinance (LUDO) mandated a design to prevent unsafe conditions for the parking. She said the property owner was asked to provide proof that four vehicles would fit in the parking area and that staff had done the measuring, not the property owner. Blevins questioned why the property owner had not provided the information to staff and noted the data collected by staff did not conform to the LUDO requirements for a low density residential property.

Ms. Blevins pointed out that the photographs she provided showed the vehicles did extend into the right of way and that they were out of compliance with City regulations. She asked the City

Council to reverse the ruling of the Planning Commission saying their decision violated Section 3.0901.70 A3C and 7.060.060.020. Blevins asked that the property be returned to its 1978 condition, returning the garage space to off-street parking.

Mayor Wilcox asked Ms. Blevins if she had called the Police when the vehicles were parked in the right of way. Blevins said she had, but no citations were written or the vehicles had been moved by the time the Police arrived.

Rich Williams, 1212 Blakely Way, The Dalles, testified that this was a long-term issue. He said the property owner should be required to make the parking spaces the same size as was required in a commercial zone because there were no standards included for parking spaces in a residential zone. Mr. Williams said the driveway was not large enough to store four vehicles and that staff had prepared the site plan for the property owner. He said the City Attorney had previously said there was not room for the number of required vehicles.

City Attorney Parker said a site plan was not required from the new property owner because there was no change in use. He said staff had determined there was adequate room to park four standard sized vehicles. Parker said the ordinance did not say how the vehicles should be parked, only that there was enough space to accommodate them.

Councilor Wood asked if the diagram included in the staff report had been prepared by staff. Planning Director Gassman said it was prepared by staff and used actual measurements. Gassman said the photographs provided (#68 and #72) showed a parking arrangement of three vehicles parked side by side. He said it may have been an odd configuration but it did meet the City's parking requirements.

Councilor Dick asked if there were safety requirements for driveways in residential zones and whether the photographs provided accurately depicted the normal parking.

Gassman said there were no specific safety requirements for a residential driveway and said when staff had visited the site, there were not as many vehicles parked on the property as was shown in the photograph.

Councilor McGlothlin suggested the property owner pour concrete next to the existing parking area to allow for additional parking. He said that would be an easy remedy for the neighborhood. It was noted by staff that parking was required to have a hard surface, not to park on grass.

Councilor McGlothlin asked for clarification regarding the number of electric services to the property. Gassman said there had been three services, but one was removed. He said at one time, the owner of the property had attempted to create a triplex, but it was denied and there were currently two electrical services to the property, for a duplex.

Mayor Wilcox said he had driven past the property and noted if the residents parked in an organized manner, there seemed to be adequate room for four vehicles.

Councilor Wood said if vehicles were parked in the right of way, they should be cited, then they would stop parking in that manner.

Police Chief Waterbury said his officers would tell people to move their vehicles, but didn't want to write citations for parking in the right of way. He said his department preferred to get compliance without having to issue citations. Waterbury said the citation would be for blocking a driveway.

City Attorney Parker said the Council should determine if there was further testimony, and if not, close the hearing for their deliberation.

Rodger Nicols said the Appellant should have the opportunity to rebut staff's comments. City Attorney Parker said staff was answering questions and did not offer any new information so there was nothing to rebut.

With no further testimony offered, Mayor Wilcox closed the hearing.

#### Council Deliberation

Mayor Wilcox said it appeared the parking spaces provided were in compliance with the LUDO and said he believed the Planning Commission's decision should be affirmed.

It was moved by Wood and seconded by Dick to affirm the Planning Commission's decision as set forth in Resolution No. PC 526-12 and direct staff to prepare a resolution setting forth the Council's decision, including a statement of findings of fact and conclusions of law to be adopted at the January 14, 2013 Council meeting.

The motion was voted on and failed, McGlothlin voting no.

Councilor McGlothlin said he wished to change his vote because although he believed there were solutions to the problem, the parking area did conform to the City's requirements. He said he hoped the property owner would be a good neighbor and make some adjustments to the off-street parking, but would vote in favor of the motion.

Mayor Wilcox said with McGlothlin now voting in favor, the motion carried unanimously, Ahier and Spatz absent.

### **CONTRACT REVIEW BOARD ACTIONS**

#### **Authorization for Professional Services Agreement to Develop a Water Management and Conservation Plan as Required by Oregon Water Resources Department**

Public Works Director Anderson reviewed the staff report.

It was moved by McGlothlin and seconded by Dick to authorize the City Manager to enter into contract with GSI Water Solutions Inc. in an amount not to exceed \$60,000 for the development of a Water Management and Conservation Plan. The motion carried unanimously, Ahier and Spatz absent.

#### **Acceptance of a Grant From Google and QLife Agency for Wi Fi Expansion Project**

City Attorney Parker reviewed the staff report.

It was moved by Wood and seconded by Dick to authorize the City Manager to accept a grant from Google and QLife for expansion of the public Wi Fi system and award the contract for installation and three year maintenance to Gorge.net in the amount not to exceed \$74,475. The motion carried unanimously, Ahier and Spatz absent.

### **ACTION ITEMS**

#### **Approval of Updated Wastewater Facility Capital Improvement Plan and Associated Funding Plan**

Public Works Director Anderson reviewed the staff report.

It was moved by McGlothlin and seconded by Wood to adopt the updated Wastewater Facility Capital Improvement Plan, call for a public hearing to receive testimony related to wastewater rate adjustments to be held on January 14, 2013 and call for a public hearing to receive testimony related to wastewater systems development charges to be held on January 28, 2013. The motion carried unanimously, Ahier and Spatz absent.

Approval of Third Addendum for Lease Agreement With Shearer Sprayers at the Columbia Gorge Regional Airport

City Attorney Parker reviewed the staff report.

It was moved by Dick and seconded by Wood to approve the third addendum for the lease agreement with Shearer Sprayers and authorize execution of the third addendum. The motion carried unanimously, Ahier and Spatz absent.

Approval of Use Agreement for TEAM Oregon Motorcycle Safety Program for Runway Use at Columbia Gorge Regional Airport

City Attorney Parker reviewed the staff report.

It was moved by Wood and seconded by McGlothlin to approve the use agreement with TEAM Oregon Motorcycle Safety for use of airport runway 2/20 and authorize execution of the agreement by AMI. The motion carried unanimously, Ahier and Spatz absent.

Resolution No. 12-020 Approving Amendments to the City's Fee Schedule to Include Fees for Secondhand Dealers and Use Fees for Lewis and Clark Festival Park

City Attorney Parker reviewed the staff report. He said these fees had accidentally been left out of the previous fee resolution. Parker noted there should be an opportunity for public comment regarding the proposed fees.

Public Comment

No public comment was offered regarding the proposed fees.

It was moved by McGlothlin and seconded by Wood to adopt Resolution No. 12-020 approving amendments to the City's fee schedule to include fees for secondhand dealers and use fees for Lewis and Clark Festival Park. The motion carried unanimously, Ahier and Spatz absent.

MINUTES (Continued)  
Regular Council Meeting  
December 10, 2012  
Page 10

**ADJOURNMENT**

Being no further business, the meeting adjourned at 7:36 p.m.

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Submitted by/  
Julie Krueger, MMC  
City Clerk

SIGNED:

\_\_\_\_\_  
Stephen E. Lawrence, Mayor

ATTEST:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk

## **City Council/Commission Accomplishments/Actions 2007-2012**

Sequescennial 2007

Sister City formalization with Miyoshi City, Japan

Sending and Hosting Sister City Delegations

Updated SDCs

Revision of Updated Transportation SDCs by Citizen Committee

IAMP for W 6<sup>th</sup>

Burning Ordinances from Ad Hoc Burn Committee

Updating LUDOs annually

Redefined 'obligation' and 'trigger' points for SDCs.

Reclassified streets in transportation plan requiring much less development and cost to property owners

Updating/writing job descriptions for City Manager, Attorney, Municipal Judge

Created Performance Review Criteria for Municipal Judge and began annual reviews

Hired first new Municipal Judge in over 40 years

Wal-Mart approval

Initiated Regular Town Hall Meetings (Burning, Business Licenses, Canine Control)

Initiated Mayor's business forum

Initiated Past Mayor's Breakfast

Initiated Ad Hoc Business Barrier Committee

Initiated Ad Hoc Tree Committee

Fostered stronger relationship with North Wasco School District 12 through inclusion in the Outreach Team & holding a Council Meeting at the high school

Finished E 10<sup>th</sup> St widening project

Finished E 19<sup>th</sup> rebuild from Dry Hollow to Roberts St

Built new high elevation water storage tank above MCMC

Completed first phase of 1<sup>st</sup> St and Bargeway LID

Hired 2 more police officers and full time nuisance code enforcement officer

Annexation of all property possible under state law inside the UGB

Reviewed and set rates for water & sewer to assure adequate maintenance of the systems

Differentiated future compensation levels for department heads based on people and budget/assets managed

Maintained balanced budget every year without reduction in services or staff

Public Access WiFi cloud established by QLife

Relocated Public Works

Broke Ground for new National Guard/CGCC Training Center

## **Urban Renewal/City Accomplishments**

Round-a-bout and Brewery Grade Project

Marine Terminal & Event Center

Wonderworks, St Peters, Canton Wok, Gayer Building, Breezeway  
Sunshine Mill redevelopment and MOU with developer  
Purchase of 'Granada Block' properties and MOU with developer  
Approved grants to St Peter's Landmark, Wonder Works, American Legion  
Approved interest subsidies to Canton Wok, Scott Gayer  
Sold breezeway (Klindt's Annex) to Lisa Wallace for development for her expanding business  
Granted funds to Parks & Recreation for completion of skate park

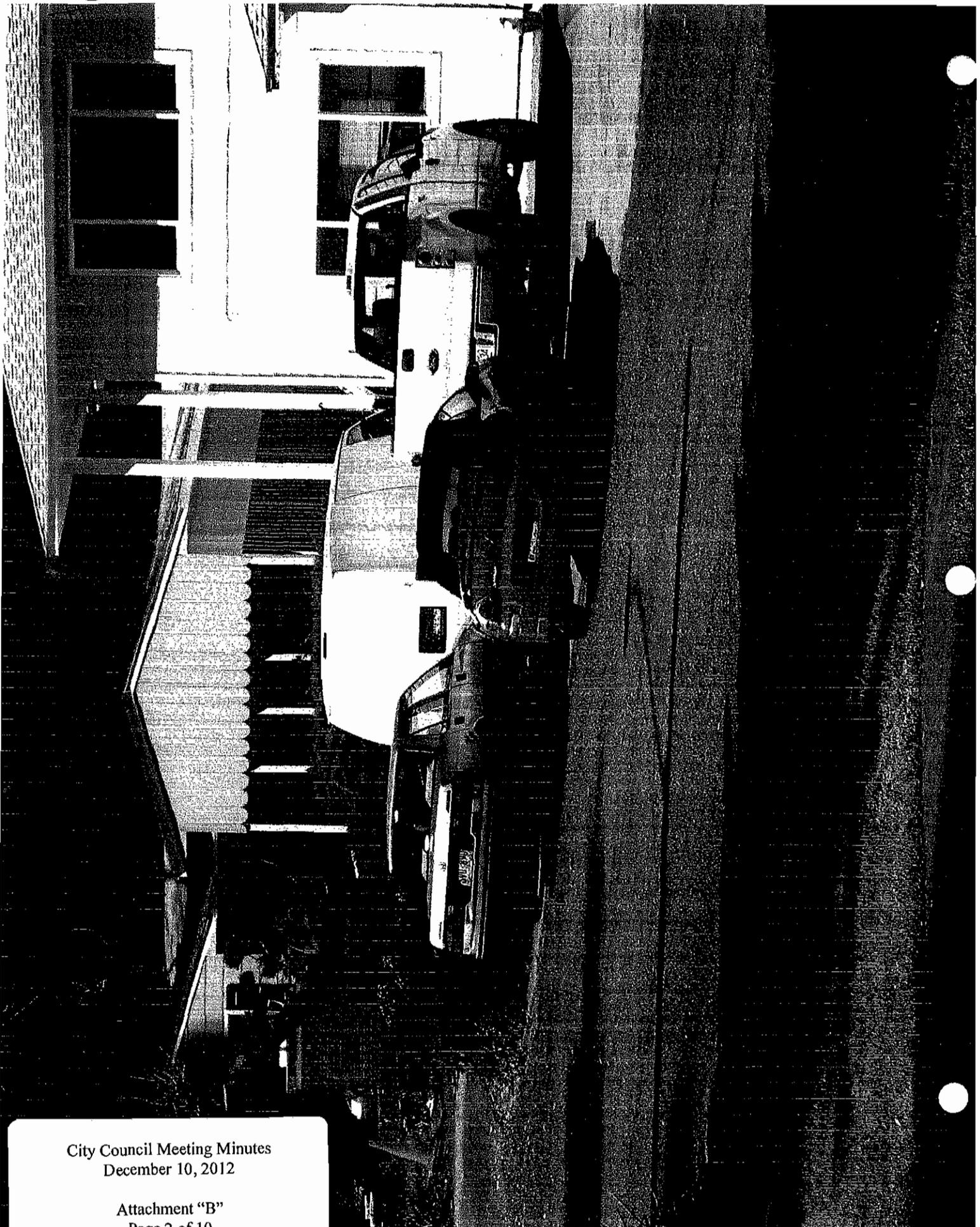
### **Airport Commission**

MOU for development of golf course  
Reconstructed well and completed agreements with water district for water system  
Completed construction of 10 unit hanger by private investors  
Completed construction of 2 executive hangers by private investors  
Completed 6 million dollar rebuild of primary runway and taxiways  
Completed construction of maintenance hanger  
Completed construction of emergency services building  
Completed airport master plan  
Completed lease with Life Flight for helicopter and fixed wing aircraft base  
Completed lease with UAV supplier/developer

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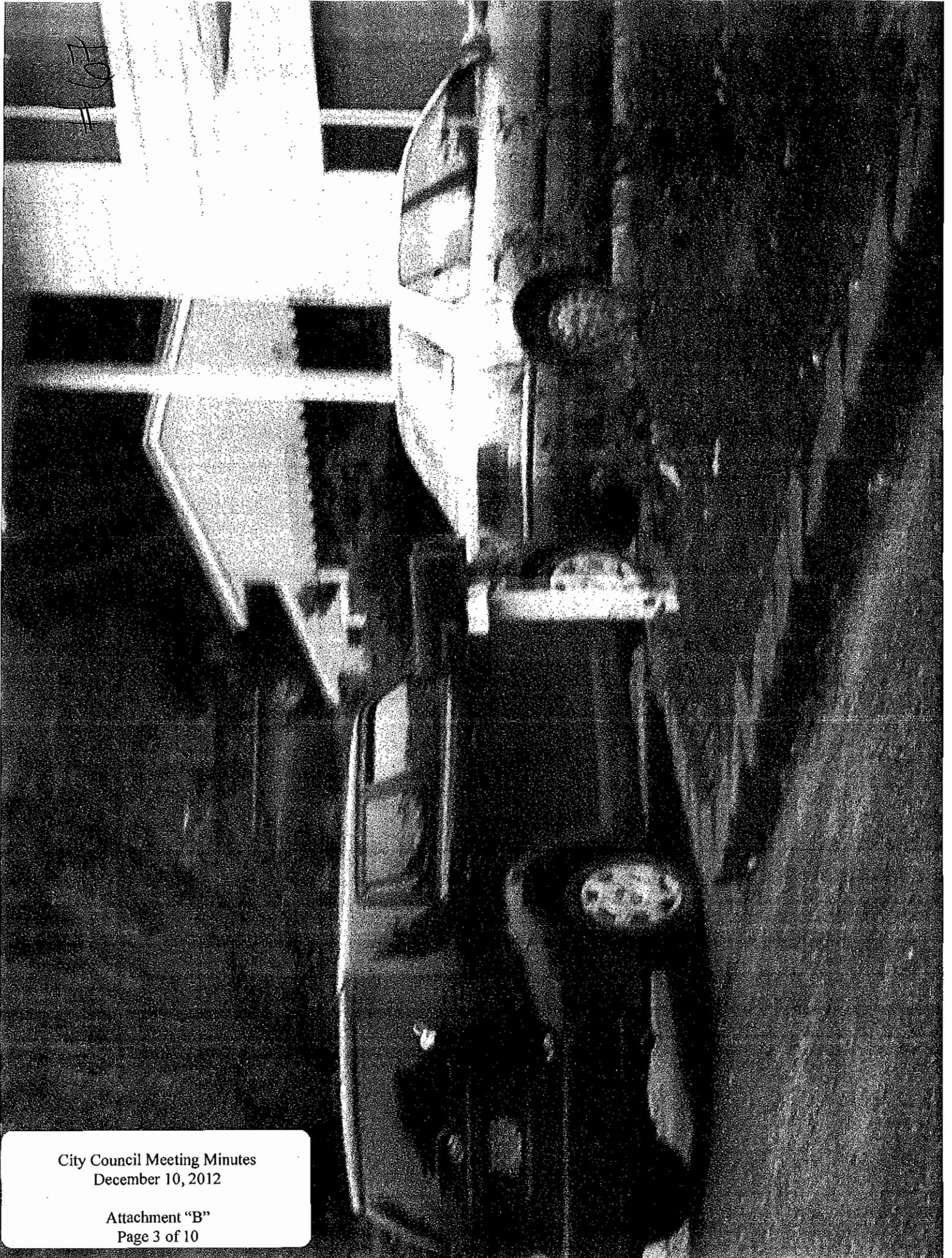


