

AGENDA

REGULAR CITY COUNCIL MEETING

October 23, 2017

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. APPROVAL OF AGENDA
5. 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.

6. CITY MANAGER REPORT
7. CITY ATTORNEY REPORT
8. CITY COUNCIL REPORTS

Gratitude Moment – Gorge Happiness Month

9. 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 October 9, 2017 Regular City Council Meeting Minutes

CITY OF THE DALLES

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

10. CONTRACT REVIEW BOARD ACTIONS

A. Award Contract No. 2018-003 West Second Street Utility Improvements

11. ACTION ITEMS

A. Consider Pursuing Opportunity to Expand the Wastewater Treatment Plant Upgrade

B. Resolution No. 17-026 Establishing New Guidelines For Future Enterprise Zone
Extended Abatement Agreements

12. ADJOURNMENT

This meeting conducted in a handicap accessible room.

Prepared by/
Izetta Grossman
City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Item #9-A

MEETING DATE: October 23, 2017

TO: Honorable Mayor and City Council

FROM: Izetta Grossman, City Clerk

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

- A. **ITEM:** Approval of the October 9, 2017 Regular City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the October 9, 2017 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 October 9, 2017 Regular City Council meeting minutes.

MINUTES
REGULAR CITY COUNCIL MEETING
OF
October 9, 2017
5:30 p.m.

THE DALLES CITY HALL
313 COURT STREET
THE DALLES, OREGON

PRESIDING: Mayor Stephen Lawrence

COUNCIL PRESENT: Russ Brown, Taner Elliott, Tim McGlothlin, Darcy Long-Curtiss

COUNCIL ABSENT: Linda Miller

STAFF PRESENT: City Attorney Gene Parker, City Clerk Izetta Grossman, Finance Director Angie Wilson, Planning Director Steve Harris, Public Works Director Dave Anderson, Police Chief Patrick Ashmore, Human Resources Director Daniel Hunter, Assistant to the City Manager Matthew Klebes

CALL TO ORDER

The meeting was called to order by Mayor Lawrence at 5:30 p.m.

ROLL CALL

Roll call was conducted by City Clerk Grossman, Councilor Miller absent.

PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

Mayor Lawrence added Action Item #10-D Protest related to Contract No. 2018-004 Airport Fix Base Operator to the agenda. It was moved by Elliott and seconded by Long-Curtiss to approve the agenda as amended. The motion carried, Miller absent.

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PRESENTATIONS/PROCLAMATIONS

Tri-County Hazardous Waste & Recycling Program Update – David Skakel

Mayor Lawrence asked about S.T.R.U.T having problems due to no market for recycled electronics. Mr. Skakel said he would follow up with the director.

Skakel said starting January 1 Japan had placed a worldwide ban on specific recyclables, due to contamination. He said the DEQ was creating a group to address the issue and what could be done.

Skakel said with A&P closing a new cardboard recycler was needed. He said Emerald Connections was in need of a large indoor location in The Dalles.

Skakel said there would be a stakeholders meeting toward the end of October, including the City, County, Tri County Hazardous Waste and The Dalles Disposal.

AUDIENCE PARTICIPATION

James Cyphres, 819 Irvine, owner Cup O Mud, asked for Council assistance to receive a variance on the requirement for a toilet at his drive through coffee stand. He said he had the same business at the location in the past and was allowed to use the Chamber restroom.

Mayor Lawrence suggested they speak with Dave Meriweather at Mid Columbia Council of Governments to see if he could assist.

City Attorney Parker said the City didn't have jurisdiction over the health department, or State laws.

Councilor Long-Curtiss and Mayor Lawrence offered to go with them to talk to Mid Columbia Council of Governments.

CITY ATTORNEY REPORT

City Attorney Parker reported that he and the City Clerk were reviewing the codification legal review from Quality Code. He said he was hoping to be able to make the updates to the code with one ordinance.

He said he would be bringing water and sewer ordinance updates to the Council in November.

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Mayor Lawrence asked if the Council would receive a summary of the codification review.

City Clerk Grossman said she would provide Council with a copy of the report if they so desired.

CITY COUNCIL REPORTS

Councilor Long-Curtiss reported on the Community Outreach Team trip to Washington DC. She said the team consisted of Andrea Klaas, Port of The Dalles; Greg Weast, Port of The Dalles; Scott Hege, Wasco County and herself. She said:

- The team requested assistance in funding for the Maupin Broadband project
- EDA asked them for shovel ready projects – she said Dave Anderson was very helpful getting them information.
- Don't snail mail things to representatives in DC – it takes two weeks for them to get mail (it has to be screened)

She said she also attended the League of Oregon Cities for the first time. She said Human Resources Director Hunter, Assistant to the City Manager Klebes and the Mayor were all in attendance. She said the Homeless Forum was informative.

Councilor Elliott said QLife was working on funding for the Maupin project. He said bids were coming in over budget. He said Councilor Long-Curtiss and Carrie Pipinich at Mid Columbia Economic Development District were looking for grant opportunities. He said the City of Maupin was looking into what they could do in the form of some of the labor on the project.

In honor of Gorge Happiness Month Elliott thanked everyone for attending the meeting.

Councilor Brown said he was happy he had a peppermint patty.

Mayor Lawrence reported on attending:

- A meeting with the railroads
- League of Oregon Cities conference

He said Darren Nichols was the moderator for the railroad meeting. He said Nichols was one of two finalists for the League of Oregon Cities Director.

