

**SUPPLEMENTAL AGENDA**

**REGULAR CITY COUNCIL MEETING**

September 23, 2013

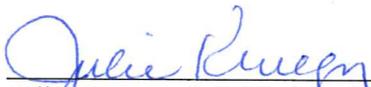
5:30 p.m.

CITY HALL COUNCIL CHAMBER  
313 COURT STREET  
THE DALLES, OREGON

**Item to be Added to the September 23, 2013  
City Council Meeting Listed Below**

12. ACTION ITEMS

- C. Resolution No. 13-033 Authorizing Signature of a Rural Enterprise Zone Long Term Agreement With Design, LLC
- D. Approval of Distribution of Enterprise Zone Fees From Agreement With Design, LLC
- E. Approval of Distribution of City's Share of Annual Enterprise Zone Fees From Agreement With Design, LLC



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Julie Krueger, MMC, City Clerk



# CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

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

## AGENDA STAFF REPORT CITY OF THE DALLES

| MEETING DATE       | AGENDA LOCATION    | AGENDA REPORT # |
|--------------------|--------------------|-----------------|
| September 23, 2013 | Action Item<br>12C |                 |

**TO:** Mayor and City Council

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

**DATE:** September 17, 2013

**ISSUE:** Resolution 13-033 Authorization of a Rural Enterprise Zone Long Term Agreement with Design, LLC.

**BACKGROUND:** Google has requested a long term rural enterprise tax incentive of fifteen (15) years for a potential new project at the current site in the Port Industrial Park. They are considering an investment and job creation that will meet or exceed the statutory requirement for the incentive of investing over \$200 million and creating at least ten new jobs.

Google has previously submitted land use applications for a height variance and a site plan to construct a two-story main data processing storage building with associated auxiliary buildings. Both of these planning actions have been approved.

A team from the Enterprise Zone sponsors (The City of The Dalles and Wasco County) and Google have negotiated a new Enterprise Zone Abatement Agreement. Attached is the proposed agreement. Should they decide to go forward with the proposed project, the proposed agreement calls for a \$1.2 million Initial Enterprise Zone Fee for Google to pay by December 31, 2013; and an Annual Fee of \$800,000 per year for 15 years, beginning the first year after the new facility is in service that property taxes for the new facility are exempted.

This agreement with Google's operating subsidiary in The Dalles is separate from and in addition to the existing Enterprise Zone Abatement Agreement with the City of The Dalles and Wasco County.

**COUNCIL ACTION:**

1. ***Staff Recommendation:*** *Adopt Resolution No. 13-033 Authorizing a Second Enterprise Tax Abatement Agreement with Wasco County and Design, LLC.*
2. Delay adoption of Resolution No. 13-033 to allow for further review.
3. Decline to approve an extended enterprise zone agreement Design, LLC.

**RESOLUTION NO. 13-033**

**A RESOLUTION APPROVING A SECOND  
ENTERPRISE TAX ABATEMENT  
AGREEMENT WITH WASCO COUNTY AND DESIGN LLC**

**WHEREAS**, the Oregon Legislative Assembly has adopted the provisions of ORS 285C.400 to 285C.420 to provide tax incentives to certified business firms that invest in a qualifying facility located within a nonurban enterprise zone in a county with chronically low income or chronic unemployment; and

**WHEREAS**, the City of The Dalles and Wasco County jointly sponsor a nonurban enterprise zone known as The Dalles/Wasco County Enterprise Zone; and

**WHEREAS**, Design LLC proposes to construct and operate a new facility (the New Facility) which will support Design's Internet business on real property located inside The Dalles/Wasco County Enterprise Zone which will employ a significant number of persons that will be compensated on average at a rate substantially more than the average annual Wasco County wage; and

**WHEREAS**, Design LLC has timely and properly filed an application for a Long Term Rural Enterprise Zone property tax exemption for the New Facility (the Application);

**WHEREAS**, for Design LLC to receive a long term rural enterprise zone property tax exemption for the New Facility within The Dalles/Wasco County Enterprise Zone, it is necessary for a written agreement between Design LLC and the City of The Dalles and Wasco County to be executed, and for the governing bodies of the City and County to adopt resolutions approving the property tax exemption for Design LLC; and