63



City Council Meeting Minutes  
December 10, 2012

Attachment "B"  
Page 2 of 10





City Council Meeting Minutes  
December 10, 2012

Attachment "B"  
Page 4 of 10

#18



#70

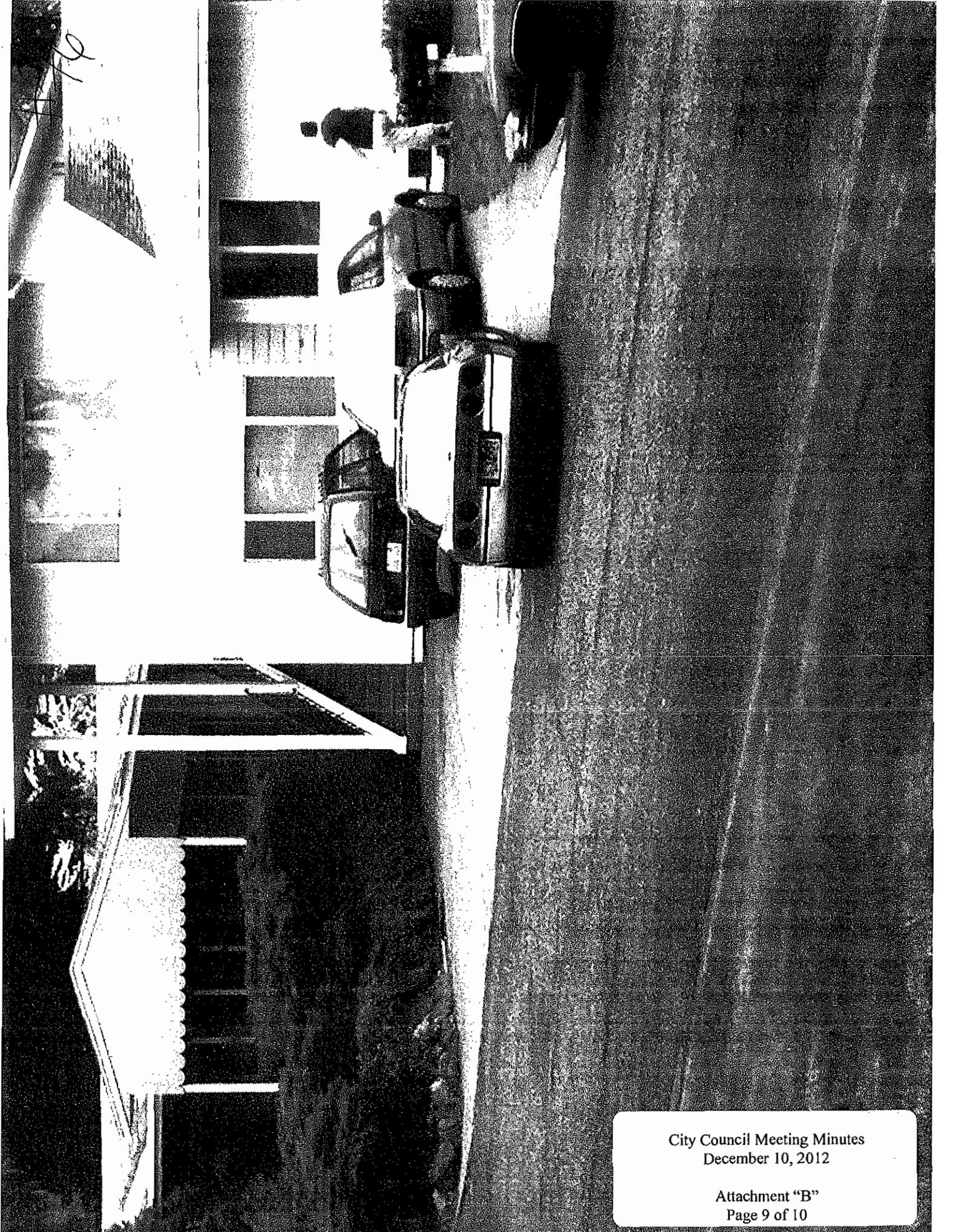


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**RESOLUTION NO. 13-004**

**A RESOLUTION CONCURRING WITH THE MAYOR'S  
APPOINTMENT TO VARIOUS COMMISSIONS**

**WHEREAS**, there is a vacancy on the Airport Board; and

**WHEREAS**, the Mayor has selected Jim Wilcox for appointment to the Airport Board; and

**WHEREAS**, there is an expired term on the Urban Renewal Advisory Committee; and

**WHEREAS**, the Mayor has selected Chris Zukin for re-appointment to the Urban Renewal Advisory Committee;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

Section 1. The City Council concurs with the appointment of Jim Wilcox to the Airport Board; term to expire December 31, 2014.

Section 2. The City Council concurs with the re-appointment of Chris Zukin to the Urban Renewal Advisory Committee, term to expire December 31, 2014.

Section 2. This Resolution shall be effective January 14, 2013.

**PASSED AND ADOPTED THIS 14th DAY OF JANUARY, 2013**

Voting Yes, Councilors: \_\_\_\_\_

Voting No, Councilors: \_\_\_\_\_

Absent, Councilors: \_\_\_\_\_

Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 14th DAY OF JANUARY, 2013**

SIGNED:

\_\_\_\_\_  
Stephen E. Lawrence, Mayor

ATTEST:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk



**CITY OF THE DALLES**  
Department of Public Works  
1215 West First Street  
The Dalles, Oregon 97058

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## **AGENDA STAFF REPORT**

### **CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
January 14, 2013	Public Hearing 12, A	13-008

**TO:** Honorable Mayor and City Council

**FROM:** Dave Anderson, Public Works Director

**THRU:** Nolan K. Young, City Manager *nyj*

**DATE:** January 2, 2013

**ISSUE:** Public Hearing to Receive Testimony Regarding Proposed Wastewater Rates.

**CITY COUNCIL GOALS:** N.A.

**PREVIOUS AGENDA REPORT NUMBERS:** Agenda Staff Reports #12-080, #12-086.

**BACKGROUND:** On December 10, 2012 City Council adopted an updated Wastewater Facilities Capital Improvement Plan (CIP) and called for a public hearing to receive testimony related to wastewater utility rates necessary to support operations, maintenance and implementation of the CIP. Also, at the November 26, 2012 meeting, Council was presented with information summarizing three different rate scenarios. Council expressed a preference for the funding alternative that would utilize the issuance of revenue bonds in 2014, 2017 and 2020 to fund the next three phases of improvements to the wastewater collection and treatment systems and projected annual rate increases of 3.44% from 2013 to 2022.

Staff is recommending the Council consider a 3.44% wastewater utility rate increase effective March 1, 2013 and subsequent annual 3.44% increases through fiscal year 2021-22. Council will recall that the financial analysis that supported the 3.44% rate increase schedule assumed an annual general inflationary rate of 2.3%. The proposed rate increases are less than 1.2% more than the estimated inflation rate.

The issue of Wastewater SDCs is not included in this proposed rate increase and is scheduled for consideration at a future City Council meeting since the potential revision of SDCs requires a 90-day notice period.

Following the public hearing, Council will have the opportunity to provide direction to staff as to how to proceed. If the Council provides direction that they want to proceed with the rate increase proposed by staff, staff will prepare a resolution for possible adoption by the Council at the January 28, 2013 Council meeting

**BUDGET IMPLICATIONS:** If the Council directs staff to proceed with preparation of a resolution approving the recommended rate increase, customers of the wastewater utility will have annual 3.44% rate increases beginning March 1, 2013 through March 1, 2022, and collection of revenue in accordance with the proposed rate schedule will allow the City to complete capital improvements as set forth in the City's Wastewater Facilities Capital Improvement Plan adopted December 2012.

**RECOMMENDATIONS:**

1. **Staff Recommendation:** *Move to direct staff to prepare a resolution for the January 28, 2013 approving the wastewater rate increase as proposed in the agenda staff report presented on January 14, 2013.*
2. Provide additional direction to staff on how to proceed.



**CITY OF THE DALLES**  
Department of Public Works  
1215 West 1<sup>st</sup> Street  
The Dalles, Oregon 97058

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## **AGENDA STAFF REPORT**

### **CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
January 14, 2013	Contract Review Board 13, A	13-002

**TO:** Honorable Mayor and City Council

**FROM:** Dale S. McCabe, City Engineer

**THRU:** Nolan K. Young, City Manager *nyj*

**DATE:** December 20, 2013

**ISSUE:** 2013 SANITARY SEWER CIPP LINING, CONTRACT NO. 2013-002.

**RELATED CITY COUNCIL GOAL:** None

**BACKGROUND:** The City of The Dalles Public Works Department advertised for bids for the 2013 Sanitary Sewer CIPP Lining Project, Contract No. 2013- 002. The scope of work for the project was stated as follows: “The work to be performed shall consist of furnishing all materials, labor, and equipment necessary in the installation of approximately 8,762 feet of CIPP liner on existing sanitary sewer lines. All work will be conducted in accordance with the contract documents.”

The Public Works Department has developed a process of annually inspecting, prioritizing, and repairing deteriorated sections/high maintenance sections of the sanitary sewer or storm sewer systems. The prioritized lines for this project are sanitary sewer lines that need lining because of root intrusion or a deteriorated condition of pipe and they are located in numerous areas across the City.

Once again, due to the location and condition of the proposed lines to be repaired, The Dalles Public Works Department has determined that using the method of Sliplining with cured in place pipe (CIPP) is the best way to repair the lines without exposing them and completely replacing them. We have issued similar contracts in the past and have experience with using similar materials and construction methods to repair other lines in our system. We have been happy with the performance of the repairs that were made and we feel that it is a long term solution for ensuring proper function of our system.

The bid opening for the contract was held on December 19th, 2012 at 2:00 p.m. for which we received three bids. The bids received were as follows.

1. Insituform Technologies, Inc., in the amount of \$317,190.00
2. PEC, Inc., in the amount of \$322,069.00
3. Michels Corporation, in the amount of \$334,897.40

The bids were reviewed by City staff to make sure that the proper material was submitted and the bids were deemed complete.

**BUDGET IMPLICATIONS:** A total of \$373,493 is budgeted for this project in the Wastewater Fund 56, Line Code 7630. The low bid for this project falls under the amounts that were budgeted and available for this project.

**ALTERNATIVES:**

- a. Staff Recommendation: Authorize the City Manager to enter into contract with Insituform Technologies, Inc., in an amount not to exceed \$317,190.00.
- b. Provide additional research in response to questions raised by City Council.
- c. Not to proceed with the contract.



**CITY of THE DALLES**

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481  
FAX (541) 296-6906

**AGENDA STAFF REPORT**  
**CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
January 14, 2013	Action Items 14, A	13-009

**TO:** Mayor and City Council

**FROM:** Nolan K. Young, City Manager *ny*

**DATE:** January 2, 2013

**ISSUE:** Lease/Purchase of the Girl Scout House

**BACKGROUND:** In May of 1978, the City of The Dalles provided a home at 1325 SW Washington Street (see attached site and aerial map) in The Dalles to the Girl Scouts of Oregon and Southwest Washington to be used by the local Girl Scouts. The agreement called for the property to be returned to the City if it ceased to be used for the purposes of the Girl Scouts.

We have received a letter (attached) from the Girl Scouts of Oregon and Southwest Washington providing notice that they wish to allow the ownership of this property to return to the City of The Dalles. City Attorney Gene Parker has prepared a Bargain and Sale Deed (attached) to accomplish this. They have requested that the City work with the local Girl Scout troops to allow them to continue to utilize the facility. We have met with this local group, who has also met with supporters, to determine how they could maintain use of this facility.

Attached is an email from Summer Wiese who represents the local troop requesting that the City provide a lease of the property until which time they could obtain a non-profit 501(C)3 designation.

**STAFF RECOMMENDATION:** Staff recommends that the City Council direct the City Attorney to prepare a lease with the local Girl Scout troop. The lease would provide the following provisions:

- Girl Scouts would be responsible for all costs of operation and upkeep of the

- property
- The property would be kept in good order
- The Girl Scouts will obtain appropriate liability insurance and reimburse the City for property insurance during the life of the lease

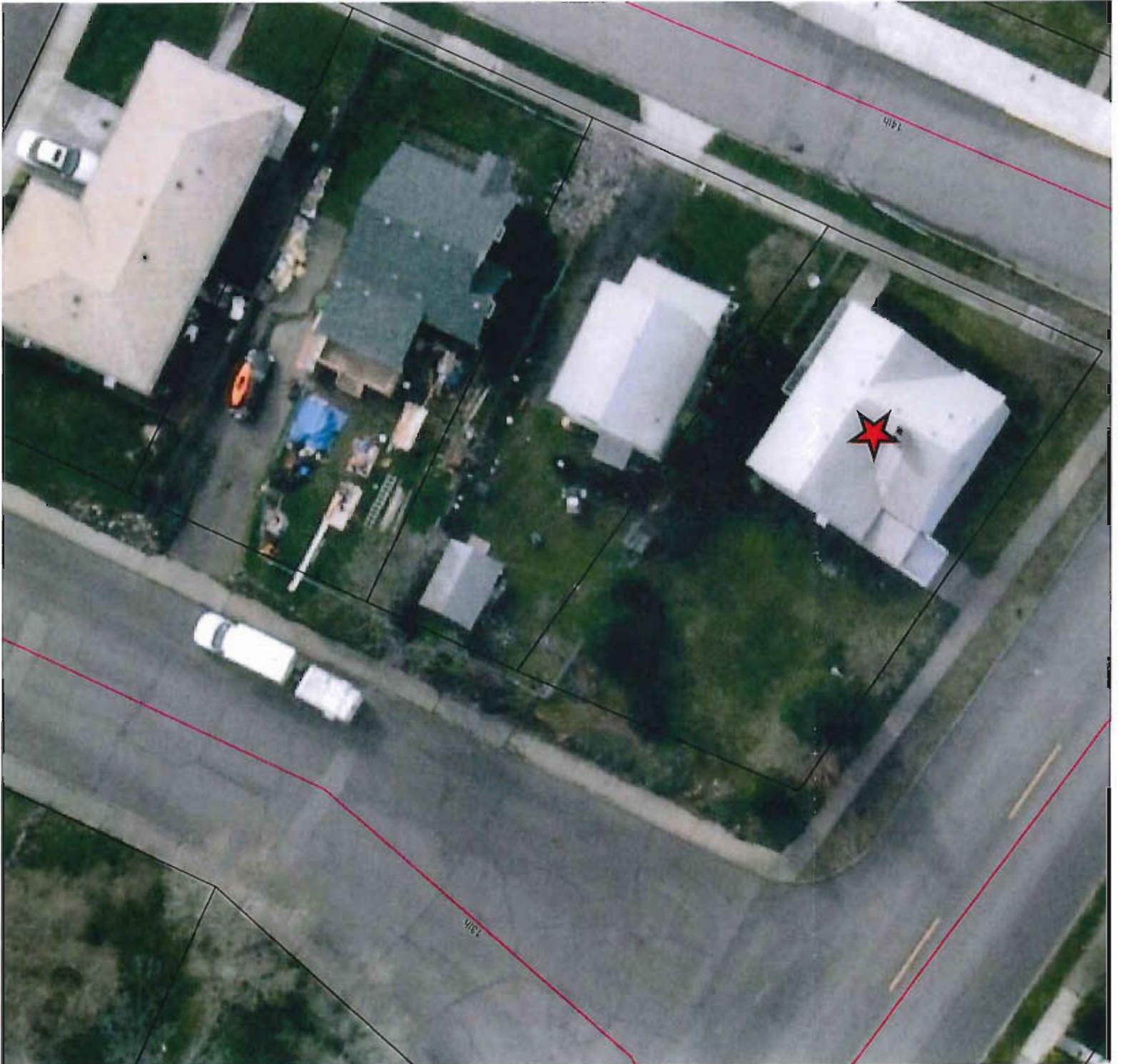
If at any time during the two year lease the local troop secures a 501(C)3 nonprofit designation to support the local troop the property will be transferred to this nonprofit for \$1 under the same terms as the original transfer to the Girl Scouts of Oregon and Southwest Washington.

**BUDGET IMPLICATIONS:** As long as the Girl Scouts assume all maintenance and operation costs, and reimburse the City for property insurance, there should be no cost to the City. Because the Girl Scouts are a nonprofit there should be no property taxes charged on the property.

