

AGENDA

REGULAR CITY COUNCIL MEETING

December 11, 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
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 November 27, 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. PUBLIC HEARINGS

- A. Approval of Resolution No. 17-030 A Resolution Approving the Sale of Real Properties Identified as Assessor Map No. 1N 13E 4CC Tax Lot 3100
- B. Approval of Resolution No. 17-031 A Resolution Approving the Sale of Real Properties Identified as Assessor Map No. 1N 13E 4CC Tax Lot 3300 adjacent to Wright Street
- C. Approval of Resolution No. 17-027 A Resolution Approving the Sale of Real Property Located at 600 East 12th Street

11. CONTRACT REVIEW BOARD ACTIONS

- A. Award Contract No. 2018-005 Columbia Gorge Regional Airport Manager

12. ACTION ITEMS

- A. Approval of Special Ordinance No. 17-577 An Ordinance Authorizing the Issuance of Water and Wastewater Utility Revenue and Refunding Bonds to Construct, Repair, Expand, and Refinance the City's Wastewater Treatment Facilities and Water Delivery Facilities
- B. Approval of General Ordinance No. 17-1363 Providing For an Elections Code For The City of The Dalles, Designation a Method of Nominating Candidates for Municipal Elected Offices and Providing for Exercise of the Rights of Initiative and Referendum, and Providing Penalties for Violations, and Repealing General Ordinance No. 92-1150
- C. Approval of General Ordinance No. 17-1361 Amending Certain Provisions of General Ordinance No. 950 Concerning Transient Lodging Taxes
- D. Approval of General Ordinance NO. 17- 1362 Creating a Local Contract Review Board for the City of The Dalles and Repealing General Ordinance No. 91-1121

13. DISCUSSION ITEMS

- A. Tourism Commission Discussion

14. 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: December 11, 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 November 27, 2017 Regular City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the November 27, 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 November 27, 2017 Regular City Council meeting minutes.

MINUTES
REGULAR CITY COUNCIL MEETING
OF
November 27, 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, Linda Miller, Darcy Long-Curtiss, Tim McGlothlin

COUNCIL ABSENT: None

STAFF PRESENT: City Manager Julie Krueger, 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, all Councilors present.

PLEDGE OF ALLEGIANCE

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

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APPROVAL OF AGENDA

Mayor Lawrence amended the agenda by removing Action Item #12-A. It was moved by Brown and seconded by Elliott to approve the agenda as presented. The motion carried unanimously.

AUDIENCE PARTICIPATION

Victor Johnson, 313 West 4th, said he watched the last council meeting on Facebook. He said he thought it was a great thing.

He reported performing on a River Cruise and said the view was beautiful from the river. He said the passengers noticed a horrible smell. He said he wanted to bring it up so Council was aware of the issue and the lasting impression it had on visitors.

Joshua Ferris, 220 West 13th, said there was rising inequality in the United States. He said the CEO's make lots of money, and are fined a small amount if caught doing something wrong.

He said Salt Lake City, Utah had an ordinance that dropped the homeless population by 90%. He encouraged The Dalles to look into this type of solution.

Mark Linebarger, 324 East 14th, said he was curious about where the Council was going with tourism. He said he didn't see why Council was reinventing the wheel. He said the Chamber was doing a great job.

Mayor Lawrence explained Council had asked staff to work on structure for a Tourism Advisory Committee. He said the Tourism Committee had been brought up at the Town Hall meeting.

Mr. Linebarger said he had experience with tourism and wondered why no one had contacted him. He said his contact number was 541-993-6755. He said the committee was a waste of time, professionals should be handling tourism for The Dalles.

Councilor McGlothlin said he would contact Mr. Linebarger.

CITY MANAGER REPORT

City Manager Julie Krueger reported that the City had received a letter from Northern Wasco County Parks & Recreation District (NWCPR) requesting the City provide financial services, much like what had been done for QLife. She said Finance Director Wilson felt the City could provide the services requested.

It was the consensus of the Council to have staff work on an Memorandum of Understanding

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with NWCPR for financial services.

CITY ATTORNEY REPORT

City Attorney Parker reported that he, Planning Director Harris and Assistant to the City Manager Klebes had been working on the Tokola project. He said appraisal and preliminary title were ordered. He said they should have a disposition and development agreement to Council and Urban Renewal Board in January.

He said the Fixed Base Operator Lease would be coming before Council at the January 8 meeting.

CITY COUNCIL REPORTS

Councilor Brown said streets had been his focus during his term as Councilor. He said he thought it was time to consider other funding sources in order to do more than maintenance. He asked the City Manager to research a way to fund streets. He said 70% of the streets in the City were in fair to poor condition.

Councilor Long-Curtiss reported on attending a fundraising event for Home Fires Burning, a support group for widows and caregivers of veterans. She said the raffle basket winner was Jeannie Foster.

She reported that Urban Renewal was working on the Tokola deal. She said she was not in support of the project as it didn't provide affordable housing. She said she hoped the City could find affordable housing solutions.

Councilor McGlothlin read a written report- attached. He also reported on various programs related to the homeless. He said there was a Youth Empowerment Shelter that helped homeless youth short term; a backpack program that sent food home to those children who may not have food on weekends; and Hope Warming Place was a vital link, connecting homeless to services.

Councilor Elliott reported that Urban Renewal was working on the Tokola deal. He said he didn't agree with Councilor Long-Curtiss. He said the development addressed walkability, revitalizing downtown, and that any housing helps all housing across the board.

Councilor Miller reported on attending the Sister City Meeting. She said they need to work on fundraising to be able to entertain our Japanese guests in the same manner they do for us.

Miller said she agreed with Councilor Elliott regarding the Tokola development.

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She said Urban Renewal staff had been asked to market the Blue Building and the Recreation for sale.

Mayor Lawrence said he attending the Starlight Parade and Annual Tree Lighting.

CONSENT AGENDA

It was moved by Miller and seconded by Elliott to approve the Consent Agenda as presented. The motion carried unanimously.

Items approved by Consent Agenda were: 1) Approval of November 13, 2017 Regular City Council Meeting Minutes.

PUBLIC HEARING

Community Development Block Grant (CDBG) with Columbia Cascade Housing Corporation to Fund Mid-Columbia Regional Home Repair Program for Wasco and Hood River Counties

Mayor Lawrence opened the public hearing.

Planning Director Steve Harris reviewed the staff report.

David Peters, Columbia Cascade Housing Corporation read the Public Notice into the record, attached.

In response to a question Peters said the income requirements for the program were:

Hood River – income limit of \$52,000 or less for a family of four.

The Dalles – income limit of \$44,000 for a family of four.

Councilor Brown was concerned about the City being responsible for the funds, with no controls. He didn't want to repeat the issue with the RiverFront Trail grant where the City had to payback funds.

Peters said there were many checks and balances along the way that assured that wouldn't happen with this grant.

Hearing no testimony, Mayor Lawrence closed the Public Hearing.

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It was moved by Long- Curtiss and seconded by Miller to authorize application of a CDBG grant and execution of agreements between the City of The Dalles and Oregon Housing and Community Services and between the City of The Dalles and Columbia Cascade Housing Corporation for the implementation of a regional home repair program. The motion carried unanimously.

General Ordinance No. 17-1357 Amending Article V, VII, IX and X of General Ordinance No. 97-1213 Regulating Sewage Disposal

Mayor Lawrence opened the Public Hearing for both Ordinances.

City Attorney Parker reviewed the staff report covering both Ordinance No. 17-1357 and 13-1358.

Mayor Lawrence asked about documentation on the phone tree.

Finance Director Angie Wilson said the system shows if the call was answered, message left, or disconnect. She said an actual door hanger would be placed if the phone tree was unable to make phone contact. Wilson said the phone call would go to the property owner and the renter.

Elliott asked about the disconnect process. Wilson said written notice would go to landlord and tenant, then later the disconnect phone call would take place.

Mayor Lawrence closed the Public Hearing.

Mayor Lawrence asked if anyone on Council would like the ordinance read in full. It was the consensus of the Council to have the ordinances read by title only.

City Clerk Grossman read both ordinances by title only.

It was moved by Miller and seconded by Long-Curtiss to approve General Ordinance No. 17-1357 Amending Article V, VII, IX and X of General Ordinance No. 97-1213 Regulating Sewage Disposal by title only. The motion carried unanimously.

General Ordinance No. 17-1358 Providing for the Establishment of Rules and Regulations Governing Water Service, and Repealing General Ordinance No. 91-1133

Long-Curtiss asked if it would be cleaner to start switching over sewer only bills right away as this was where the City was recognizing lost revenues.

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Parker said the ordinance was written to be consistent with the water ordinance. He said small changes could be approved and staff could redraft the ordinance with those changes for the Mayor's signature.

Josh Ferris said he rented for nine years in another City and the water bill went directly to the landlord who then charged him. He said the process worked well.

It was moved by Miller and seconded by Brown to approve General Ordinance No. 17-1358 Providing for the Establishment of Rules and Regulations Governing Water Service, and Repealing General Ordinance No. 91-1133 by title only. The motion carried unanimously.

Elliott asked when the ordinances would go into effect. City Manager Krueger said both would go into effect in 30 days.

CONTRACT REVIEW BOARD ACTION

Authorize Contract Amendment for Design and Construction of a New Secondary Clarifier at the Wastewater Treatment Plant Under a Negotiated Guaranteed Maximum Price

Public Works Director Anderson reviewed the staff report.

Councilor Elliott abstained from the discussion and voting. He said he was a subcontractor on the project.

Miller asked if the issue would come back to Council if they didn't pass it now.

Public Works Director Anderson said it was a matter of time before the issue would have to be addresses. He said there was a cost savings by doing the work now.

It was moved by Long-Curtiss and seconded by Brown to authorize the Fourth Amendment to the Progressive Design-Build Agreement for The Dalles Wastewater Treatment Plant Upgrade, Contract No. 2015-004, including design and construction of a new secondary clarifier and a second primary filter, for a total Guaranteed Maximum Price of \$3,746,000. The motion, Elliott abstained.

ACTION ITEMS

Approval of Resolution No. 17-029 Approving a Rate Increase of 2.11% for The Dalles Disposal Service

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City Attorney Parker reviewed the staff report.

Councilor Miller abstained from the discussion and voting stating that she worked for the same parent company as The Dalles Disposal.

Jim Winterbottom from The Dalles Disposal said there was still some recycling happening. He said glass picked up curbside and glass taken to the transfer station were both being recycled.

Winterbottom said they were working with Tri County Solid Waste on an education and outreach program.

It was moved by McGlothlin and seconded by Brown to adopt Resolution No. 17-029 Approving a Rate Increase of 2.11% for The Dalles Disposal Service resulting from increased operational and disposal fee costs, effective January 1, 2018. The Motion carried, Miller abstaining.

City/County Planning and Building Codes Co-location

City Manager Krueger reviewed the staff report.

Krueger asked County Administrator Tyler Stone, and County Commissioners Steve Kramer and Scott Hege if they had any testimony.

Kramer said he was available to answer questions.

Hege said he would like to see the City continue to work with the County on colocation. He said it would be good for developers to have a one stop shop.

Mayor Lawrence said it was his understanding the County wouldn't proceed with purchasing the Mid Columbia Council of Governments (MCCOG) building if the City didn't partner with them.

Hege said that decision hadn't been made yet. He said the State preferred for Building Codes to be a local function.

City Manager Krueger said she didn't mean to imply purchasing the building would be money down the drain. She said having more buildings on the tax roles is always part of her thought process.

Miller asked what other Counties were part of MCCOG.

Stone said Sherman, Hood River (who did their own Building Codes), Gilliam, Wasco and

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Wheeler Counties all used the current Building Codes service.

Mayor Lawrence asked what would happen to the over \$3 million surplus currently in the Building Codes fund. Stone said that wasn't determined. He said some Counties feel the funds should be returned to the Counties from which the revenue was generated.

Stone said the reserves were used to subsidized the program in lean construction years.

Krueger said giving Building Codes back to the State and applying to regain the program in two years gave everyone more time to work on a solution, with all the information available instead of rushing into a decision.

Long-Curtiss asked why the County needed the City to participate. She asked if the County didn't have space for the employees.

Hege said space would be found, if the colocation partnership didn't work out.

McGlothlin asked how much money was needed.

Stone said that the price had not been determined.

McGlothlin said he liked the idea of partnering. He said he felt more information was needed. He said a two year moratorium could be the best option.

It was moved by Elliott and seconded by Miller to continue to house City Planning at City Hall and participate with Wasco County in the Building Codes program; and to continue to investigate colocation opportunities. The motion carried unanimously.

Wayne Lease, 41 Private Lake, White Salmon, WA said he would like to see Building Codes go back to the State. He said the program funds had been mishandled for years. He said a town hall would be a good way to get community input on the issue.

EXECUTIVE SESSION

Mayor Lawrence recessed to Executive Session at 7:52 pm.

Executive Session in Accordance with ORS192.660(2)(d) to Conduct Deliberations with Persons Designated by the Governing Body to Negotiate Real Property Transactions

Reconvene to Open Session

Mayor Lawrence reconvened to open session at 8:08 pm.

Decision

It was moved by Elliott and seconded by Miller to proceed with the sales process of 600 12th Street with the Despain's in an amount of \$30,500. The motion carried unanimously.

It was moved by Long-Curtiss and seconded by McGlothlin to proceed with sales process of Wright Street lot #3100 with John Hutchinson in the amount of \$20,002. The motion carried, Elliott abstained.

It was moved by Long-Curtiss and seconded by Brown to proceed with the sales process of Wright Street Lot #3300 to Jeffery Sacre in the amount of \$20,000. The motion carried unanimously.

ADJOURNMENT

Being no further business, the meeting adjourned at 8:10 p.m.

Submitted by/
Izetta Grossman
City Clerk

SIGNED: _____
Stephen E. Lawrence, Mayor

ATTEST: _____
Izetta Grossman, City Clerk

Today, I met with law enforcement representatives from Wasco, Hood River, Klickitat and Sherman Counties to discuss the issue of homelessness. Chief Ashmore and I presented information related to housing, mental health interventions, and other important topics related to the subject. For little over an hour, officers heard about the growing issue. There was opportunity at the end of the presentation to discuss possible interventions that could prove helpful in improving the lives of our homeless population. The discussion was lively and authentic. Much insight was gained by all who participated.

Last Friday, I helped prepare a float for the annual Starlight Parade. The Dalles Lions Club then provided safe passage across 2nd street for the annual Christmas Tree Lighting at the Chamber of Commerce. The tree was particularly beautiful this year and the placement of the lights were just right. Kudos go out to the Chamber for another event well done.

Last night, I took my family for a short drive around our city. It seems like more and more businesses and homes are decorated this year. Maybe it's just me and that I am getting older? What if...every home and business in The Dalles were decorated in some fashion for the holiday. Ask a neighbor to put up a string. Better yet, go over to your neighbor and ask if you can help. Perhaps that is a person that just lost someone to an illness or someone that is just depressed. Let's see if we can brighten someone's holiday with an act of kindness. Sometimes, it's the little things that really count.

This ends my report.

Timothy J. McGlothlin, President
The Dalles City Council

Public Notice and Notice of Public Hearing

The City of The Dalles is eligible to apply for a 2017 Community Development Block Grant from the Oregon Business Development Department. Community Development Block Grant funds come from the U.S. Department of Housing and Urban Development. The grants can be used for public facilities and housing improvements, primarily for persons with low and moderate incomes.

Approximately \$12 million will be awarded to Oregon non-metropolitan cities and counties in 2017. The maximum grant that a city or county can receive is \$2,500,000.

The City of The Dalles is preparing an application for a 2017 Community Development Block Grant from the Oregon Business Development Department for the Mid-Columbia Home Repair Grant Program Phase 2 for the purpose of providing eligible homeowners the opportunity to apply for grant to make eligible repairs on their homes. The proposed project area may include properties in Wasco and Hood River Counties and the incorporated cities of The Dalles, Cascade Locks, Hood River, Dufur, Maupin and Mosier. It is estimated that project will benefit at least 40 persons, of whom 100% will be low or moderate income.

A public hearing will be held by the City of The Dalles at 5:30 on Monday, November 27th at The Dalles City Hall at 313 Court St, The Dalles, OR 97058. The purpose of this hearing is for the city council of The Dalles to obtain citizen views and to respond to questions and comments about: community development and housing needs, especially the needs of low- and moderate-income persons, as well as other needs in the community that might be assisted with a Community Development Block Grant project; and the proposed project.

Written comments are also welcome and must be received by Wednesday, November 22nd, 2017 at The Dalles City Hall at 313 Court St, The Dalles, OR 97058. Both oral and written comments will be considered by the City of The Dalles in deciding whether to apply.

The location of the hearing is accessible to persons with disabilities. Please contact City Clerk at 541.296.5481 extension 1119 if you will need any special accommodations to attend or participate in the meeting.

More information about Oregon Community Development Block Grants, the proposed project, and records about the City of The Dalles' past use of Community Development Block Grant funds is available for public review at 313 Court St, The Dalles, OR 97058 during regular office hours. Advance notice is requested. If special accommodations are needed, please notify City Clerk at 541.296.5481 extension 1119 so that appropriate assistance can be provided.

Permanent involuntary displacement of persons or businesses is not anticipated as a result from the proposed project. If displacement becomes necessary, alternatives will be examined to minimize the displacement and provide required/reasonable benefits to those displaced. Any low- and moderate-income housing which is demolished or converted to another use will be replaced.