CONSENT AGENDA

It was moved by Long-Curtiss and seconded by McGlothlin to approve the Consent Agenda as

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presented. The motion carried, Miller absent.

Items approved by Consent Agenda were: 1) Approval of the September 18, 2017 Tourism Work Session meeting minutes; 2) Approval of September 25, 2017 Regular City Council Meeting Minutes; 3) Authorize City Manager to sign Agreement with Merina and Co. for audit services; 4) Approval of Port of The Dalles Waiver of Site Plan Review Application Fee for an Expansion of Klindt Cove Kiwanis Park.

ACTION ITEMS

Approval of Resolution No. 17- 022 Approving the Enterprise Zone Tax Abatement Agreement Between the Sponsors of the City of The Dalles/Wasco County Enterprise Zone and Columbia Phytotechnology, LLC DBA PowderPure.

Assistant to the City Manager Matthew Klebes presented the staff report.

Councilor Brown asked who monitored the wage requirement. Klebes said businesses had a form they provide to Business Oregon for the State.

Mayor Lawrence and Councilor McGlothlin said that PowderPure was a growing business, with new owners who were putting money into the business locally.

Councilor Elliott asked what would happen if they didn't meet the employment requirements.

Klebes said the agreement would be terminated and all taxes would be due.

It was moved by Long-Curtiss and seconded by McGlothlin to approve Resolution No. 17- 022 approving the Enterprise Zone Tax Abatement Agreement between the Sponsors of the City of The Dalles/Wasco County Enterprise Zone and Columbia Phytotechnology, LLC DBA_ PowderPure. The motion carried, Miller absent.

Approval of Extension of Exclusive Negotiating Agreement with Tokola Properties for Redevelopment of Tony's Building Properties

Planning Director/Urban Renewal Manager Steve Harris reviewed the staff report.

Mayor Lawrence asked why the City was being asked to approve the extension.

City Attorney Parker said the original agreement was between the Urban Renewal Agency, the City of The Dalles and Tokola.

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Mayor Lawrence said he would like to have an open session update on the project given to City Council.

Long-Curtiss said she didn't want to keep making extensions. She said that had happened in the past and moving forward she felt it was not a good idea to continue extending Exclusive Negotiating Agreements.

Urban Renewal Manager Harris said the agreement in 2013 had expired, and in 2016 they had been granted two 120 day extensions.

Councilor Elliott said there had been some hiccups during the time the new board was appointed and the new Urban Renewal Manager came on board.

It was moved by McGlothlin and seconded by Elliott to approve Extension of Exclusive Negotiating Agreement with Tokola Properties for Redevelopment of Tony's Building Properties. The motion carried, Long-Curtiss opposed, Miller absent.

Request from Chuck Gomez for Marketing Funds for the Granada Grand Re-opening

City Attorney Parker presented the staff report.

Mayor Lawrence asked Mr. Gomez if he wanted to comment.

Mr. Gomez restated his request. He said he had not heard back from the Chamber on the status of his grant request, and time was running short to advertise the weekend long event honoring veterans.

He said he had been contacted by a number of businesses wanting to sponsor and partner with the Grand Re-opening of the Granada. He said it was a unique opportunity to put The Dalles on the map, and announce the Granada reopening with authority.

Gomez said it wasn't just about the Granada it was about getting attention for all of downtown, and bringing people to town.

Councilor Brown said he would love to give Gomez the funding, but there was a policy in place that needed to be followed. He said he wasn't comfortable using contingency.

Councilor Elliott said he couldn't drive downtown without noticing the renovation and energy downtown. He said he loved it. He said he couldn't support using contingency funds. He agreed with Brown that the policy needed to be followed.

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Councilor McGlothlin said he saw a lot of positive and would be in favor of a smaller amount.

Councilor Long-Curtiss said Urban Renewal and the City had given a lot to the Granada. She said the Granada was a for profit business. She said Mr. Gomez was a great salesperson, but she didn't appreciate his approach.

Mayor Lawrence said Gomez was exactly what the Granada needed. He said he loved the enthusiasm.

Mayor Lawrence said Gomez didn't have Council support of the grant.

Mayor Lawrence and Councilor McGlothlin said they would help Gomez with sponsorships from businesses.

Protest Related to Contract No. 2018-004 for the Fixed Base Operator at the Columbia Gorge Regional Airport filed by GAS

City Attorney Parker reviewed the staff report.

It was moved by McGlothlin and seconded by Brown to direct staff to prepare a letter to GAS notifying them of the denial of protest. The motion carried, Miller absent.

ADJOURNMENT

Being no further business, the meeting adjourned at 7:04 p.m.

Submitted by/
Izetta Grossman
City Clerk

SIGNED: _____

Stephen E. Lawrence, Mayor

ATTEST: _____

Izetta Grossman, City Clerk

Mission: To help protect our Mid-Columbia region by providing services to reduce the impacts of hazardous wastes and to improve materials management for the benefit of human and watershed health.