**COUNCIL ALTERNATIVES:**

1. Staff recommendation: *Direct the City Attorney to prepare a two year lease agreement with the local Girl Scout Troop for the property at 1325 SW Washington Street, The Dalles, with a provision that allows them to purchase the property for \$1 once the associated nonprofit group is established, and authorize the City Manager to sign this agreement.*
2. Direct the City Attorney to prepare a two year lease agreement with the local Girl Scout Troop for the property at 1325 SW Washington Street, The Dalles, with a provision that allows them to purchase the property for \$1 once the associated nonprofit group is established, and direct the City Manager to bring this agreement back to the City Council for consideration at a future meeting.
3. Postpone this issue to allow for further research and discussion.





BARGAIN AND SALE DEED

*MC*

CITY OF THE DALLES, a municipal corporation of the State of Oregon, Grantor, conveys to COLUMBIA RIVER GIRL SCOUT COUNCIL, Grantee the following described real property, so long as said property is used to further the purposes of the Girl Scouts, and if said property shall cease to be so used, the interest of the Grantee, its successors or assigns shall automatically terminate and revert to the Grantor, its successors or assigns.

Block 1, West 50 feet of Lot 1, Crossen's Addition to City of The Dalles, County of Wasco and State of Oregon.

The true and actual consideration for this conveyance is \$5.00.

Until a change is requested, all tax statements shall be sent to the following address: Columbia River Girl Scout Council, 4747 SW Kelly, Portland, Oregon 97201.

May 30, 1978.

CITY OF THE DALLES, a municipal corporation of the State of Oregon

By *[Signature]*  
Mayor

ATTEST:

*John B Thomas*  
City Clerk

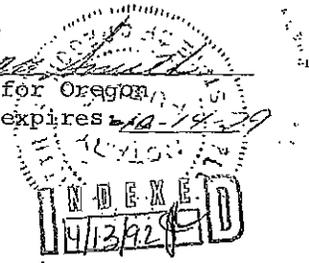
STATE OF OREGON )  
                          ) ss  
County of Wasco )

May 30, 1978.

Personally appeared JOHN LUNDELL and JOHN B. THOMAS who, being sworn, each for himself, said that the former is the Mayor and the latter is the City Clerk of the City of The Dalles, Oregon, a municipal corporation, and that they signed and caused to be affixed the seal of the City to the foregoing instrument by authority of the City Council; and each of them acknowledged said instrument to be the voluntary act and deed of the City of The Dalles.

Before me:

*[Signature]*  
Notary Public for Oregon  
My Commission expires 12-19-79



781962



# girl scouts of oregon & sw washington

November 30, 2012

Nolan Young, City Manager  
City of the Dalles  
313 Court Street  
The Dalles, Oregon 97058

**Portland Service Center**  
9620 SW Barbur Boulevard  
Portland, OR 97219  
503-977-6800  
girlscoutsosw.org

Dear Mr. Young,

Please consider this letter to be notice of our intention to allow ownership of the property located at 1325 SW Washington Street in The Dalles to revert to the City of the Dalles. We have enjoyed the use of this building since 1978 and appreciate that the City was very generous at that time when it sold the building to us for \$5. The needs of our council have changed and we are no longer in a position to provide meeting space for our troops. For this reason, we wish to exercise the option in the original transfer of ownership documents to return it to the City for the re-purchase price of \$5.00.

There is an active and passionate group of volunteers in The Dalles that would like to work with the City of The Dalles to retain access of the facility for use by Girl Scout troops and groups. They have worked to raise funds and gather support for this effort. The leader of this group is Sommer Lucas. Mrs. Lucas can be reached by phone at 541-993-8999 or by email at [sommerrae\\_sunshineray@yahoo.com](mailto:sommerrae_sunshineray@yahoo.com). I hope you will be successful in working with this group.

I am sure that you have a process for this transaction. Please let me know if there is anything further needed from us to begin the process. It would also be helpful to know approximately how long it might take so we may inform our girls and volunteers in the area.

Sincerely,

Harmony George  
CFO/VP Business Services

**Board members**

Elizabeth Clarke  
Debi Coleman  
Terry Coryell  
Cara Fischer  
Elizabeth Hatfield-Keller  
Roberta Janssen  
Eva Labby  
Joan Lintz  
Kathy Lucier  
Anna Mortsfield  
Nancie Paxton  
Ara Serjoie  
Ellen Steel  
Elaine Teague  
Rita Van Schoiack  
Maureen Vega  
Lara Williams Pearsall

## Nolan Young

---

**From:** Sommer Wiese <sommerrae\_sunshineray@yahoo.com>  
**Sent:** Friday, December 28, 2012 4:22 PM  
**To:** Nolan Young  
**Subject:** Girl Scout House

Mr. Young,

We recently had a meeting and discussed the property on Washington St. I have formed a committee regarding this property and keeping it available to Girl Scouts in our community. We are interested in leasing this property from the city and taking on financial responsibility. Our intentions are to become a non-profit organization in 2013 and at that time we would like to purchase the property. I have been in contact with Girl Scouts of Oregon and Southwest Washington and was able to obtain logs of last years expenses for the property. After reviewing the expenses we feel comfortable taking on the financial obligations. Currently we have recieved donations of more than \$6500, with many more verbal offerers from members of our community. We have even been offered free lawn services through a local company. We will also be doing fundraisers with our Girl Scouts throughout the year to meet the financial needs. Our goal is to keep this property available to youth in our community and adult volunteers wanting to use it for the Girl Scout program. We would like to address this proposal at the next city counsel meeting. If you need more information please contact me at 541-993-8999.

Sincerely,

Sommer Lucas

After recording return to:  
City Clerk  
City of The Dalles  
313 Court Street  
The Dalles, OR 97058

Grantor's Name and Address:  
Girl Scouts of Oregon  
& Southwest Washington, Inc.  
9620 SW Barbur Boulevard  
Portland, OR 97219

Grantee's Name and Address:  
City of The Dalles  
313 Court Street  
The Dalles, OR 97058

Until requested otherwise,  
send all tax statements to:  
City of The Dalles  
313 Court Street  
The Dalles, OR 97058

**BARGAIN AND SALE DEED**

**KNOW ALL PERSONS BY THESE PRESENTS** that Girl Scouts of Oregon and Southwest Washington, Inc., hereinafter called the "Grantor", for the consideration hereafter stated does hereby grant, bargain, sell and convey to the City of The Dalles, a municipal corporation of the State of Oregon, hereinafter called the "Grantee", the following described real property:

The West 50 feet of Lot 1, Block 1 Crossen's Addition to City of The Dalles, County of Waseo, State of Oregon.

The true consideration for this conveyance is \$5.00.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010., TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2013.

**GIRL SCOUTS OF OREGON AND SOUTHWEST WASHINGTON, INC.**

By: \_\_\_\_\_  
Karen Hill, CEO

STATE OF OREGON            )  
                                          ) ss  
County of \_\_\_\_\_  )

Personally appeared before me Karen Hill, Chief Executive Officer of the Girl Scouts of Oregon and Southwest Washington, Inc., and acknowledged the foregoing instrument to be her voluntary act and deed.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122  
FAX: (541) 296-6906

# AGENDA STAFF REPORT

## CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
January 14, 2013	Action Items 14, B	13-004

**TO:** Honorable Mayor and City Council

**FROM:** Gene E. Parker, City Attorney

**THRU:** Nolan K. Young, City Manager *ny*

**DATE:** December 27, 2012

**ISSUE:** Special Ordinance No. 13-552, assessing the property at 1509 Thompson for the costs of abatement of junk and hazardous vegetation.

**RELATED CITY COUNCIL GOAL:** None.

**PREVIOUS AGENDA REPORT NUMBERS:** None.

**BACKGROUND:** On August 24, 2012, Nikki Lesich, the City's Code Enforcement Officer, posted a notice upon the property located at 1509 Thompson, advising the property owners of nuisance conditions existing upon the property, including the presence of junk and hazardous vegetation. When the property owners, Eric & Cassandra Mullins did not remove the nuisance conditions, the City hired a contractor to abate the public nuisances. The cost for removal of the nuisance conditions was \$1,100 which included an administrative fee of \$500.

On November 5, 2012, a notice of the proposed assessment for the costs of the abatement was sent by certified mail to Mr. and Mrs. Mullins. A copy of that notice is enclosed with this staff report. The notice advised the owners they had until November 13, 2012 to file any objections to the proposed assessment, and that if the assessment was not paid by November 20, 2012, the amount of the assessment would be imposed as a lien upon the property. No objections to the

assessment were filed by November 13, 2012, and no payment has been made toward the proposed assessment.

Notice of the adoption of Special Ordinance No. 13-552 assessing the property has been posted in accordance with the provisions of the City's charter, and the ordinance can be adopted by title only.

**BUDGET IMPLICATIONS:** Upon passage of Special Ordinance No. 13-552, an entry will be made in the City's electronic lien docket assessing the property at 1509 Thompson for a lien in the amount of \$1,100.

**ALTERNATIVES:**

- A. **Staff Recommendation.** *Move to adopt Special Ordinance No. 13-552 by title only.*



**CITY of THE DALLES**

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481

CERTIFIED MAIL

COPY

November 5, 2012

Eric and Cassandra Mullins  
1509 Thompson Street  
The Dalles, OR 97058

NOTICE OF ASSESSMENT - 1509 Thompson Street

Dear Mr. & Mrs. Mullins:

This Notice is to inform you of the assessment costs for the clean-up and removal of junk and vegetation from your property located at 1509 Thompson Street, The Dalles, Oregon, and known as 1N 13E 2DC #10100, which clean-up was performed on September 26, 2012.

The total cost of the assessment, including the City's administrative fee, is **\$1,100.00**. This assessment includes a \$500.00 administrative fee as required by ordinance for City abatement of nuisances. The total assessment of \$1,100.00 will become a lien against the property unless paid within 15 days of the date of this Notice, **November 20, 2012**.

If you object to the cost of the abatement as indicated, you may file a notice of objection with the City Clerk within five (5) days of the date of this notice, **November 13, 2012**. The objection shall be delivered in person or by mail to City Clerk, 313 Court Street, The Dalles, Oregon, 97058.

CITY OF THE DALLES

Julie Krueger, MMC  
City Clerk

c: Gene Parker, City Attorney  
Nikki Lesich, Codes Enforcement Officer

NOV 05 2012

**SPECIAL ORDINANCE NO. 13-552**

**AN ORDINANCE ASSESSING THE REAL PROPERTY  
LOCATED AT 1509 THOMPSON STREET FOR THE COSTS  
OF ABATEMENT OF JUNK AND HAZARDOUS VEGETATION**

**WHEREAS**, the City Code Enforcement Officer posted a Notice to Abate Nuisance on the property at 1509 Thompson Street on August 24, 2012; and

**WHEREAS**, the above listed property is owned by Eric and Cassandra Mullins; and

**WHEREAS**, the Notice to Abate Nuisance posted for the property required the removal of junk and hazardous vegetation from the property pursuant to the provisions of General Ordinance Nos. 99-1234 and 93-1162; and

**WHEREAS**, the Notice to Abate Nuisance further provided that if the nuisance conditions were not abated, the City would hire a contractor to abate the nuisance conditions, and the costs of the abatement would be charged to the owner of the property, and become a lien upon the property; and

**WHEREAS**, as a result of the owners' failure to abate the nuisance conditions on their properties, the City hired a contractor who abated the nuisance conditions, which cost came to a total of \$1,100, including the City's administrative fee of \$500; and

**WHEREAS**, pursuant to Section 34 of General Ordinance No. 93-1162, the City Clerk sent a Notice of Assessment by certified mail on November 5, 2012 to the owners of the property. The Notice of Assessment advised the property owners of the sum that had been incurred for the abatements, and that the sum would become a lien upon the property if the amount listed were not paid by November 20, 2012; and

**WHEREAS**, the November 5, 2012 Notice of Assessment also advised the property owners that they had until November 13, 2012 to file any objection to the proposed assessment; and

**WHEREAS**, the owners have not filed any objections to the proposed assessment, and the owners have not paid the assessment by the stated deadline, and the City Council finds that the statement of the amount of the proposed assessment is correct, and that no reason exists not to proceed with the imposition of a lien upon the property for the costs of the assessment;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES  
ORDAINS AS FOLLOWS:**

Section 1. Assessment. The cost of the abatement of the nuisance conditions consisting of the removal of junk and hazardous vegetation for the properties listed below is assessed upon the following properties:

<u>Name/Address</u>	<u>Description</u>	<u>Final Assessment</u>
Eric and Cassandra Mullins 1509 Thompson Street The Dalles, OR 97058	1N 13E 2 DC #10100	\$1,100.00

The legal description for the above listed property is set forth in Exhibit "A".

Section 2. Docket Entry. Upon passage of this Ordinance and its approval by the Mayor, the City Clerk is instructed and directed to enter into the Docket of City Liens the following matters in relation to the assessment:

- a. The foregoing legal description of the property assessed.
- b. The name of the owners or statement that the owners are unknown.
- c. The sum assessed upon each lot or tract of land.
- d. The date of the docket entry.

Section 3. Notices/Collection of Assessment. The City Clerk is directed to proceed with notice and collection of the assessment in accordance with the procedures set forth in Section 9 of General Ordinance No. 91-1127, and to proceed with collection of the assessed amount in the manner provided by law.

**PASSED AND ADOPTED THIS 14TH DAY OF JANUARY, 2013**

Voting Yes, Councilors: \_\_\_\_\_  
Voting No, Councilors: \_\_\_\_\_  
Absent, Councilors: \_\_\_\_\_  
Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 14TH DAY OF JANUARY, 2013**

\_\_\_\_\_  
Stephen E. Lawrence, Mayor

ATTEST:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk

**EXHIBIT "A"**

The South 60 feet of the North 149 feet of the East 83.4 feet of Lot 13, Block 12,  
THOMPSON'S ADDITION TO DALLES CITY, in the City of The Dalles, County of Wasco,  
State of Oregon



## CITY OF THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122  
FAX (541) 296-6906

# AGENDA STAFF REPORT

## CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
January 14, 2013	Action Items 14, C	13-007

**TO:** Honorable Mayor and City Council

**FROM:** Gene E. Parker, City Attorney

**THRU:** Nolan K. Young, City Manager *nyj*

**DATE:** January 3, 2013

**ISSUE:** Approval of Ground Lease between the City and Klickitat County and MASI Air 100 LLC.

**RELATED CITY COUNCIL GOAL:** None.

**PREVIOUS AGENDA REPORT NUMBERS:** None.

**BACKGROUND:** The Columbia Gorge Regional Airport Board has voted to recommend the City and Klickitat County approve a proposed ground lease of property at the Columbia Gorge Regional Airport, with MASI Air 100 LLC, for the construction of a hangar. The proposed lease is similar to a ground lease approved in 2010 with William Bottomley for the construction of a hangar.

Under the proposed ground lease, the tenant will be leasing 6,400 square feet of space. The initial term of the lease is for 20 years, and the tenant has the option to renew the lease for two additional periods of ten years each. The rent to be paid during the initial five year period of the lease is calculated at the rate of thirty cents per square foot, which results in an annual rental payment of \$1,920. The amount of rent for each successive five year period during which the lease is in effect, will be subject to an increase based upon the amount of the consumer price

index for the Portland Vancouver metropolitan area for the preceding five year period. There is a provision that the amount of rental increase for any particular five year period cannot exceed the sum of fifteen percent of the rental paid during the prior five year period. For example, the rental that will be paid during the rental period from January 1, 2018 to January 1, 2023 cannot exceed the sum of \$2,208 annually.

Upon termination of the lease, the City and County have the option to acquire ownership of the hangar by paying the fair market value of the hangar, or requiring the tenant to move the hangar from the airport property. Staff is working with the airport management team to obtain copies of the various exhibits referred to in the proposed lease, and will provide copies of those exhibits to the Council as soon as they become available. A copy of the proposed lease has been sent to the Klickitat County prosecuting attorney for review.

**BUDGET IMPLICATIONS:** During the initial five year rental term of the proposed agreement, the tenant will pay annual rent of \$1,920.

**ALTERNATIVES:**

A. Staff Recommendation. *Move to approve the proposed ground lease agreement between the City and Klickitat County with MASI Air 100 LLC, and authorize execution of the ground lease agreement subject to approval of the ground lease agreement by Klickitat County.*

**GROUND LEASE**

between

**CITY OF THE DALLES & KLICKITAT COUNTY**

and

**MASI AIR 100, LLC**

**WHEREAS**, the **CITY OF THE DALLES**, a municipal corporation of the State of Oregon, and Klickitat County, a municipal corporation of the State of Washington, hereinafter jointly referred to as Landlord, are the joint owners and operators of the Columbia Gorge Regional Airport located in Dallesport, Washington; and

**WHEREAS**, **MASI AIR 100, LLC**, hereinafter referred to as Tenant, desires to enter into an agreement with Landlord for the lease of property located at the Columbia Gorge Regional Airport, upon which Tenant proposes to construct an aircraft hangar at the Tenant's sole cost and expense; and

**WHEREAS**, under the proposed Ground Lease, during construction of the hangar and upon completion of construction, ownership of the hangar shall belong to the Tenant; and

**WHEREAS**, Landlord shall not be a party to any sublease of the hangar entered into between the Tenant and Tenant's subtenants;

**NOW, THEREFORE**, in consideration of the provisions set forth herein, it is mutually agreed as follows:

**SECTION 1. LEASED PREMISES.** For and in consideration of the rent and faithful performance by Tenant of the terms and conditions and the mutual covenants hereof, Landlord does hereby lease to Tenant, and Tenant hereby leases from Landlord, subject to all easements and encumbrances of record, that parcel of real property described in Exhibit "A" of approximately 6,400 square feet leased space. Tenant has inspected the property described in Exhibit "A" and accepts the

property as-is, finding it suitable for Tenant's intended use - constructing and maintaining an aircraft hangar.