**WHEREAS**, the City Council has reviewed the terms of an Enterprise Zone Tax Abatement Agreement for the New Facility, a copy of which is attached (the Agreement), and the Council finds that approval of the Agreement is in the best interests of the health and welfare of the citizens of The Dalles;

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

Section 1. Agreement Approved. Pursuant to ORS 285C.403(3)(a) and Section III(A) and (B) of the Agreement, the City Council hereby approves the Agreement, the Application, and the long term rural enterprise zone property tax exemption for Design LLC and the New Facility and authorizes the City Manager to execute the Agreement on behalf of the City.

Section 2. Effective Date. This Resolution shall be considered effective as of September 23, 2013.

**PASSED AND ADOPTED THIS 23 DAY OF SEPTEMBER, 2013.**

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

**AND APPROVED BY THE MAYOR THIS 23 DAY OF SEPTEMBER, 2013.**

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

Attest:

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

## EXECUTION VERSION

### ENTERPRISE ZONE TAX ABATEMENT AGREEMENT

This Enterprise Zone Tax Abatement Agreement (Agreement) is entered into as of the date of the last signature below (Effective Date) between the City of The Dalles (City), Wasco County (County) and Design, LLC, a Delaware limited liability company (Design).

#### RECITALS

City, County and Design accept the following facts for purposes of this Agreement:

A. The Oregon Legislative Assembly adopted ORS 285C.400 to 285C.420 (Statutes) to provide tax incentives to certified business firms that invest in a qualifying facility located within a nonurban enterprise zone in a county with chronically low income or chronic unemployment. The Statutes are implemented under administrative rules (OAR 123-690-0001 to 123-690-8500, 150-285C.409 and 150-285C.420) adopted by the State of Oregon.

B. The benefits to a certified business firm under the Statutes include a 100-percent exemption on real property improvements and personal property owned or leased by the business firm located at the site of a qualifying facility or used in the business operations of the business firm. Under ORS 285C.409(1) qualifying property is exempt from *ad valorem* property taxes:

1. for the first tax year following the calendar year in which the business firm is certified as described in Section C, below, or after construction of the facility commences, whichever is later;

2. for each subsequent tax year in which the facility is not yet in service as of the assessment date; and

3. for an additional period of between 7 and 15 years beginning with the first tax year in which the facility is in service as of the assessment date as established in an agreement between the business firm and the zone sponsor.

C. Before construction or installation of improvements or property and before hiring employees, a business firm seeking tax abatement under the Statutes must submit the Oregon Department of Revenue's Certification Application for Long-Term Rural Oregon Tax Incentive, Form 150-310-073 (Application). After the business firm seeking tax abatement submits its Application to the local zone manager and county assessor for approval, the local zone manager and county assessor will proceed to certify the following:

1. Execution of a written agreement between the business firm and the local zone sponsor;

2. Adoption of resolutions by the governing body of the county and of the city in which the facility would be located approving the property tax exemption;

## EXECUTION VERSION

3. Satisfactory commitment by the business firm to the requirements of ORS 285C.412 following the first assessment date on which the facility is in service, and any additional requirements contained in the written agreement: and

4. Review of the written agreement's administrative sufficiency and confirmation of the county's current economic status by the Oregon Business Development Department.

The county assessor may make its approval of the Application contingent on establishing satisfactory administrative arrangements with the business firm. This may include regular notice and periodic substantiation of the development of the facility or satisfaction of statutory requirements. For tax abatement benefits to be received, the Application must be approved by the local zone sponsor and the county assessor on or before the earlier of the date on which any facility property is placed in service, the effective date of the enterprise zone's termination, and June 30, 2025.

D. Irrespective of certification and the written agreement, a business firm qualifies for and may receive the property tax exemption described above after the first assessment date on which the facility is in service only if minimum investment, hiring and compensation targets are achieved and maintained at the new facility, as set forth in ORS 285C.412 and 285C.420 and as more specifically described in the "Terms and Conditions" of this Agreement below.