AGENDA STAFF REPORT

AGENDA LOCATION: Public Hearings #10-A

MEETING DATE: December 11, 2017

TO: Honorable Mayor and City Council

FROM: Gene Parker, City Attorney

ISSUE: Resolution No. 17-030 Approving a Sale of the Property Identified as Assessor's Map No. 1N 13E 4CC Tax Lot 3100 Located at the Intersection of 23rd and Wright Streets to John L. Hutchison

BACKGROUND: On July 10, 2017, the City Council adopted Resolution No. 17-020 declaring the property identified as Assessor's Map No. 1N 13E 4CC Tax Lot 3100, located at the intersection of 23rd and Wright Streets as surplus real property. Pursuant to Resolution No. 16-028, on July 23, 2017, an advertisement was published in The Dalles Chronicle soliciting written bids for the purchase of the property. No written bids were received in response to this advertisement. On August 23, 2017, an advertisement seeking responses from local real estate brokers in response to an RFP for listing services for surplus real property was published in The Dalles Chronicle, and no responses were received to this advertisement.

A "For Sale" sign was posted on the property, and in response to the sign, the City received two written offers in the amounts of \$20,000.00 and \$20,002.00. The City Council met in executive session on November 27, 2017 to consider the submitted offers, and following the executive session, the Council voted to have the offer of John L. Hutchison in the sum of \$20,002.00 scheduled for review at a public hearing. The public hearing is required pursuant to ORS 271.725. Notice of the public hearing was published in The Dalles Chronicle on December 3, 2017 as required by ORS 271.725.

Following the close of the public hearing, staff is recommending that the City Council adopt Resolution No. 17-030, approving the sale of the property identified as Assessor's Map No. 1N 13E 4CC Tax Lot 3100 located at the intersection of 23rd and Wright Streets to Mr. Hutchison.

BUDGET IMPLICATIONS: Approval of the sale will result in additional revenue for the City. The sales price of \$20,002.00 will be reduced by the cost of providing title insurance and the City's share of the closing costs.

COUNCIL ALTERNATIVES:

1. Staff recommendation: *Move to adopt Resolution No. 17-030 Approving a Sale of the Property Identified as Assessor's Map No. 1N 13E 4CC Tax Lot 3100 Located at the Intersection of 23rd and Wright Streets to John L. Hutchison.*
2. The Council could decline to take any action regarding the proposed resolution, which would mean the proposed sale of the property would not proceed. Council would need to provide direction to staff as to how to proceed.

RESOLUTION NO. 17-030

**A RESOLUTION APPROVING THE SALE OF THE PROPERTY
IDENTIFIED AS ASSESSOR'S MAP NO. 1N 13E 4CC
TAX LOT 3100 TO JOHN L. HUTCHISON**

WHEREAS, on July 10, 2017, the City Council adopted Resolution No. 17-020 declaring the property described as Assessor's Map No. 1N 13E 4CC Tax Lot 3100 located at the intersections of 23rd and Wright Streets to be surplus real property; and

WHEREAS, the City followed the procedures outlined in Resolution No. 16-028 for the sale of surplus real property by advertising for written bids for the purchase of the property, and seeking proposals from local real estate agents for broker services, and no written bids or proposals were received in response to these advertisements; and

WHEREAS, the City placed a "For Sale" sign on the property, and received two written offers for the property; and

WHEREAS, the Council met in executive session on November 27, 2017 to consider the offers which were submitted; and

WHEREAS, following the executive session, the Council voted to direct City staff to proceed with the process of accepting the offer from John L. Hutchison in the amount of \$20,002.00; and

WHEREAS, on December 11, 2017, pursuant to ORS 221.725, the City Council conducted a public hearing to allow for public testimony upon the proposed sale of the property described as Assessor's Map No. 1N 13E 4CC Tax Lot 3100 located at the intersections of 23rd and Wright Streets to John L. Hutchison; and

WHEREAS, following the public hearing, the City Council voted to approve the offer submitted by John L. Hutchison for the purchase of the property described as Assessor's Map No. 1N 13E 4CC Tax Lot 3100 located at the intersections of 23rd and Wright Streets for the sum of \$20,002.00;

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

Section 1. Offer Accepted. The City Council hereby approves and accepts the offer from John L. Hutchison for the purchase of the property described as Assessor's Map No. 1N 13E 4CC Tax Lot 3100 located at the intersections of 23rd and Wright Streets for the sum of \$20,002.00. The City Manager, City Attorney, and other staff are authorized to execute the necessary documents to complete the purchase transaction.

Section 2. Effective Date. This Resolution shall be effective as of December 11, 2017.

PASSED AND ADOPTED THIS 11TH DAY OF DECEMBER 2017.

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Absent, Councilors: _____

Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 11TH DAY OF DECEMBER 2017.

Stephen E. Lawrence, Mayor

Attest:

Izetta Grossman, City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Public Hearing #10-B

MEETING DATE: December 11, 2017

TO: Honorable Mayor and City Council

FROM: Gene Parker, City Attorney

ISSUE: Resolution No. 17-031 Approving a Sale of the Property Identified as Assessor's Map No. 1N 13E 4CC Tax Lot 3300 Located at the Intersection of 23rd and Wright Streets to Jeffrey Sacre

BACKGROUND: On July 10, 2017, the City Council adopted Resolution No. 17-020 declaring the property identified as Assessor's Map No. 1N 13E 4CC Tax Lot 3300 located at the intersection of 23rd and Wright Streets as surplus real property. Pursuant to Resolution No. 16-028, on July 23, 2017, an advertisement was published in The Dalles Chronicle soliciting written bids for the purchase of the property. No written bids were received in response to this advertisement. On August 23, 2017, an advertisement seeking responses from local real estate brokers in response to an RFP for listing services for surplus real property was published in The Dalles Chronicle, and no responses were received to this advertisement.

A "For Sale" sign was posted on the property, and in response to the sign the City received one written offer in the amount of \$20,000.00 from Jeffrey Sacre. The City Council met in executive session on November 27, 2017 to consider the submitted offer, and following the executive session, the Council voted to have the offer of Mr. Sacre in the sum of \$20,000.00 scheduled for review at a public hearing. The public hearing is required pursuant to ORS 271.725. Notice of the public hearing was published in The Dalles Chronicle on December 3, 2017 as required by ORS 271.725.

Following the close of the public hearing, staff is recommending that the City Council adopt Resolution No. 17-031, approving the sale of the property identified as Assessor's Map No. 1N 13E 4CC Tax Lot 3300 located at the intersection of 23rd and Wright Streets to Mr. Sacre.

BUDGET IMPLICATIONS: Approval of the sale will result in additional revenue for the City. The sales price of \$20,000.00 will be reduced by the cost of providing title insurance and the City's share of the closing costs.

COUNCIL ALTERNATIVES:

1. Staff recommendation: *Move to adopt Resolution No. 17-031 Approving a Sale of the Property Identified as Assessor's Map No. 1N 13E 4CC Tax Lot 3300 Located at the Intersection of 23rd and Wright Streets to Jeffrey Sacre.*
2. The Council could decline to take any action regarding the proposed resolution, which would mean the proposed sale of the property would not proceed. Council would need to provide direction to staff as to how to proceed.

RESOLUTION NO. 17-031

**A RESOLUTION APPROVING THE SALE OF THE PROPERTY
IDENTIFIED AS ASSESSOR'S MAP NO. 1N 13E 4CC
TAX LOT 3300 TO JEFFREY SACRE**

WHEREAS, on July 10, 2017, the City Council adopted Resolution No. 17-020 declaring the property described as Assessor's Map No. 1N 13E 4CC Tax Lot 3300 located at the intersections of 23rd and Wright Streets to be surplus real property; and

WHEREAS, the City followed the procedures outlined in Resolution No. 16-028 for the sale of surplus real property by advertising for written bids for the purchase of the property, and seeking proposals from local real estate agents for broker services, and no written bids or proposals were received in response to these advertisements; and

WHEREAS, the City placed a "For Sale" sign on the property, and received one written offer for the property; and

WHEREAS, the Council met in executive session on November 27, 2017 to consider the offer which was submitted; and

WHEREAS, following the executive session, the Council voted to direct City staff to proceed with the process of accepting the offer from Jeffrey Sacre in the amount of \$20,000.00; and

WHEREAS, on December 11, 2017, pursuant to ORS 221.725, the City Council conducted a public hearing to allow for public testimony upon the proposed sale of the property described as Assessor's Map No. 1N 13E 4CC Tax Lot 3300 located at the intersections of 23rd and Wright Streets to Jeffrey Sacre; and

WHEREAS, following the public hearing, the City Council voted to approve the offer submitted by Jeffrey Sacre for the purchase of the property described as Assessor's Map No. 1N 13E 4CC Tax Lot 3300 located at the intersections of 23rd and Wright Streets for the sum of \$20,000.00;

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

Section 1. Offer Accepted. The City Council hereby approves and accepts the offer from Jeffrey Sacre for the purchase of the property described as Assessor's Map No. 1N 13E 4CC Tax Lot 3300 located at the intersections of 23rd and Wright Streets for the sum of \$20,000.00. The City Manager, City Attorney, and other staff are authorized to execute the necessary documents to complete the purchase transaction.

Section 2. Effective Date. This Resolution shall be effective as of December 11, 2017.

PASSED AND ADOPTED THIS 11TH DAY OF DECEMBER, 2017.

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Absent, Councilors: _____

Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 11TH DAY OF DECEMBER, 2017.

Stephen E. Lawrence, Mayor

Attest:

Izetta Grossman, City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Public Hearing #10-C

MEETING DATE: December 11, 2017

TO: Honorable Mayor and City Council

FROM: Gene Parker, City Attorney

ISSUE: Resolution No. 17-027 Approving a Sale of the Property Located 600 East 12th Street to Bryan and Robin Despain

BACKGROUND: In March 2013, the City demolished a dangerous building located at 600 East 12th Street, which had been severely damaged by a fire. The City imposed a lien for the costs of the abatement upon the property. When the property owner failed to pay the outstanding lien, the City foreclosed upon the lien in October 2014. At the time of the lien foreclosure, the amount of the lien was \$49,425.95. The current balance owing for the lien is \$60,950.67.

On November 23, 2015, the City Council adopted Resolution No. 15-047 declaring the property at 600 East 12th Street as surplus property. Pursuant to Resolution No. 16-028, on July 23, 2017, an advertisement was published in The Dalles Chronicle soliciting written bids for the purchase of the property. No written bids were received in response to this advertisement. On August 23, 2017, an advertisement seeking responses from local real estate brokers in response to an RFP for listing services for surplus real property was published in The Dalles Chronicle, and no responses were received to this advertisement.

A “For Sale” sign was posted on the property, and in response to the sign, the City received four written offers, in the amounts of \$25,000, \$30,500, \$36,000, and \$45,000. The two highest offers were withdrawn. The City Council met in executive session on November 27, 2017 to consider the third highest offer of \$30,500 submitted by Bryan and Robin Despain, and following the executive session, the Council voted to have the offer of Mr. and Mrs. Despain scheduled for review at a public hearing. The public hearing is required pursuant to ORS 271.725. Notice of the public hearing was published in The Dalles Chronicle on December 3, 2017 as required by ORS 271.725.

Following the close of the public hearing, staff is recommending that the City Council adopt Resolution No. 17-027, approving the sale of the property located at 600 East 12th Street to Bryan and Robin Despain.

BUDGET IMPLICATIONS: Approval of the sale will result in additional revenue for the City. The sales price of \$30,500 will be reduced by the cost of providing title insurance and the City's share of the closing costs.

COUNCIL ALTERNATIVES:

1. Staff recommendation: *Move to adopt Resolution No. 17-027 Approving the Sale of the Property Located 600 East 12th Street to Bryan and Robin Despain.*
2. The Council could decline to take any action regarding the proposed resolution, which would mean the proposed sale of the property would not proceed. Council would need to provide direction to staff as to how to proceed.

RESOLUTION NO. 17-027

**A RESOLUTION APPROVING THE SALE OF THE PROPERTY
LOCATED AT 600 EAST 12TH STREET TO BRYAN AND ROBIN DESPAIN**

WHEREAS, on November 15, 2015, the City Council adopted Resolution No. 15-047 declaring the property located at 600 East 12th Street to be surplus real property; and

WHEREAS, the City followed the procedures outlined in Resolution No. 16-028 for the sale of surplus real property by advertising for written bids for the purchase of the property, and seeking proposals from local real estate agents for broker services, and no written bids or proposals were received in response to these advertisements; and

WHEREAS, the City placed a For Sale sign on the property and received four written offers for the property, with the two highest offers in the amount of \$45,000 and \$36,000 being withdrawn; and

WHEREAS, the Council met in executive session on November 27, 2017 to consider the next highest offer which was submitted by Bryan and Robin Despain; and

WHEREAS, following the executive session, the Council voted to direct City staff to proceed with the process of accepting the offer from Bryan and Robin Despain in the amount of \$30,500; and

WHEREAS, on December 11, 2017, pursuant to ORS 221.725, the City Council conducted a public hearing to allow for public testimony upon the proposed sale of the property located at 600 East 12th Street to Bryan and Robin Despain; and

WHEREAS, following the public hearing, the City Council voted to approve the offer submitted by Bryan and Robin Despain for the purchase of the property at 600 East 12th Street for the sum of \$30,500;

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

Section 1. Offer Accepted. The City Council hereby approves and accepts the offer from Bryan and Robin Despain for the purchase of the property located at 600 East 12th Street for the sum of \$30,500. The City Manager, City Attorney, and other staff are authorized to execute the necessary documents to complete the purchase transaction.

Section 2. Effective Date. This Resolution shall be effective as of December 11, 2017.

PASSED AND ADOPTED THIS 11TH DAY OF DECEMBER, 2017.

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Absent, Councilors: _____

Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 11TH DAY OF DECEMBER, 2017.

Stephen E. Lawrence, Mayor

Attest:

Izetta Grossman, City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Contract Review Board Item #11-A

MEETING DATE: December 11, 2017

TO: Honorable Mayor and City Council

FROM: Matthew Klebes, Assistant to the City Manager

ISSUE: Contract No. 2018-005 Airport Manager RFP Second Advertisement

BACKGROUND: Contract No. 2018-005 Airport Manager RFP was initially posted on September 6 and closed on October 5. One response was received which did not pass the Pass/Fail requirements. At the City Council meeting on November 13, Council directed staff to repost this RFP for a period of two weeks.

The second advertisement for the Airport Manager RFP was posted on November 16 and closes November 30. A subcommittee of the Columbia Gorge Regional Airport will interview all respondents on December 1 and submit a recommendation to the Airport Board at a Special Meeting scheduled for December 4.

The Airport Board recommendation will come before City Council on December 11. Staff will summarize the Airport Board recommendation in a memorandum to City Council before the December 11 City Council meeting.

BUDGET IMPLICATIONS: The actual budget implications will be subject to completion of negotiations with the selected respondent.

COUNCIL ALTERNATIVES:

A memorandum will be provided to the Council after the Airport Board meeting detailing their recommendation and resulting possible council alternatives.



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #12-A

MEETING DATE: December 11, 2017

TO: Honorable Mayor and City Council

FROM: Dave Anderson, Public Works Director
Angie Wilson, Finance Director
Gene Parker, City Attorney

ISSUE: Adoption of Special Ordinance No. 17-577, An Ordinance Authorizing the Issuance of Water and Wastewater Utility Revenue and Refunding Bonds to Construct, Repair, Expand, and Refinance the City's Wastewater Treatment Facilities and Water Delivery Facilities

BACKGROUND: On October 23rd, City Council authorized staff to negotiate an expansion of the scope of work for Contract No. 2015-004 to include the design and construction of a new secondary clarifier and to pursue a debt bond to fund the additional work. On November 27th, Council authorized the Fourth Amendment to Contract No. 2015-004 allowing for the design and construction of a new secondary clarifier and a second primary filter to occur. This agenda item proposes to authorize the issuance of \$3.6 million in new bond debt to fund that expanded scope of work and the bond issuance fees.

Through consultations with a bond agent, it's been determined that now would also be a good time to refinance some of the City's existing debt. With the need for additional wastewater funding and currently-low interest rates, the concept of issuing a new Utility Revenue Bond was determined to be feasible. Under this concept, a new Utility Revenue Bond would be issued for the water and wastewater systems which would refinance all the existing water and wastewater revenue bonds at more favorable terms, as well as provide the new funding needed for the new secondary clarifier and primary filter. This type of bond was found to be quite desirable to banks which may purchase the bonds. The terms of the new Utility Revenue Bond are anticipated to be as follows: a 15-year, 2.50% interest, \$12,176,463 bond that would provide the following savings.

Current Bond	Original Amount	Outstanding Balance	Current Interest Rate	New Interest Rate	Savings
2003 Wastewater Bond	\$7,345,000	\$2,455,000	4.13%	2.50%	\$ 90,644
2007 Water Bond	\$7,930,000	\$6,125,000	4.33%	2.50%	\$928,095
Total savings realized by refinancing existing Utility Debt					\$1,018,739

The annual debt payments on the \$3,600,000 in new money would be \$301,139.14 and, as stated in the October 23 staff report, can be funded within existing wastewater fund revenue streams without a utility rate increase.

There are two methods by which the City may issue revenue bonds.

1. Authorize the issuance of the bonds through adoption of a nonemergency ordinance. This would provide a period of 30 days from the adoption of the ordinance to allow for a petition to be filed to refer the issuance of the revenue bonds to a vote of the public.
2. Authorize the issuance of the bonds through a resolution. Under this process, we would have to publish a notice of the proposed issuance of the bonds in The Chronicle. Anyone who wished to have this matter referred to a vote of the public would have a period of 60 days to file a petition with the City Council asking that the matter be referred to the voters. The petition seeking a referral would have to have signatures of at least 5% of the City's electors. The bonds could not be issued until the results of the election were known.

As presented in the Agenda Staff Report for the October 23 Council meeting, time is of the essence to undertake the expanded scope of work at the wastewater treatment plant and maximize potential project savings. Therefore staff is recommending the first option above and has drafted Special Ordinance No. 17-577 for Council's consideration. By utilizing the recommended method #1, bond funds are projected to be available to the City on or about January 30, 2018.