**SECTION 2. TERM.** This lease shall be for a term of twenty (20) years, and shall commence January 1, 2013, and shall end at midnight on December 31, 2033, unless sooner terminated as provided in this Lease, or unless the term is renewed as provided in this Lease. This Lease may be renewed by the Tenant for two (2) additional terms of ten (10) years each, provided Tenant gives notice of its desire to renew in writing to Landlord by the later of the following dates: by no later than three hundred sixty-five days (365) days prior to the expiration of the initial twenty (20) year term, or by no later than one hundred twenty (120) days after the Landlord has given written notice to Tenant that the Lease will expire unless it has been renewed for an additional ten (10) year term; and by no later than three hundred sixty-five (365) days prior to the expiration of the first additional ten (10) year term, or by no later than one hundred twenty (120) days after the Landlord has given written notice to Tenant that the Lease will expire unless it has been renewed for a second additional ten (10) year term; and provided further that Tenant is not in default at the time any notice is given under this Section. All of the provisions in the Lease for the initial twenty (20) year term shall apply to the additional ten (10) year renewal terms, including the provision for rental increases as set forth in Section 3.2. January 1, 2013, shall hereinafter be referred to as the "Commencement Date" of this Lease.

**SECTION 3. RENT.** Tenant shall pay Landlord rent for use of the Leased Premises during the term of this Lease in accordance with the following provisions.

3.1 **Base Rent.** For the first five (5) years of the Lease, for the period from the 1<sup>st</sup> day of January, 2013, until the 1<sup>st</sup> day of January, 2018, the Tenant shall pay rent at the rate of \$0.30 per square foot of real property. The property is composed of 6,400 square feet. Therefore, the base rent shall be \$1,920 per year. The rent shall be paid in one

(1) FIVE YEAR INSTALLMENT of \$9,600.00 with the first payment due on January 1, 2013. Each subsequent rental period shall be based upon a single installment payment covering a period of FIVE YEARS due at the beginning of said period as stipulated in section 3.2

3.2 Future Rental Periods. On every five (5) year anniversary of the date of this Lease, the amount of rent to be paid for the following successive five (5) year period shall be increased in the amount of increase of the Consumer Price Index for the Portland Vancouver metropolitan area for each year of the previous five (5) year rental period, with the provision that the annual base rental paid during any five (5) year period shall not be increased more than fifteen percent (15%) of the annual base rental paid during the preceding five (5) year period. For example, the annual BASE rental for the period from the 1<sup>st</sup> day of September, 2018, until the 1<sup>st</sup> day of September, 2023, shall not exceed the sum of \$2,208. Landlord shall provide advance notice of not less than ninety (90) days to Tenant of any intended increase in the BASE rental amount; provided, that failure by Landlord to provide such notice shall not constitute a waiver of the right to increase the rental amount for any particular five (5) year period during which the rental amount is subject to an increase.

#### **SECTION 4. USE OF THE PREMISES.**

4.1 Permitted Use. Tenant may use the Leased Premises for the purpose of constructing and maintaining an aircraft hangar, which will allow for storage of aircraft and related parts and equipment, and office space (which space dedicated to office use shall not exceed 1,000 square feet) related to storage of aircraft and related parts and equipment.

- 4.2 The Hangar shall be constructed in such a manner that additional hangars, that may be built in the future by Landlord or others, can connect directly with the Lessee's hangar so that there will be no space between the adjoining hangars.
- 4.3 Restrictions on Use. The hangar shall be constructed on the Leased Premises shall comply with the provisions of the Landlord's Uniform Hangar Lease for the Airport, a copy of which is attached hereto as Exhibit "B", and as those provisions are amended in the future.

**SECTION 5. REPAIRS, MAINTENANCE, INSPECTION AND IMPROVEMENTS.**

- 5.1 Repairs. Tenant shall have the total responsibility for all repairs and maintenance required to keep the Leased Premises, including, but not limited to, the hangar and paving to be constructed thereon, in good repair.
- 5.2 Inspection of Premises. Landlord shall have the right to inspect the Leased Premises at any reasonable time or times to determine the necessity of repair.
- 5.3 Improvements. Tenant shall construct at Tenant's sole expense a steel aircraft hangar and asphalt paving, as generally shown on Exhibit "C" (the "Hangar"). Prior to construction of the Hangar, Tenant shall submit the plans and specifications to the Columbia Gorge Regional Airport Board (the "Board"), seeking the Board's approval. The Board shall review the plans and specifications submitted by Tenant for the purposes of overseeing Tenant's compliance with the terms of this Lease and the airport rules adopted by the Board, including installation at Tenant's expense of paving for taxiways and the like on the Leased Premises. Tenant shall comply with and obtain all approvals required under Klickitat County's land use regulations prior

to submitting the plans and specifications to the Board. Within seven (7) days of submittal, the Board shall notify Tenant of its approval or disapproval. If disapproved, the Board shall also provide Tenant with the reason for such disapproval. Once approved by the Board, the plans and specifications shall either be attached to this Lease as Exhibit "D" or identified in such exhibit by date and name of the architect or engineer who prepared them. Construction shall be completed within twelve (12) months from the date of this lease.

**SECTION 6. ALTERATIONS AND ADDITIONS.**

6.1 Tenant shall not make any material external alterations to, or erect any additional structures or make any material improvements on the Leased Premises without prior written consent of the Landlord, which consent shall not be unreasonably withheld. Any external alteration or addition approved by Landlord shall be constructed at the sole expense of Tenant. Upon approval by Landlord of any such alteration or addition, Landlord shall notify Tenant whether such alterations made shall remain on the Leased Premises and be acquired by Landlord or be removed from the Leased Premises by Tenant at its sole cost and expense upon expiration or earlier termination of this Lease. If Landlord elects to require Tenant to remove any alterations, Tenant at its sole cost, shall remove such alterations and restore the Leased Premises to the conditions existing immediately prior to the addition of such alteration (reasonable wear and tear excepted) on or before the last day of the term of this Lease. If acquired by Landlord, such alterations, additions and/or improvements shall be taken into account in determining the fair market value of the Hangar and paid by Landlord on or before the last day of the term of this Lease, pursuant to Sections 12 and 13 of this Lease.

## **SECTION 7. INSURANCE.**

- 7.1 Tenant shall keep the Leased Premises and all improvements thereon insured at Tenant's expense against fire and other risks covered by a standard fire insurance policy with an endorsement for extended coverage. Insurance shall be on a replacement cost basis to the full insurable value of the improvement. Neither party shall be liable to the other for any loss or damage caused by fire or any of the risks enumerated in a standard fire insurance policy with an extended endorsement if such insurance was obtainable at the time of such loss or damage.
- 7.2 Liability Insurance. Before going into possession of the Leased Premises, Tenant shall procure and shall continue during the term of this Lease, to carry public liability and property damage insurance which shall cover all risks arising directly or indirectly out of its activities on or any condition of the Leased Premises whether or not related to an occurrence caused or contributed to by Landlord's negligence. The policy limits shall not be less than \$1,000,000 on a combined single limit basis. Landlord and the Columbia Gorge Regional Airport Board shall be named as additional insureds on said policy. Certificates evidencing such insurance and bearing endorsements requiring thirty (30) days written notice to Landlord prior to any change or cancellation shall be furnished to Landlord prior to Tenant's occupancy of the property. Failure of Tenant to maintain an approved insurance policy shall constitute a default under this Lease.
- 7.3 Every five (5) years on the anniversary date of the Commencement Date, during which the term of the Lease remains in effect, including the two (2) additional terms of ten (10) years each if the Lease is renewed, Landlord and Tenant shall review the

amount of coverage for public liability and property damage insurance to be maintained by Tenant, to ensure the amount of coverage is equivalent in value to \$1,000,000 measured in 2013 dollars. At any time during any of these five (5) year review periods, if Tenant fails to provide proof of increased coverage in an amount which Landlord and Tenant have mutually agreed is necessary, Landlord may terminate this Lease under the provisions of Section 12.

7.4 Any subleases of the Leased Premises entered into by Tenant with a subtenant shall provide that liability insurance policies obtained by the subtenants shall name the Landlord and the Columbia Gorge Regional Airport Board as additional insureds under the policies.

#### **SECTION 8. TAXES; UTILITIES.**

8.1 Taxes. Tenant shall pay as due all taxes, personal and property, assessments, license fees, and other charges which are levied and assessed upon Tenant's interests in the Leased Premises, by any legally authorized governmental authority. Tenant is responsible for real property taxes imposed by Klickitat County upon the Leased Premises which reflect the property's pro-rata share of the real property taxes imposed by Klickitat County upon the Airport property.

8.2 Utility Charges. Tenant shall pay when due all charges for services and utilities incurred in connection with the use, occupancy, operation and maintenance of the Leased Premises, including, but not limited to, water, gas, electricity, sewage disposal and power.

8.3 Installation of Utilities. Tenant acknowledges that the Leased Premises are currently vacant and unimproved, and that Tenant shall be responsible for the costs of connecting all necessary utilities from the location to which the utilities are currently

stubbed, to provide services to the Hangar which Tenant shall construct. Tenant shall also be responsible for the costs of any required relocation of the utilities during the term of this Lease.

**SECTION 9. INDEMNIFICATION.** Tenant shall indemnify, defend, save, protect, and hold harmless the Landlord, its officers, agents and employees from any claim, loss or liability, including reasonable attorneys' fees, arising out of or related to any activity of Tenant on the Leased Premises or any condition of the Leased Premises in the possession or under the control of Tenant. Landlord shall have no liability to Tenant for any injury to Tenant for any injury, loss, or damage caused by third parties or by any condition of the Leased Premises, except to the extent caused by Landlord's negligence or breach of duty under this Lease.

**SECTION 10. ASSIGNMENT.** Tenant shall not assign, sell or transfer its interest in this Lease without having first obtained the express written consent of the Landlord, which consent shall not be unreasonably withheld by Landlord; provided, however, that as conditions to any consent to any assignment, sale or transfer (collectively "transfer"), Landlord may require the following: (i) financial statements, credit reports, or other such information about an assignee as Landlord may deem reasonably necessary to ascertain transferee's ability to satisfy its financial and other obligations under this Lease; (ii) that Tenant and transferee enter into Landlord's then current form of ground lease or an amendment of this Lease; (iii) an environmental assessment of the Leased Premises, at Tenant's expense; and/or (iv) that any agreement between Tenant and the transferee does not include any payment or compensation to Tenant other than transferee's agreement to pay the then current rental rate due and perform all obligations of Tenant required under this Lease. Landlord's consent to an assignment of this Lease shall not be construed to release or discharge Tenant of its obligations and liabilities under this Lease. In the event Tenant shall attempt to assign, sell or transfer its interest in this Lease or any part hereof, without having first obtained the express

written consent of Landlord, this Lease shall be null and void and Landlord shall have an immediate right of entry.

**SECTION 11. DEFAULT.** The following shall be events of default:

- 11.1 Default in Rent. Failure of Tenant to pay any rent or other charge within ten (10) days after it is due.
- 11.2 Default in Other Covenants. Failure of Tenant to comply with any term or condition or fulfill any obligation of the Lease (other than the payment of rent or other charges) within twenty (20) days after written notice by Landlord.
- 11.3 Insolvency of Tenant; assignment by Tenant for the benefit of creditors; filing by Tenant of a voluntary petition in bankruptcy; adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; failure of Tenant to secure dismissal of an involuntary petition of bankruptcy within thirty (30) days after filing; and attachment of or levying of execution on the leasehold interest of Tenant.

**SECTION 12. REMEDIES ON DEFAULT.**

- 12.1 Termination. In the event of a default the Lease may be terminated by Landlord upon written notice to Tenant. Whether or not the Lease is terminated by the election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default. Landlord may reenter, take possession of the Leased Premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.
- 12.2 Disposition of Hangar. At the time of termination of the Lease under this Section, Landlord may elect and shall notify Tenant of Landlord's election to either acquire the Hangar or require Tenant to remove the Hangar. If the Landlord determines that it

desires to acquire ownership of the Hangar, Landlord shall pay the fair market value for the Hangar, including any alterations, additions and/or improvements made by Tenant during the term of this Lease, less any damages due Landlord pursuant to Section 12.

In the event the Landlord determines that the Hangar must be removed, Tenant shall terminate the Subleases and remove the Hangar within the time period specified in the notice for removal provided by the Landlord to Tenant.

12.3 Reletting. Following reentry or abandonment, Landlord may relet the Leased Premises and in that connection may make any suitable alterations or refurbish the Leased Premises, or both. Landlord may relet the Leased Premises for a term longer or shorter than the term of this Lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concessions.

12.4 Damages. In the event of termination or retaking of possession following default, Landlord shall be entitled to recover immediately, without waiting until the due date, of any future rent or until the date fixed for expiration of the Lease term, the following damages:

12.4.1 The loss of rental from the date of default until a new tenant is, or with the exercise of reasonable efforts could have been, secured and paying out.

12.4.2 The reasonable costs of reentry and reletting including without limitation, the cost of any cleanup, refurbishing, removal of Tenant's property and fixtures, remodeling or repairs costs, attorney's fees, court costs, recording costs, broker commission and advertising costs.

12.5 Late Fee. In the event Landlord fails to receive rent, or any other payment required by this Lease, within ten (10) days after the due date, Tenant shall pay to Landlord a

late charge of five percent (5%) of the payment amount. Tenant shall pay the late charge upon demand by Landlord. Landlord may levy and collect a late charge in addition to all other remedies available for Tenant's default, and collection of a late charge shall not waive the breach caused by the late payment.

12.5 Remedies Cumulative. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Landlord under applicable law.

**SECTION 13. SURRENDER AT EXPIRATION.** At the time of expiration, cancellation, or earlier termination of this Lease, Landlord may elect and shall notify Tenant of Landlord's election to either acquire the Hangar or require Tenant to remove the Hangar. If the Landlord determines that it desires to acquire the Hangar, Landlord shall pay the fair market value for the Hangar, including any alterations, additions and/or improvements made by Tenant during the term of this Lease, less any costs and expenses incurred by Landlord as result of Tenant's breach of this Section. In the event Landlord determines that the Hangar must be removed, Tenant shall terminate the Subleases and remove the Hangar within the time period specified in the notice for removal provided by the Landlord to Tenant.

13.1 Tenant's Personal Property. Title to personal property belonging to Tenant shall at all times during the term of this Lease, or any extension thereof, remain in Tenant, and Tenant shall have the right at any time to remove any or all personal property of every kind and nature whatsoever which Tenant may have placed, affixed, or installed upon the Leased Premises, provided that upon Tenant's removal of such personal property, Tenant restores the Leased Premises to its original condition. Tenant shall have the right to remove same provided that upon any such removal, Tenant shall repair, at its own expense, any damages resulting therefrom and leave

the Leased Premises in a clean and neat condition, with all other improvements in place.

- 13.2 Holdover. In the event Tenant shall remain in possession of the Leased Premises herein leased after the expiration, cancellation or earlier termination of this Lease, such holding over shall not be deemed to operate as renewal or extension of this Lease, but shall only create a tenancy from month to month which may be terminated at any time by Landlord on thirty (30) days written notice. The amount of monthly rent paid during any holdover tenancy shall be increased by ten percent (10%) over the monthly amount Tenant was paying prior to creation of the holdover tenancy.

**SECTION 14. MISCELLANEOUS.**

- 14.1 Nonwaiver. Waiver by either party of strict performance of any provision of this Lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 14.2 Attorney Fees. If suit or action is instituted in connection with any controversy arising out of this Lease, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees at trial, on petition for review, and on appeal.
- 14.3 Notices. All notices or other communications required or permitted under this Lease shall be in writing and shall be (a) personally delivered (including by means of professional messenger service), which notices and communications shall be deemed received on receipt at the office of the addressee; (b) sent by registered or certified mail, postage prepaid, return receipt requested, which notices and communications shall be deemed received three (3) days after deposit in the United States mail; or, (c)

sent by fax, which notices and communications shall be deemed received on the delivering party's receipt of a transmission confirmation.