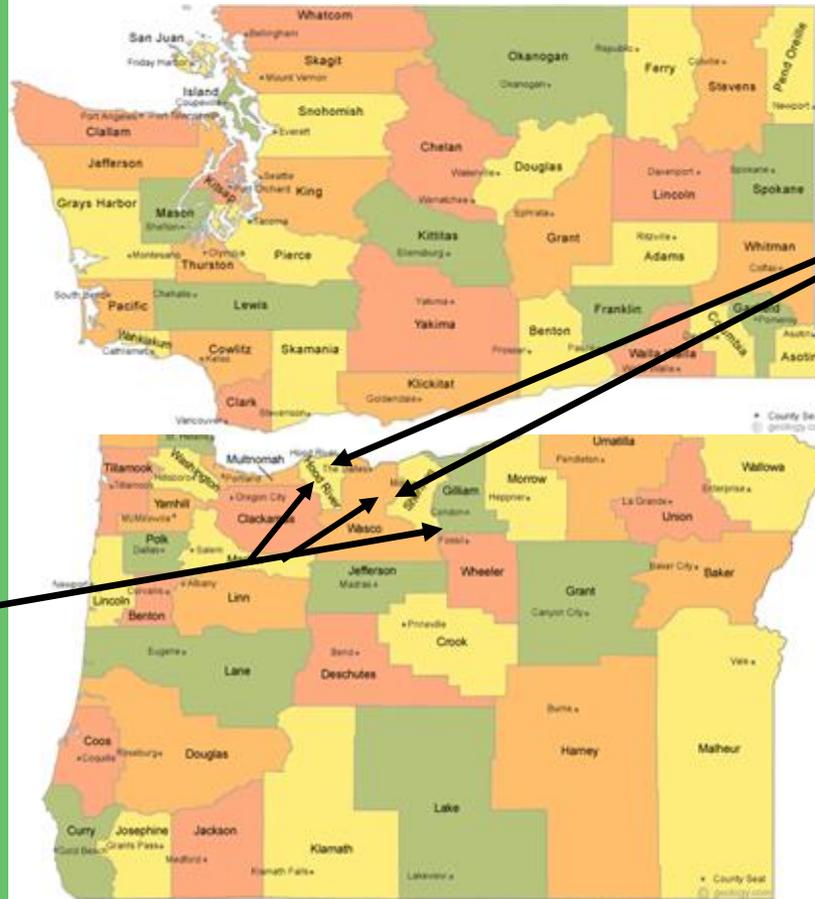


Tri-County

Hazardous Waste & Recycling Program



We Are Here...



Cities

- Cascade Locks
- Hood River
- Mosier
- The Dalles
- Dufur
- Maupin

Counties

- Hood River
- Wasco
- Sherman

JUST THE FACTS...

- Inter-Governmental Agreement
- Lead Agency, Wasco County
- Steering Committee
- Funded thru garbage fees
- Collections started in 2006

JUST THE FACTS...

(Just...) 2 Program Staff to Cover:

- 3 Counties + 6 Cities
- 3760 Square Miles
- 20+ Schools
- 2 Hazardous Waste facilities
- 19 Hazardous Waste Events per Year

We Collect Hazardous Waste...

At Hood River facility



We Collect Hazardous Waste...



We Collect Hazardous Waste...

At The Dalles facility



We Collect Hazardous Waste...



We Collect Hazardous Waste...

At Remote Events (Parkdale)



We Collect Chemicals from Farmers



We collect E-Waste too ...



And Unwanted Medicine too ...



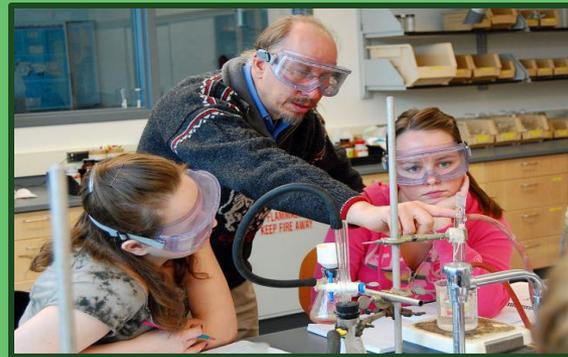
And Unwanted Medicine too ...



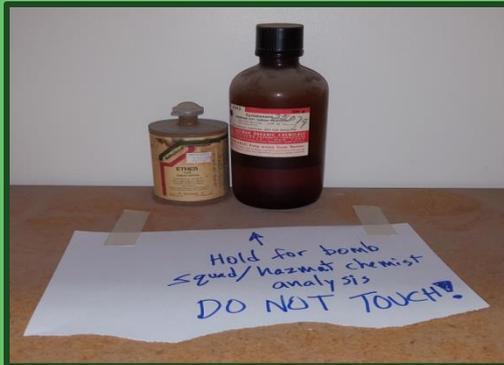
Electronics collaboration with Maupin High School...



We Collect Hazardous Waste At SCHOOLS...



And we Coordinate Safety Trainings and Lab Clean-Outs At SCHOOLS too ...



We Support Event Recycling



We Support Event Recycling...small



We Support Event Recycling... big



New Program- Abatement and Recycling Assistance



Compost- Schools



Grants



We Sell Compost Bins...



Organic Material



Organic Material... on Fire!



Dirt Hugger



Dirt Hugger



© Ross Steffey Aerial Photography

Dirt Hugger



Partnerships...



Tri-County

Hazardous Waste & Recycling Program



Partnerships...



Tri-County

Hazardous Waste & Recycling Program



Partnerships...



Tri-County

Hazardous Waste & Recycling Program





We Outreach in the Community





We Outreach in the Community





And Master Recyclers too...