One of the expected requirements of issuing a new bond would be the performance of utilities rates analyses by an outside consultant. The last times outside rates analyses were conducted were 2006 for the Water Fund and 2013 for the Wastewater Fund; both of these efforts were associated with preparation of Master Plans. Since then, staff has been utilizing rate revenue spreadsheets that have proven to be quite accurate for budgeting purposes.

BUDGET IMPLICATIONS: If approved, the 2018 Utility Revenue bond would save about \$90,644 in reduced payments on existing debt over the next five years for Fund 57, the Sewer Plant Construction/Debt Service Fund, and save about \$928,095 in reduced payments on existing debt over the next 15 years in Fund 53, the Water Capital Reserve Fund. It would also add annual debt payments of \$301,139.14 from Fund 57 over the next 15 years.

COUNCIL ALTERNATIVES

- A. **Staff Recommendation:** *Move to adopt Special Ordinance 17-577 Authorizing the Issuance of Water and Wastewater Utility Revenue and Refunding Bonds to Construct, Repair, Expand, and Refinance the City's Wastewater Treatment Facilities and Water Delivery Facilities by title only.*

- B. Move to not adopt Special Ordinance 17-577 and provide direction to staff related to funding of the expanded scope of work under Contract No. 15-004.

SPECIAL ORDINANCE NO. 17-577

**AN ORDINANCE OF THE CITY OF THE DALLES, WASCO COUNTY,
OREGON AUTHORIZING THE ISSUANCE OF WATER AND
WASTEWATER UTILITY REVENUE AND REFUNDING BONDS TO
CONSTRUCT, REPAIR, EXPAND AND REFINANCE THE CITY'S
WASTEWATER TREATMENT FACILITIES AND
WATER DELIVERY FACILITIES**

WHEREAS, the City is authorized to issue revenue bonds for any public purpose under Oregon Revised Statutes 287A.150 (the "Act"); and

WHEREAS, the Act permits the City to authorize revenue bonds by enacting a nonemergency ordinance. Revenue bonds issued under the Act and by nonemergency ordinance may be secured by the revenues or other property of the public body that is described in the nonemergency ordinance; and

WHEREAS, the City may not sell those revenue bonds until the period for referral of the ordinance has expired. If the nonemergency ordinance is referred to a vote during that referral period, the City may not sell the revenue bonds described in that ordinance unless the voters approve issuance of the revenue bonds; and

WHEREAS, the City finds that it is in its best interest to finance the costs of design, permitting and construction of a new secondary clarifier, a new primary filter, and associated piping and appurtenances at The Dalles Wastewater Treatment Plant and the decommissioning and demolition of the existing interim secondary clarifier (the "New Money Project"); with revenue bonds issued under the Act; and

WHEREAS, on May 1, 2003 the City issued its Wastewater System Revenue Bonds, Series 2003 (the "Series 2003 Bonds") in the aggregate principal amount of \$7,345,000, of which \$2,455,000 remains outstanding; and

WHEREAS, the Series 2003 Bonds maturing on and after April 1, 2015 are subject to optional redemption by the City, in whole or in part, on any date on or after April 1, 2013 at a price of par, without premium, plus accrued interest to the date of redemption; and

WHEREAS, the Series 2003 Bonds financed (1) the costs of constructing, repairing and expanding the City's wastewater system, (2) the acquisition of a Reserve Credit Facility, and (3) the costs of issuance of the Series 2003 Bonds ; and

WHEREAS, the City is advised it may be desirable to refund all of the outstanding Series 2003 Bonds for debt service savings and to allow for the updating of related revenue bond documentation; and

WHEREAS, on February 22, 2007 the City issued its Water Revenue Bonds, Series 2007 (the “*Series 2007 Bonds*”) in the aggregate principal amount of \$7,930,000, of which \$6,125,000 remains outstanding; and

WHEREAS, the Series 2007 Bonds maturing on and after June 1, 2018 are subject to optional redemption by the City, in whole or in part, on any date on or after June 1, 2017 at a price of par, without premium, plus accrued interest to the date of redemption; and

WHEREAS, the Series 2007 Bonds financed (1) the costs of constructing, repairing and expanding the City’s water system, (2) the acquisition of a Reserve Credit Facility, and (3) the costs of issuance of the Series 2007 Bonds ; and

WHEREAS, the City is advised it may be desirable to refund all of the outstanding Series 2007 Bonds for debt service savings and to allow for the updating of related revenue bond documentation; and

WHEREAS, the City enacts this nonemergency ordinance to authorize the issuance of (1) up to \$3,600,000 of revenue bonds to finance the costs of the New Money Project and (2) revenue bonds in an amount sufficient to refund the outstanding Series 2003 Bonds and Series 2007 Bonds (collectively, the “*Refunding Project*”); and

WHEREAS, the City anticipates incurring expenditures (the “*Expenditures*”) to finance the costs of the New Money Project and wishes to declare its official intent to reimburse itself for any Expenditures it may make from City funds on the New Money Project from the proceeds of the revenue bonds, the interest on which shall be excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the “*Code*”).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES DOES ORDAIN AS FOLLOWS:

Section 1. Revenue Bonds Authorized.

1.1 The City hereby authorizes the issuance of revenue bonds under the Act (a) in the maximum amount of \$3,600,000 to finance the costs of the New Money Project, (b) in the principal amount necessary to refund the Refunding Project, (c) to fund a debt service reserve account, if necessary, and (d) to pay the cost of issuance of the revenue bonds for the New Money Project and the Refunding Project (collectively, the “*Series 2018 Bonds*”) in accordance with this Ordinance and the Master Water Bond Declaration (the “*Master Declaration*”) authorized by Section 2.5 of this Ordinance.

1.2 The Series 2018 Bonds shall be a special obligation of the City payable from the Net Revenues of the City's Water System and Wastewater System, as such terms are defined in the Master Declaration, and related amounts that are pledged as provided in the Master Declaration. The City may pledge such revenues to pay the Series 2018 Bonds. The City covenants and agrees to take such action as is necessary from time to time to perfect or otherwise preserve the priority of the pledge. The owners of the Series 2018 Bonds shall not have a lien or security interest on any

property financed or refinanced with the proceeds of the Series 2018 Bonds. The Series 2018 Bonds may be issued in one or more series.

1.3 The City covenants to fix, maintain and collect rates and charges for the use of the services and facilities of the Water System and Wastewater System as provided in the Master Declaration.

1.4 Neither this authorization nor the issuance of the Series 2018 Bonds shall authorize the City to levy any additional taxes. The Series 2018 Bonds are payable solely from the Net Revenues of the City's Water System and Wastewater System and related amounts that are pledged as provided in the Master Declaration.

Section 2. Delegation.

The City Manager and the Finance Director, each acting individually, are designated by the City Council to act on behalf of the City under this Ordinance (each of whom is referred to in this Ordinance as an "Authorized Officer") and the Authorized Officer may, on behalf of the City:

2.1 Determine whether the Series 2018 Bonds are to be sold by negotiated sale or private placement pursuant to ORS 287A.300. The Authorized Officer is authorized to negotiate and execute a purchase agreement or placement agreement setting forth the terms of the sale of the Series 2018 Bonds.

2.2 Participate in the preparation of, authorize the distribution of, and deem final any disclosure documents for the Series 2018 Bonds.

2.3 Establish the final principal amounts, maturity schedules, interest rates, sale prices, redemption terms, payment terms and dates, record dates and other terms for the Series 2018 Bonds.

2.4 Undertake to provide continuing disclosure for the Series 2018 Bonds, if required, in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.

2.5 Apply for and purchase municipal bond insurance, reserve sureties or other forms of credit enhancements for the Series 2018 Bonds, and enter into related agreements.

2.6 Finalize the terms of, execute and deliver the Master Declaration, which pledges the Net Revenues of the City's Water System and Wastewater System, contains covenants of the City, describes the terms of the Series 2018 Bonds, and describes the terms under which future obligations may be issued on parity with the lien of the Series 2018 Bonds. The Master Declaration shall be in substantially the form attached to this Ordinance as Exhibit A, with such changes as the Authorized Officer may approve.

2.7 Appoint and enter into agreements with paying agents and other professionals and service providers.

2.8 Enter into covenants to maintain the excludability of interest on the Series 2018

Bonds from gross income under the Code.

2.9 Designate the Series 2018 Bonds as a qualified tax-exempt obligation pursuant to Section 265(b)(3) of the Code.

2.10 Execute any documents and take any other action in connection with the Series 2018 Bonds, including entering into of a bond purchase agreement or placement agreement for the Series 2018 Bonds, that the Authorized Officer finds will be advantageous to the City.

Section 3. Compliance with Internal Revenue Code.

The City hereby covenants for the benefit of the owners of the Series 2018 Bonds to use the proceeds of the Series 2018 Bonds and the facilities refinanced with the Series 2018 Bonds in the manner required under this Ordinance and under prior resolutions of the City, and to otherwise comply with all provisions of the Code, that are required for the interest on the Series 2018 Bonds to be excluded from gross income for federal income tax purposes. The City makes the following specific covenants with respect to the Code:

3.1 The City will not take any action or omit any action if such action or omission would cause the Series 2018 Bonds to become an arbitrage bond under Section 148 of the Code.

3.2 The City shall operate the facilities financed and refinanced with the Series 2018 Bonds so that the Series 2018 Bonds do not become a “private activity bond” within the meaning of Section 141 of the Code.

3.3 The City shall comply with appropriate Code reporting requirements.

3.4 The City shall pay, when due, all rebates and penalties with respect to the Series 2018 Bonds that are required by Section 148(f) of the Code.

The Authorized Officer may enter into covenants on behalf of the City to protect the tax-exempt status of the Series 2018 Bonds.

Section 4. Ordinance to Constitute Contract.

In consideration of the purchase and acceptance of the Series 2018 Bonds, the provisions of this Ordinance, the Master Declaration, any bond purchase agreement or placement agreement, and the closing documents for the Series 2018 Bonds shall constitute a contract between the City and the owners of the Series 2018 Bonds. The pledges, covenants and agreements contained herein, in the Master Declaration, in any bond purchase agreement or placement agreement and in the closing documents for the Series 2018 Bonds shall be for the equal benefit, protection and security of the owners.

Section 5. Appointment of Bond Counsel. The City appoints Mersereau Shannon LLP to serve as Bond Counsel in connection with the issuance of the Series 2018 Bonds.

Section 6. Appointment of Underwriter/Placement Agent. The City appoints Piper Jaffray & Co. to serve as underwriter/placement agent in connection with the issuance of the Series 2018 Bonds.

Section 7. Procedure. The Series 2018 Bonds shall not be sold until the period of referral of this nonemergency Ordinance has expired. If this ordinance is referred, the City may not sell the Series 2018 Bonds unless the voters approve the issuance of the Series 2018 Bonds.

Section 8. Reimbursement. The City hereby declares its official intent to reimburse itself with the proceeds of the Series 2018 Bonds for any of the Expenditures incurred by it prior to the issuance of the Series 2018 Bonds.

Section 9. Effective Date. This ordinance shall take effect on the 30th day after its adoption.

PASSED AND ADOPTED THIS 11th DAY OF DECEMBER 2017.

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Abstaining, Councilors: _____

Absent, Councilors: _____

AND APPROVED BY THE MAYOR THIS 11th DAY OF DECEMBER 2017.

Stephen E. Lawrence, Mayor

Attest:

Izetta Grossman, City Clerk

EXHIBIT A

**MASTER WATER AND WASTEWATER
REVENUE BOND DECLARATION**

City of The Dalles, Oregon

Water and Wastewater Revenue and Refunding Bonds

Series 2018

**Executed on behalf of the City of The Dalles, Oregon
as of _____, 2018**

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MASTER WATER AND WASTEWATER REVENUE BOND DECLARATION

THIS MASTER WATER AND WASTEWATER REVENUE BOND DECLARATION is executed as of _____, 2018, by the Authorized Officer of the City of The Dalles, Wasco County, Oregon pursuant to the authority granted to the Authorized Officer by City Special Ordinance No. 17-577 to establish the terms under which the City's Water and Wastewater Revenue and Refunding Bonds, Series 2018 and future Parity Obligations may be issued.

Section 1. Findings.

The City finds:

1. The City is authorized by Oregon Revised Statutes 287A.150 to issue revenue bonds. The City has adopted Special Ordinance No. 17-577 on December 11, 2017 which authorizes the City to execute this Master Water and Wastewater Revenue Bond Declaration.
2. The City executes this Master Water and Wastewater Revenue Bond Declaration to specify the terms under which the City's Water and Wastewater Revenue and Refunding Bonds, Series 2018 (the "*Series 2018 Bonds*") are issued, to describe the terms under which the Net Revenues are pledged to the Series 2018 Bonds, and to describe the terms under which future obligations may be issued that are secured by a parity lien on Net Revenues.

Section 2. Definitions

Unless the context clearly requires otherwise, capitalized terms that are used in this Master Water and Wastewater Revenue Bond Declaration and are defined in this Section 2 shall have the meanings defined for those terms in this Section 2.

"Adjusted Net Revenues" means the Net Revenues, adjusted for purposes of Section 6.1 as provided in Section 6.3.

"Annual Debt Service" means in any Fiscal Year the sum of: (1) the amounts of any transfers to the Reserve Account that are described in Section 4.3.C and 4.3.D; plus (2) the amount of principal and interest required to be paid in that Fiscal Year on all Outstanding Bonds, calculated as follows:

- (a) Interest that is to be paid from Bond Proceeds shall be subtracted;
- (b) Bonds that are subject to scheduled, non-contingent redemption or tender shall be deemed to mature on the dates and in the amounts that are subject to mandatory redemption or tender, and only the amount scheduled to be outstanding on the final maturity date shall be treated as maturing on that date;
- (c) Bonds that are subject to contingent redemption or tender shall be treated as maturing on their stated maturity dates; and

(d) Each Balloon Payment shall be assumed to be paid according to its Balloon Debt Service Requirement.

“**Auditor**” means a person authorized by the State Board of Accountancy to conduct municipal audits pursuant to ORS 297.670.

“**Authorized Officer**” means the City Manager or Finance Director of the City, or any person designated by the City Council to act as “Authorized Officer” under this Master Declaration.

“**Balloon Debt Service Requirement**” means the Committed Debt Service Requirement for a Balloon Payment or, if the City has not entered into a firm commitment to sell Bonds or other obligations to refund that Balloon Payment, the Estimated Debt Service Requirement for that Balloon Payment.

“**Balloon Payment**” means any principal payment for a Series of Bonds that comprises more than twenty-five percent of the original principal amount of that Series, but only if that principal payment is designated as a Balloon Payment in the closing documents for the Series.

“**Base Period**” means any twelve consecutive months selected by the City or Qualified Consultant out of the most recent twenty-four months preceding the delivery of a Series of Parity Obligations.

“**BEO**” means “book-entry-only” and refers to a system for clearance and settlement of securities transactions through electronic book-entry changes, which eliminates the need for physical movement of securities.

“**Bonds**” means the Series 2018 Bonds and any Parity Obligations.

“**Bond Account**” means the Bond Account described in Section 4.2 of this Master Declaration.

“**Bond Counsel**” means a law firm having knowledge and expertise in the field of municipal law and whose opinions are generally accepted by purchasers of municipal bonds.

“**Business Day**” means any day except a Saturday, a Sunday, a legal holiday, a day on which the offices of banks in Oregon or New York are authorized or required by law or executive order to remain closed, or a day on which the New York Stock Exchange is closed.

“**City**” means the City of The Dalles, Wasco County, Oregon, a municipal corporation of the State of Oregon.

“**City Council**” means the governing body of the City.

“**Code**” means the Internal Revenue Code of 1986, as amended, and its applicable rules and regulations.

“Committed Debt Service Requirement” means the schedule of principal and interest payments for a Series of Bonds or other obligations that refund a Balloon Payment, as shown in the documents evidencing the City’s firm commitment to sell that Series. A “firm commitment to sell” means a bond purchase agreement or similar document which obligates the City to sell, and obligates a purchaser to purchase, the Series of Bonds or other obligations, subject only to the conditions that customarily are included in such documents.

“Construction Fund” means the collection of funds and accounts that the City uses to hold proceeds of Bonds.

“Credit Facility” means a letter of credit, a municipal bond insurance policy, a surety bond, standby bond purchase agreement or other credit enhancement device that is obtained by the City to secure Bonds, and that is issued or provided by a Credit Provider whose long-term debt obligations or claims-paying ability (as appropriate) are rated in one of the two highest rating categories by a Rating Agency that rated the Bonds secured by the Credit Facility.

“Credit Provider” means a person or entity providing a Credit Facility.

“Defeasance Obligations” means direct obligations of the United States, any obligations the payment of which is fully and unconditionally guaranteed by the United States, and any other obligations that Oregon law permits to be used in advance refunding bond escrows.

“DTC” means The Depository Trust Company or any other qualified securities depository designated by the City as its successor.

“Estimated Debt Service Requirement” means the schedule of principal and interest payments for a hypothetical Series of Bonds that refunds a Balloon Payment that is prepared by the City and that meets the requirements of Section 5.5.

“Event of Default” means any event specified in 10.2 of this Master Declaration.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the next succeeding June 30, or as otherwise defined by State Law.

“Fitch” means Fitch Investors Service, Inc., its successors and assigns.

“Fund” means a fund, an account, or an accounting entry that is used to account for revenues under this Master Declaration.