- 14.4 Interest on Rent and Other Charges. Any rent or other payments required of Tenant by this Lease shall, if not paid within ten (10) days after it is due, bear interest at the rate of twelve percent (12%) per annum (but not in any event at a rate greater than the maximum rate of interest permitted by law) from the due date until paid. This is in addition to the five percent (5%) "late fee."
- 14.5 Time of Essence. Time is of the essence of the performance of each of Tenant's obligations under this Lease.
- 14.6 Damage or Destruction by Fire or Other Casualty. If the Hangar is damaged or destroyed and Tenant elects to repair the Hangar, then Tenant shall promptly do whatever is necessary to repair, rebuild or restore the Hangar to the condition allowed under this Lease. Any insurance proceeds must be used to restore the Leased Premises, including any improvements, at Landlord's election. If the Leased Premises are not repaired then Tenant shall promptly remove whatever is left of the Hangar and other improvements and all debris and shall restore the Leased Premises to Landlord's satisfaction.
- 14.7 Aircraft Use and Development. Landlord reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires of Tenant and without interference. Landlord reserves the right, but shall not be obligated to Tenant to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Tenant in this regard. This Lease shall be subordinate to the provisions and requirements of any existing or future Lease between the Landlord

and the United States, relative to the development, operation, and maintenance of the Airport. There is hereby reserved to the Landlord, and its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operation on the Airport. Any physical taking of the Leased Premises for use by the Landlord, other than as provided herein, shall be considered a taking pursuant to the governmental power of eminent domain.

Tenant agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulation in the event future construction of a building is planned for the Leased Premises, or in the event of any planned modification or alteration of any present or future building or structure located upon the Leased Premises. Tenant agrees that it will not erect or permit the erection of any structure or object, nor permit the growth of any tree on the Leased Premises to exceed the established height contours. In the event of a breach of the foregoing covenants, Landlord reserves the right to enter upon the Leased Premises and remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Tenant. Tenant agrees it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport, or otherwise constitute a hazard. In the event of a breach of the foregoing covenant, Landlord reserves the right to enter on the Leased Premises and cause the abatement of such interference at the Tenant's expense. It is understood and agreed that nothing contained herein shall be construed to grant or authorize the granting of

an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349a). This Lease and all provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, and taking over of the Airport by the United States during the time of war or national emergency.

- 14.8 **Mechanic's and Materialman's Liens.** Neither Landlord or Tenant shall permit any mechanic's, materialman's, or other lien against the Leased Premises or the property of which the Leased Premises forms a part in connection with any labor, materials, or services furnished or claimed to have been furnished. If any such lien shall be filed against the Leased Premises or property of which the Leased Premises forms a part, the party charged with causing the lien will cause the same to be discharged; provided, however, that either party may contest any such lien, so long as the enforcement thereof is stayed.
- 14.9 **Savings Clause.** In the event that any part of this Lease or application thereof shall be determined to be invalid by a court of competent jurisdiction, such findings shall have no effect on the remaining portions of this Lease.
- 14.10 **Written Lease.** Neither party has relied upon any promise or representation not contained in this Lease. All previous conversations, negotiations, and understandings are of no further force or effect. This Lease may be modified only in writing signed by both parties.
- 14.11 **Parties Bound.** The covenants herein contained shall, subject to the provisions as to assignment and transfer, apply to and bind the heirs, successors, executors, administrators, and assigns of all of the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

14.12 Section Captions. The captions appearing under the section number designations of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

**SECTION 15. NON-DISCRIMINATION.**

The Tenant for itself, its heirs, successors and assigns, as part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the Leased Premises for a purpose for which a United States Department of Transportation (DOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, the Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Sub-title A, Office of the Secretary, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

The Tenant, for itself, its heirs, successors and assigns, as part of the consideration hereof, does covenant and agree that: 1) no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to, discrimination in the use of said facilities, 2) that in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, color, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and 3) that the Tenant shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, DOT, Sub-Title A, Office of the Secretary, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said

Regulations may be amended.

In the event of a breach of any of the above non-discrimination covenants, Landlord shall have the right to terminate this Lease and re-enter and repossess said Leased Premises and the facilities thereon, and hold the same as if said Lease had never been made. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed, including expiration of appeal rights.

**SECTION 16. GOVERNING LAW.**

This Lease shall be construed in accordance with the laws of the State of Washington, and any litigation arising from the Lease shall be filed in Klickitat County Superior Court; provided that laws applicable to governmental entities under Oregon law, including but not limited to the Oregon Tort Claims Act and Article IX, Sections 5, 7, and 10 of the Oregon Constitution, shall apply to the City. Further, Tenant shall comply with all federal, state, and local laws applicable to the Columbia Gorge Regional Airport, and to the Tenant's use and occupancy of the Leased Premises, including rules adopted by the Columbia Gorge Regional Airport Board and Klickitat County's land use regulations.

**SECTION 17. PAYMENTS.** Please make payment checks to the City of The Dalles and mail Lease payments to the below:

City of The Dalles  
Finance Department  
313 Court Street  
The Dalles, Oregon 97058

**SECTION 18. NOTICES AND COMMUNICATIONS.** All notices and communications may be served by enclosing the notice in a sealed envelope and deposited in the United States Post Office as certified mail and received by the authorized party below:

Landlord: City of The Dalles  
City Manager  
313 Court Street  
The Dalles, Oregon 97058

Klickitat County  
127 West Court Street, MS-CH-26  
Goldendale, Washington 98620

Tenant: MASI Air 100, LLC  
C/O Steven Maier, Member  
P.O. Box 174  
Underwood, WA 98651

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2012.

LANDLORD:

TENANT:

**CITY OF THE DALLES**, a municipal  
corporation of State of Oregon

**MASI AIR 100, LLC**

By \_\_\_\_\_  
Nolan K. Young, City Manager

By \_\_\_\_\_  
Steven Maier, Member

ATTEST:

Approved as to form:

By \_\_\_\_\_  
Julie Krueger, City Clerk, CMC/AAE

By \_\_\_\_\_  
Gene Parker, City Attorney

**KLICKITAT COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Commissioner

ATTEST:

\_\_\_\_\_  
Commissioner

Approved as to form:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Prosecuting Attorney



## CITY OF THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122  
FAX (541) 296-6906

# AGENDA STAFF REPORT

## CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
January 14, 2013	Action Items 14, D	13-005

**TO:** Honorable Mayor and City Council

**FROM:** Gene E. Parker, City Attorney

**THRU:** Nolan K. Young, City Manager 

**DATE:** December 27, 2012

**ISSUE:** Resolution No. 13-001, affirming Planning Commission Resolution No. PC 526-12, upholding the Planning Director's interpretation concerning the off-street parking requirements for the property at 1215 and 1217 Blakely Drive.

**RELATED CITY COUNCIL GOAL:** None.

**PREVIOUS AGENDA REPORT NUMBERS:** #12-088.

**BACKGROUND:** On December 10, 2012, the City Council conducted a public hearing on the appeal filed by Jennifer Blevins of Planning Commission Resolution No. PC 526-12, which upheld the Planning Director's interpretation that the property located at 1215 and 1217 Blakely Drive did comply with the off-street parking requirements set forth in the City's Land Use and Development Ordinance. Following the public hearing, the Council voted 3 to 0 to affirm the Planning Commission's decision, and directed staff to prepare a resolution setting forth the Council's decision and the findings of fact and conclusions of law in support of that decision. Resolution No. 13-001, which sets forth the Council's decision and the required findings of fact and conclusions of law, is submitted with this staff report, for the Council's review and approval.

**BUDGET IMPLICATIONS:** None.

**ALTERNATIVES:**

A. **Staff Recommendation.** Move to adopt Resolution No. 13-001.

**RESOLUTION NO. 13-001**

**A RESOLUTION OF THE CITY COUNCIL AFFIRMING THE PLANNING COMMISSION'S DECISION AFFIRMING THE PLANNING DIRECTOR'S INTERPRETATION OF JULY 3, 2012 CONCERNING OFF-STREET PARKING REQUIREMENTS FOR THE PROPERTY AT 1215 AND 1217 BLAKELY DRIVE**

**WHEREAS**, Section 1.090 of the City's Land Use and Development Ordinance ("LUDO") provides the Planning Department Director is authorized to interpret the provisions of the LUDO when the language is ambiguous or unclear, and request for an interpretation shall be submitted in writing on a form provided by the City; and

**WHEREAS**, pursuant to Section 1.090, a request was submitted on behalf of Jennifer Blevins for an interpretation as to whether the property located at 1215 and 1217 Blakely Drive complied with the off-street parking requirements set forth in Section 3.090.070(A)(3)(c); and

**WHEREAS**, on July 3, 2012, the Planning Director issued a written interpretation that the property complied with the off-street parking requirements of Section 3.090.070(A)(3)(c); and

**WHEREAS**, on July 16, 2012, Ms. Blevins filed a Notice of Appeal of the Planning Director's written interpretation; and

**WHEREAS**, on November 1, 2012, the Planning Commission adopted Resolution No. P.C. 526-12, affirming the Planning Director's interpretation; and

**WHEREAS**, on November 13, 2012, Ms. Blevins filed a Notice of Appeal of the Planning Commission's decision; and

**WHEREAS**, the City Council conducted a public hearing on the appeal on December 10, 2012, and following the close of the public hearing, the Council voted 3 to 0, to affirm the Planning Commission's decision of November 1, 2012 affirming the Planning Director's written interpretation of July 3, 2012;

**WHEREAS**, the City Council has reviewed the proposed findings of fact and conclusions of law set forth in Exhibit "A", and desires to adopt a resolution approving the proposed findings of fact and conclusions of law.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES RESOLVES AS FOLLOWS:**

Section 1. The City Council hereby approves and adopts the findings of fact and conclusions of law set forth in Exhibit "A", attached hereto and incorporated herein by this reference. The Planning Commission's decision of November 1, 2012, set forth in Resolution

No. P.C. 526-12, affirming the written interpretation of the Planning Director dated July 3, 2012, that the property located at 1215 and 1217 Blakely Drive, complies with the off-street parking requirements of Section 3.090.070(A)(3)(c) is hereby affirmed.

Section 2. This resolution shall be considered effective as of January 14, 2013.

**PASSED AND ADOPTED THIS 14<sup>TH</sup> DAY OF JANUARY, 2013**

Voting Yes, Councilors: \_\_\_\_\_  
Voting No, Councilors: \_\_\_\_\_  
Absent, Councilors: \_\_\_\_\_  
Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 14<sup>TH</sup> DAY OF JANUARY, 2013**

\_\_\_\_\_  
Stephen E. Lawrence, Mayor

ATTEST:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk

## EXHIBIT "A"

### FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR APPEAL #23-12 FOR RESOLUTION NO. 13-001

#### BACKGROUND INFORMATION

On May 15, 2012, a Petition for Enforcement of City Code was filed on behalf of the Appellant requesting a determination whether the property located at 1215 and 1217 Blakely Drive could accommodate four "legitimate" off-street parking spaces (without the single car garage space) as required by Section 3.090.070(A)(3)(c) of the Land Use and Development Ordinance ("LUDO"). Appellant was advised that the request for interpretation needed to be submitted to the Planning Director pursuant to Section 1.090 of the LUDO. On July 3, 2012, the Planning Director issued a written interpretation that the driveway on the property at 1215 and 1217 Blakely Drive did provide the four off-street parking spaces required by Section 3.090.070(A)(3)(c). Appellant filed a Notice of Appeal of the Director's Decision on July 16, 2012. Section 1.090 of the LUDO provides that interpretations of the Planning Director may be appealed to the Planning Commission pursuant to the provisions of Section 3.020.080.

On November 1, 2012, the Planning Commission adopted Resolution No. P.C. 526-12 affirming the Planning Director's written interpretation of July 3, 2012. Ms. Blevins filed a Notice of Appeal of the Planning Commission's decision on November 13, 2012.

The property located at 1215 and 1217 Blakely Drive is a duplex, and is further described as Township 1 North, Range 13 East, Assessor's Map No. 5 AA Tax Lot 200. The City's Comprehensive Plan designates the property as "R-L" Low Density Residential, and the property is located within the "R-L" Low Density Residential zoning district.

#### REVIEW OF APPLICABLE CRITERIA

##### LAND USE AND DEVELOPMENT ORDINANCE NO. 98-1222

##### Chapter 3. Application Review Procedures

*Section 3.020.080(A). De Novo. Appeals shall be a de novo evidentiary hearing. A De Novo hearing allows for the introduction of additional evidence on issues raised at a lower level and included in the notice of appeal, and for arguments or testimony based on those issues. It does not allow for new issues to be raised, nor does it allow for evidence, arguments or testimony to be presented on issues not raised in the appeal notice.*

**FINDING #1:** The Planning Commission conducted the initial evidentiary hearing on September 20, 2012. Following the introduction of evidence and testimony at that hearing, the Planning Commission voted to continue the public hearing to October 4, 2012 to allow for the introduction of additional evidence concerning the parking area, specifically including a map or

diagram of the parking area, and to consider additional evidence concerning the width of the driveway. The Planning Commission had the opportunity to review the entire application for the requested interpretation and to make a new decision.

The Planning Commission made a decision on November 1, 2012 affirming the Planning Director's written interpretation. Ms. Blevins filed a Notice of Appeal of the Planning Commission's decision on November 13, 2012. On December 10, 2012, the City Council conducted a de novo evidentiary hearing on the appeal.

**CONCLUSION:** The criteria in Section 3.020.080(A) have been satisfied.

*Section 3.020.080(B)(1). Right to Appeal Decisions. The following may file an appeal to decisions resulting from planning actions described in this Section:*

1. *Any party of record to the particular action.*

**FINDING #2:** The appeal of the Planning Commission's written decision set forth in Resolution No. P.C. 526-12 of November 1, 2012 was filed on November 13, 2012, by the applicant, who is a party of record.

**CONCLUSION:** The criteria in Section 3.020.080(B)(1) have been satisfied.

*Section 3.020.080(C). Filing Appeals.*

1. *To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Department. The standard appeal fee shall be required as part of the notice of appeal.*
2. *The notice of appeal and appeal fee must be received at the Community Development Department office no later than 5:00 PM on the tenth day following the date of mailing of the notice of decision. (See Section 1.110: Computation of Time for an explanation of how days are counted).*

**FINDING #3:** The appeal with the information required under Section 3.020.080(C)(1) was filed on November 13, 2012, within the ten day period set forth in Section 3.020.080(2), along with the required filing fee.

**CONCLUSION:** The criteria in Section 3.020.080(C) have been satisfied.

*Section 3.020.080(G). Notification of Appeal Hearing. The notice of appeal, together with notice of the date, time and place of the appeal hearing shall be mailed to all parties at least 14 days prior to the hearing.*

**FINDING #4:** Notice of the appeal was mailed at least 14 days prior to the hearing to all parties of record.

**CONCLUSION:** The criteria in Section 3.020.080(G) have been satisfied.

*Section 3.020.080(H). Decision of Appeal.*

1. *The Commission or Council may affirm, reverse, or modify the planning action decision being appealed, including approving, approving with conditions, or denying a particular application.*
2. *The Commission or Council shall make findings and conclusions, and make a decision based on the hearing record.*
3. *A Notice of Appeal Decision shall be sent to the all parties participating in the appeal.*

**FINDING #5:** A copy of the Petition for Enforcement of City Code dated May 15, 2012, the Planning Director's written interpretation dated July 3, 2012, Planning Commission Resolution No. P.C. 526-12, and a copy of the appeal notice submitted on November 13, 2012 was included with the Agenda Staff Report, On December 10, 2012, following the close of the public hearing, the City Council voted 3 to 0, to affirm the Planning Commission's decision affirming the Planning Director's interpretation regarding the off-street parking requirements for the property at 1215 and 1217 Blakely Drive. With the adoption of Resolution No. 13-001 which includes the proposed findings of fact and conclusions of law, the provisions of Section 3.020.080(H) will be addressed.

**CONCLUSION:** The criteria in Section 3.020.080(H) have been satisfied.

*Section 6.060.020 Driveways and Entrance Standards; General Standards. This section provides in part as follows:*

*No approach/entrance shall be built closer than 5 feet to any property line except as authorized below in Subsection 6.060.050: Shared Driveways. The length of driveways shall be designed to accommodate the anticipated storage length for entering and existing vehicles to prevent vehicles from backing up into the flow of traffic on a public street or causing unsafe conditions with on-site circulation.*

**FINDING #6:** The Appellant asserted that the provisions of Section 6.060.010 Purpose should provide applicable review criteria for this matter. This section provides as follows:

*This section establishes driveway and entrance standards to ensure that traffic congestion and hazards are avoided, vehicular and public safety are protected, and adequate vehicular circulation is maintained at connections to City streets and alleys.*

Purpose statements such as those in Section 6.010.010 are often generally worded expressions of goals or objectives. In these cases, such purpose statements do not create approval standards or criteria. *Beck v. City of Tillamook*, LUBA No. 90-056, 20 Or LUBA 178, 186-186 (1990) *affirmed*, 105 Or App 276 (1991). The City Council concurs with the Planning Commission's

finding and conclusion that Section 6.060.010 does not present any applicable review criteria for this appeal.

The Appellant testified that Exhibit 2, a diagram of the parking area prepared by City Staff and received into evidence at the October 4<sup>th</sup> hearing, did not include a delineation of parking spaces and walkways, the type and location of these connections to the residential duplex located on the property, the location of the garbage areas, and location of emergency exit routes. The City Council finds and concludes there are no specific provisions in Section 6.060.010, or in any other provision in the City's LUDO that would have required this information to be shown on Exhibit 2, or to have been required to be submitted by the owner of the property located at 1215 and 1217 Blakely Drive.