And *Master Recyclers* too...





And Master Recyclers too...



Rural Recycling Depots- GOOD



Rural Recycling Depots - BAD



Rural Recycling Depots- **UGLY**





We Study Garbage too...





We track 'Product Stewardship'

- ✓ Paint
- ✓ Electronics
- ✓ Beverage Containers
- ❑ Hazardous Waste
- ❑ Pharmaceuticals

- ❑ Fluorescent Lamps
- ❑ Batteries
- ❑ Pesticides

- ❑ Radioactive Devices
- ❑ Tires
- ❑ Telephone Books
- ❑ Packaging
- ❑ Motor Oil
- ❑ Carpet
- ❑ Medical Sharps
- ❑ Mercury Thermostats
- ❑ Gas Cylinders
- ❑ Mattresses









Post A&P?





[Home](#) [About Us](#) [Recycle](#) [Hazardous Waste](#) [Discussion](#) [Master Recycler](#) [Grants](#)

What's New?

- Expanded Bottle Bill
- Electronic Waste Recycling
- Unwanted Medicines
 - Cell phones
- School Lab Clean-Outs
 - Flex Packaging
 - Contamination

Reduce Waste + Recycle More



Memorandum

To: Craig G. Russillo
From: David A. Anderson
Date: October 9, 2017
Subject: The Dalles / GAS: Bid Protest on Confidential Information
File No.: 122304-224114

ISSUE

Gorge Aviation Services, LLC (“GAS”) submitted a response to an RFP issued by the Dalles (the “City”). The City reissued its RFP with additional information. GAS contends that the additional information released by the City includes confidential or proprietary information belonging to GAS that the City should not have released. The City asked us to analyze:

1) Whether it had any duty to maintain the confidentiality of submittals by GAS in response to the City’s RFP?

Short Answer. No. The City did not release any confidential or proprietary information belonging strictly to GAS. GAS does not allege any agreement with the City to keep submittals confidential.

2) Whether Oregon Public Records Law would require the City to disclose confidential and proprietary information submitted by GAS?

Short Answer. No. ORS 279B.060(5) permits but does not require a public entity to enter an agreement not to produce confidential or proprietary information. Accordingly, the City has discretion whether to disclose that information.

FACTS

By letter dated September 27, 2017, GAS asserts the following facts. Because we conclude that GAS does not have a legally enforceable claim, we state the following facts consistently with GAS’s assertions in its letter:

After issuing an RFP, the City issued an Addendum to the RFP which included additional information for prospective bidders to consider. GAS contends that the addendum “uses confidential and proprietary GAS information that is the property of GAS.”

GAS further states that a letter the City sent dated December 3, 2015, “clearly stated that any information provided regarding fuel sales was considered confidential and proprietary to GAS and it was not to be disclosed.”

GAS contends, nonetheless, that the City released two kinds of confidential and proprietary information: (1) “fuel sales records that were provided to [the City] confidentially” and (2) highly confidential information that is only for internal use and has never been provided to [the City] with GAS’s knowledge or consent.”

GAS does not provide a copy of the letter it cites to support its contention that the City promised to hold information confidential. The City does not report that any City ordinance or other act by the City council authorized any such agreement.

GAS does include, in its materials, a letter dated June 29, 2017, from Charles Covert to the City. In this letter, Covert writes that a dispute has arisen between the members of GAS. Covert further writes the other two members had elected to restrict Covert’s rights with respect to management of the LLC.

ANALYSIS

(1) *The City is not bound by any agreement to keep any information confidential.*

Although GAS does not articulate its claim in this way, GAS asserts that the fuel pricing information publicized by the City is a trade secret. A trade secret is confidential information that gives an entity a business advantage. As more specifically stated in ORS 646.461(4) a trade secret is:

[I]nformation, including a drawing, cost data, customer list, formula, pattern, compilation, program, device, method, technique or process that: (a) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

A contract to maintain a trade secret is enforceable. *See Kaib's Roving R.P.H. Agency, Inc. v. Smith*, 237 Or App 96, 103-05 (2010) (analyzing claim for breach of contractual agreement to maintain trade secret). The City could have accordingly bound itself to maintain secrecy of information provided to it by GAS.

However, a city can only enter a binding agreement by resolution of its council. ORS 221.120(6) and (8) state: “The powers of the city shall be vested in the council” and “No action by the council shall have legal effect unless concurred in by a majority of the council.”

Absent any action by the City’s council to enter an agreement to keep certain information confidential, there is no such agreement. Two conclusions logically follow: first, the City is not bound by any agreement to keep GAS’s information confidential; second, even if GAS provided trade secret information to the City, GAS hardly acted reasonably to maintain the secrecy of its alleged trade secret. *See* ORS 646.461(4) (trade secret protection only applies to information that an entity acts reasonably to preserve secrecy).

Two caveats: it appears that GAS had an earlier agreement with the City for substantially similar services. We have not reviewed that agreement. The City may have agreed to maintain confidentiality of certain information supplied by GAS in a prior services contract with GAS. Second, GAS alludes to information that it held highly confidential that inexplicably landed in the City’s hands. In light of the ongoing business dispute among the GAS members, caution suggests that the City ascertain how it got that allegedly highly confidential information. If the City obtained that information because of the wrongdoing of one of the GAS members, our analysis might change.