“Gross Revenues” means all fees and charges and other revenues that are properly accrued as revenues of the Water System and Wastewater System under generally accepted accounting principles applicable in the United States of America to the Water System and Wastewater System, including Reimbursement SDCs but not Improvement SDCs, revenues from product sales and interest earnings on Gross Revenues. Gross Revenues also shall also include transfers out of the Rate Stabilization Account. However, the term “Gross Revenues” shall not include:

(a) The interest income or other earnings derived from the investment of any escrow fund established for the defeasance or refunding of outstanding indebtedness of the City;

(b) Any gifts, grants, donations or other moneys received by the City from any State or Federal agency or other person if such moneys are restricted by law or the grantor to uses inconsistent with the payment of Bonds;

(c) The proceeds of any borrowing;

(d) The proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues);

(e) The proceeds of any casualty insurance that the City intends to utilize for repair or replacement of the Water System or Wastewater System;

(f) The proceeds derived from the sales of assets pursuant to Section 9.9 of this Master Declaration used for the redemption or defeasance of Bonds;

(g) Any ad valorem or other taxes imposed by the City (except charges or payments for Water System or Wastewater System services that become “taxes” within the meaning of Article XI, Section 11b of the Oregon Constitution only because they are imposed on property or property owners);

(h) Any income, fees, charges, receipts, profits or other moneys derived by the City from its ownership or operation of any Separate Utility System.

“**Improvement SDC**” means a System Development Charge designed to recover costs associated with capital improvements to be constructed in the future.

“**Interest Payment Date**” means any date on which Bond interest is scheduled to be paid, and any date on which Bonds are called for redemption.

“**Master Declaration**” means this Master Water and Wastewater Revenue Bond Declaration, including any amendments made pursuant to Section 11.

“**Maximum Annual Debt Service**” means the greatest amount of Annual Debt Service that is due in any Fiscal Year, beginning with the Fiscal Year for which the calculation is made, and ending with the last Fiscal Year in which Outstanding Bonds are scheduled to be paid.

“**Moody's**” means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and assigns.

“**Net Revenues**” means the Gross Revenues less the Operating Expenses.

“**Operating Expenses**” means all costs that are properly treated as expenses of operating and maintaining the Water System and Wastewater System under generally accepted accounting

principles applicable in the United States of America, plus transfers to the Rate Stabilization Account that are permitted under Section 3.1.J. However, Operating Expenses do not include:

- (a) Any rebates or penalties paid from Gross Revenues under Section 148 of the Code;
- (b) Payments of judgments against the City and payments for the settlement of litigation;
- (c) Depreciation and amortization of property values or losses, and all amounts treated for accounting purposes as payments for capital expenditures;
- (d) Debt service payments, paying agent fees, broker-dealer fees and similar charges for the maintenance of borrowings;
- (e) The expenses of owning, operating or maintaining any Separate Utility System;
- (f) Franchise fees and similar charges imposed by the City on the Water System or Wastewater System or their operations;
- (g) Expenditures made from any liability insurance proceeds;
- (h) Expenditures made from any casualty insurance proceeds used to pay for costs of repairing or replacing portions of the Water System or Wastewater System;
- (i) Expenditures made from grant monies regardless of whether such grant funds are dedicated to a specific purpose or available for the general operation, maintenance and repair or replacement of the Water System or Wastewater System; and
- (j) Expenditures allocable to any other funding source that does not constitute Gross Revenues.

“**ORS**” means the Oregon Revised Statutes.

“**Outstanding**” refers to all Bonds except Bonds that have been defeased pursuant to Section 12 of this Master Declaration, and Bonds that have matured and not been presented for payment (provided sufficient funds to pay those Bonds have been transferred to the Registrar).

“**Owner**” means a registered owner of a Bond.

“**Parity Obligation**” means any obligation payable from the Net Revenues that is issued in accordance with Section 6.

“**Payment Date**” means a Principal Payment Date or an Interest Payment Date.

“**Permitted Investments**” means any investments that the City is permitted to make under the

laws of the State.

“Principal Payment Date” means any date on which any Bonds are scheduled to be retired, whether by virtue of their maturity or by payment in installments, mandatory redemption or mandatory tender prior to maturity, and the redemption date of any Bonds that have been called for redemption.

“Project” means any purpose for which Gross Revenues may be spent.

“Qualified Consultant” means an independent engineer, an independent auditor, an independent financial advisor, or similar independent professional consultant of recognized standing and having experience and expertise in the area for which such person or firm is retained by the City for purposes of performing activities specified in this Master Declaration or any Supplemental Declaration.

“Rate Stabilization Account” means the Rate Stabilization Account described in Section 4.5.

“Rating Agency” means Fitch, Moody's, S&P, or any other nationally recognized financial rating Agency that has rated Outstanding Bonds or a Credit Facility at the request of the City.

“Record Date” for the Bonds means the fifteenth (15th) day of the month preceding the month in which each Interest Payment Date occurs, whether or not a Business Day.

“Registrar” means the registrar and paying agent for the Bonds.

“Reimbursement SDC” means a System Development Charge designed to recover costs associated with capital improvements already constructed or under construction.

“Reserve Account” means the Reserve Account of the Utility Fund described in Section 4.3 of this Master Declaration.

“Reserve Credit Facility” means a Credit Facility issued for the purpose of funding, in lieu of cash, all or any portion of the Reserve Requirement, under which the Credit Provider agrees to unconditionally provide the City with funds to transfer to the Reserve Account if amounts are required to be withdrawn from that account for deposit in the Bond Account.

“Reserve Credit Facility Provider” means a person or entity providing a Reserve Credit Facility.

“Reserve Requirement” means the lesser of Maximum Annual Debt Service or the amount described in the next sentence. If, at the time of issuance of a Series of Parity Obligations, the amounts required to be added to the Reserve Account to make the balance in the Reserve Account equal to the Maximum Annual Debt Service exceeds the Tax Maximum for that Series, then the Reserve Requirement shall mean the Reserve Requirement in effect on the date of issuance of the Series of Parity Obligations (calculated as if the Series of Parity Obligations were not Outstanding), plus the Tax Maximum for the Series of Parity Obligations. The Supplemental

Declaration authorizing a Series of Bonds may provide that such Series of Bonds are secured by the Reserve Account or establish a separate reserve account and set the reserve requirement for such Series of Bonds, which requirement may be zero. The Reserve Requirement shall be calculated at least annually on the first Business Day of each Fiscal Year, on each date any amounts are withdrawn from the Reserve Account and upon issuance of a Series of Bonds.

“**S&P**” means Standard & Poor's Corporation, a corporation organized and existing under the laws of the State of New York, its successors and assigns.

“**Separate Utility System**” means any utility property which is declared by the City to constitute a system that is distinct from the Water System and Wastewater System in accordance with Section 8.

“**Series 2018 Bonds**” means the City’s Water and Wastewater Revenue and Refunding Bonds, Series 2018 issued pursuant to Section 16 of this Master Declaration.

“**Series 2018 Bondholder**” or “**Series 2018 Bondowner**” means the Owners of the Series 2018 Bonds.

“**Series**” refers to all Parity Obligations authorized by a single ordinance, resolution or Supplemental Declaration and delivered in exchange for payment on the same date, regardless of variations in maturity, interest rate or other provisions, unless the closing documents for the Series provide otherwise.

“**State**” means the State of Oregon.

“**Subordinate Obligations**” means obligations having a lien on the Net Revenues that is subordinate to the lien of the Bonds. Restrictions on Subordinate Obligations are described in Section 7.

“**Subordinate Obligations Account**” means the Subordinate Obligations Account of the Utility Fund, which is described in Section 4.4.

“**Supplemental Declaration**” means any declaration, resolution or other document that supplements or amends this Master Declaration, and is entered into by the City in compliance with Section 11.

“**System Development Charge**” means a Reimbursement SDC or an Improvement SDC, or a combination thereof, assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement. System Development Charge includes that portion of a Water System or Wastewater System connection charge that is greater than the amount necessary to reimburse the City for its average cost of inspecting and installing connections with its facilities.

“**Tax Maximum**” means, for any Series of Bonds, the least of: the greatest amount of principal, interest and premium, if any, required to be paid in any Fiscal Year on such Series; 125% of the

average amount of principal, interest and premium, if any, required to be paid on such Series during all Fiscal Years in which such Series will be Outstanding, calculated as of the date of issuance of such Series; or, ten percent of the proceeds of such Series, as “proceeds” is defined for purposes of Section 148(d) of the Code.

“**Trustee**” means the trustee for the Bonds, if any.

“**Utility Fund**” means the collection of funds and accounts that the City uses to hold Gross Revenues prior to their expenditure.

“**Valuation Date**” means July 1 of each year commencing July 1, 2018 (or the first Business Day thereafter, if July 1 is not a Business Day), and the Business Day following any transfer from the Reserve Account to the Bond Account pursuant to Section 4.3.A.

“**Wastewater System**” means all real and personal property now or hereafter owned, operated, used, or maintained by the City for wastewater collection, storage, treatment and distribution within or without the corporate limits of the City. However, the Wastewater System does not include any Separate Utility System.

“**Water System**” means all real and personal property now or hereafter owned, operated, used, or maintained by the City for water collection, storage, treatment and distribution within or without the corporate limits of the City. However, the Water System does not include any Separate Utility System.

Section 3. Management, Deposit, Pledge and Use of Gross Revenues

3.1. All Gross Revenues shall be deposited to and maintained in the Utility Fund, and shall be used only as described in this Section as long as any Bonds remain Outstanding. The City shall apply Gross Revenues in the Utility Fund on or before the following dates for the following purposes in the following order of priority:

- A. At any time to pay Operating Expenses which are then due;
- B. On the first day of each month commencing _____, 2018, transfer Net Revenues to the Bond Account in an amount equal to one-sixth (1/6) of the interest coming due on the Bonds on the next semiannual Interest Payment Date; *provided that* for purposes of the interest coming due during the period between the dated date of any Bonds and the next semiannual Interest Payment Date, the amount of each monthly transfer for interest coming due shall be equal to the interest coming due on the Bonds on such next semiannual Interest Payment Date divided by the number of months during the period from the dated date of such Bonds to (and including) such Interest Payment Date;
- C. On the first day of each month commencing _____, 2018, transfer Net Revenues to the Bond Account in an amount equal to one-twelfth (1/12) of the principal coming due on the Bonds on the next annual Principal Payment Date

upon which principal is due on the Bonds (whether by virtue of the stated maturity thereof or the mandatory sinking fund redemption); *provided that* for purposes of the principal coming due during the period between the dated date of the Bonds and the next annual Principal Payment Date, the amount of each monthly transfer for principal coming due shall be equal to the principal coming due on the Bonds on such next annual Principal Payment Date divided by the number of months during the period from the dated date of such Bonds to (and including) such Principal Payment Date; and *further provided that* for purposes of principal coming due during the period between the dated date of the Bonds or between Principal Payment Dates, if principal is due in other than annual intervals, the amount of each monthly transfer for principal coming due shall be equal to the principal coming due on the Bonds on the next Principal Payment Date divided by the number of months during the period from the later of the dated date of such Bonds or the most recent Principal Payment Date to (and including) the next Principal Payment Date.

- D. Notwithstanding the foregoing or anything to the contrary expressed or implied herein, if on the Business Day prior to each Payment Date there are insufficient moneys on deposit in the Bond Account to pay in full all amounts of principal and interest due on the Bonds on such Payment Date, then and in any such event the City shall transfer on the Business Day prior to such Payment Date, Net Revenues to the Bond Account in an amount equal to the amount of such deficiency.
- E. On each date specified in a schedule for installment funding of the Reserve Account pursuant to Section 4.3.C, to transfer Net Revenues in the amount specified in that schedule to the Reserve Account;
- F. On the first day of each month following a Valuation Date on which the balance in the Reserve Account is determined to be less than the Reserve Requirement, to transfer to the Reserve Account the amount required by Sections 4.3.D and 4.3.K;
- G. On the day on which any rebates or penalties for Bonds are due to be paid to the United States pursuant to Section 148 of the Code, to pay the amounts due to the United States;
- H. On the dates specified in any proceedings authorizing Subordinate Obligations, the City shall transfer to the Subordinate Obligations Account the Net Revenues required by those proceedings;
- I. After all transfers and payments having a higher priority under this Section have been made, Net Revenues shall be applied to any franchise fees, utility license fees and similar charges imposed by the City on the Water System and Wastewater System or its operations.
- J. On any date, the City may transfer Net Revenues to the Rate Stabilization Account or spend Net Revenues for any other lawful purpose, but only if all

deposits and payments having a higher priority under this Section have been made, and the City makes a determination that such payments shall not cause or result in an Event of Default.

- 3.2. The City hereby pledges the Net Revenues to the payment of principal of, premium (if any) and interest on all Bonds and funds in the Reserve Fund Account to those Bonds that are secured by the Reserve Account. In addition, the City hereby pledges the Net Revenues available for transfer to the Reserve Account to pay amounts due under any Reserve Credit Facility. Pursuant to ORS 287A, these pledges of the Net Revenues hereby made by the City shall be valid and binding from the time of the adoption of this Master Declaration. The Net Revenues so pledged and hereafter received by the City shall immediately be subject to the lien of such pledge without any physical delivery or further act. The lien of these pledges shall be superior to all other claims and liens except liens and claims for the payment of Operating Expenses. The City covenants and agrees to take such action as is necessary from time to time to perfect or otherwise preserve the priority of the pledge.

Section 4. Bond Funds and Accounts

- 4.1. **Funds and Accounts.** So long as Bonds are Outstanding, the City shall maintain the Bond Account and the Reserve Account and the Rate Stabilization Account as discrete accounts in the Utility Fund. If the City creates the Subordinate Obligations Account, that account shall also be maintained in the Utility Fund.
- 4.2. **Bond Account.** The Bond Account shall be held by the Trustee. Until all Bonds are paid or defeased, amounts in the Bond Account shall be used only to pay Bonds. The City shall transfer Net Revenues to the Trustee for deposit to the Bond Account as described in Section 3.1.B, C and D hereof. Amounts in the Bond Account shall be invested only in Permitted Investments. Earnings on the Bond Account shall be credited to the Bond Account.
- 4.3. **Reserve Account.** This section shall apply only to Bonds that are secured by the Reserve Account. The Supplemental Declaration authorizing any Series of Bonds may establish a separate reserve account for such Series of Bonds and set forth the reserve requirement for such Series of Bonds, which may be zero, or provide that some or all of such Series of Bonds are secured by the Reserve Account. The Reserve Account shall be held by the Trustee, except as provided in a Supplemental Declaration. Amounts credited to the Reserve Account shall be used only to pay Bonds, and only if amounts in the Bond Account and Net Revenues credited to other accounts in the Utility Fund are insufficient.
 - A. If, on any Payment Date the amounts on deposit in the Bond Account are insufficient to pay all Bond principal of, premium (if any) and interest due on that Payment Date, the City shall transfer Net Revenues in the Utility Fund (other than amounts in the Reserve Account) to the Bond Account in an amount equal to the deficiency. If the City is unable to make the transfer described by the preceding sentence, then the City shall transfer an amount equal to the deficiency from the Reserve Account to the Bond Account.

- B. Transfers to the Reserve Account shall be applied first, to reimburse the Providers of any Reserve Credit Facilities *pro rata* for amounts advanced under the Reserve Credit Facility; second, to replenish the balance in the Reserve Account with cash or Permitted Investments; and third to pay any other amounts owed under a Reserve Credit Facility (including any interest, fees and penalties associated with any draw under a Reserve Credit Facility).
- C. If a transfer is made from the Reserve Account to the Bond Account pursuant to Section 4.3.A, the City shall value the amounts in the Reserve Account as of the date of the transfer. If the transfer has reduced the balance in the Reserve Account below the amount the City is required to maintain in the Reserve Account, then beginning on the first day of the month that follows the Payment Date for which the transfer is made, the City shall make consecutive monthly transfers to the Reserve Account until the earlier of the date on which the City has restored the amount of the reduction, or the Reserve Account contains a balance that is equal to the Reserve Requirement. Each transfer required by this Section 4.3.C shall be at least equal to one twelfth of the reduction. The following examples illustrate this requirement. Example 1: The Reserve Requirement on July 1 is \$100, the Reserve Account has a balance of \$105 because the City has not transferred earnings out of the Reserve Account, and the City transfers \$29 from the Reserve Account to the Bond Account. The transfer causes the Reserve Account to have a balance that is \$24 less than the amount the City is then required to maintain in the Reserve Account (the reduction is calculated by subtracting the \$5 surplus from the \$29 transfer). The City must make monthly transfers of \$2 to the Reserve Account beginning on August 1st. Example 2. The City makes the transfer described in Example 1, and commences making \$2 monthly transfers to the Reserve Account. On the next January 1st the City has deposited \$12 into the Reserve Account, so the balance in the Reserve Account on January 1st is \$88, or \$12 less than the amount the City is required to maintain in the Reserve Account. On that January 1st, the City is required to make another transfer of \$12 to the Bond Account. This transfer reduces the balance in the Reserve Account to \$76, and requires the City to make twelve monthly transfers of \$1 to the Reserve Account, beginning on February 1st. On February 1st, the City will be required to make one of the remaining six monthly transfers of \$2 that resulted from the July 1st transfer, and to start making twelve monthly transfers of \$1 because of the January 1st transfer. Assuming no other transactions in the Reserve Account, the balance in the Reserve Account will again be equal to the Reserve Requirement on the following January 1st.
- D. If the value of the Reserve Account on a Valuation Date is less than the Reserve Requirement, and the deficiency is not due to a transfer from the Reserve Account to the Bond Account pursuant to Section 4.3.A, then beginning on the first day of the month that follows the month in which the Valuation Date occurs, the City shall make consecutive monthly transfers to the Reserve Account until the City has restored the deficiency described in the first sentence of this Section 4.3.D or the balance in the Reserve Account is at least equal to the Reserve Requirement. Each

transfer shall be at least equal to one fourth of the deficiency.