The Appellant also questioned the process of having City staff prepare and submit Exhibit 2, rather than having the Exhibit prepared by Mr. Bustos, the owner of the property at 1215 Blakely Drive. There is no language in Section 6.060.020 indicating who is responsible for submission of documents indicating that the length of a driveway has been designed to accommodate the anticipated storage length for entering and existing vehicles to prevent vehicles from backing up into the flow of traffic on a public street or causing unsafe conditions with on-site circulation. The City Council finds and concludes that it is reasonable to interpret the provisions of Section 6.060.020 to allow Exhibit 2 to be entered into the record, and used by the Council as evidence in making its decision.

Mr. Rich Williams, testifying on behalf of the Appellant before both the Planning Commission and the City Council, asserted it was not mathematically possible to stack four standard sized vehicles in the parking area. Mr. Williams testified before the Planning Commission that the LUDO required that cars parked in the driveway be parked in a perpendicular manner, and that the LUDO did not allow for vehicles to be parked in a parallel manner in the driveway. Concerning this second argument, the City Council concurs with the Planning Commission's finding and conclusion that Mr. Williams has incorrectly interpreted the LUDO. Section 6.060.020(B)(3)(a) concerning maneuvering within the street provides as follows for residential local streets and alleys:

*1 and 2 Family Dwellings. 90 degree in/back out vehicular movements will be allowed for single family and duplex dwellings with 4 or fewer parking spaces only. Other angles may be allowed with the approval of the City Engineer, based on unique topographic conditions that may exist on site.*

The City Council concurs with the Planning Commission's interpretation that the provisions of Section 6.060.020(B)(3)(a) apply to vehicular movements of entering and existing driveways, and nothing in this section would prevent the stacking of vehicles in the driveway for the duplex at 1215 and 1217 Blakely Drive. There is no provision in Section 6.060.020(B)(3)(a) that requires vehicles to be parked in a perpendicular manner.

The Appellant testified at the October 4, 2012 Planning Commission hearing that the LUDO required parking space dimensions of 18.5 feet by 9 feet. Section 7.030.010 of the LUDO notes that Section 7.310 which describes the minimum design standards for all at grade surface vehicle

parking areas, does not apply to one and two family dwellings. The City Council concurs with the Planning Commission's finding and conclusion that Appellant's testimony concerning the dimension requirements for parking spaces is correct in part, but that the dimension requirements cited by Appellant are not required for parking spaces in a driveway which serves a residential duplex. The City Council agrees with the Planning Commission's analysis that these dimensions were used as part of a "practical approach" by City staff in reviewing the issue as to whether the driveway provided the four required off-street parking spaces, and that such use of the parking dimensions was reasonable.

The Appellant also testified at the October 4, 2012 Planning Commission hearing that the driveway area shown on Exhibit 2 was inadequate because it failed to show there was a landing area for the exterior stairs, which Appellant claimed should have measured 36 inches by 36 inches to comply with fire code requirements. Appellant also testified Exhibit 2 failed to show "buffer areas" between the residential structure and the parking areas in the driveway.

Appellant did not cite any specific authority for the provisions of the fire code which she claimed required the installation of 36 inch by 36 inch landing area next to the exterior staircase. The City Council concurs with the Planning Commission's finding and conclusion that testimony concerning the lack of a landing space for the exterior stairs fails to address any relevant approval criteria. Appellant did not cite any authority for the requirement for Exhibit 2 to show "buffer areas", which apparently would show an unobstructed pathway between the vehicles and the duplex, and between the vehicles and the entrances to the duplex. The City Council concurs with the Planning Commission's finding and conclusion there is no provision in the LUDO which would have required the showing of "buffer areas" on the diagram of the parking area.

During the appeal hearing before the City Council, the Appellant repeated her assertion that subject property violated Section 6.060 of the LUDO, due to a failure provide a driveway design which would prevent vehicles from causing unsafe conflicts with on-site circulation by blocking unobstructed ingress and egress. The City Council interprets Section 6.060.020 of the LUDO to not specifically require that driveways be designed to prevent vehicles from having unobstructed ingress or egress to the parking area. Appellant acknowledged during the appeal hearing that the photographs submitted as Exhibit 2 for the Petition for Enforcement of City Code dated May 15, 2012, which appear to show the rear portions of some vehicles extending into the public right-of-way, are not dated. It is uncertain if these photographs accurately reflect the actual use of the parking area at the present time. The City Council concurs with the Planning Commission's finding and conclusion that there was insufficient substantial evidence presented by Appellant to establish that the design of the parking area for the property at 1215 and 1217 Blakely Drive would cause unsafe conflicts with on-site circulation.

Appellant presented a large volume of evidence concerning the alleged non-conforming history of the property. At the September 20, 2012 hearing, Appellant testified that as a result of the development of non-conforming additions to the residential structure, unspecified traffic and parking impacts had occurred. Appellant also asserted that the impacts of this increased density created an unreasonable interference with the rights of surrounding residents. Appellant also testified that the additional dwelling space created by these additions not only increased the

number of additional drivers to the residence, they removed one off-street parking space in the garage.

The City Council concurs with the Planning Commission's finding and conclusion that the evidence presented by Appellant of the history of alleged non-conforming use, and alleged improper modifications of the use upon the property, and the Appellant's request that as part of a determination that the Planning Director's interpretation was incorrect, that the City Council enforce the requirement for four off-street parking spaces by requiring that the lost parking garage space be restored, reflects an attempt by Appellant to ask the City Council to address issues which are beyond the scope of the issues presented in this appeal.

Concerning Mr. Williams' assertion that it was mathematically impossible to place four standard sized vehicles in the parking area, the City Council notes that Exhibit 2 includes a list of vehicles and their dimensions including width and length. As a hypothetical configuration for placement of the vehicles on the driveway, Vehicles #1 and #2 could be placed together adjacent to each other and in front of the duplex, and Vehicles #3 and #4 could be stacked behind Vehicles #1 and #2. The total width of Vehicles #1 and #2 is 11 feet, 2 inches. The width of the driveway adjacent to the house initially measures 20 feet, 6 inches, which leaves a distance of 9 feet four inches, and this distance increases to 14 feet, 10 inches when the driveway measures 26 feet in width. The total width of Vehicles #3 and #4 is 12 feet, 4 inches. Where the width of the driveway measures 26 feet, this leaves a distance of 13 feet, 8 inches. This additional distance increases as the driveway approaches Blakely Drive, where the width of the driveway measures 36 feet.

The length of Vehicle #1 measured 15 feet, 6 inches, and the length of Vehicle #3 measured 15 feet, 6 inches for a total length of 31 feet. The length of this portion of the driveway measures 35.5 feet. The length of Vehicle #2 measures 15 feet, and the length of Vehicle #4 measures 17 feet, for a total of 32 feet. The length of the portion of the driveway where Vehicles #2 and #4 would be parked totals 35.5 feet. The City Council concurs with the Planning Commission's finding and conclusion that Exhibit 2 constitutes substantial evidence that four standard size vehicles can be placed in the parking area shown in the driveway for the duplex.

**CONCLUSION:** The criteria in Sections 6.060.020 concerning the design of the driveway and 3.090.070(A)(3)(c) concerning the requirement for four off-street parking requirements have been satisfied.



**CITY of THE DALLES**

313 COURT STREET  
THE DALLES, OR 97058

PH. (541) 296-5481  
FAX (541) 296-6906

**AGENDA STAFF REPORT**  
**CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
January 14, 2013	Action Items 14, E	13-006

**TO:** Honorable Mayor and City Council

**FROM:** Gene E. Parker, City Attorney

**THRU:** Nolan K. Young, City Manager *nky*

**DATE:** January 3, 2013

**ISSUE:** Resolution No. 13-002, electing to have sentenced Municipal Court defendants perform authorized employment under the Wasco County Work Crew Program pursuant to ORS 656.401.

**RELATED CITY COUNCIL GOAL:** None.

**PREVIOUS AGENDA REPORT NUMBERS:** None.

**BACKGROUND:** The Wasco County Sheriff's Office recently developed a work crew program for agencies, cities, and departments within Wasco County. The program was developed with the intention of keeping certain "low risk" offenders out of the NORCOR correctional facility due to the costs of housing these types of inmates. The program offers the benefit of allowing the offender to serve his or her time doing community service projects to improve Wasco County and cities within the County. Under the program, a "low risk" offender is defined as a person who has committed certain lower classification misdemeanors, such as Disorderly Conduct, Criminal Trespass, or Driving While Under the Influence of Intoxicants. Persons who commit felony offenses, or an offense where a victim has received serious injuries will not qualify for the program.

The Sheriff's Office contacted local jurisdictions asking if they would like to take advantage of the program. Judge Peachey, the City's Municipal Court Judge, has expressed a strong interest

in wanting to have the option to have certain defendants who have been sentenced to serve a jail sentence in NORCOR, to be able to participate in the Work Crew Program. One of the issues which needs to be addressed for the City to participate in the program is the provision of workers' compensation coverage. The City and County have their workers' compensation coverage provided by SAIF corporation. The County has offered to pay for the costs of providing workers' compensation coverage for Municipal Court defendants who are approved for participation in the program.

Included with Resolution No. 13-002 is a proposed intergovernmental agreement between the County and City concerning the provision of workers' compensation coverage for the Municipal Court defendants participating in the Work Crew Program. The proposed agreement is required to comply with the provisions of ORS 656.041, and it also sets forth the process for allowing Municipal Court defendants to participate in the program.

**BUDGET IMPLICATIONS:** None.

**ALTERNATIVES:** Under the proposed Intergovernmental Agreement, Wasco County will pay for the costs of providing worker's compensation coverage for Municipal Court defendants who have been approved for participation in the Work Crew Program.

- A. ***Staff Recommendation. Move to adopt Resolution No. 13-002, and authorize the City Manager, City Clerk, and City Attorney to execute the Intergovernmental Agreement with Wasco County, subject to approval of the Agreement by the Wasco County District Attorney.***

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
CITY OF THE DALLES AND WASCO COUNTY  
CONCERNING PROVISION OF WORKERS COMPENSATION  
COVERAGE FOR MUNICIPAL COURT DEFENDANTS  
PARTICIPATING IN WORK CREW PROGRAM**

This Intergovernmental Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of The Dalles, an Oregon municipal corporation, hereinafter called the "City", and Wasco County, a political subdivision of the State of Oregon formed under the Oregon Constitution and ORS Chapter 203, hereinafter called the "County"; each of which may also be referred to herein individually as a "Party" and collectively as the "Parties".

The purpose of this Agreement is to set forth the commitments of the Parties for the provision of workers compensation coverage for Municipal Court defendants participating in the Work Crew Program for defendants sentenced to serve jail time in the custody of the NORCOR correctional facility.

**RECITALS:**

**WHEREAS**, the State of Oregon has declared it a matter of statewide concern to promote intergovernmental cooperation for the purpose of furthering economy and efficiency in local government; and

**WHEREAS**, the legislature has given general authority for intergovernmental agreements by units of local government pursuant to the provisions of ORS 190.010 et. seq.; and

**WHEREAS**, the County Sheriff's Office recently established a Work Crew Program which provides an alternative for certain defendants sentenced to serve a jail sentence in the custody of the NORCOR correctional facility to receive credit towards their jail sentence by participating in the Work Crew Program; and

**WHEREAS**, the City and County have mutually agreed that it would be beneficial if certain defendants sentenced by the Municipal Court to serve a jail sentence, to have the option to participate in the Work Crew Program; and

**WHEREAS**, the City Council adopted Resolution No. 13-002 on January 14, 2013, providing that Municipal Court defendants sentenced to serve jail time in the custody of the NORCOR correctional facility, who have been approved by the Municipal Court and the Wasco County Sheriff's Office to participate in the Work Crew Program, would be considered to be workers covered by the workers compensation insurance pursuant to the provisions of ORS 656.041; and

**WHEREAS**, the City and County both have their workers compensation insurance coverage provided by SAIF corporation, and the City and County have mutually agreed upon the terms and conditions whereby the County will pay for the costs of workers compensation coverage for those Municipal Court defendants who have been approved to participate in the Work Crew Program;

**NOW, THEREFORE, it is mutually agreed be the parties as follows:**

1. City Responsibilities. The City, acting through its Municipal Court will be responsible for selecting which defendants will be allowed to apply for participating in the Work Crew program. The City understands and agrees that participation of any Municipal Court defendant in the Work Crew

Program is subject to the final approval of the Wasco County Sheriff's Office. The City also understands and agrees that decisions concerning incarceration of Municipal Court defendants for violation of the Work Crew Program rules shall be made by the Wasco County Sheriff's Office. The City will process such defendants using the applicable forms provided by the Wasco County Sheriff's Office. The City agrees that participation of Municipal Court defendants in the Work Crew Program shall be subject to all applicable rules and regulations established by the County for the program. The City shall submit the required application to SAIF Corporation pursuant to ORS 656.041, and shall request SAIF to add coverage for the Municipal Court defendants participating in the Work Crew Program on an "if any" basis. City and County understand and agree that as long as Municipal Court defendants participating in the Work Crew Program are performing only work authorized under the Work Crew Program, the City should not incur any expense for providing workers compensation coverage for these defendants.

2. County Responsibilities. County agrees to accept referrals from the Municipal Court for defendants to participate in the Work Crew Program, and to be responsible for monitoring the on-going participation of the Municipal Court defendants approved for participation in the program. County agrees that the Wasco County Sheriff's Office will be primarily responsible for the administration of the Work Crew Program, and that the City will provide assistance as needed for the processing of Municipal Court defendants who participate in the program. County agrees to be responsible for the costs of providing workers compensation coverage through SAIF Corporation for Municipal Court defendants who have been approved for participation in the Work Crew Program.

3. Amendments. This Agreement may be amended by mutual written agreement of the Parties, signed by the Parties.

4. Agreement Effective. This Agreement when approved by the County Commission and executed by the authorized County officials, and approved by the City Council and executed by its authorized officials, shall be then adopted and in effect and its terms and provisions enforceable by each respective body.

**IN WITNESS WHEREOF**, the County and the City have executed this Agreement the day and year first above written.

**WASCO COUNTY**

**CITY OF THE DALLES**

By: \_\_\_\_\_  
Rod Runyon, Commissioner

By: \_\_\_\_\_  
Nolan K. Young, City Manager

\_\_\_\_\_  
Scott Hege, Commissioner

ATTEST:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk

\_\_\_\_\_  
Steve Kramer, Commissioner

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Eric Nisley, District Attorney

\_\_\_\_\_  
Gene E. Parker, City Attorney

**RESOLUTION NO. 13-002**

**A RESOLUTION ELECTING TO HAVE  
SENTENCED MUNICIPAL COURT DEFENDANTS  
PERFORM AUTHORIZED EMPLOYMENT UNDER  
THE WASCO COUNTY WORK CREW PROGRAM  
PURSUANT TO ORS 656.401**

**WHEREAS**, the Wasco County Sheriff's Office has recently established a Work Crew Program whereby defendants who have been sentenced to serve a jail sentence in the custody of the NORCOR correctional facility, are provided an alternative to receive credit towards their jail sentence by perform authorized services under the Work Crew Program; and

**WHEREAS**, the Municipal Court Judge has expressed his interest in having certain defendants in the Municipal Court who have been sentenced to serve jail time in the NORCOR correctional facility have the option to participate in the Work Crew Program, if those defendants are approved by both the Court and the Wasco County Sheriff's Office to participate in the program; and

**WHEREAS**, ORS 656.041 provides that the governing body of a city may elect to have inmates who have been sentenced by a court, whether in default of the payment of a fine or committed for a definite number of days, to serve a sentence in a county jail, be authorized to perform certain types of employment; and

**WHEREAS**, ORS 656.041 further provides that a city may elect to have such inmates performing authorized employment to be considered as workers who are covered under workers compensation insurance for the purposes of Chapter 656 of the Oregon Revised Statutes; and

**WHEREAS**, ORS 656.041 further provides that in order for such inmates to be considered covered workers for purposes of workers compensation insurance, the governing body of the city must adopt a resolution declaring its intention to cover inmates as provided for in ORS 656.041; and

**WHEREAS**, the City Attorney has negotiated with representatives from Wasco County for the terms of an intergovernmental agreement setting forth the terms and conditions under which Wasco County will pay for the costs of the workers compensation insurance coverage which will include defendants who have been sentenced to serve a jail sentence in the custody of the NORCOR correctional facility, who have been approved to participate in the Work Crew Program;

**WHEREAS**, the City Council has determined that it is the best interests of the public's health, safety and welfare to provide for the option for certain defendants who have been sentenced to serve a jail sentence in the custody of the NORCOR correctional facility, to participate in the Work Crew established by the Wasco County Sheriff's Office;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES RESOLVES AS FOLLOWS:**

Section 1. Election to Provide Workers Compensation Coverage. The City of The Dalles hereby elects to have defendants who have been sentenced to serve a jail sentence in the custody of the NORCOR correctional facility, who have been determined to be qualified to participate in the Work Crew Program by the Municipal Court Judge and the Wasco County Sheriff's Office, who are performing authorized employment, to be considered as workers subject to workers compensation coverage provided by Wasco County for the City of The Dalles pursuant to the intergovernmental agreement described in Section 4 of this Resolution.