(2) *The City has discretion whether to disclose confidential information.*

Oregon Public Records Law makes disclosure of public records the rule. *Brown v. Guard Publishing Co.*, 267 Or App 552, 563 (2014). Stated differently, “[e]very person has a right to inspect any public record of a public body in this state, except as otherwise expressly provided by ORS 192.501 to 192.505.” *Id.* In turn, “public record” is defined broadly to mean any writing that “contains information relating to the conduct of the public’s business.” Given that the information at issue was released as part of the City’s RFP addendum, related writings contain information relating to the conduct of the public’s business and are public records.

Because the information at issue is a public record, the rule is disclosure. An exception exists under ORS 192.502(4), which makes certain information not subject to disclosure, including:

Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure.

Relatedly, ORS 279B.060(5) allows a public body to withhold from disclosure trade secrets. Thus, a public body has authority to obligate itself to protect trade secret or confidential information. (This makes sense because such an agreement might be necessary from time to time to support a solicitation of services).

However, here, the City has made no such agreement to bind itself to maintain the confidentiality of records from GAS. No action by the City council has bound the City to do so (that we are

Memo to: Craig G. Russillo
October 9, 2017
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aware of – note the caveats above). Therefore, public records law would require the disclosure of the information that GAS requests be suppressed.

CONCLUSION

The City did not violate any duty to keep records confidential based on the information supplied by GAS. The City did not bind itself to keep the information confidential and, in that event, public records law would require the disclosure of the information at issue should a third party request it.

DAA



AGENDA STAFF REPORT

AGENDA LOCATION: Contract Review Board Item #10-A

MEETING DATE: October 23, 2017

TO: Honorable Mayor and City Council

FROM: Dave Anderson, Public Works Director

ISSUE: Authorization of West 2nd Street Joint Utilities Improvements construction contract – Contract No. 2018-003

BACKGROUND: One of the largest projects in the Public Works budgets for the current year is the West 2nd Street Joint Utilities Improvements project. This project will construct a new 18-inch diameter water main and upsize over a mile of sanitary sewer main to serve the Port Industrial Area, and install over a mile of storm water main in West 2nd Street. The project will include a crossing for the new water main under the railroad tracks from West 2nd Street to the old Rodeo Grounds property. This is the project for which an easement was purchased from SAPA in late 2016. The project was designed in-house by the Public Works Engineers. All three utility improvement projects were combined into a single contract to provide greater efficiency of construction, less disruption to adjacent property owners, and lower costs for the City.

The project was publicly advertised for bid and four bids were received, all of which were deemed to be responsive. The bid results for the base scope of work, called Schedule A, were as follows:

Crestline Construction	\$3,445,257.50
Tapani Inc.	\$4,091,516.50
Nutter Corporation	\$4,843,146.42
Vic Russell	\$5,037,650.72

The engineer's estimated cost for Schedule A of the project was \$4,008,168.

The total project will extend from Webber Street to River Road near River Trail Way as shown on the attached map. The joint utility work that will occur within West 2nd Street from the electrical substation to Snipes Street, a distance of about 2000 feet, will demolish one travel lane and about 1/3 of the second lane of West 2nd Street. It is not

expected that there will be much integrity left in the remaining 2/3 of the second lane if we tried to keep it. The cost to fully repave this section of West 2nd Street would be about \$26,331 more than to patch the remaining 2/3 of a lane, \$215,531.25 versus \$189,200. The repaving would be completed under Schedule B.

The combined Schedule A and B costs of the various utility improvements, including the full-width repaving of about 2000 feet of West 2nd Street, are recommended to be allocated as follows:

18-inch Water Main	\$1,869,447.73
Sanitary Sewer Main	\$ 858,470.51
Storm Water Main	\$ 932,870.51

Under the Development Agreement previously authorized, Design LLC will pay for 50% of the cost to construct the new 18-inch diameter water main.

Schedule C of the project, if authorized, would provide for the construction of 6-foot wide bike lanes on each side of West 2nd Street, from Webber to Hostetler, as identified in the updated Transportation System Plan. Since construction of these bike lanes is a project identified in the Transportation System Plan which increases capacity of the street system, Transportation SDCs, which cannot be used for street maintenance, could be used to fund the work. The cost of Schedule C would be \$87,696.95.

BUDGET IMPLICATIONS: Within Fund 53, the Water Capital Reserve Fund, line 053-5300-000.76-20, there is a total of \$5,974,967 for construction of new water mains including the Dog River Pipeline. Utilizing \$1,869,447.73 of these funds for this project will still leave over \$4.1 million for the Dog River Pipeline which is our target contribution to the project.

Within Fund 56, the Sewer Special Reserve Fund, lines 056-5600-000.76-30 and .76-40, \$936,000 and \$955,000 are budgeted for the sanitary sewer main and storm water main respectively. If approved, \$858,470.51 and \$932,870.51 would be spent from these allocations. There are adequate funds budgeted for the project.

Within Fund 13, the Transportation System Reserve Fund, \$802,763 is budgeted for SDC-eligible projects. If authorized, \$87,696.95 of these funds would be used to construct bike lanes along West 2nd Street.

RECOMMENDATION: Move to authorize the City Manager to enter into Contract No. 2018-003 with Crestline Construction for an amount not to exceed \$3,748,485.70 for the West 2nd Street Joint Utilities Improvements project including bike lanes.