- E. If the value of the investments in the Reserve Account on a Valuation Date exceeds the Reserve Requirement, the City may transfer the excess to any account of the Utility Fund.
- F. Moneys in the Reserve Account may be invested only in Permitted Investments that mature no later than the final maturity date of the Bonds. Earnings on the Reserve Account shall be credited to the Reserve Account whenever the balance in that account is less than the Reserve Requirement. Otherwise earnings shall be credited to the Bond Account.
- G. Whenever the City values the Reserve Account the City shall subtract from the value of the Permitted Investments and cash in the Reserve Account all amounts then owed under Reserve Credit Facilities, including any interest, fees and penalties associated with any draws under the Reserve Credit Facilities.
- H. Permitted Investments in the Reserve Account shall be valued on each Valuation Date in the following manner:
 - (i) Demand deposits, deposits in the Oregon Short Term Fund and investments that mature in two years or less after the Valuation Date shall be valued at their face amount, plus accrued interest;
 - (ii) Investments that mature more than two years after the Valuation Date and for which bid and asked prices are published on a regular basis by *The Wall Street Journal* (www.wsj.com) (or, if not there, then by *The New York Times* (www.nytimes.com)) shall be valued at the average of their most recently published bid and asked prices;
 - (iii) Investments that mature more than two years after the Valuation Date and for which the bid and asked prices are not published on a regular basis by *The Wall Street Journal* (www.wsj.com) or *The New York Times* (www.nytimes.com) shall be valued at the average bid price quoted by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;
 - (iv) Reserve Credit Facilities shall be valued at the amount that is available to be drawn or paid under them; and
 - (v) Certificates of deposit and bankers acceptances that mature more than two years after the Valuation Date shall be valued at their face amount, plus accrued interest.

Any investment that is not specified above and that matures more than two years after the

Valuation Date shall be valued at its fair market value as reasonably estimated by the City.

- I. Withdrawals from the Reserve Account shall be made in the following order of priority:
 - (i) *First*, from any cash on deposit in the Reserve Account;
 - (ii) *Second*, from the liquidation proceeds of any Permitted Investments on deposit in such Reserve Account; and
 - (iii) *Third*, from moneys drawn or paid pro-rata under any Reserve Credit Facilities.

- J. All amounts on deposit in the Reserve Account may be applied to the final payment (whether at maturity, by prior redemption or by means of a defeasance as provided in Section 12) of Outstanding Bonds. Amounts so applied shall be credited against the amounts the City is required to transfer into the Bond Account under Section 3.1.B.

- K. Any Supplemental Declaration authorizing the issuance of a Series of Bonds shall require deposits into the Reserve Account in amounts sufficient to make the balance in the Reserve Account at least equal to the Reserve Requirement.

4.4. **Subordinate Obligations Account.** If the City issues Subordinate Obligations, the City shall create and maintain the Subordinate Obligations Account as long as the Subordinate Obligations are outstanding. The Subordinate Obligations Account may be divided into subaccounts, and the City may establish priorities for funding the subaccounts in the Subordinate Obligations Subaccount. Net Water Revenues shall be deposited into the Subordinate Obligations Account only as permitted by Section 3.1.H. Earnings on the Subordinate Obligations Account shall be credited as provided in the proceedings authorizing the Subordinate Obligations.

4.5. **Rate Stabilization Account.** The City shall maintain the Rate Stabilization Account as long as Bonds are Outstanding. Net Water Revenues may be transferred to the Rate Stabilization Account at the option of the City as permitted by Section 3.1.J. The City may deposit additional lawfully available funds other than Net Revenues to the Rate Stabilization Account in an amount not to exceed \$10,000 annually. The deposit of such lawfully available funds that are not Net Revenues shall not be considered an Operating Expense. Money in the Rate Stabilization Account may be withdrawn at any time and used for any purpose for which the Gross Revenues may be used. Except as provided in this Section 4.5, deposits to the Rate Stabilization Account increase Operating Expenses for the Fiscal Year in which the deposit is made. Withdrawals from the Rate Stabilization Account increase Gross Revenues for the Fiscal Year in which the withdrawal is made. The City may adjust deposits to and withdrawals from the Rate Stabilization Account for a Fiscal Year at any time prior to the date on which the audit for that Fiscal Year is finalized. Earnings on the

Rate Stabilization Account shall be credited to the Utility Fund.

Section 5. Rate Covenant; Estimated Debt Service Requirement for Balloon Indebtedness.

- 5.1. The City covenants for the benefit of the Owners that it will establish and maintain rates and charges in connection with the operation of the Water System and Wastewater System that are sufficient to permit the City to pay all Operating Expenses and all lawful charges against the Net Revenues, and to make all transfers required by this Master Declaration to the Bond Account, the Reserve Account and the Subordinate Obligations Account, and to pay any franchise fees or similar charges imposed by the City on the Water System and Wastewater System or their operations.
- 5.2. The City covenants for the benefit of the Owners of all Bonds that it shall charge rates and fees in connection with the operation of the Water System and Wastewater System that, when combined with other Gross Revenues, but without regard to transfers from and to the Rate Stabilization Account, are adequate to generate Net Revenues each Fiscal Year at least equal to _____ percent (_____.____%) of Annual Debt Service due in that Fiscal Year.
- 5.3. The City covenants for the benefit of the Owners of all Bonds that it shall charge rates and fees in connection with the operation of the Water System and Wastewater System that, when combined with other Gross Revenues, are adequate to generate Net Revenues each Fiscal Year at least equal to _____ percent (_____.____%) of Annual Debt Service due in that Fiscal Year.
- 5.4. The City shall determine whether it complied with Sections 5.2 and 5.3 for each Fiscal Year not later than ninety (90) days after the beginning of the subsequent Fiscal Year, based on the financial information available to the City at that time, and compliance with Sections 5.2 and 5.3 shall be determined based on that financial information. A failure to comply with Sections 5.2 and 5.3 shall not constitute an Event of Default if, within one hundred fifty (150) days after the beginning of the subsequent Fiscal Year, the City implements the recommendations of a Qualified Consultant that is engaged by the City to deliver written recommendations for a schedule of rates and charges or other actions which the Qualified Consultant reasonably projects will permit the City to comply with Sections 5.2 and 5.3 for the remainder of the Fiscal Year in which the recommendations are delivered to the City (with calculations for the partial year made on an annualized basis).
- 5.5. The Estimated Debt Service Requirement for Balloon Indebtedness shall be calculated by the City in accordance with this Section 5.5.
 - A. For the Rate Covenants: For each Balloon Payment that is Outstanding on July 1 of any Fiscal Year, the Authorized Officer shall prepare a schedule of principal and interest payments for a hypothetical Series of Bonds that refunds that Balloon Payment in accordance with Section 5.5.D. The Authorized Officer shall prepare that schedule as of that first day of July, and that schedule shall be used to determine compliance with the rate covenants in Sections 5.2 and 5.3 for the following Fiscal

- Year.
- B. For Parity Obligations: Whenever a Balloon Payment will be Outstanding on the date a Series of Parity Obligations is issued, the Authorized Officer shall prepare a schedule of principal and interest payments for a hypothetical Series of Bonds that refunds each Outstanding Balloon Payment in accordance with Section 5.5.D. The Authorized Officer shall prepare that schedule as of the date the Parity Obligations are sold, and that schedule shall be used to determine compliance with the tests for Parity Obligations in Section 6.
 - C. For the Reserve Requirement: Whenever a Series of Bonds that contains a Balloon Payment and is secured by the Reserve Account is issued, the Authorized Officer shall prepare a schedule of principal and interest payments for a hypothetical Series of Bonds that refunds each Balloon Payment in that Series in accordance with Section 5.5.D. The Authorized Officer shall prepare that schedule as of the date the Series is sold, and that schedule shall be combined with the schedule for payment of any debt service on that Series that is not a Balloon Payment, and that combined schedule shall be used to determine the Reserve Requirement as long as that Series is Outstanding.
 - D. Each hypothetical Series of Bonds shall be assumed to be paid in equal annual installments of principal and interest sufficient to amortize the principal amount of the Balloon Payment over the term selected by the Authorized Officer; however, the Authorized Officer shall not select a term that exceeds the lesser of 20 years from the date the Balloon Payment is originally scheduled to be paid or the City's estimate of the remaining weighted average useful life (expressed in years and rounded to the next highest integer) of the assets that are financed with the Balloon Payment. The annual installments shall be assumed to be due on the anniversaries of the date the Balloon Payment is originally scheduled to be paid, with the first installment due on the date the Balloon Payment is scheduled to be paid. The hypothetical Series of Bonds shall be assumed to bear interest at the Authorized Officer's estimate of the average rate that a Series of Bonds would bear if it were amortized as provided in this Section 5.5.D and were sold at the time the applicable schedule described in Section 5.5.A, Section 5.5.B or Section 5.5.C is prepared.

Section 6. Parity Obligations

- 6.1. The City may issue Parity Obligations to provide funds for any purpose relating to the Water System or Wastewater System, but only if:
 - A. No Event of Default under this Master Declaration or any Supplemental Declaration has occurred and is continuing;
 - B. At the time of the issuance of the Parity Obligations there is no deficiency in the Bond Account, and the balance in the Reserve Account is at least equal to the Reserve Requirement;

- C. The Supplemental Declaration authorizing the issuance of the Bonds contains a covenant requiring the City to charge rates and fees in connection with the operation of the Water System and Wastewater System that, when combined with other Gross Revenues, are adequate to satisfy the requirements of Section 5.2 and 5.3; and,
- D. There shall have been filed with the City either:
 - (i) A certificate of the Authorized Officer stating that the Net Revenues (adjusted as provided in Section 6.2) for the Base Period were not less than _____ percent (____.____%) of Maximum Annual Debt Service on all then Outstanding Bonds, calculated as of the date the Parity Obligations are issued and with the proposed Parity Obligations treated as Outstanding; or
 - (ii) A certificate or opinion of a Qualified Consultant:
 - (a) Stating the amount of the Adjusted Net Revenues computed as provided in Section 6.3 below for each of the five Fiscal Years after the last Fiscal Year for which interest on the Parity Obligations is, or is expected to be, capitalized, or, if interest will not be capitalized, for each of the five Fiscal Years after the proposed Parity Obligations are issued; and
 - (b) Concluding that the respective amounts of Adjusted Net Revenues in each of the Fiscal Years described in Section 6.1.D(ii)(a) are at least equal to _____ percent (____.____%) of the Annual Debt Service for each of those respective Fiscal Years on all Outstanding Bonds, with the proposed Parity Obligations treated as Outstanding;

6.2. Net Revenues may be adjusted for purposes of Section 6.1.D(i) by adding any Net Revenues the Authorized Officer calculates the City would have had during the Base Period because of increases in Water System and/or Wastewater System rates, fees and charges that have been adopted by the City on or before the date the Parity Obligations are issued.

6.3. Adjusted Net Revenues for purposes of Section 6.1.D(ii) shall be computed by adjusting the Net Revenues for each Fiscal Year in any of the following ways:

- A. To reflect any changes in rates and charges that the Qualified Consultant determines are reasonable.
- B. To reflect any customers added to the Water System and/or Wastewater System after the beginning of the current Fiscal Year and prior to the date of the Qualified Consultant's certificate; and
- C. To reflect any additional Net Revenues not included in the preceding paragraphs that

will be derived from additions and extensions to the Water System and/or Wastewater System that are being financed with the proposed Parity Obligations, or that have been financed with previously issued Parity Obligations for which the additions and extensions have not commenced generating revenues.

- 6.4. The City may issue Parity Obligations to refund Outstanding Bonds without complying with Section 6.1 if the refunded Bonds are defeased on the date of delivery of the refunding Parity Obligations and if the Annual Debt Service on the refunding Parity Obligations does not exceed the Annual Debt Service on the refunded Bonds in any Fiscal Year by more than \$5,000.
- 6.5. All Parity Obligations issued in accordance with this Section shall have a lien on the Net Revenues that is equal to the lien of all other Outstanding Bonds.

Section 7. Subordinate Obligations

The City may issue Subordinate Obligations only if:

- 7.1. The Subordinate Obligations are payable solely from amounts permitted to be deposited in the Subordinate Obligations Account pursuant to Section 3.1.H;
- 7.2. The Subordinate Obligations state clearly that they are secured by a lien on or pledge of the Net Revenues that is subordinate to the lien on, and pledge of, the Net Revenues for the Bonds.

Section 8. Separate Utility System

The City may declare property that the City owns and is part of the Water System and/or Wastewater System (but has a value of less than five percent of the Water System and/or Wastewater System at the time of this Master Declaration), and property that the City has not yet acquired but would otherwise become part of the Water System and/or Wastewater System, to be part of a Separate Utility System. The City may pay costs of acquiring, operating and maintaining Separate Utility Systems from Net Revenues, but only if there is no deficit in the Bond Account or the Reserve Account. The City may issue obligations that are secured by the revenues produced by the Separate Utility System, and may pledge the Separate Utility System revenues to pay those obligations. In addition, the City may issue Subordinate Obligations to pay for costs of a Separate Utility System, and may pledge the revenues of the Separate Utility System to pay the Subordinate Obligations.

Section 9. General Covenants

The City hereby covenants and agrees with the Owners of all Outstanding Bonds as follows:

- 9.1. The City shall promptly cause the principal, premium, if any, and interest on the Bonds to be paid as they become due in accordance with the provisions of this Master Declaration and any Supplemental Declaration.

- 9.2. The City shall maintain complete books and records relating to the operation of the Water System and Wastewater System in accordance with generally accepted accounting principles in the United States of America, shall cause such books and records to be audited annually at the end of each Fiscal Year, and shall have an audit report prepared by the Auditor and made available for the inspection of Owners.
- 9.3. The City shall not issue obligations that have a lien on the Net Revenues that is superior to the lien of the Bonds.
- 9.4. The City shall promptly deposit the Gross Revenues and other amounts described in this Master Declaration into the funds and accounts specified in this Master Declaration.
- 9.5. The City shall work in good faith to cause the Water System and Wastewater System to be operated at all times in a safe, sound, efficient and economic manner in compliance with all health, safety and environmental laws, regulatory body rules, regulatory body orders and court orders applicable to the City's operation and ownership of the Water System and Wastewater System.
- 9.6. The City shall maintain the Water System and Wastewater System in good repair, working order and condition.
- 9.7. The City shall not enter into any agreement to provide Water System and/or Wastewater System products or services at a discount from published rate schedules, and shall not provide free Water System and/or Wastewater System products or services except in case of emergencies. However, the City may provide free Water System and/or Wastewater System products or services to the City for so long as those free products and services do not, in the opinion of the City, have a negative and material impact on the Net Revenues.
- 9.8. The City shall at all times maintain with responsible insurers all such insurance on the Water System and Wastewater System as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to such works or properties.
 - A. The net proceeds of insurance against damage to or destruction of the Water System or Wastewater System shall be used to repair or rebuild the damaged or destroyed Water System or Wastewater System, and to the extent not so applied, will be applied to the payment or redemption of the Bonds.
 - B. Insurance described in this Section 9.8 shall be in the form of policies or contracts for insurance with insurers of good standing and shall be payable to the City, or in the form of self-insurance by the City. The City shall establish such fund or funds or reserves that it deems are necessary to provide for its share of any such self-insurance.
- 9.9. The City shall not, nor shall it permit others to, sell, mortgage, lease or otherwise dispose

of or encumber all or any portion of the Water System or Wastewater System except:

- A. The City may dispose of all or substantially all of the Water System or Wastewater System, only if the City pays all Bonds or defeases them pursuant to Section 12.
- B. Except as provided in Section 9.9.C, the City will not, in any Fiscal Year, dispose of any part of the Water System and/or Wastewater System in excess of 5% of the value of the Water System and/or Wastewater System in service unless prior to such disposition either:
 - (i) There has been filed with the City a certificate of a Qualified Consultant stating that such disposition will not impair the ability of the City to comply with the rate covenants contained in Sections 5.2 and 5.3 of this Master Declaration; or
 - (ii) Provision is made for the payment, redemption or other defeasance of a principal amount of Bonds equal to the greater of the following amounts:
 - (a) An amount that will be in the same proportion to the net principal amount of Bonds then Outstanding (defined as the total principal amount of Bonds then Outstanding less the amount of cash and investments in the Utility Fund) that the Gross Revenues attributable to the part of the Water System and/or Wastewater System sold or disposed of for the 12 preceding months bears to the total Gross Revenues for such period; or
 - (b) An amount that will be in the same proportion to the net principal amount of Bonds then Outstanding that the book value of the part of the Water System and/or Wastewater System sold or disposed of bears to the book value of the Water System and Wastewater System immediately prior to such sale or disposition.
- C. The City may dispose of any portion of the Water System and/or Wastewater System that has become unserviceable, inadequate, obsolete, or unfit to be used or no longer necessary for use in the operation of the Water System and/or Wastewater System.
- D. If the ownership of all or part of the Water System and/or Wastewater System is transferred from the City through the operation of law, the City shall apply any amounts the City receives as compensation for the transfer to reconstruct or replace such transferred property or to redeem or defease Bonds, unless the City Council reasonably determines that the transfer will not prevent the City from operating the Water System and/or Wastewater System and complying with Section 5.

Section 10. Events of Default and Remedies.

10.1. **Continuous Operation Essential.** The City Council of the City hereby finds and determines that the continuous operation of the Water System and Wastewater System and the collection, deposit and disbursement of the Net Revenues in the manner provided in this Master Declaration and in any Supplemental Declaration are essential to the payment and security of the Bonds, and the failure or refusal of the City to perform the covenants and obligations contained in this Master Declaration or any such Supplemental Declaration will endanger the necessary continuous operation of the Water System and Wastewater System and the application of the Net Revenues to the operation of the Water System and Wastewater System and the payment of the Bonds.