E. City and County (Sponsor) jointly sponsor a nonurban enterprise zone under the Statutes known as The Dalles/Wasco County Enterprise Zone (Zone). The current population of Wasco County is less than 40,000.

F. Design has constructed and operates a project (Existing Facility) that supports Design's Internet business. The Existing Facility is located on the land specified in Exhibit A as the "Existing Site" (Existing Site). For purposes of this Agreement, the Existing Facility is composed of (i) the Existing Site and (ii) any real property improvements and personal property installed, constructed, added or otherwise placed at the Existing Site. City, County, and Design executed an Enterprise Zone Tax Abatement Agreement on April 25, 2005 with respect to the Existing Facility (Existing Agreement), and the real property improvements and personal property of the Existing Facility have been exempt from property tax pursuant to the Existing Agreement and ORS 285C.409.

G. Design proposes to construct and operate a new project (New Facility), which will support Design's Internet business and will be located on the land specified in Exhibit A as the "New Site" (New Site), and at which a number of persons will be employed and compensated on average at substantially more than the average annual wage within the County. For purposes of this Agreement, the New Facility is composed of (i) the New Site, (ii) a new building, associated mechanical and electrical plant, and related property located at, in, or upon the New Site, and (iii) any other real property improvements and personal property installed, constructed, added or otherwise placed at the New Site.

## EXECUTION VERSION

H. The Sponsor has found that the construction and operation of the New Facility will foster desirable economic development in the Zone and its local area and will be in the best interest of Sponsor.

I. Sponsor and Design desire to enter into a property tax abatement with respect to the New Facility.

J. Design has timely and properly filed an Application with respect to the New Facility.

K. In addition to tax abatement under the Statutes, a certified business firm that is subject to the corporation excise tax under ORS Chapter 317 that owns a qualifying facility in an enterprise zone may obtain the Governor's approval of excise tax credits. These credits may equal up to 62.5 percent of the business firm's annual gross payroll costs at the facility (Payroll Tax Credits) under ORS 317.124 to 317.131. Payroll Tax Credits may be claimed for a period of 5 to 15 fiscal years, starting within three calendar years after the qualifying facility is placed in service. Payroll Tax Credits are supplemental to any property tax abatement under the Statutes and are subject to other provisions of law. Design may seek approval from the Governor for any available Payroll Tax Credits.

## TERMS AND CONDITIONS

As an incentive for Design to locate the New Facility within the Zone and in accordance with ORS 285C.403(3)(b) and (c), the parties agree as follows:

### I. PROPERTY TAX EXEMPTION

#### A. Coordination of Exemptions for the Existing Facility and the New Facility

1. The Existing Agreement shall govern the exemption of real property improvements and personal property in the Existing Facility.

2. Subject to Section II.A, this Agreement shall govern the exemption of real property improvements and personal property in the New Facility.

B. Exemption for the New Facility. Subject to the terms and provisions of the Statutes and this Agreement, and to approval of Design's Application, City and County shall grant a 100% *ad valorem* tax exemption to all qualifying property of the New Facility pursuant to ORS 285C.409(1), as follows:

1. for the first tax year following the calendar year in which Design is certified or after which construction of the New Facility commences, whichever is later;

2. for each subsequent tax year in which the New Facility is not yet in service as of the assessment date; and

## EXECUTION VERSION

3. for a period of 15 additional years, beginning with the first tax year in which the New Facility is in service as of the assessment date.

## II. OBLIGATIONS OF DESIGN

### A. Conditions

All obligations of Design described in this Agreement arise solely on account of, and depend entirely upon, the following:

1. Design's development and the placement in service of the New Facility.
2. Design's ability to obtain a 100% *ad valorem* property tax exemption for all qualifying property of the New Facility under ORS 285C.409(1) for all periods described in Section I.B. of this Agreement.

If either condition is not satisfied for any reason, Design may rescind this Agreement, subject to any potential liability for back taxes under ORS 285C.420(3). In such event, the Existing Agreement shall govern the real property improvements and personal property of the New Facility.