Section 2. Type of Work to be Performed. It is anticipated that Municipal Court defendants who are participating in the Work Crew Program shall be performing general maintenance activity on public property, including sweeping, cleaning, raking, and picking up trash and debris.

Section 3. Filing of Application. City staff is authorized to submit the required written application for workers compensation coverage to its insurer pursuant to the provisions of ORS 656.041(2).

Section 4. Intergovernmental Agreement Approved. The Intergovernmental Agreement between the City and Wasco County setting forth the terms and conditions by which workers compensation insurance coverage will be provided for Municipal Court defendants participating in the Work Crew Program, is hereby approved, and the City Manager, City Attorney, and City Clerk are authorized to execute the Agreement.

Section 5. Effective Date. This Resolution shall be considered effective as of January 14, 2013.

**PASSED AND ADOPTED THIS 14<sup>TH</sup> DAY OF JANUARY, 2013**

Voting Yes, Councilors: \_\_\_\_\_

Voting No, Councilors: \_\_\_\_\_

Absent, Councilors: \_\_\_\_\_

Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 14<sup>TH</sup> DAY OF JANUARY, 2013**

\_\_\_\_\_  
Stephen E. Lawrence, Mayor

Attest:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk



**CITY OF THE DALLES**  
Department of Public Works  
1215 West First Street  
The Dalles, Oregon 97058

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## **AGENDA STAFF REPORT**

### **CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
January 14, 2013	Discussion Item 15, A	13-001

**TO:** Honorable Mayor and City Council  
**FROM:** Dave Anderson, Public Works Director  
**THRU:** Nolan K. Young, City Manager *nky*  
**DATE:** December 19, 2012

**ISSUE:** Kelly Avenue Traffic Study Results.

**CITY COUNCIL GOALS:** Goal 1, Tier 1, G: Investigate safety and traffic concerns in vicinity of East 10<sup>th</sup>, East 12<sup>th</sup> and Kelly Avenue intersections.

**PREVIOUS AGENDA REPORT NUMBERS:** none

**BACKGROUND:** City Council identified a goal of investigating traffic safety issues on Kelly Avenue between East 10<sup>th</sup> and East 12<sup>th</sup> Streets for the current fiscal year. Kittelson and Associates, a transportation engineering and planning firm that has done previous work for the City, was hired to conduct a traffic study for the area. They conducted that study last spring and provided a report summarizing findings and recommendations to improve traffic safety in the area.

The field survey work was conducted in April and May, during weeks when school was in session. Monitoring consisted of personal observations at mid-day and video recording of traffic in the area over a 24-hour period. The video recordings were then analyzed to determine pedestrian, bicycle and vehicular traffic counts and movements, and identify existing traffic challenges and concerns at times of peak use. Based upon the observations and results of the video analysis, Kittelson worked with City staff to develop recommendations to improve traffic safety in the area.

In short, the analysis found that motor vehicle delays that currently occur at peak times are acceptable within the context of existing City standards. The greatest delay that occurred when the study was done was 32 seconds, and that was during the morning peak time at 10<sup>th</sup> Street westbound

onto Kelly. The next longest delay was 23 seconds at the intersection of 12<sup>th</sup> and Kelly for eastbound traffic, also in the peak morning time.

The capacity of streets can be rated to determine their Level-of-Service (LOS) using such factors as travel speed, delay, frequency in interruptions in traffic flow, relative freedom for traffic movements, driving comfort and convenience, and operating costs. Six standards have been established ranging from LOS "A" where traffic flow is relatively free to LOS "F" where the street system is totally saturated or jammed with traffic. The City's Transportation System Plan identifies that LOS "D" is acceptable and Levels "E" and "F" are indicators of deficiencies. Most of the City's street system operates at a LOS "C" or better,

All intersections in the Kelly Avenue study area were found to operate at LOS "C" or better with the exception of the intersection at 10<sup>th</sup> and Kelly westbound in the morning peak period; during that time, the intersection operates at a LOS "D", still acceptable according to the City's Transportation System Plan standards. The study identified that since the highest vehicular delays occur at the intersection of 10<sup>th</sup> and Kelly, it could be converted to an all-way stop. However, the report also noted that an all-way stop would increase delays for the highest-volume traffic movements, those being northbound and southbound on Kelly. The study concluded that the benefits of an all-way stop do not warrant conversion at this time.

On-street parking needs were also evaluated in the study. Generally, it was observed that there were more parking spaces in the area than needed to serve local businesses on an average weekday. The primary exception was on E 11<sup>th</sup> Street near the Mid-Columbia Council of Governments (MCCOG) building. In this area, nearly all the on-street parking on E 11<sup>th</sup> Street was utilized in the mid-afternoons. On-street parking of delivery trucks on Kelly Avenue was identified as an issue that can reduce sight distances from intersections, therefore parking restrictions at intersections and near crosswalks were suggested.

The most serious issue identified in the study related to pedestrian traffic, especially at mid-day when school students patronize the grocery store located near 12<sup>th</sup> and Kelly, on the east side of Kelly Avenue. At this time of day, over 180 pedestrian street crossings across Kelly Avenue occurred in the area between 11<sup>th</sup> and 12<sup>th</sup> Streets, while only 12 crossings were counted at the crosswalk at 12<sup>th</sup> and Kelly. The attached Figure 1 from the report shows the current configuration of streets and crosswalks in the study area and Figure 4 shows the pedestrian crossing counts for AM Peak Hour (white), Mid-day Peak Hour (black) and PM Peak Hour (orange) periods. The two figures combined show that there is currently no crosswalk across Kelly Avenue at or very near the location where the vast majority of pedestrian crossings are occurring.

The traffic study report provided four options to improve pedestrian safety in the area which are shown in the attached Figures 8–11. The options are summarized below:

- Option A: construct a crosswalk across Kelly Avenue at the south side of the 11<sup>th</sup>/Kelly intersection. This option has the benefits of being consistent with city-wide crosswalk locations (at intersections), maintains the greatest amount of parking, and has a lower cost of the options presented. However, it would require elimination of a drive entrance from Kelly Avenue to the mini-mart, and construction of an entrance to the alley.
- Option B: construct a crosswalk across Kelly Avenue mid-block between 11<sup>th</sup> and 12<sup>th</sup> Streets. The benefit of this option is that it minimizes the out-of-direction travel for pedestrians to the grocery store and has a lower cost to implement. The disadvantages of this option are that it provides the least sight distances of any of the options considered, and it is unusual in the City to have mid-block crosswalks. It also preserves the least amount of on-street parking of the options presented.

- Option C: construct a crosswalk across Kelly Avenue mid-block between 11<sup>th</sup> and 12<sup>th</sup> Streets with curb extensions (bulb-outs). This has the same advantage as Option B in that it minimizes the out-of-direction travel for pedestrians to the grocery store. It also provides a better sight distance than either Options A or B. It maintains a moderate amount of on-street parking. However, it is still a mid-block crossing and it would have a moderate cost to construct.
- Option D: construct mid-block crosswalk with curb extensions as in Option C, and also construct curb extensions at the intersection of 12<sup>th</sup>/Kelly. This option has all the functional benefits of Option C and it improves vehicular sight distance for eastbound traffic on East 12<sup>th</sup> Street entering or crossing Kelly Avenue. It has the highest cost of the options presented.

After considering the options presented in the report, staff is recommending a hybrid of Options A and D, as shown in the attached image on the last page of this report. This option was selected because it provides a crosswalk near where pedestrian crossings are occurring, at an intersection as is the City norm rather than mid-block, maintains the most on-street parking, and improves sight distance for drivers westbound on East 12<sup>th</sup> Street as they intersect Kelly Avenue. The cost to implement this option should be moderate. This option has been reviewed with adjacent property owners and has their support.

Other recommendations from the report that staff is proposing to implement include restricting parking within 20 feet of crosswalks and realigning the southern crosswalk at 10<sup>th</sup> and Kelly so that it is a more direct, shorter crossing.

The traffic study report and staff's recommendations have been reviewed with the Traffic Safety Commission. On December 19, 2012 the Commission adopted a motion to support staff's recommendation of constructing a hybrid of Options A and D as shown on the last page of this report.

**BUDGET IMPLICATIONS:** None at this time. If Council indicates support for the proposed improvements outlined above, construction of the project would be budgeted in the 2013/14 fiscal year.

**RECOMMENDATIONS:**

1. Staff Recommendation: None. Discussion Item only.



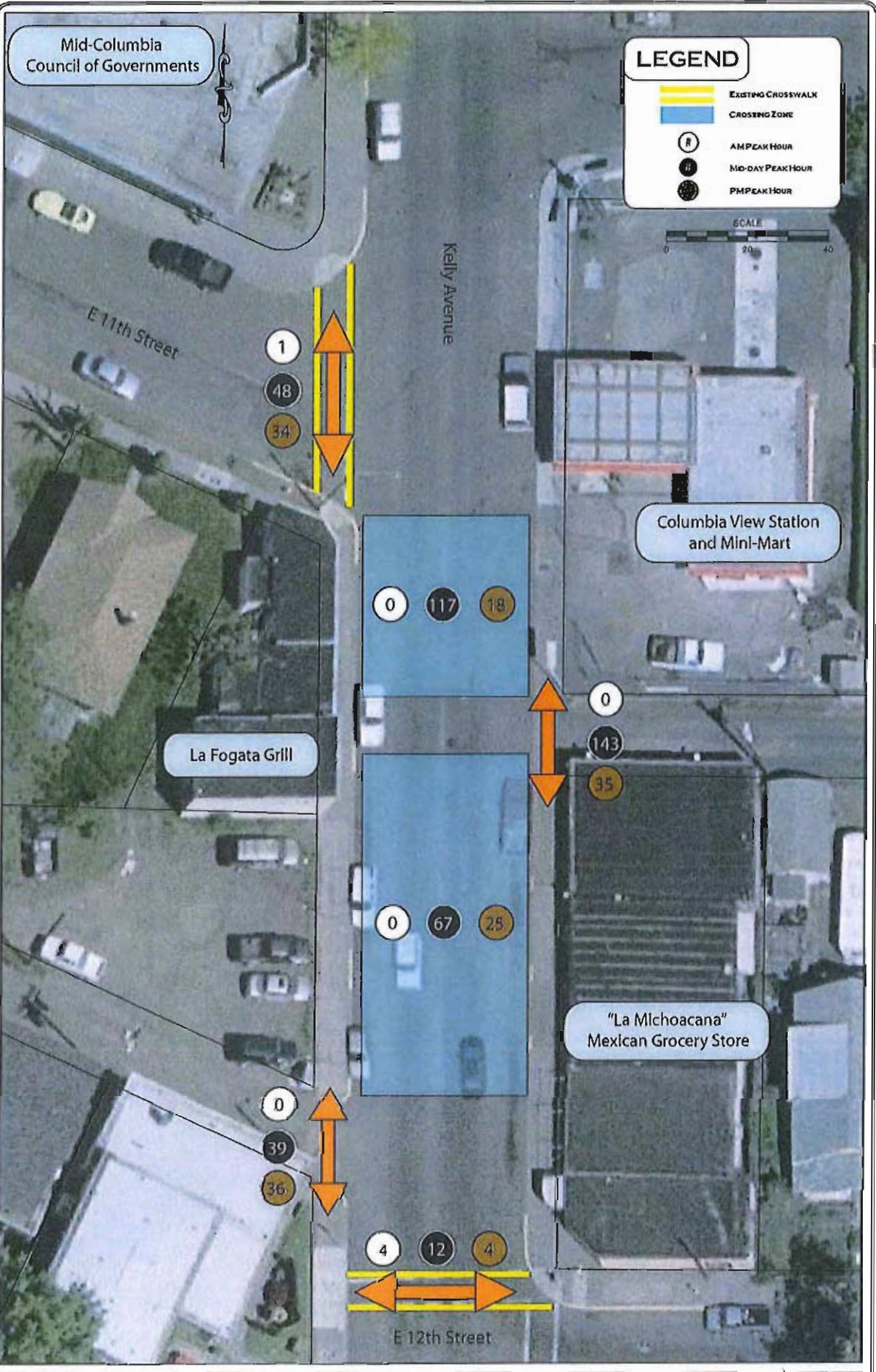
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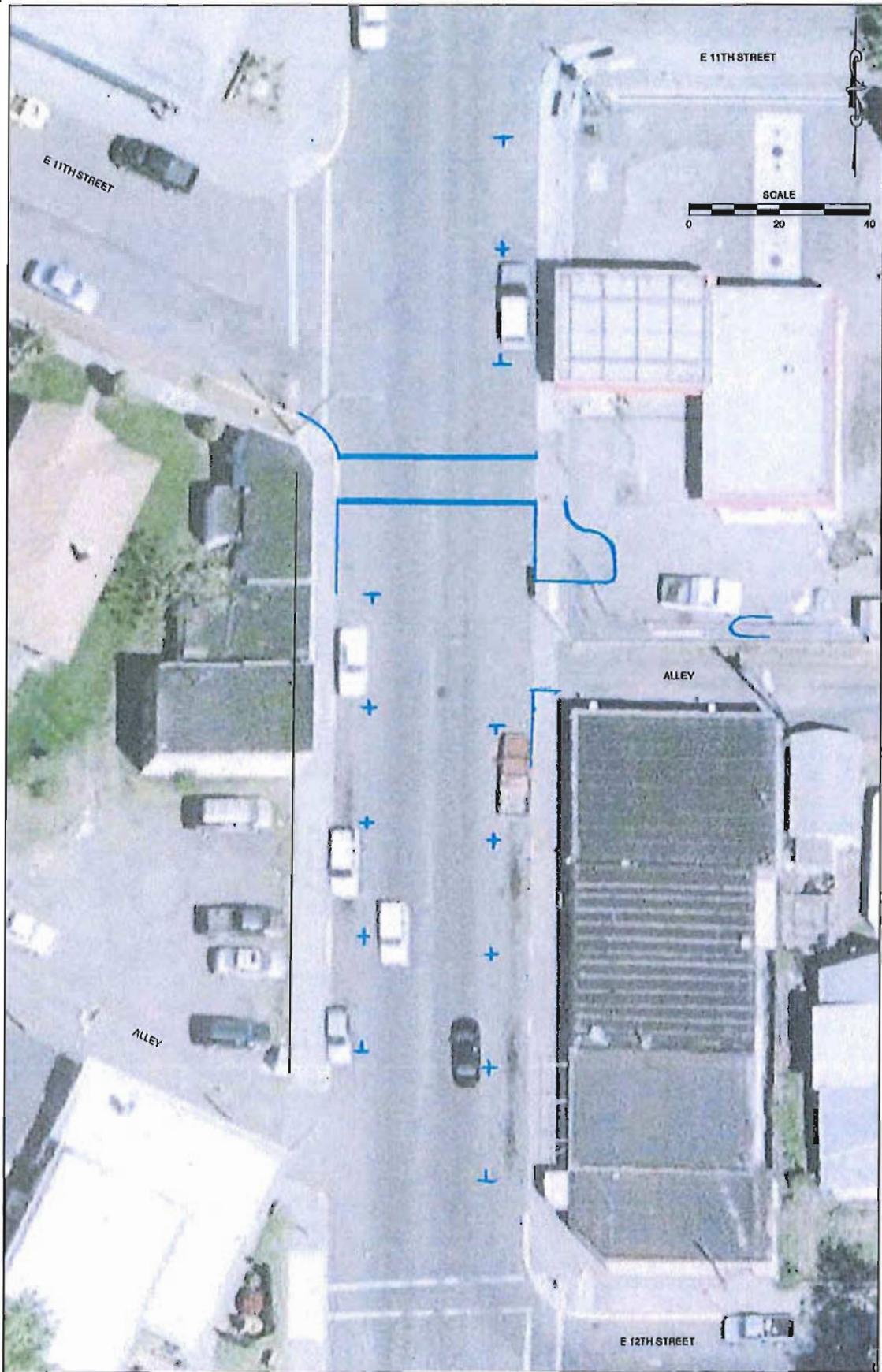
**LEGEND**