ALTERNATIVES:

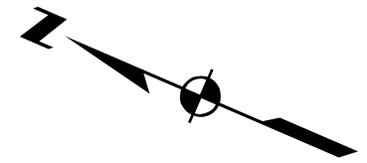
1. *Move to authorize the City Manager to enter into Contract No. 2018-003 with Crestline Construction for an amount not to exceed \$3,660,788.75 for the West 2nd Street Joint Utilities Improvements project excluding bike lanes.*
2. Deny authorization to award Contract No. 2018-003 and provide additional direction to staff.



City of The Dalles
Public Works Department
1215 West 1st Street
The Dalles, OR 97058

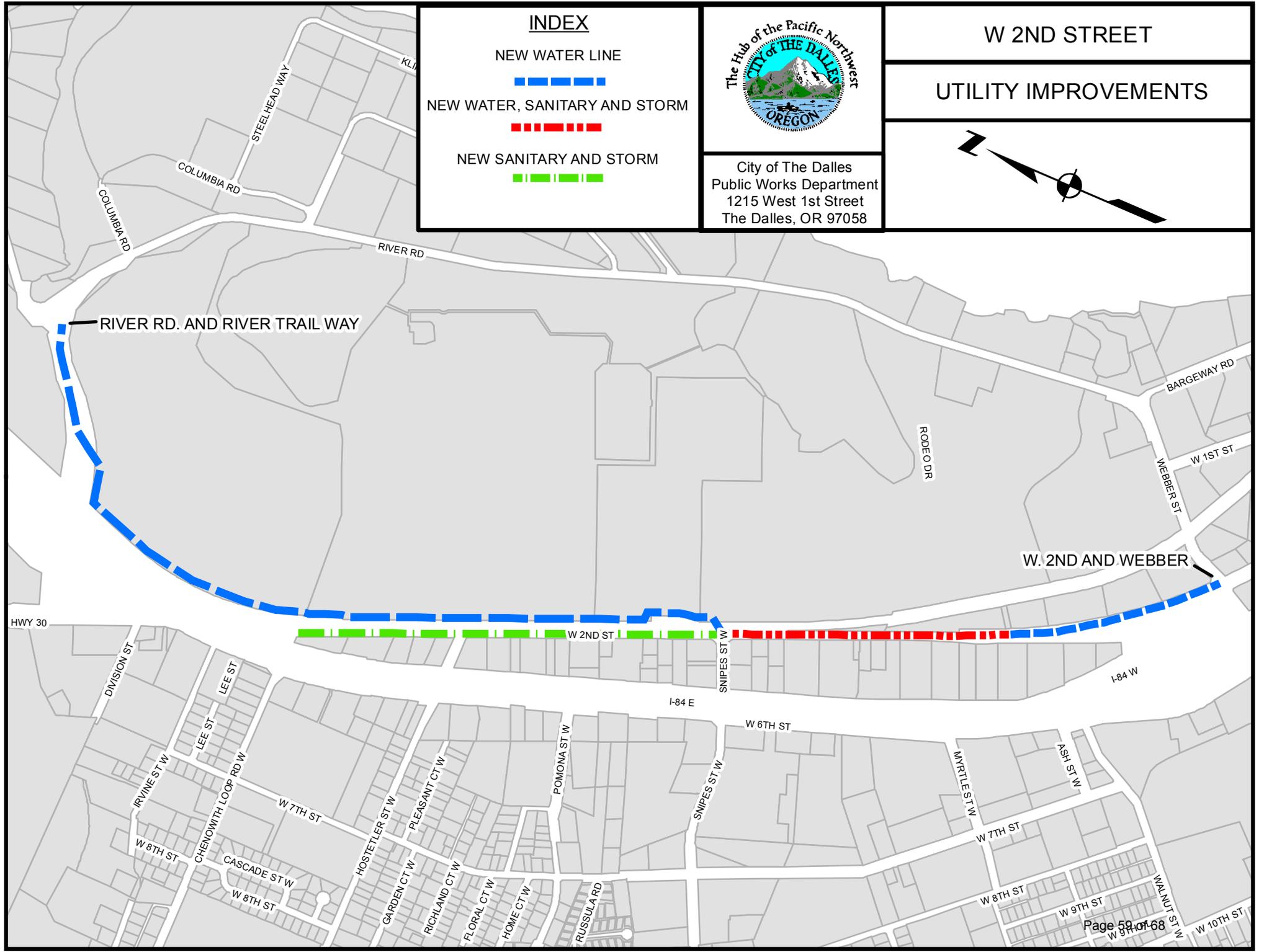
W 2ND STREET

UTILITY IMPROVEMENTS



INDEX

- NEW WATER LINE
- NEW WATER, SANITARY AND STORM
- NEW SANITARY AND STORM





AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #11-A

MEETING DATE: October 23, 2017

TO: Honorable Mayor and City Council

FROM: Dave Anderson, Public Works Director

ISSUE: Consideration of expanding the Wastewater Treatment Plant Upgrade project to construct a new secondary clarifier and issuing associated bond debt

BACKGROUND: The project to upgrade the Wastewater Treatment Plant under a progressive design-build contract is going very well. As Council may recall, the design-build team, which is made up of the project design engineers, the construction contractor, the City's contract operator for the plant, and City staff, had identified and implemented, with Council authorization, cost-saving alternatives that allowed for construction of most of the improvements that were previously planned to be constructed over two phases in this project. The revised approach was anticipated to save about \$4 million over the 10-year construction plan. The team also identified an opportunity to construct Co-Gen systems that will produce electrical power and heat using the methane gas produced at the plant, which Council authorized, and which is being built. The current project is on schedule to be completed by March 31, 2018 and is slightly below budget.