### B. Statutory Obligations

1. For the New Facility to qualify for the property tax exemption described in Part I, Design must have completed the Application and submitted it to the local zone manager for the Zone, and to the County Assessor before any construction or installation of property and improvements and before hiring employees at the New Facility.

2. For property in the New Facility to qualify for the property tax exemption described in Part I after the New Facility is placed in service, Design must comply with ORS 285C.412(5) and 285C.420 as follows:

a. By the end of the calendar year when the New Facility is placed in service, the total cost of the New Facility must exceed \$200 million.

b. When Design is certified, the location of the New Facility must be 10 or more miles from Interstate Highway 5, as measured between the two closest points between the New Facility and anywhere along that interstate highway.

c. By the end of the third calendar year following the year when the New Facility is placed in service, at least 10 full-time employees must have been hired at the New Facility as determined pursuant to ORS 285C.412(5) and OAR 123-690-4200. In accordance with OAR 123-690-4200, the requirement in the foregoing sentence will be satisfied for any given year if:

(1) the number of employees performing their jobs at the New Facility during the year, less the number of employees performing their jobs at the

## EXECUTION VERSION

New Facility 12 months before the New Facility was placed in service, is greater than or equal to 10; and

(2) the number of employees performing their jobs at the Existing Facility, or anywhere else in the State of Oregon other than at the New Facility, during the year is greater than or equal to the number of employees performing their jobs at the Existing Facility, or anywhere else in the State of Oregon other than at the New Facility, 12 months before the New Facility was placed in service, except for any decrease documented as entirely unrelated to the operations of the New Facility.

Subject to Section II.C.4, pursuant to OAR 123-690-5200, Design will submit an annual report for the New Facility demonstrating that at least 10 full-time employees have been hired and are associated with the New Facility. Employees hired to meet Design's obligation under Section II.B.2.c will perform their jobs within the Zone.

d. For at least one of the five calendar years following the year when the New Facility is placed in service (Measuring Year), the average annual compensation (including wages, salary, non-mandatory insurance and other financial benefits) of all employees working at the New Facility must equal or exceed 150 percent of the average annual wage for employees in all industries in Wasco County, based on the most recent such figure that is available from the Oregon Employment Department as of the Measuring Year. For each calendar year after the fifth calendar year following the year when the New Facility is placed in service, annual average compensation at the New Facility must equal or exceed 150 percent of the average wage in Wasco County for the Measuring Year.

### C. Additional Obligations

Design will meet certain additional requirements as reasonably requested by the Sponsor and established solely through this Agreement, as follows:

1. Design must pay to the Sponsor \$1,200,000 (Initial Project Fee) on or before December 31, 2013.
2. Design must pay to the Sponsor \$800,000 (Project Fee) on or before December 31 of each tax year in which the New Facility is in service as of the preceding January 1, except that the Project Fee will not be due for any tax year in which the New Facility fails to qualify for the property tax exemption under ORS 285C.409(1)(c).
3. The Project Fees will be deposited with County, and budgeted, expended and distributed by the Sponsor for projects and programs for local services or infrastructure benefiting the New Facility. Failure by Design to pay the Initial Project Fee or any Project Fee after 120 days written notice of delinquency from the Sponsor (with a copy to the County Assessor) will result in disqualification of the New Facility from the property tax exemption

## **EXECUTION VERSION**

under Section I.A.2 of this Agreement as provided in ORS 285C.420, including but not limited to potential liability for back taxes under ORS 285C.420(3).

4. Design will make reasonable efforts to assist the County Assessor, the Sponsor and state agencies in administering the provisions of this Agreement or the associated tax incentives. However, Design may refuse any request for assistance if Design concludes, in its sole discretion, that such assistance will compromise the confidentiality of trade secrets or other sensitive information associated with the design, construction and operation of the Existing Facility or New Facility.

5. Except as provided above, no promise or warranty attributable to Design, whether oral or written, will be deemed an obligation or requirement of Design for purposes of a property tax exemption under the Statutes.