-  - STOP SIGN
-  - TRAFFIC SIGNAL

EXISTING LANE CONFIGURATIONS AND TRAFFIC CONTROL DEVICES THE DALLES, OR

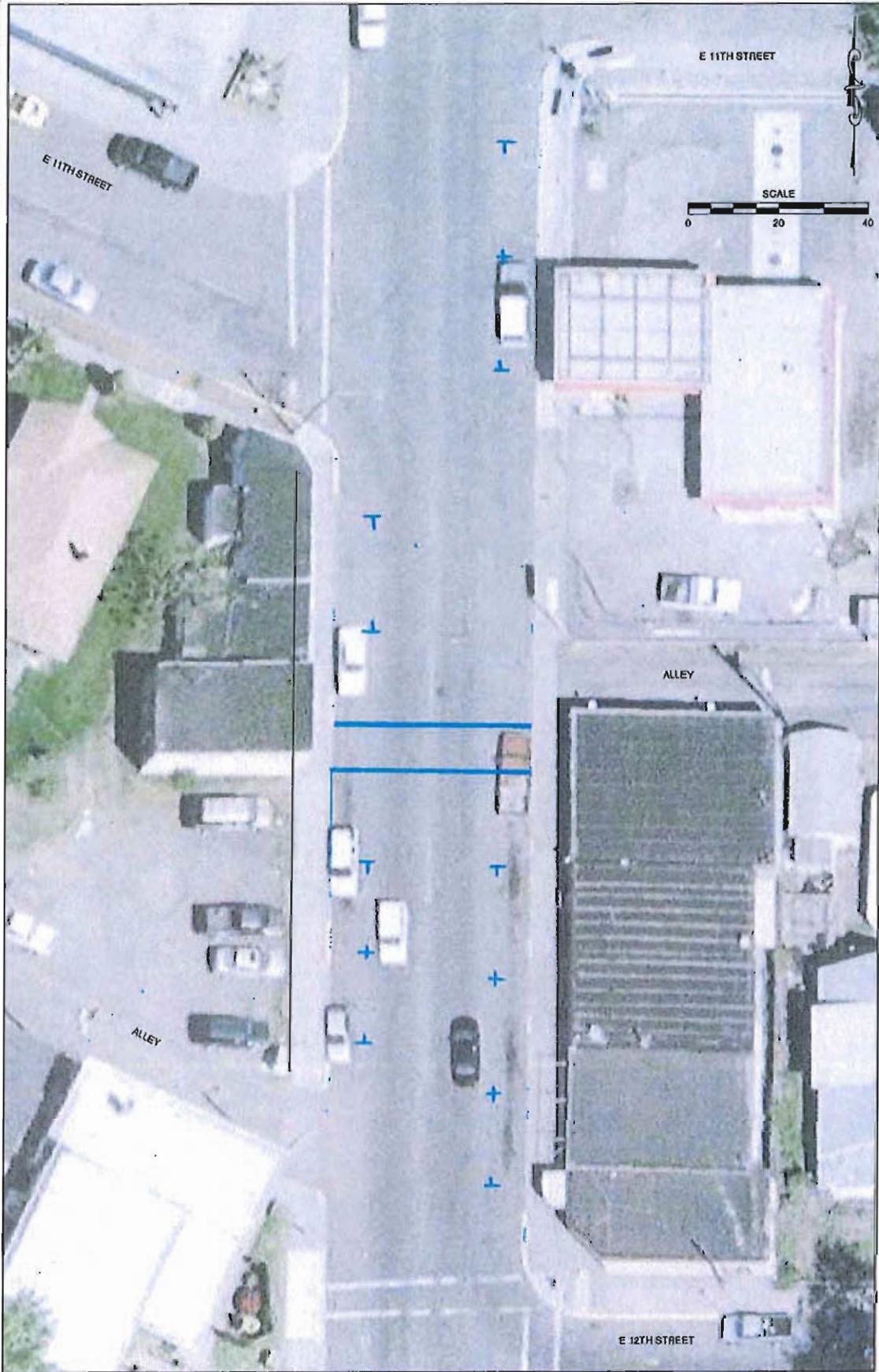
**FIGURE 1**





CONCEPTUAL PEDESTRIAN CROSSING IMPROVEMENTS  
OPTION A: CROSSING AT E 11TH STREET  
THE DALLES, OR

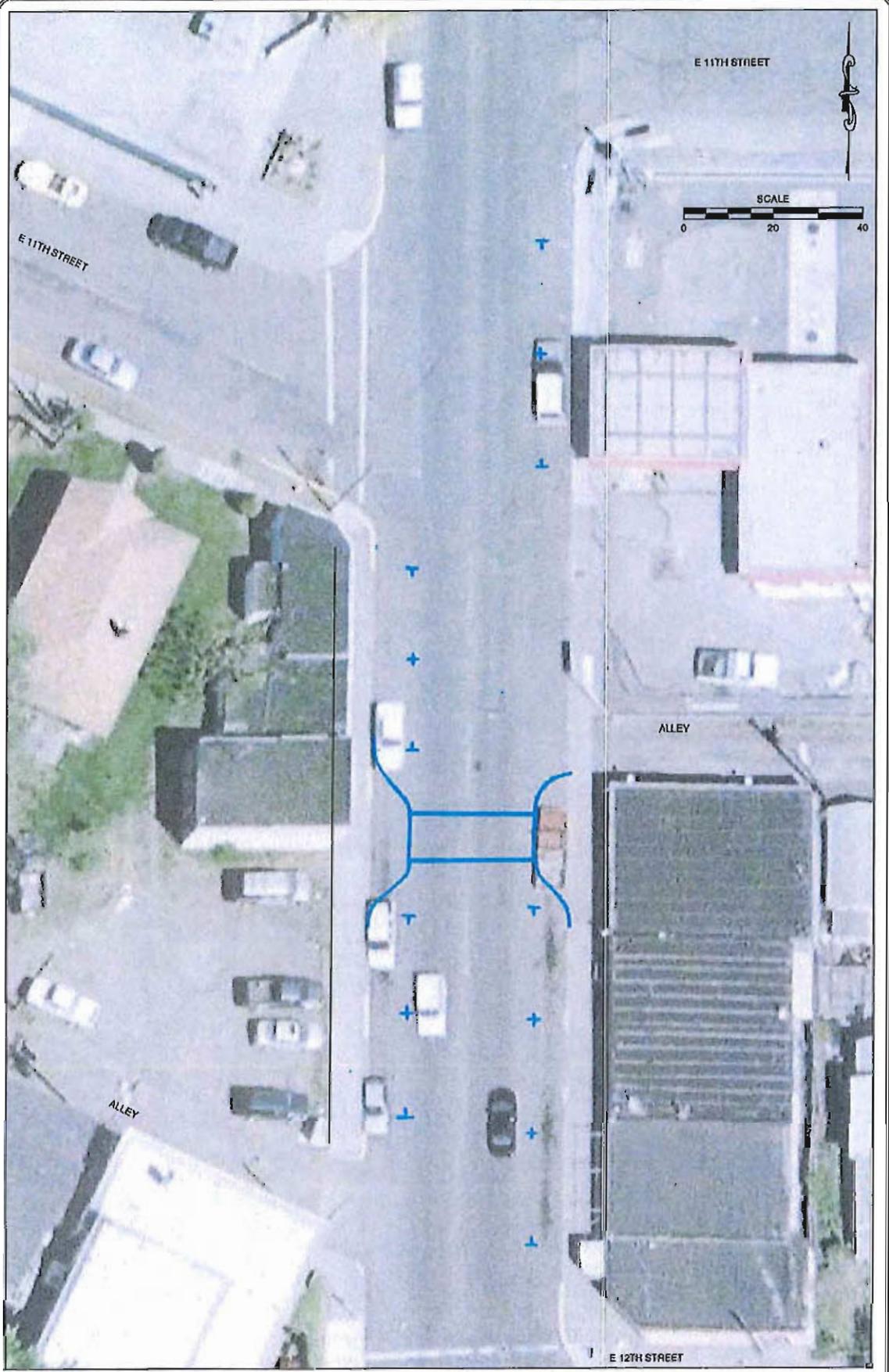
H:\projects\125712 - Kelly Avenue Traffic Study\img\fig8\ConceptualImprovementsA.jpg Jun 08, 2012 1:23:08pm - export - Layer: Just Overlay



CONCEPTUAL PEDESTRIAN CROSSING IMPROVEMENTS  
OPTION B: MID-BLOCK CROSSING  
THE DALLES, OR

FIGURE  
9

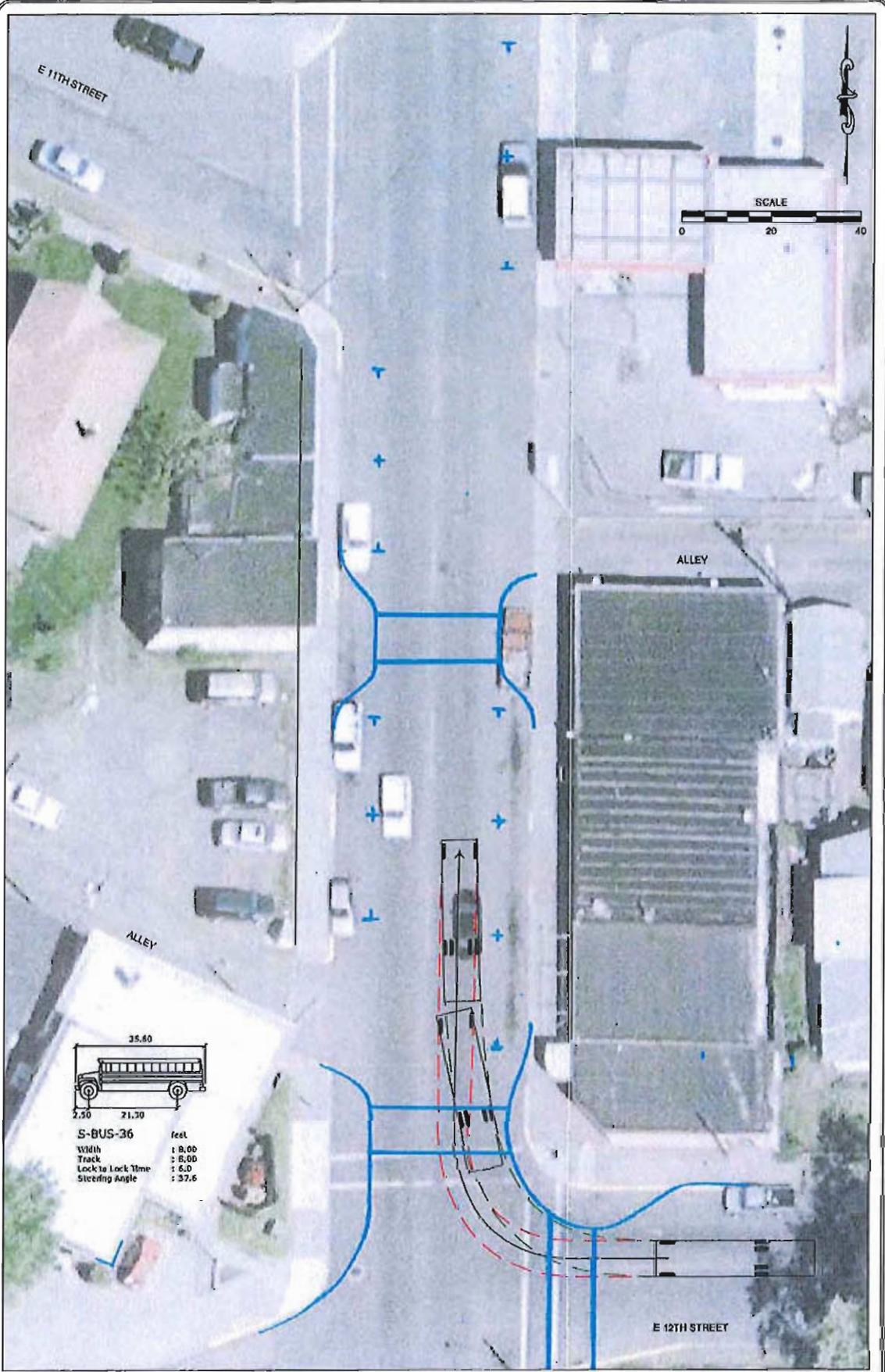
K:\2012\121212 - Kelly Avenue Traffic Study\Map\Conceptual-Improvements.dwg Jun 08 2012 10:20am - cadmond Layout Tab: OptionB



CONCEPTUAL PEDESTRIAN CROSSING IMPROVEMENTS  
 OPTION C: MID-BLOCK CROSSING WITH CURB EXTENSIONS  
 THE DALLES, OR

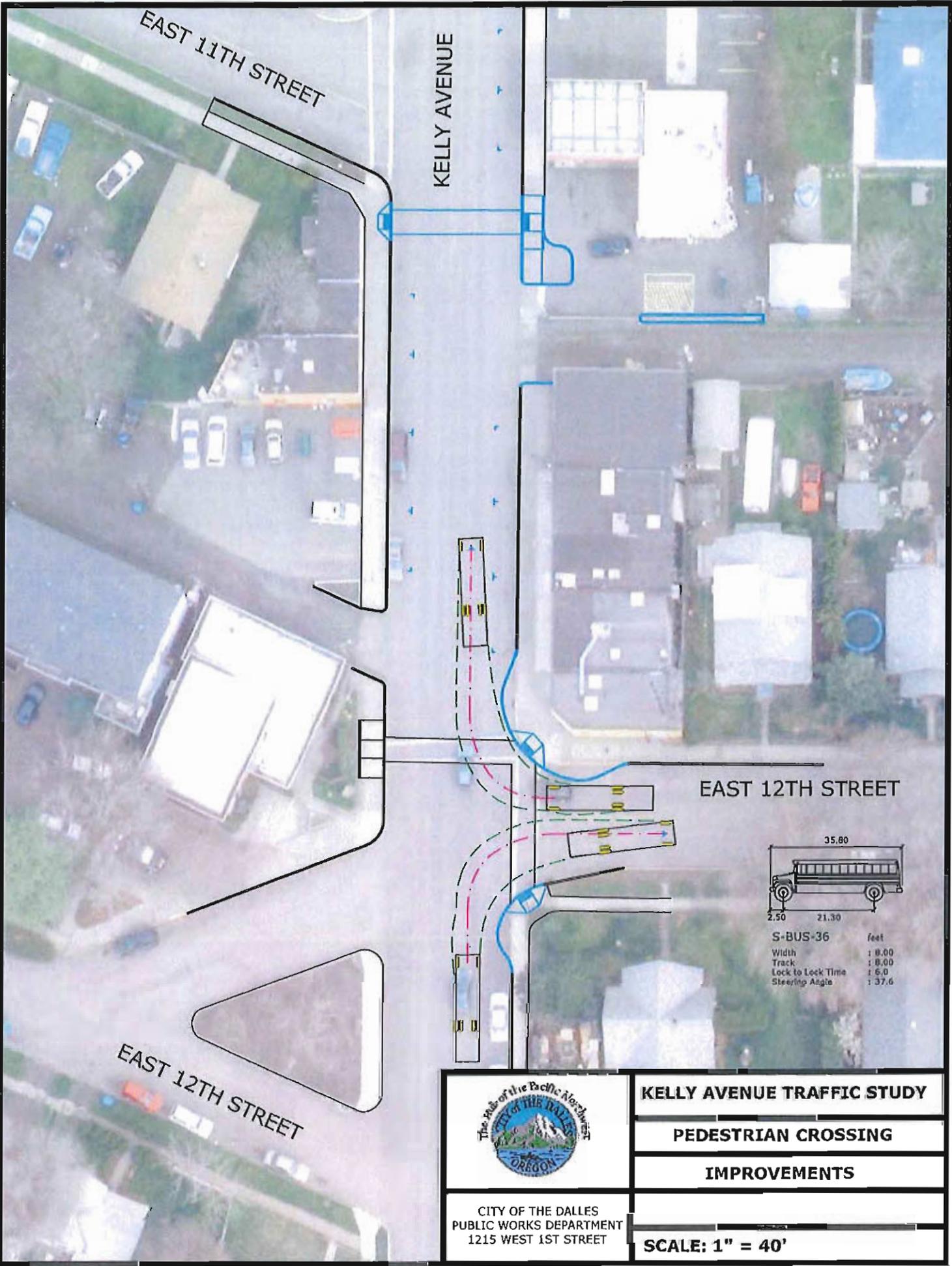
FIGURE  
 10

K:\projects\112512 - Kelly Avenue Traffic Study\maps\Concept\improvements.dwg Jun 27, 2012 - 4:22pm - approved Layout Taz Cabanac



H:\projects\25172 - Kelly Avenue Traffic Study\maps\figs\ConceptualImprovements.dwg Jun 22, 2012 - 11:25am - apoland Layout Tab: C:\band

CONCEPTUAL PEDESTRIAN CROSSING IMPROVEMENTS  
OPTION D: MID-BLOCK AND CORNER CURB EXTENSIONS  
THE DALLES, OR

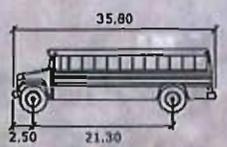


EAST 11TH STREET

KELLY AVENUE

EAST 12TH STREET

EAST 12TH STREET



S-BUS-36	feet
Width	18.00
Track	18.00
Lock to Lock Time	16.0
Steering Angle	137.6



**KELLY AVENUE TRAFFIC STUDY**  
**PEDESTRIAN CROSSING**  
**IMPROVEMENTS**

CITY OF THE DALLES  
 PUBLIC WORKS DEPARTMENT  
 1215 WEST 1ST STREET

**SCALE: 1" = 40'**