10.2. **Events of Default.** The following shall constitute “**Events of Default:**”

- A. Failure of the City to pay any Bond principal or interest when due, either at maturity, upon exercise of a right of tender, by proceedings for redemption or otherwise;
- B. Failure of the City to perform any of its obligations under this Master Declaration, but only if:
 - (i) the failure continues for thirty (30) days after the City receives a written notice, specifying the Event of Default and demanding the cure of such default, from a Credit Provider or from the Owners of not less than 20% in aggregate principal amount of the Bonds Outstanding, and,
 - (ii) The failure is not excused by Section 5.4 or Section 10.2.G;
- C. Failure of the City to comply with its obligations under Section 9.9 (which relates to transfer of properties constituting the Water System and/or Wastewater System);
- D. A default or an event of default as defined in any bond purchase agreement for any Series of Bonds;
- E. Entry of an order, judgment or decree by any court of competent jurisdiction:
 - (i) Appointing a receiver, trustee or liquidator for the City or the whole or any part of the Water System and/or Wastewater System;
 - (ii) Approving a petition filed against the City seeking the bankruptcy, arrangement or reorganization of the City under any applicable law of the United States or the State; or
 - (iii) Assuming custody or control of the City or of the whole or any part of the Water System and/or Wastewater System under the provisions of any other law for the relief or aid of debtors and such order, judgment or decree shall not be vacated or set aside or stayed (or, in case custody or control is assumed by said

order, such custody or control shall not be otherwise terminated) within sixty (60) days from the date of the entry of such order, judgment or decree; or

F. If the City shall:

- (i) Admit in writing its inability to pay its debts generally as they become due;
- (ii) File a petition in bankruptcy or seeking a composition of indebtedness under any state or federal bankruptcy or insolvency law;
- (iii) Consent to the appointment of a receiver of the whole or any part of the Water System and Wastewater System; or
- (iv) Consent to the assumption by any court of competent jurisdiction under the provisions of any other law for the relief or aid of debtors of custody or control of the City or of the whole or any part of the Water System and Wastewater System.

G. Exception. It shall not constitute an Event of Default under 10.2.B if the default cannot practicably be remedied within thirty (30) days after the City receives notice of the default, so long as the City promptly commences reasonable action to remedy the default after the notice is received, and continues reasonable action to remedy the default until the default is remedied; provided however that any extension for more than 60 days shall require the written consent of the affected Credit Provider or, if there no Credit Provider or if Section 11.4 is applicable, the Owners.

H. Remedies. If an Event of Default occurs, any Owner may exercise any remedy available at law or in equity including mandamus. However, the Bonds shall not be subject to acceleration.

I. Books of Water System and Wastewater System Open to Inspection.

- (i) The City covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the Water System and Wastewater System shall at all reasonable times be subject to the inspection and use of any persons holding at least twenty percent (20%) of the principal amount of Outstanding Bonds and their respective agents and attorneys.
- (ii) The City covenants that if the Event of Default shall happen and shall not have been remedied, the City will account, as a trustee of an express trust, for all Net Revenues and other moneys, securities and funds pledged under this Master Declaration.

J. Waivers of Event of Default.

- (i) No delay or omission of any Owner to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or to be an acquiescence therein; and every power and remedy given by this Section 10 to the Owners may be exercised from time to time and as often as may be deemed expedient by the Owners.
- (ii) Except as provided in Section 11, the Owners of not less than fifty-one percent (51%) in aggregate principal amount of the affected Bonds that are at the time Outstanding, or their attorneys-in-fact duly authorized, may, on behalf of the owners of all of the affected Bonds, waive any past default under this Master Declaration with respect to such Bonds and its consequences, except a default in the payment of the principal of, premium, if any, or interest on any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

K. Remedies Granted in Master Declaration Not Exclusive.

No remedy by the terms of this Master Declaration conferred upon or reserved to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Master Declaration or existing at law or in equity or by statute on or after the date of adoption of this Master Declaration.

Section 11. Amendment of Master Declaration

11.1. This Master Declaration may be amended by Supplemental Declaration without the consent of any Owners for any one or more of the following purposes:

- A. To cure any ambiguity or formal defect or omission in this Master Declaration;
- B. To add to the covenants and agreements of the City in this Master Declaration, other covenants and agreements to be observed by the City that are not contrary to or inconsistent with this Master Declaration as theretofore in effect;
- C. To authorize the issuance of Bonds and Subordinate Obligations.
- D. To allow the City's obligations under interest rate swaps, caps, collars or similar agreements that relate to Bonds to be secured on a parity with the Bonds, that, in the reasonable judgment of the City, does not materially and adversely affect the rights of the owners of any Outstanding Bonds;
- E. To modify, amend or supplement this Master Declaration and any Supplemental

Declaration to qualify those declarations under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of any Bonds for sale under the securities laws of any of the states of the United States of America;

- F. To confirm, as further assurance, any security interest or pledge created under this Master Declaration or any Supplemental Declaration;
 - G. To make any change which, in the reasonable judgment of the City, does not materially and adversely affect the rights of the owners of any Outstanding Bonds;
 - H. So long as a Credit Facility (other than a Reserve Credit Facility) is in full force and effect with respect to the Bonds affected by such Supplemental Declaration, to make any other change that is consented to in writing by the issuer of such Credit Facility other than any change that:
 - (i) Would result in a downgrading or withdrawal of the rating then assigned to the affected Bonds by the Rating Agencies; or,
 - (ii) Changes the maturity (except as permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption and purchase applicable to the affected Bonds; or,
 - (iii) Diminishes the security afforded to Owners by the Credit Facility; or,
 - (iv) Materially and adversely affects the rights and security afforded to the Owners of any Outstanding Bonds not secured by such Credit Facility; or
 - (v) Reduces the number or percentage of Owners who are required to consent to a modification of this Master Declaration.
 - I. To modify any of the provisions of this Master Declaration or any Supplemental Declaration in any other respect whatever, as long as the modification does not take effect until all Bonds that were issued before the date of the modification have been paid or defeased.
- 11.2. This Master Declaration may be amended for any other purpose only upon consent of Owners of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds outstanding; provided, however, that no amendment shall be valid without the consent of Owners of one hundred percent (100%) of the aggregate principal amount of the Bonds outstanding that:
- A. Extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on any Bond, reduces the amount of principal payable

on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Owner; or

B. Reduces the number or percentage of Owners who are required to consent to a modification of this Master Declaration.

11.3. For purposes of Section 11.2, and subject to Section 11.4, the initial purchaser of a Series of Bonds may be treated as the Owner of that Series at the time that Series of Bonds is delivered in exchange for payment.

11.4. Except as expressly provided in this Master Declaration or any Supplemental Declaration, as long as a Credit Facility (other than a Reserve Credit Facility) securing all or a portion of any Outstanding Bonds is in effect, the issuer of such Credit Facility shall be deemed to be the Owner of the Bonds secured by such Credit Facility at all times for the purpose of the execution and delivery of a Supplemental Declaration or of any amendment, change or modification of this Master Declaration, any waiver of a default by the City, or the initiation by Owners of any action that under this Master Declaration requires the written approval or consent of or can be initiated by the Owners of at least a majority in principal amount of the affected Bonds at the time Outstanding; and following an Event of Default for all other purposes.

A. The issuer of a Credit Facility shall not be allowed to consent to any amendment, change or modification of this Master Declaration that:

(i) Results in a downgrading or withdrawal of the rating then assigned to the affected Bonds by any of the Rating Agencies; or

(ii) Extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on any Bond, reduces the amount of principal payable on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Owner; or

(iii) Diminishes the security afforded Owners by the Credit Facility; or

(iv) Reduces the number or percentage of Owners who are required to consent to a modification of this Master Declaration.

B. No issuer of a Credit Facility shall be entitled to exercise any rights under this Section during any period where:

(i) The Credit Agreement or Credit Facility to which such Credit Provider is a party is not in full force and effect;

(ii) The Credit Provider has pending a petition or is otherwise seeking relief under any federal or state bankruptcy or similar law;

- (iii) The Credit Provider has, for any reason, failed or refused to honor a proper demand for payment under its Credit Facility; or
 - (iv) An order or decree has been entered, with the consent or acquiescence of the Credit Provider, appointing a receiver or receivers of the assets of the Credit Provider, or if such order or decree has been entered without the consent or acquiescence of such Credit Provider, the order is not vacated or discharged or stayed within ninety (90) days after its entry.
- C. For purposes of determining the percentage of Owners consenting to, waiving or otherwise acting with respect to any matter that may arise under this Master Declaration, the Owners of Bonds which pay interest only at maturity, and mature more than one year after they are issued shall be treated as Owners of Bonds in an aggregate principal amount equal to the accreted value of such Bonds as of the date the Registrar sends out notice requesting consent, waiver or other action as provided herein.

Section 12. Defeasance

12.1. The City may defease and deem all or any portion of the Outstanding Bonds to be paid by:

- A. Irrevocably depositing cash or non-callable Defeasance Obligations in escrow in amounts that have been verified by a Qualified Consultant to be sufficient to pay, without reinvestment, the defeased Bonds on the date they mature or the date they have been called for prior redemption; and,
- B. Delivering a report of a Qualified Consultant verifying the sufficiency of the escrow described in Section 12.1.A; and
- C. Filing with the escrow agent an opinion of nationally recognized bond counsel that the proposed defeasance will not cause interest on the defeased Bonds to be includable in gross income under the Code.

12.2. If Bonds are defeased under this Section, all obligations of the City with respect to those defeased Bonds shall cease and terminate, except for the obligation of the City, the escrow agent and the Registrar to pay the defeased Bonds from the amounts deposited in escrow, and the obligation of the Registrar to continue to transfer Bonds as provided in this Master Declaration.

Section 13. BEO System

13.1. Unless otherwise provided by a Supplemental Declaration or the bond purchase agreement for said Series of Bonds, all Bonds shall be subject to the BEO System pursuant to the provisions of this Section 13.

13.2. The Bonds shall be initially issued as a BEO security issue with no Bonds being made

available to the Owners upon the execution and delivery of the Blanket Issuer Letter of Representations between DTC and the City. Ownership of the Bonds shall be recorded through entries on the books of banks and broker-dealer participants and correspondents that are related to entries on the DTC BEO system. The Bonds shall be initially issued in the form of separate single fully registered typewritten Bonds for each maturity of the Bonds (the “**Global Bonds**”) with such language required for the BOE system and with such changes as the Authorized Officer may approve. Each Global Bond shall be registered in the name of CEDE & CO. as nominee (the “**Nominee**”) of DTC (DTC and any other qualified securities depository designated by the City as a successor to DTC, collectively the “**Depository**”) as the “**Registered Owner**”, and such Global Bonds shall be lodged with the Depository until early redemption or maturity of the Bond issue. The Registrar shall remit payment for the maturing principal and interest on the Bonds to the Owner for distribution by the Nominee for the benefit of the owners (the “**Beneficial Owner**” or “**Record Owner**”) by recorded entry on the books of the Depository participants and correspondents. While the Bonds are in BEO form, the Bonds will be available in denominations of \$5,000 or any integral multiple thereof.

- 13.3. In the event the Depository determines not to continue to act as securities depository for the Bonds, or the City determines that the Depository shall no longer so act, then the City will discontinue the BEO system with the Depository. If the City fails to designate another qualified securities depository to replace the Depository or elects to discontinue use of a BEO system, the Bonds shall no longer be a BEO issue but shall be registered in the registration books maintained by the Registrar in the name of the Owner as appearing on the Bond register and thereafter in the name or names of the Owners of the Bonds transferring or exchanging Bonds.
- 13.4. While the Bonds are in BEO form, the City and the Registrar shall have no responsibility or obligation to any participant or correspondent of the Depository or to any Registered Owner on behalf of which such participants or correspondents act as agent for the Owner with respect to:
 - A. The accuracy of the records of the Depository, the Nominee or any participant or correspondent with respect to any ownership interest in the Bonds;
 - B. The delivery to any participant or correspondent or any other person, other than an Owner as shown in the registration books maintained by the Registrar, of any notice with respect to the Bonds, including any notice of prepayment;
 - C. The selection by the Depository of the beneficial interest in Bonds to be redeemed prior to maturity; or
 - D. The payment to any participant, correspondent, or any other person other than the owner of the Bonds as shown in the registration books maintained by the Registrar, of any amount with respect to principal of or interest on the Bonds.
- 13.5. Notwithstanding the BEO system, the City may treat and consider the Owner in whose

name each Bond is registered in the registration books maintained by the Registrar as the Owner and absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, or for the purpose of giving notices of redemption and other matters with respect to such Bond, or for the purpose of registering transfers with respect to such Bond, or for all other purposes whatsoever. The City shall pay or cause to be paid all principal and interest on the Bonds only to or upon the order of the Registered Owner, as shown in the registration books maintained by the Registrar, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligation with respect to payment thereof to the extent of the sum or sums so paid.

- 13.6. Upon delivery by the Depository to the City and to the Owner of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, then the word “**Nominee**” in this Master Declaration shall refer to such new nominee of the Depository, and upon receipt of such notice, the City shall promptly deliver a copy thereof to the Registrar. The Depository shall tender the Bonds it holds to the Registrar for reregistration.

Section 14. Redemption of Bonds

- 14.1. Unless otherwise provided by a Supplemental Declaration, all Bonds shall be subject to the redemption terms of this Section 14.
- 14.2. If Bonds are subject to mandatory redemption the Registrar shall, without further action by the City, select the particular Bonds to be redeemed in accordance with the mandatory redemption schedule, by lot within each maturity, call the selected Bonds, and give notice of their redemption in accordance with this Section 14.
- 14.3. If certain maturities of Bonds are subject to both optional and mandatory redemption, the City may elect to apply any of those Bonds that it has previously optionally redeemed. In addition, if the City purchases Bonds that are subject to mandatory redemption, the City may elect to apply against the mandatory redemption requirement any such Bonds that it has previously purchased. If the City makes such an election, it shall notify the Registrar not less than sixty days prior to the mandatory redemption date to which the election applies.
- 14.4. So long as the BEO-System remains in effect with respect to a Series of Bonds, the City shall notify the Registrar of any early redemption not less than 35 days prior to the date fixed for redemption, the Registrar shall notify the Depository of any early redemption not less than 20 but not more than 60 days prior to the date fixed for redemption, and shall provide such information in connection therewith as required by the Blanket Issuer Letter of Representations submitted to DTC in connection with the issuance of the Bonds.
- 14.5. During any period in which the BEO System is not in effect with respect to the Bonds, unless provided otherwise in the form of bond or applicable bond purchase agreement for said Series of Bond, or waived by any Owner of the Bonds to be redeemed, official notice

of any redemption of Bonds shall be given by the Registrar on behalf of the City by mailing a copy of an official redemption notice by first class mail postage prepaid at least 30 days and not more than 60 days prior to the date fixed for redemption to the Owner of the Bond or Bonds to be redeemed, at the address shown on the Bond Register or at such other address as is furnished in writing by such Owner to the Registrar. The City shall notify the Registrar of any intended redemption not less than 35 days prior to the redemption date. All such official notices of redemption shall be dated and shall state:

- A. The redemption date;
 - B. The redemption price;
 - C. If less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed;
 - D. That on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date; and
 - E. The place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Registrar.
- 14.6. The City shall deposit with the Registrar on the redemption date, an amount of money sufficient to pay the redemption price of all the Bonds or portions of Bonds which are to be redeemed on that date.
- 14.7. Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal. All Bonds which have been redeemed shall be canceled and destroyed by the Registrar and shall not be reissued. Notwithstanding that any Bonds called for redemption shall not have been surrendered, no further interest shall accrue on any such Bonds. From and after such notice having been given and such deposit having been made, the Bonds to be redeemed shall not be deemed to be Outstanding hereunder, and the City shall be under no further liability in respect thereof.

Section 15. Authentication, Registration and Transfer

- 15.1. The provisions of this Section 15 apply only if the Bonds are not, or cease to be, a BEO issue, and unless otherwise specified in a Supplemental Declaration or applicable bond purchase agreement for the Series of Bonds.
- 15.2. No Bond shall be entitled to any right or benefit under this Master Declaration unless it shall have been authenticated by an authorized officer of the Registrar. The Registrar shall authenticate all Bonds to be delivered at closing, and shall additionally authenticate all Bonds properly surrendered for exchange or transfer pursuant to this Master Declaration.
- 15.3. All Bonds shall be in registered form. A Registrar shall be appointed for each Series of Bonds and the City may appoint itself to serve as the Registrar. A successor Registrar may be appointed for the Bonds by ordinance or resolution of the City. The Registrar shall provide notice to Owners of any change in the Registrar not later than the Bond payment date following the change in Registrar.
- 15.4. The ownership of all Bonds shall be entered in the Bond register maintained by the Registrar and the City and Registrar may treat the person listed as owner in the Bond register as the owner of the Bond for all purposes.
- 15.5. The Registrar shall mail each interest payment on the Interest Payment Date (or the next Business Day if the Interest Payment Date is not a Business Day) to the name and address of the Owner, as that name and address appear on the Bond register as of the Record Date. If payment is so mailed, neither the City nor the Registrar shall have any further liability to any party for such payment.
- 15.6. Bonds may be exchanged for an equal principal amount of Bonds of the same maturity that are in different authorized denominations, and Bonds may be transferred to other owners if the Owner submits the following to the Registrar:
 - A. Written instructions for exchange or transfer satisfactory to the Registrar, signed by the Owner or his attorney in fact and guaranteed or witnessed in a manner satisfactory to the Registrar; and
 - B. The Bonds to be exchanged or transferred.
- 15.7. The Registrar shall not be required to exchange or transfer any Bonds submitted to it during any period beginning with a Record Date and ending on the next following payment date; however, such Bonds shall be exchanged or transferred promptly following the payment date.
- 15.8. The Registrar shall not be required to exchange or transfer any Bonds which have been designated for redemption if such Bonds are submitted to it during the fifteen-day period preceding the designated redemption date.