### **III. OBLIGATIONS OF SPONSOR**

A. The County and City will each adopt substantially the same resolution to authorize approval of this Agreement, the Company's application with respect to the New Facility, and the property tax exemption described in Part I with respect to the New Facility and this Agreement (Approval Resolutions):

1. If the Approval Resolutions are not adopted within 90 days of the Effective Date, then Design may terminate this Agreement by written notice to the Sponsor. This agreement will then become null and void and neither the Sponsor nor Design will be liable in any way.

2. The Approval Resolutions and/or the execution of this Agreement will constitute approval under ORS 285C.403(3)(a) of the property tax exemption described in Part I with respect to the New Facility and this Agreement.

B. The County and City hereby approve the property tax exemption described in Part I with respect to the New Facility and this Agreement. The Sponsor sets the period of the property tax exemption for purposes of ORS 285C.409(1)(c) at 15 consecutive years beginning with the first tax year in which the New Facility is in service as of the assessment date, notwithstanding any other period that may be allowed by law.

C. The Sponsor will ensure that the Project Fees are budgeted, expended and distributed and will indemnify and hold Design, its employees, agents, attorneys, contractors, members, managers and affiliates harmless from and against any loss, damage, liability, cost or expense (including attorney fees and costs) arising out of or related to the Project Fees, including without limitation issues relating to accounting, budgeting, expenditure, non-expenditure or distribution.

D. The Sponsor will not impose or request any additional requirement of Design as a condition of the property tax exemption granted herein, except as expressed in this Agreement.

## **EXECUTION VERSION**

E. The Sponsor will support Design in every effort to have the New Facility approved by the Governor for Payroll Tax Credits under ORS 317.124, but the Sponsor makes no warranty with respect to its ability to affect any outcome.

### **IV. TERM OF AGREEMENT**

This Agreement takes effect on the last date of execution by the parties and is terminated on June 30 of the last tax year of the property tax exemption.

### **V. MISCELLANEOUS**

A. This Agreement is governed by the law of the State of Oregon.

B. The benefits and burdens of this Agreement run with the land on which the New Facility is constructed and is binding upon the parties, their successors and assigns.

C. Design may assign its rights and obligations under this Agreement only with the consent of City and County, not to be unreasonably withheld or delayed, except that neither City nor County's consent is required for an assignment to: (1) a person or entity that owns a majority interest in Design (Parent); or (2) another entity in which the Parent or Design owns a majority interest. A change in ownership of the Parent, Design or an assignee of Design's rights and obligations under this Agreement will not be deemed an assignment for purposes of this paragraph. City and County may not assign this Agreement.

D. The parties will to the maximum extent permitted by law:

1. consider the content and nature of discussions culminating in this Agreement, and documentation and information prepared or provided to verify compliance with the terms of this Agreement and the property tax exemption (including but not limited to the notices, reports, information, and documentation required pursuant to ORS 285C.415 and OAR 123-690-5200), as containing confidential commercial and financial information of Design, thus making it exempt from Freedom of Information Act (FOIA) requests as permitted under 5 U.S.C. §552(b)(4) and Sections 192.501(2), 192.502(4), 192.502(9), and/or 192.502(17) of the Oregon public records law;

2. keep the content and nature of discussions culminating in this Agreement, and documentation and information prepared or provided to verify compliance with the terms of this Agreement and the property tax exemption (including but not limited to the notices, reports, information, and documentation required pursuant to ORS 285C.415 and OAR 123-690-5200), confidential and will not, without the prior written consent of the other party, disclose or use any information obtained in the course of this transaction other than in connection with the transaction; and

3. transmit such information only to such of its representatives who need to know the information for the sole purpose of assisting that party in evaluating this Agreement and who agree to be bound by these terms as if a party.