Future planned phases of improvements to the plant processes include the construction of a new secondary clarifier, improvements to the aeration basins, and addition of a second gravity belt thickener. Of these, the most pressing is the new secondary clarifier. As growth in the community occurs, the existing clarifiers will be the next bottle-neck in our treatment processes.

There is significant industrial development in the City that is underway at this time, as well as new residential development. The current Wastewater Treatment Plant Upgrade project is anticipated to be able to handle the wastewater from the industrial development that is currently under construction. However, staff has received confidential information from more than one industry indicating that new industrial development is likely to continue, and that this additional development will result in

significantly increased flows to the City's Wastewater Treatment Plant. All indications are that these increased flows, which could occur quite soon, will come from a combination of new facilities being constructed, expansions of existing facilities, and connection of existing facilities to the City wastewater system that previously were not connected. These expected flows could exceed the capacity of our current clarifiers.

To help ensure that the plant has the capacity needed to accommodate these planned developments, staff has been evaluating opportunities to expand the scope of the current progressive design-build project to include construction of a new secondary clarifier. The design-build team developed and evaluated five alternatives which could provide for that construction. From these alternatives, the lowest cost option is about \$3.5 million based upon a 30% design.

Proceeding with construction of the new clarifier as an expansion of the existing project would require issuing a bond for debt. The current interest rates are 2.5% to 3% for a 15-year bond. For this analysis, bond issuance costs, which include the services of a bond attorney (\$30,000), have been estimated to be \$100,000 which would be included in the amount of the bond issued. The type of bond to be issued, Full Faith and Credit or Revenue Bond, would be determined after analysis by a bond agent of the alternatives available. The estimated annual payments for a 15-year \$3.6 million bond (the additional \$100,000 is to cover bond issuance costs) at 3% interest would be about \$300,000 per year.

Council will recall that the City has already received a loan from Oregon DEQ for the Co-Gen elements of the current project. That loan was for \$2 million, \$1.5 million of which will need to be repaid at 2.14% interest over 20 years. This loan can be paid off early with no penalty. The annual payments for this loan will be about \$100,000 per year.

Staff believes that there are several good reasons to consider expanding the current project and constructing the new clarifier under an amendment or change order to the existing progressive design-build contract.

- Industrial development in the City is occurring more rapidly than previously anticipated and the additional clarifier capacity may be needed sooner than previously planned.
- The current progressive design-build contract was awarded through a competitive process based upon selecting the proposal that provided the best value to the City; expanding the scope of work under the current contract would retain those best-value benefits.
- The current rate of inflation for construction projects is about 4.5% per year; by doing this work two years sooner than planned, the City may save as much as \$600,000 in avoided inflation costs.
- Amending the current contract may allow the additional work to be completed under the existing prevailing wage labor rates that were in effect when the contract was originally advertised, which was late 2014.
- The current design-build team is familiar with the plant and all local authorizing jurisdictions.
- The costs for mobilization/demobilization of a contractor for a separate project

- would be avoided; those costs would be about \$60,000.
- All the staff effort and project time to develop new proposal and/or bid documents would be avoided.
- The current project is going very well and there is an opportunity to expand the project to maintain continuity of that success.

In order to obtain the most benefit from an expansion of the existing project, time is of the essence. The current project is scheduled to be completed March 31, 2018. Ideally, to construct the new clarifier under the current contract, design engineering needs to begin right away to accommodate ordering and receipt of long-lead-time equipment. Construction work would be scheduled to begin immediately after completion of, or concurrent with, the existing project. Work related to issuance of the bond also needs to begin right away which would include executing a Letter of Engagement with a bond agent and hiring a bond attorney to prepare the necessary documents.

If this concept is pursued, the City Council would need to authorize a bond resolution at a future meeting. Staff would also be bringing to Council for authorization a contract amendment or change order to the existing progressive design-build contract with Mortenson Construction to design and construct the new clarifier.

Since pursuit of this option will require the expenditure of funds, primarily for the hiring of a bond attorney and initiation of design engineering, Staff is seeking direction from Council about whether to proceed or not. If the City Council would like to expand the current progressive design-build project to include design and construction of a new clarifier, Staff is asking for that direction by way of an adopted motion.

BUDGET IMPLICATIONS: If approved, expanding the scope of work for the current progressive design-build contract with Mortenson Construction to include constructing a new secondary clarifier is expected to cost about \$3.5 million. Bond issuance costs have been estimated to be about \$100,000. The annual payments on a 15-year \$3.6 million bond at 3% interest are estimated to be about \$300,000. For the last four years, between \$1.7 and \$2.5 million per year have been transferred from Wastewater Revenues to the capital reserve funds (Funds 56 and 57) to pay for capital projects. The new debt obligations, which would total an estimated \$400,000 per year, can be paid from these funds. In addition, as new developments connect to the City sewer systems, they will be required to pay Sewer System Development Charges (SDCs) which can also be used to help pay debt for these capital improvements. It is anticipated that this bond could be issued without requiring a sewer rate increase at this time; this would be evaluated through the analyses to be conducted by the bond agent.