- 15.9. For purposes of this section, Bonds shall be considered submitted to the Registrar on the date the Registrar actually receives the materials described in Section 15.6.
- 15.10. The City may alter these provisions regarding registration and transfer by mailing notification of the altered provisions to all Owners. The altered provisions shall take effect on the date stated in the notice, which shall not be earlier than 45 days after notice is mailed.

Section 16. The Series 2018 Bonds.

- 16.1. Pursuant to the authority of the ORS 287A.150, Special Ordinance No. 17-577 and this Master Declaration, the City issues its Water and Wastewater System Revenue and Refunding Bonds, Series 2018, in the aggregate principal amount of \$3,500,000 for the New Money Project and an amount sufficient to refund the City’s outstanding Wastewater System Revenue Bonds, Series 2003 and Water Revenue Bonds, Series 2007. The Series 2018 Bonds shall be “Bonds” as defined in this Master Declaration. The Series 2018 Bonds shall bear interest at a true interest cost not to exceed _____% and be sold a discount not to exceed _____, disregarding any original issue discount.
- 16.2. The Series 2018 Bonds shall be a special obligation of the City payable from the Net Revenues and amounts required to be deposited in the Bond Account and Reserve Account as required and as provided by this Master Declaration, which are pledged to the Owner of the Series 2018 Bonds. Pursuant to Section 4.3 hereof, *[the Series 2018 Bonds shall have a Reserve Requirement of zero.]* The Owner of the Series 2018 Bonds shall not have a lien or security interest on any property refinanced with the proceeds of the Series 2018 Bonds.
- 16.3 *[The City will covenant to maintain the Reserve Requirement, if applicable, while any amount is outstanding under the Series 2018 Bonds.]*
- 16.4. The Series 2018 Bonds shall be subject to redemption at the option of the City

.
- 16.5. Tax-Exempt Status:
 - A. The City covenants for the benefit of the Owners of the Series 2018 Bonds to comply with all provisions of the Code that are required for interest on the Series 2018 Bonds to be excluded from gross income for federal taxation purposes. In determining what actions are required to comply, the City may rely on an opinion of Bond Counsel. The City makes the following specific covenants with respect to the Code:
 - (i) The City will not take any action or omit any action if such action or

omission would cause the Series 2018 Bonds to become “arbitrage bonds” under Section 148 of the Code;

- (ii) The City shall operate the facilities financed and refinanced with the Series 2018 Bonds so that the Series 2018 Bonds do not become a private activity bond within the meaning of Section 141 of the Code;
- (iii) The City shall pay, when due, all rebates and penalties with respect to the Series 2018 Bonds that are required by Section 148(f) of the Code.

B. The covenants contained in Section 16.5.A and any covenants in the closing documents for the Series 2018 Bonds shall constitute contracts with the Owner of the Series 2018 Bonds, and shall be enforceable by such Owner.

C. The Series 2018 Bonds proceeds shall be applied as follows:

- (i) An amount of proceeds of the Series 2018 Bonds required to refund the City’s outstanding Wastewater System Revenue Bonds, Series 2003 and Water Revenue Bonds, Series 2007 shall be placed in escrow with an escrow agent to defease the City’s outstanding Wastewater System Revenue Bonds, Series 2003 and Water Revenue Bonds, Series 2007.
- (ii) The balance of the Series 2018 Bonds proceeds shall be placed in the Construction Fund, and shall be disbursed to finance the cost of the Project and the costs of issuance of the Series 2018 Bonds. Any funds remaining after payment of such costs of the Project and the costs of issuance shall be transferred to the Bond Account and used to pay debt service on the Series 2018 Bonds.

16.6. Earnings from investment of the funds in the Construction Fund shall be maintained in the Construction Fund, and shall be treated and disbursed as Series 2018 Bonds proceeds.

16.7 Construction Fund balances attributable to Series 2018 Bonds proceeds that are not needed for the Projects may be transferred to the Bond Account.

Executed on behalf of the City of The Dalles by its authorized officer as of the ____ day of _____, 2018.

CITY OF THE DALLES,
WASCO COUNTY, OREGON

By: _____



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #12-B

MEETING DATE: December 11, 2017

TO: Honorable Mayor and City Council

FROM: Gene Parker, City Attorney

ISSUE: Adoption of General Ordinance No. 17-1363 Providing for an Elections Code for the City of The Dalles and Repealing General Ordinance No. 92-1150

BACKGROUND: The City Council adopted General Ordinance No. 92-1150 on July 6, 1992 establishing an elections code for the City. City staff members have been working with Quality Code Publishing on the process of preparing a codification of the City's General Ordinances. A review of General Ordinance No. 92-1150 indicated it contains outdated references to state elections law.

General Ordinance No. 17-1363 retains the current provisions for nomination of candidates for elective offices, including the method for nominating candidates for district offices. Section 4, concerning nomination petitions, has been revised to incorporate the timelines for the submission of petitions by the Oregon Secretary of State. General Ordinance No. 13-1673 also retains the current provisions governing the initiative and referendum process. The format of General Ordinance No. 17-1363 reflects the format that will likely be recommended for the new codification of the City's Ordinances.

BUDGET IMPLICATIONS: None.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** *Move to adopt General Ordinance No. 17-1363 Providing for an Elections Code for the City of The Dalles and Repealing General Ordinance No. 92-1150 by title only.*
2. The Council could decline to take action to adopt the proposed Ordinance.

GENERAL ORDINANCE NO. 17-1363

AN ORDINANCE PROVIDING FOR AN ELECTIONS CODE FOR THE CITY OF THE DALLES, DESIGNATING A METHOD OF NOMINATING CANDIDATES FOR MUNICIPAL ELECTED OFFICES, PROVIDING FOR EXERCISE OF THE RIGHTS OF INITIATIVE AND REFERENDUM, AND PROVIDING PENALTIES FOR VIOLATIONS, AND REPEALING GENERAL ORDINANCE NO. 92-1150

WHEREAS, the City Council initially established an election code for the City by adoption of General Ordinance No. 92-1150 on July 6, 1992; and

WHEREAS, as part of the process of codifying the City’s ordinances, a review of the provisions of General Ordinance 92-1150 indicates it contains certain obsolete references to state statutes concerning election law; and

WHEREAS, the City Council has reviewed the provisions of General Ordinance No. 17-1363 which eliminate the obsolete references to state election law, and the Council finds that adoption of this Ordinance is in the best interests of the City of The Dalles;

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

Article I. Elections Generally

Section 1. Short Title. This chapter shall be known as the “City of The Dalles Elections Code.” (Ord. 92-1150)

Section 2. Purpose. The purpose of this chapter is to provide a uniform, certain and convenient means for the exercise of voting by the people of the City. This chapter shall be liberally construed to encourage the exercise of voting and to facilitate the processes of initiative, referendum, and recall; and nomination and qualifications of candidates for office.

Section 3. Election Procedures. Unless otherwise provided herein, or by the City Charter, the procedures for conducting elections for City elective offices shall be those specified for City elections pursuant to ORS Chapter 254. Any election matter not specifically addressed by this code shall be governed by state law. (Ord. 92-1150).

Article II. Nomination of Candidates for Elective Offices

Section 1. Elective Offices Non-Partisan; Election by District or At-Large. The elective offices of the City shall consist of the office of Mayor and the office of

Councilor. The office of Mayor and one of the five Councilors shall be nominated and elected by vote of all of the citizens of the City qualified and registered to vote under the laws of the State of Oregon regardless of the district in which the voter resides. These offices are “At-Large” offices, and the City Council position nominated and elected At-Large shall be designated as “Councilor-At-Large” upon all nominating petitions, ballots, election notices, and campaign materials. The four remaining City Council positions are nominated from districts, two from the West District (numbered 1 and 2), and two from the East District (numbered 3 and 4). The positions are elected At Large. Positions elected by district shall be designated by position number upon all nominating petitions, ballots, election notices, and campaign materials. All elected offices shall be non-partisan offices. No person shall designate a political party affiliation, or claim a political party endorsement or use the name of a political party upon any nominating petition, ballot, or election notice. (Ord. 94-1179; Ord. 92-1150).

Section 2. Method of Nominating Candidates for At-Large Offices. All nominations for At-Large offices shall be made by a certificate of nomination signed by at least 100 legal voters of the City of The Dalles, or by the candidate paying a fee of \$25.00 to the City of The Dalles. (Ord. 12-1320; Ord. 05-1260; Ord. 94-1179; Ord. 92-1150).

Section 3. Method of Nominating Candidates for District Offices.

A. All nominations for district offices shall be made by a certificate of nomination signed by at least 25 legal voters residing within the district from which the candidate is seeking election, or by the candidate paying a fee of \$25.00 to the City of The Dalles. (Ord. 12-1230; Ord. 05-1260).

B. Pursuant to Chapter III, Section 8 of the 1994 The Dalles Charter, the City is hereby divided into two districts, to be known as the West District and the East District. The boundary line which divides the two districts is described as follows:

Beginning at the point of the intersection of Fairview Street and the southern City limits of the City of The Dalles; thence north to East 20th Street; thence northwest to East 18th Street; thence northwest to Jefferson Street; thence northwest to Scenic Drive; thence northwest to Jefferson Street; thence northeast to Terrace Drive; thence northeast to East 14th Street; thence northwest to Union Street; thence northeast along Union Street, and by extension to the City limits line on the Columbia River.

1. The West District shall include all of the precincts 1 and approximately one-half of Precinct 2, as shown on the map attached hereto as Exhibit “A”. The East District shall contain the remaining portion of Precinct 2 and all of Precincts 3 and 4, as shown on the map attached hereto as Exhibit “A”. The boundary line dividing the East and West Districts is shown on the map attached hereto as Exhibit “B”, which is incorporated herein by this reference.

Section 4. Nomination Petitions.

A. A certificate of nomination shall become a perfected certificate when it has been signed by at least 25 legal voters in the district, in the case of district office nominations, or at least 100 legal voters in the City, in the case of At-Large office nominations, and such signatures have been verified as legal voters within the City by the county elections division and filed with the City Clerk. The circulator that collects the signatures shall certify on each election sheet that the circulator witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet and believes each individual is an elector registered in the electoral district.

B. The perfected certificate of nomination must be filed with the City Clerk no later than the 70th day preceding the date of the election so that the names of the candidates duly nominated may be placed upon the election ballot.

C. It shall be the duty of the City Clerk to inspect all petitions filed under terms of this Section, and to submit to the county elections division no later than the 61st day preceding the date of the election, the names of duly nominated candidates so that they may appear on the ballot.

D. The City Clerk shall furnish certificate of nomination forms to all interested persons to be used for nominating candidates. The certificate of nomination forms shall include:

1. The name of the elector;
2. The residence or mailing address of the elector; and
3. A declaration as to whether one or more persons will be paid money or other valuable consideration for obtaining signatures of the electors on the certificate.

Section 5. Death, Ineligibility or Withdrawal of the Candidate. In case of death, ineligibility or withdrawal of a candidate, the procedures set forth in ORS Chapter 249 shall be applicable except that either the County Clerk or the City Clerk may remove the name of the deceased candidate from the ballot or may place a “deceased” designation over the candidate’s name on the ballot regardless of proximity to the election, if in the Clerk’s judgment, removal or designation can be accomplished.

Section 6. Recall. The procedures for recall of a public officer contained in ORS Chapter 249 shall be followed except that petitions shall be filed by the City Clerk and verified by the County Clerk.

Article III. Initiative and Referendum

Section 1. State Procedures Adopted. Except as provided in this Article, the general laws of the state concerning initiative and referendum shall apply for any initiative or referendum of a city measure. (Ord. 92-1150)

Section 2. Advisory Ballots. The City Council may, by resolution, call for an advisory ballot on any matter of municipal concern. An election called for pursuant to this section shall be conducted pursuant to the procedures set forth in ORS 250.265 to 250.355. The ballot title of all advisory measures shall be clearly labeled with the word “ADVISORY”, and any explanation shall contain the phrase, “The measure is advisory only, and the City is not bound to enact or repeal any law regardless of the outcome of this election”. The ballot titles of initiated or referred measures shall contain the word “initiative” or “referendum” as appropriate. (Ord. 92-1150)

PASSED AND ADOPTED THIS 11TH DAY OF DECEMBER 2017.

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Abstaining, Councilors: _____

Absent, Councilors: _____

AND APPROVED BY THE MAYOR THIS 11TH DAY OF DECEMBER 2017.

Stephen E. Lawrence, Mayor

Attest:

Izetta Grossman, City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #12-C

MEETING DATE: December 11, 2017

TO: Honorable Mayor and City Council

FROM: Gene Parker, City Attorney

ISSUE: Adoption of General Ordinance No. 17-1361 Amending Certain Provisions of General Ordinance No. 950 Concerning Transient Lodging Taxes

BACKGROUND: The City's Ordinance concerning transient lodging taxes, which is number 950, was adopted on February 7, 1977. There have been several amendments to this Ordinance over the years, and the State of Oregon has adopted legislation regulating transient room taxes. City staff members have been working with Quality Code Publishing on the process of preparing a codification of the City's general Ordinances.

The League of Oregon Cities recently published a guideline concerning regulations for local transient room taxes and included a model ordinance including provisions for the imposition and collection of local transient room taxes. City staff reviewed provisions of the model ordinance and the recommendations from Quality Code Publishing, and prepared an Ordinance (General Ordinance No. 17-1361) which reflects the recommendations from Quality Code Publishing, and also includes provisions to update the City's Ordinance to be consistent with state legislation concerning transient room taxes.

Section 1 of General Ordinance No. 17-1361 contains several revisions to the definitions contained in Section 2 of the City's current transient room tax. The definition of "hotel" in the current Ordinance is proposed to be deleted. In its place, the new Ordinance contains the definitions for "transient lodging" and "transient lodging facilities", which definitions come from state law and the LOC model ordinance. General Ordinance No. 17-1361 also contains new definitions for the terms "occupancy", "occupant", "operator", "person", "rent", "tax administrator", "tax", which come from the LOC model ordinance.

Section 6 of General Ordinance No. 17-1361 revises the current language in Ordinance

No. 950 for exemptions, using provisions recommended by the LOC model ordinance. Section 9 of General Ordinance No. 17-1361 clarifies the provisions concerning the imposition of penalties and interest, and is based upon language used by the City of Portland for their transient lodging tax.

Section 8 of General Ordinance No. 17-1361 restores a provision which was previously deleted from the City's transient room tax concerning the imposition of a lien upon the personal property of operators who fail to pay the transient room tax. This provision will provide the City with an additional tool to assist in the collection of delinquent transient room taxes.

BUDGET IMPLICATIONS: General Ordinance No. 17-1361 does not change the rate of the transient room tax imposed by the City. The proposed amendments should enhance the ability of staff to collect transient room taxes.

COUNCIL ALTERNATIVES:

1. Staff recommendation: *Move to adopt General Ordinance No. 17-1361 Amending Certain Provisions of General Ordinance No. 950 concerning Transient Lodging Taxes by title only.*
2. If the Council desires to make amendments to the proposed Ordinance, which do not cause substantive changes to the proposed Ordinance, the Council can have those proposed amendments read, and then the Council can consider a motion to adopt the Ordinance as amended by title only.
3. If the Council identifies amendments which are substantive in nature, staff will review those changes and prepare a revised Ordinance for consideration at a future Council meeting.
4. The Council could decline to take action to adopt the proposed Ordinance.

GENERAL ORDINANCE NO. 17-1361

**AN ORDINANCE AMENDING CERTAIN PROVISIONS OF
GENERAL ORDINANCE NO. 950 CONCERNING
TRANSIENT LODGING TAXES**

WHEREAS, on February 7, 1977, the City Council adopted General Ordinance No. 950 establishing provisions for the imposition and collection of transient room lodging taxes; and

WHEREAS, City staff members have been working with Quality Code Publishing on the process of codifying the City's general ordinances; and

WHEREAS, Quality Code Publishing has recommended certain revisions to the City's Ordinance concerning transient lodging taxes; and

WHEREAS, the League of Oregon Cities has recently published a guideline including a model example for an ordinance concerning the imposition and collection of transient room lodging taxes; and

WHEREAS, City staff has prepared revisions to General Ordinance No. 950 to ensure the Ordinance reflects the recommendations from Quality Code Publishing and is consistent with the model ordinance prepared by the League of Oregon Cities;

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

Section 1. Section 2, Definitions of General Ordinance No. 950 shall be amended as follows:

A. The definition of "Hotel" in subsection 4 shall be deleted.

B. The definition of Occupancy in subsection 5 shall be renumbered subsection 4 and shall be revised to read as follows:

"Occupancy" means the right to the use or possession of any space in transient lodging for dwelling, lodging or sleeping purposes for less than 30 days". (Ord. 92-1148).

C. A new definition for Occupant shall be added in subsection 5, which shall read as follows:

"Occupant" means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days.

- D. The definition of Operator in subsection 6 shall be revised to read as follows:

“Operator means”

(1) Any person who provides transient lodging for occupancy to the general public for compensation. Furnishing accommodations can be done via employees, contractors, agents or any other person allowed to process reservations and accept payment for the transient lodging on behalf of the transient lodging provider; or

(2) Any person who facilitates the reservations of an accommodation and collects the payment for the transient lodging reservation from the occupant; or

(3) Any transient lodging provider, transient lodging intermediary, or transient lodging tax collector as defined in ORS 320.300.

- D. The definition of Person in subsection 7 shall be revised to read as follows:

“Person” means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit”. (Ord. 92-1148).

- E. The definition of Rent in subsection 8 shall be revised to read as follows:

“Rent” means the consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods or commodities and the fee is optional, that fee is not included in rent.

- F. The definition of Tax Administrator in subsection 10 shall be revised to read as follows:

“Tax Administrator” means the Finance Director of the City of The Dalles. (Ord. 91-1123).