## EXECUTION VERSION

E. Prior to any party to this Agreement instituting any legal action, arbitration, or other proceeding of any nature regarding matters related to this Agreement against any other party to this Agreement, the complaining party will request the other parties' participation in non-binding mediation, and the parties agree to work in good faith to attempt to resolve the dispute in the course of such non-binding mediation. Requests for such non-binding mediation may be made by written notice in the manner provided for in subsection F of this Section. The expenses of non-binding mediation, including, without limitation of generality, costs of notice thereof, fees of the mediator and of witnesses, and the cost of taking and transcribing testimony shall be shared equally by the parties. Notwithstanding the foregoing, any party may withdraw from such non-binding mediation at any point and, further, may decline to participate in or abstain from requesting such non-binding mediation if, in its sole discretion, doing so will adversely affect the party's interests. If non-binding mediation fails to resolve the dispute, a party withdraws from non-binding mediation, or a party abstains from requesting non-binding mediation pursuant to the foregoing, then each party may pursue any and all legal and equitable remedies available under and according to the laws of the State of Oregon. In such proceeding, and in any non-binding mediation, the parties agree to bear their own attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith.

F. Design may terminate this Agreement upon written notice to the City and County. If the Agreement is terminated, the Existing Agreement shall govern the exemption of real property improvements and personal property in the Existing Facility and the New Facility.

G. All notices relating to this Agreement must be in writing, are effective upon receipt, and must be personally delivered or sent by U.S. certified mail, return receipt requested, addressed to the parties as follows:

If to Design:

Design LLC  
c/o Corporation Service Company  
2711 Centerville Road, Suite 300, PMB 811  
Wilmington, DE 19808

with a copy to:

Adam C. Kobos  
Stoel Rives LLP  
900 SW Fifth Avenue  
Portland, OR 97204

## EXECUTION VERSION

If to Sponsor:

The Dalles/Wasco County Enterprise Zone  
City of The Dalles  
313 Court Street  
The Dalles, OR 97058

Either party may by proper notice to the other designate such other address for notice. All notices will be deemed given on the day such notice is personally served or on the third day following the day such notice is mailed.

H. Subject to Section II.A and Section V.F, this Agreement supersedes any prior agreement for the New Facility and contains the entire agreement of the parties as to the New Facility, except for existing confidentiality agreements between the parties (including but not limited to those associated with the Existing Facility), which remain binding and valid according to their individual terms and conditions. No other agreement, statement, or promise made by any party or to any employee or agent of any party is binding unless made in writing and signed by both parties to this Agreement.

I. The parties acknowledge that they have been represented by legal counsel in connection with this transaction. This Agreement and each of the terms and provisions were explicitly negotiated between the parties. This Agreement will be construed according to its fair meaning and not strictly for or against either party.

J. This Agreement may be executed in two or more counterparts, each will be considered an original and all together will constitute one and the same Agreement.

K. The following Exhibits are attached and incorporated into this Agreement:

Exhibit A - Description of Existing Site and New Site

**EXECUTION VERSION**

The parties executed this Agreement as follows:

City of The Dalles

By: \_\_\_\_\_  
Title: \_\_\_\_\_

DATE: \_\_\_\_\_

Wasco County

By: \_\_\_\_\_  
Title: \_\_\_\_\_

DATE: \_\_\_\_\_

Design LLC, a Delaware limited liability  
company

By: \_\_\_\_\_  
Title: \_\_\_\_\_

DATE: \_\_\_\_\_

**EXECUTION VERSION**

**EXHIBIT A**

**DESCRIPTION OF EXISTING SITE AND NEW SITE**

The legal description of the Existing Site is attached as Exhibit A.1. The legal description of the New Site is attached as Exhibit A.2. The New Site is located between the existing structures on the Existing Site.

**EXECUTION VERSION**

**EXHIBIT A.1**

**LEGAL DESCRIPTION FOR EXISTING SITE**

A tract of land lying in the Chenowith Creek Replat in the North 1/2 of Section 28, Township 2 North, Range 13 East, Willamette Meridian, City of The Dalles, Wasco County, Oregon being more particularly described as follows:

Parcel 1 of said Chenowith Creek Replat (M.P. # 2005-0003), being Document # 2005-099, recorded March 1, 2005, Deed Records of Wasco County, together with vacated Columbia Road per City Ordinance # 05-501, excepting therefrom the following described tract of land:

Commencing at the Southwest corner of said Parcel 1, said point further lying on the Northerly right-of-way line of Steelhead Way; thence along said Northerly right-of-way line, South 89°53'21" East 448.17 feet; thence leaving said Northerly right-of-way line, North 00°06'52" East 30.50 feet to the true point of beginning of this description; thence continuing North 00°06'52" East 834.03 feet; thence North 64°47'04" West 405.23 feet; thence South 00°06'52" West 628.16 feet; thence on a 100.00 foot radius curve to the right through a central angle of 28°07'48" a distance of 49.10 feet, (the chord of which bears South 14°10'46" West 48.60 feet); thence South 28°14'40" West 44.75 feet; thence on a 100.00 foot radius curve to the left through a central angle of 28°08'01" a distance of 49.10 feet, (the chord of which bears South 14°10'40" West 48.61 feet); thence South 00°06'39" West 184.04 feet; thence on a 60.00 foot radius curve to the left through a central angle of 90°00'00" feet a distance of 94.25 feet, (the chord of which bears South 44°53'21" East 84.85 feet); thence South 89°53'21" East 351.67 feet to the true point of beginning of this description.

Contains 22.99 acres.

**EXECUTION VERSION**

**EXHIBIT A.2**

**LEGAL DESCRIPTION FOR NEW SITE**

A tract of land lying in Parcel 1 of the Chenowith Creek Replat in the North 1/2 of Section 28, Township 2 North, Range 13 East, Willamette Meridian, City of The Dalles, Wasco County, Oregon, being more particularly described as follows:

Commencing at the Southwest corner of said Parcel 1, said point further lying on the Northerly right-of-way line of Steelhead Way; thence along said Northerly right-of-way line, South 89°53'21" East 448.17 feet; thence leaving said Northerly right-of-way line, North 00°06'52" East 30.50 feet to the true point of beginning of this description; thence continuing North 00°06'52" East 834.03 feet; thence North 64°47'04" West 405.23 feet; thence South 00°06'52" West 628.16 feet; thence on a 100.00 foot radius curve to the right through a central angle of 28°07'48" a distance of 49.10 feet, (the chord of which bears South 14°10'46" West 48.60 feet); thence South 28°14'40" West 44.75 feet; thence on a 100.00 foot radius curve to the left through a central angle of 28°08'01" a distance of 49.10 feet, (the chord of which bears South 14°10'40" West 48.61 feet); thence South 00°06'39" West 184.04 feet; thence on a 60.00 foot radius curve to the left through a central angle of 90°00'00" feet a distance of 94.25 feet, (the chord of which bears South 44°53'21" East 84.85 feet); thence South 89°53'21" East 351.67 feet to the true point of beginning of this description.

Contains 8.05 acres



# CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

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

## AGENDA STAFF REPORT CITY OF THE DALLES

| MEETING DATE       | AGENDA LOCATION    | AGENDA REPORT # |
|--------------------|--------------------|-----------------|
| September 23, 2013 | Action Item<br>12D |                 |

**TO:** Mayor and City Council

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

**DATE:** September 18, 2013

**ISSUE:** Approval of Distribution of Enterprise Zone Fees from Design, LLC.

**BACKGROUND:** The September 23 City Council meeting includes an action item for approval of a Rural Enterprise Zone Long Term Agreement with Design, LLC. The agreement called for an initial and annual enterprise zone fee. The annual fee is for up to 15 years for each year the new facility covered by the agreement is receiving a property tax exemption. The City Council and County Commission (as zone sponsors) must both approve the distribution of these fees. Attached is a proposed distribution of the initial and annual enterprise zone fees from this agreement as described below.

- A. Initial Fee: \$1,200,000: In determining the initial fee projects we tried to identify projects that we feel have an immediate impact on the services provided to the community. These projects include:
1. \$484,464 to Mid-Columbia Fire and Rescue (MCFR) to remodel and place in service Station #2. This and the additional MCRF amount from the City's annual fee has the intent of helping the MCFR correct some of the deficiencies in the community's current fire insurance rating.
  2. \$100,000 to Northern Wasco County Parks & Recreation District. The district has a number of projects that will benefit the community for which these funds will be considered.
  3. \$425,845 to Wasco County for payment of the remaining Discovery Center

infrastructure debt. Payment of this debt will free up approximately \$85,000 annually (\$25,000 from the City, with the remaining funds from the County). This will allow those funds to be used on other community services.