COUNCIL ALTERNATIVES

- A. Staff Recommendation: *Move to authorize staff to proceed with expansion of the scope of work for Contract No. 2015-004, the current progressive design-build contract with Mortenson Construction, through contract amendment or change order, to include constructing a new secondary clarifier, and to enter into a Letter of Engagement with bond counsel to develop debt-financing related documents, and to expend funds estimated to be about \$30,000 for*

related services of a bond attorney.

- B. Alternative 1: Deny authorization to expand the scope of work for the current progressive design-build contract with Mortenson Construction to include construction of a new secondary clarifier.



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #11-B

MEETING DATE: October 23, 2017

TO: Honorable Mayor and City Council

FROM: Matthew Klebes, Enterprise Zone Manager

ISSUE: Resolution No. 17-026 A Resolution Establishing New Guidelines for Future Enterprise Zone Extended Abatement Agreements

BACKGROUND: Resolution No. 12-005 “A Resolution Approving the Enterprise Zone Tax Abatement Agreement Between the Sponsors of The Dalles/Wasco County Enterprise Zone III and Columbia Phytotechnology LLC: and Establishing a General Policy for Future Extended Abatement Agreements” established the below general policy:

“In the fourth and fifth calendar years of the extended abatement period and prior to December 31 of those fourth and fifth years, a qualifying firm shall contribute to the Zone Sponsors a cash contribution calculated from the table below, which shall be split equally between the Zone Sponsors. The cash contributions will be used by the Zone Sponsors to support public infrastructure, economic development, and/or public services.”

	Tax Savings Per Year	Total Cash Contribution Per Year
Tax Savings for each of years 4 and 5	\$0.00 to \$29,999	15 percent of tax savings
	\$30,000 to \$69,999	20 percent of tax savings
	\$70,000 to \$119,000	25 percent of tax savings
	\$120,000 to \$189,000	30 percent of tax savings
	\$190,000 to \$299,999	35 percent of tax savings
	\$300,000 to \$489,999	40 percent of tax savings
	\$490,000 to \$unlimited	45 percent of tax savings

Upon reviewal by The Dalles/Wasco County Enterprise Zone Negotiation Team new guidelines are recommended:

“In the fourth and fifth calendar years of the extended abatement period and prior to December 31 of those fourth and fifth years, a qualifying firm shall contribute to the Zone Sponsors a cash contribution calculated from the table below, which shall be split equally between the Zone Sponsors. The cash contributions will be used by the Zone Sponsors to support public infrastructure, economic development, and/or public services.”

	Year 4 of Abatement	Year 5 of Abatement
Cash Contribution Owed	50% of tax savings	75% of tax savings

BUDGET IMPLICATIONS: There are no budget impacts as the proposed changes will only affect future extended enterprise zone agreements. The applicant will receive tax abatement and will pay a cash contribution dependent on the new percentages and the final amount of taxes saved.

COUNCIL ALTERNATIVES:

1. Staff recommendation: *Move to adopt Resolution No. 17-026 establishing new guidelines for future Enterprise Zone Extended Abatement Agreements.*
2. Modify the proposed changes and direct staff to bring such modifications to the Negotiation Team to revise and bring the resolution back to Council.
3. Decline to adopt the resolution at this time.

Resolution No. 17-026

**A RESOLUTION ESTABLISHING NEW GUIDELINES FOR
FUTURE ENTERPRISE ZONE EXTENDED ABATEMENT AGREEMENTS**

Whereas, the Oregon Legislative Assembly has adopted the provisions on ORS 285C.050 to 285C.250 to provide tax incentives to certified business firms that invest in a qualifying facility located within a non-urban enterprise zone in a county with chronically low income or chronic unemployment: and

Whereas, the City of The Dalles and Wasco County jointly sponsor a non-urban enterprise zone known as The Dalles/Wasco County Enterprise Zone: and

Whereas, the local sponsors of The Dalles/Wasco County Enterprise Zone are permitted to request reasonable additional requirements that an applicant must also satisfy: and

Whereas, The City of The Dalles and Wasco County, as sponsors of the Dalles/Wasco County Enterprise Zone, wish to establish new guidelines for additional requirements for all qualifying firms.

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

Section 1. New Guideline Established. The City Council hereby establishes new guidelines for any future extended abatement agreements. This new guideline dictates the required cash contribution from qualifying firms for extended abatements in the amounts calculated from the table in Section 2 and details the distribution of the funds.

Section 2. Contribution Table. In the fourth and fifth calendar years of the extended abatement period and prior to December 31 of those fourth and fifth years, a qualifying firm shall contribute to the Zone Sponsors a cash contribution calculated from the table below, which shall be split equally between the Zone Sponsors. The cash contributions will be used by the Zone Sponsors to support public infrastructure, economic development, and/or public services.

	Year 4 of Abatement	Year 5 of Abatement
Cash Contribution Owed	50% of tax savings	75% of tax savings

Section 3. Effective Date. This Resolution shall be considered effective as of October 23, 2017.

PASSED AND ADOPTED THIS 23rd DAY OF OCTOBER, 2017

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Absent, Councilors: _____

Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 23rd DAY OF OCTOBER, 2017

SIGNED:

ATTEST:

Stephen E. Lawrence, Mayor

Izetta Grossman, City Clerk