- G. The definition of Tax in subsection 11 shall be revised to read as follows:

“Tax” means either the tax payable by the occupant or the aggregate amount of taxes due from an operator during period for which the operator is required to report its collections.

- H. The definition of Transient in subsection 12 shall be deleted, and replaced with a definition for Transient Lodging or Transient Lodging Facilities which shall read as follows:

“Transient Lodging” or “Transient Lodging Facilities” means:

- (1) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;
- (2) Spaces used for overnight parking of recreational vehicles or placement of tents during periods of human occupancy; or
- (3) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy.

Section 2. In Section 3 of Ordinance No. 950, in the first, fourth, fifth, and seventh sentences, the word “transient” shall be replaced with the word “occupant”. In the fifth and eighth sentences, the word “hotel” shall be replaced with the words “transient lodging facility”.

Section 3. In Section 5 of General Ordinance No. 950, in the first sentence, the word “transient” shall be replaced with the word “occupant”.

Section 4. Section 6 of General Ordinance No. 950 shall be revised to read as follows:

Section 6. Exemptions. No tax imposed under this ordinance shall be imposed upon:

- (1) A dwelling unit in a hospital, health care facility, long-term care facility or any other facility that is licensed, registered or certified by the Oregon Department of Human Services or the Oregon Health Authority;
- (2) A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;
- (3) A dwelling unit that is used by members of the general public for temporary human occupancy for fewer than 30 days per year;
- (4) An employee of the federal government, while on federal business, whose room is procured and paid for directly by the federal government, through a purchase order or other form of procurement and with a government check. If the federal employee pays for a room personally, the employee is not exempt and the tax must be paid, even if the employee is in the city on federal business. (Ord. 94-1185).

- (5) Non-profit or charitable organizations which provide a voucher for temporary housing assistance.
- (6) A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility; or
- (7) A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period if:
 - (A) All dwelling units are occupied within the same facility; and
 - (B) The person paying consideration for the transient lodging is the same person throughout the consecutive period.

Section 5. Section 7 of Ordinance No. 950 shall be amended by inserting the words “transient lodging facility” for the word “hotel” in Section 7(2); and replacing the word “transients” with the word “occupants” in the first sentence, and the word “hotel” with the word “transient lodging facility” in Section 7(4).

Section 6. Section 8 of General Ordinance No. 950 shall be amended by replacing the word “transient” with the word “occupant” in the first sentence of Section 8(1).

Section 7. Section 9 of General Ordinance No. 950 shall be revised to read as follows:

Section 9. Penalties and Interest.

- (1) Original delinquency. Any operator who has not been granted an extension of time for delivery of return and payment of tax due, and who fails to remit any tax imposed by this Ordinance prior to delinquency, shall pay a penalty of 10 percent of the amount of the tax due in addition to the amount of the tax. There is no grace period between the due date and the assessment of a penalty and interest; the day following the due date is considered to be the delinquent date.
- (2) Continued delinquency. Any operator who has not been granted an extension of time for delivery of return and payment of the tax due, and who has failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of 15 percent of the amount of the tax due, plus the amount of the tax and the 10 percent penalty first imposed.
- (3) Fraud. If the tax administrator determines that the nonpayment of any amount due under this Chapter is due to fraud or intent to evade the

provisions thereof, a penalty of 25 percent of the tax will be added in addition to the penalties stated in paragraphs (1) and (2) of this Section and interest as stated in paragraph (4) of this Section. This penalty is calculated on the entire amount due, including any penalties and interest previously assessed at the time of the calculations.

- (4) Interest. In addition to the penalties imposed, any operator who fails to pay any tax imposed by this Chapter will pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due from the first day following the original due date. Interest will be compounded monthly until the amount due is paid in full.
- (5) Penalties and interest merged with tax. Every penalty imposed and such interest as accrues under the provisions of this Section will be merged with, and become part of, the tax required to be paid. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new penalty and interest amounts. This merging continues each month until the full balance is paid.
- (6) Subsection deleted by Ord. No. 10-1308.

Section 7. Section 10 of General Ordinance No. 950 shall be amended by inserting the word “for” between the words “petition” and “redemption” in Section 10(1)(d).

Section 8. Section 13, which had been repealed by General Ordinance No. 92-1148, shall be reinserted into General Ordinance No. 17-1361 and shall read as follows:

Section 13. Lien on Property.

- (1) The tax imposed by this Chapter together with the interest and penalties herein provided and the filing fees paid the Clerk of Wasco County, and the advertising costs which may be incurred when the same becomes delinquent as set forth in this Chapter, shall be and, until paid, remain a lien from the date of its recording with the Clerk of Wasco County, Oregon. The lien shall be superior to all subsequently recorded liens on all tangible personal property used in the operator’s transient lodging facility with the City of The Dalles, and may be foreclosed on and the necessary property sold to discharge the lien, if the lien has been recorded.
- (2) Personal property subject to the lien may be foreclosed in the same manner as a nonpossessory chattel lien for labor or material expended on chattel in ORS Chapter 87. When the tax administrator files a notice of claim of lien with the Wasco County Clerk, the tax administrator shall send a copy of the notice to the operator of the transient lodging facility

and the owner of the chattel (if different from the operator of the transient lodging facility) by certified mail at their last known address.

- (3) In a proceeding to foreclose, the lien the court shall, upon entering judgment, allow as part of the lien the moneys paid for the filing or recording of the lien. The court shall also allow reasonable attorney fees at trial and on appeal to the prevailing party.
- (4) Any lien for taxes as shown on the records of the Wasco County Clerk shall, upon the payment of all taxes, penalties, and interest thereon, be released by the tax administrator when the full amount determined to be due has been paid to the City and the operator or person making the payment shall receive a receipt therefor stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released and the record of the lien is satisfied.

Section 9. Section 16 of General Ordinance No. 950 shall be amended by inserting the word “lodging” between the words “transient” and “occupancy” in Section 16(4)(c).

PASSED AND ADOPTED THIS 11TH DAY OF DECEMBER 2017.

Voting Yes, Councilors: _____
Voting No, Councilors: _____
Absent, Councilors: _____
Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 11TH DAY OF DECEMBER 2017.

Stephen E. Lawrence, Mayor

Attest:

Izetta Grossman, City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #12-D

MEETING DATE: December 11, 2017

TO: Honorable Mayor and City Council

FROM: Gene Parker, City Attorney

ISSUE: Adoption of General Ordinance No. 17-1362 Creating a Local Contract Review Board for the City of The Dalles and Repealing General Ordinance No. 91-1121

BACKGROUND: The City Council adopted General Ordinance No. 91-1121 on January 29, 1991 creating a Local Contract Review Board for the City. Since the adoption of General Ordinance No. 91-1121, there have been several changes to the public contracting law adopted by the Oregon State Legislature. City staff members have been working with Quality Code Publishing on the process of preparing a codification of the City's General Ordinances. A review of General Ordinance No. 91-1121 indicated it contains outdated references to state public contracting law.

Sections 1 and 2 of General Ordinance No. 17-1362 revise the references to the state public contracting code. The City Council will continue to serve in the role of the Local Contract Review Board for the City. The format of General Ordinance No. 17-1362 reflects the format that will likely be recommended for the new codification of the City's ordinances.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** *Move to adopt General Ordinance No. 17-1362 Creating a Local Contract Review Board for the City of The Dalles and Repealing General Ordinance No. 91-1121 by title only.*
2. The Council could decline to take action to adopt the proposed Ordinance.

GENERAL ORDINANCE NO. 17-1362

**AN ORDINANCE CREATING A LOCAL CONTRACT
REVIEW BOARD FOR THE CITY OF THE DALLES,
AND REPEALING GENERAL ORDINANCE NO. 91-1121**

WHEREAS, the City Council initially established the City Council as the Local Contract Review Board for the City pursuant to the adoption of General Ordinance No. 91-1121 on January 21, 1991; and

WHEREAS, as part of the process of codifying the City’s ordinances, a review of the provisions of General Ordinance 91-1121 indicates it contains references to state statutes which have been repealed and replaced by new statutes; and

WHEREAS, the City Council has reviewed the provisions of General Ordinance No. 17-1362 which incorporate the current provisions of public contracting law related to the establishment of local contract review boards, and the Council finds that adoption of this Ordinance is in the best interests of the City of The Dalles;

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

Article I. Contract Review Board

Section 1. Creation of Board. Pursuant to ORS 279A.060, the City Council of the City of The Dalles is hereby established as the local contract review board. The City Council, acting as the local contract review board, shall have all the powers granted by the Oregon Revised Statutes.

Section 2. Rules. Pursuant to ORS 279A.065(6) and 279A.070, the City Council shall have the authority to adopt rules necessary to carry out the provisions of ORS 279A, 279B, and 279C which is referred to as the Public Contracting Code. Adoption of these rules can be done by resolution.

Section 3. Repeal of Existing Ordinance. General Ordinance No. 91-1121 is hereby repealed.

PASSED AND ADOPTED THIS 11TH DAY OF DECEMBER 2017.

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Abstaining, Councilors: _____

Absent, Councilors: _____

AND APPROVED BY THE MAYOR THIS 11TH DAY OF DECEMBER 2017.

Attest:

Stephen Lawrence, Mayor

Izetta Grossman, City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Discussion Item #13-A

MEETING DATE: December 11, 2017

TO: Honorable Mayor and City Council

FROM: Julie Krueger, City Manager

ISSUE: Discussion Regarding Establishment of a Tourism Commission

BACKGROUND: At the October 16, 2017 Council meeting, the City Council directed staff to develop an ordinance establishing a Tourism Commission. The draft ordinance and set of procedural rules are attached for City Council discussion.

Section 7 of the draft ordinance describes the potential duties, which reflect the issues that were identified as being needed. These issues developed out of the September, 2017 tourism work session.

BUDGET IMPLICATIONS: None at this time.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** No recommendation at this time. The City Council asked to have this draft presented for discussion purposes. If the City Council wishes to move forward, they should provide direction concerning any changes, then it will be placed on a future agenda as an Action Item.

GENERAL ORDINANCE NO. 17-XXXX

**AN ORDINANCE ESTABLISHING THE CITY OF THE DALLES
TOURISM COMMISSION AND PRESCRIBING ITS
POWERS AND DUTIES**

WHEREAS, the City Council has determined a need for a Tourism Committee to provide recommendations to the City Council regarding use of transient room tax revenues to promote tourism in the City of The Dalles; and

WHEREAS, the purpose of the Commission is advisory; providing recommendations to the City Council regarding funding requests, contract services and staffing to promote tourism;

NOW, THEREFORE, THE CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. The City of The Dalles Tourism Commission is hereby created and is referred to in this ordinance as “Commission”.

Section 2. The Commission shall consist of seven (7) members appointed by the Mayor, subject to confirmation by the City Council. Members of the Commission shall not be entitled to compensation for performance of their duties. The City shall provide appropriate staff personnel to assist the Commission in the performance of its duties. In making appointments to the Commission, preference shall be given to qualified applications who have experience or expertise related to tourism issues.

Section 3. The initial members of the Commission shall be appointed so that two members serve for one year, two members serve for two years, and three members serve for three years. Thereafter, Commissioners appointed to fill vacancies created by the expiration of the term of a member shall hold office for a term of 3 years commencing (insert date) of each year. Any vacancy filled by appointment shall be for an unexpired portion of the term of the Commissioner in office when the vacancy occurred. No person shall hold appointment as a member for more than two (2) full consecutive terms, but any person may be appointed again to the Commission after an interval of one (1) year. Commission members must reside within the city limits of the City of The Dalles.

Section 4. At its first meeting, the Commission shall elect a chair and vice chair. Officers shall hold office for one year unless removed prior to that time by vote of the Commission.

Section 5. The Commission shall met at least quarterly at such times and places as may be designated by the Commission. The Commission chair shall have the right to cancel a scheduled meeting due to lace of business. Special meetings may be called by the chair. Public notices of any regular or special meeting shall be distributed in accordance with the provisions of Oregan public meetings law. Four members of the Commission shall constitute a quorum. The decision of all matters and the transaction of all business required under the provisions of this

ordinance shall be by majority vote.

Section 6. If any member of the Commission shall be absent for three consecutive meetings without excuse for good cause, as determined by the Commission, the Commission shall have the power to recommend removal of the absent member from the Commission by the Mayor.

Section 7. Without limiting the generality of the following, the Commission shall have the following duties and functions:

- A. Act as an advisory body, making recommendations to the City Council regarding expenditure of City funds for tourism promotion activities.
- B. Make recommendations to the City Council regarding expenditures of City funds for local tourism events.
- C. Recommend development of programs, including contract services or staffing, plans, or processes that will encourage local tourism.
- D. Other tasks as requested by the City Council.

Section 8. Any recommendations made by the Commission to the City Council shall be in writing.

Section 9. The Commission shall not have authority to expend money on behalf of the City, nor obligate the City for the expenditure or payment of any sums of money. All expenditures of City funds relating to the performance of the duties and functions of the Commission shall be made by order of the City Council.

PASSED AND ADOPTED BY THE CITY COUNCIL THIS ____ DAY OF _____, 2017.

Voting Yes, Councilors: _____
Voting No, Councilors: _____
Absent, Councilors: _____
Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2017.

CITY OF THE DALLES

Tourism Commission Operating Rules and Procedures

Section 1. Authority. These operating procedures and policies are adopted under the authority of General Ordinance No. 17-XXXX.

Section 2. Responsibilities, Powers and Duties. The Tourism Commission shall have the responsibilities, obligations and duties of an advisory public body as provided for in the laws of the State of Oregon and the ordinances and resolutions of the City of The Dalles. The Tourism Commission shall have authority to:

- A. Adopt rules for the appointment of officers and the frequency and conduct of its meetings, provided that the Commission meets at least once every third calendar month (quarterly).
- B. Provide recommendations to the City Council regarding tourism activities and programs, including contracted services or staffing for which the use of transient room tax revenues would be appropriate.
- C. Coordinate with designated City staff regarding tourism issues.

Section 3. Officers of the Tourism Commission.

- A. The Chair shall preside over the deliberations of the Commission. The Chair shall have a vote on all questions before the body. The Chair shall have authority to preserve order, enforce the rules of the Commission and determine the order of business under the rules of the Commission.
- B. The Vice-Chair shall perform the duties of the Chair in the Chair's absence.
- C. At its first meeting of each year, the Commission shall elect a Chair and Vice-Chair from its membership.

Section 4. Meetings.

1. **Types of Meetings**. All meetings of the Tourism Commission shall be in conformance with Chapter 192, Oregon Revised Statutes.

- A. **Regular Meetings**. The regular meetings of the Commission shall be scheduled for a specific day and time every three months. At its first regular meeting of each new year, the Commission shall elect a Chair and Vice-Chair.

- B. **Special Meetings.** A special meeting may be called either by the Chair or two members of the Commission. Written notice of the time and place of such special meeting and the subjects to be acted upon shall be delivered in writing to interested persons, media and all members of the Commission at least 48 hours in advance of the time of the meeting and the Commission may consider and act only upon such matters as contained in the written notice.
 - C. **Work Session Meetings.** Work sessions may be at the date, time and location as determined by the Commission. Work sessions are governed by state law under Chapter 192 of the Oregon Revised Statutes. Work sessions shall be used for discussions, but no final action on an issue may be taken at a work session.
 - D. **Public Hearings.** From time to time, the Commission may desire to hold a public hearing to solicit input from the community and tourism related businesses. Public hearings of the Commission shall be topic oriented and only for the purpose of taking comment. Final action on an issue shall take place at a regular or special meeting.
 - E. **Executive Sessions.** All executive sessions shall be called and conducted in accordance with Oregon Public Meetings law and no final action or decision may be made in an executive session.
2. **Meeting Location.** All Commission meetings shall be held within the city limits of the City of The Dalles. Regular meeting shall be held in the City Council Chamber.
 3. **Quorum.** A quorum to conduct the business of the Tourism Commission shall be four (4) members.
 4. **Attendance.** Members are expected to attend all meetings. The Commission shall deem a position vacant upon an incumbent's unexcused absence from three consecutive meetings without the consent of the Commission and upon a declaration by the Commission of the vacancy. Excused absences from the meetings may be granted on a case by case basis. A member who is unavailable in person may participate in meetings by conference phone.
 5. **Voting.** The affirmative vote of a majority of the members present at a meeting shall be necessary to decide any question before the Commission. The voting on all matters shall be necessary to decide any question before the Commission. Voting shall be recorded in the minutes showing those members voting in favor of or against each matter.
 6. **Decorum.** The presiding officer of the Commission shall be responsible for ensuring that order and decorum are maintained during all meetings of the Commission.
 7. **Record of Proceedings.** The Commission shall cause a record of its proceedings to be

kept. Upon the request of any of its members, the ayes and nays on any question before it shall be taken and entered in the record. No action by the Commission shall have legal effect unless the motion for the action and the vote by which it was disposed of take place at proceedings open to the public.

9. **Agendas and Supporting Documents.** City staff will provide agendas, including supporting documents a minimum of one week prior to a meeting, to the Commission members, media, and public who request the documents, all in compliance with Oregon public meeting law.
10. **Council Liaison.** The Mayor will appoint a City Council representative to the Tourism Commission to act as a liaison to the City Council. The liaison will act as a communication link to the Council and will keep the Council informed of the Commission's activities. The liaison will attend the Commission meetings and participate in discussions, but will be considered a non-voting member.

Section 5. **Conduct at Meetings.** The Commission's decisions are arrived at openly. The Commission is encouraged to explain their rationale for votes during meetings. Any member may present motions on business to come before the Commission.

The Commission Chair must recognize a Commission member or member of the audience prior to them speaking. Unless otherwise directed, persons addressing the Commission shall limit their remarks to three minutes. A person may request additional time subject to approval of the presiding officer. Questions by audience members shall be directed to the presiding officer.