4. Payment of the \$129,691 Union Street Undercrossing debt. Payment of this debt will allow the 0.5% transient room tax that is currently allocated to this purpose to be reallocated to NWC Parks & Recreation District (approximately \$43,000 per year). The ordinance creating this room tax called for this distribution once the debt was paid.
  5. \$60,000 to the Columbia Gorge Regional Airport to help with projects as needed. The projects where these funds may be used include the federal match for the runway/taxiway improvement project, water improvements at the airport, or completion of the Airport Industrial Park.
- B. Annual Fee: \$800,000: The distribution of the annual fee will be 35% to the City of The Dalles (\$280,000); 35% to Wasco County (\$280,000), with both agencies determining how they will use these funds; and 30% to the Northern Wasco County School District 21 (\$240,000). The expenditure will be determined in an Intergovernmental Agreement (IGA) between the zone sponsors (City and County) and the school district.

We are proposing that the IGA on the school district allocation indicate an intent for this to continue for the full 15 years, but with the requirement that for the first five years the funds are to be used for curb appeal projects, painting and improving the exterior of buildings, parking lots and landscaping, and for helping the district transition to the state mandated change in mascot resulting in a name change of the high school to The Dalles High School.

**BUDGET IMPLICATIONS:** The City will receive \$60,000 for the Columbia Gorge Regional Airport by December 31, 2013 from the initial fee and \$280,000 each year for an anticipated 15 years.

**COUNCIL ACTION:**

1. Approve the proposed distribution of the Enterprise Zone Fees from the agreement with Design, LLC, contingent upon approval from Wasco County Commission.
2. Delay action to allow for further review.

## PLAN FOR DISTRIBUTION AND USE OF ENTERPRIZE ZONE FEES

### Table I: Initial Fee (Available December 31, 2013)

Total Fee: \$1,200,000

#### Potential Projects for Initial Fee may include the following:

|           |   |
|-----------|---|
| \$484,464 | Mid- Columbia Fire and Rescue – Station #2 Expansion          |
| \$100,000 | Northern Wasco County Parks and Recreation District –Projects |
| \$425,845 | Wasco County – Discovery Center Debt Payment                  |
| \$129,691 | City of The Dalles – Union Street Underpass Debt              |
| \$ 60,000 | City of The Dalles – Airport Development                      |

### Table 2: Distribution of Annual Project Fee

35% Wasco County (to be distributed at the direction of the County)

35% City of The Dalles (to be distributed at the direction of the City)

30% Northern Wasco County School District #21

#### Note:

1. The 15 year period is anticipated to begin in fiscal year 2015-16
2. Annual fee distribution subject to amendment through mutual agreement of Enterprise Zone sponsors.



**CITY of THE DALLES**

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

| MEETING DATE       | AGENDA LOCATION    | AGENDA REPORT # |
|--------------------|--------------------|-----------------|
| September 23, 2013 | Action Item<br>12E |                 |

**TO:** Mayor and City Council

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

**DATE:** September 18, 2013

**ISSUE:** Approval of Distribution of the City's share of Enterprise Zone Fees from Design, LLC.

**BACKGROUND:** The September 23 City Council meeting includes an action item for approval of a Rural Enterprise Zone Long Term Agreement with Design, LLC. The agreement called for an annual enterprise zone fee. The annual fee is for up to 15 years for each year the new facility covered by the agreement is receiving a property tax exemption. If the City and County approve the proposed distribution of annual fee the City will receive \$280,000.

We are proposing the allocations of the City's \$280,000 share of the annual fee identified below. Each agency receiving funds will need to enter into an agreement spelling out specific intended results and reporting requirements.

1. Columbia Gorge Community College, \$75,000 for work force training, as part of the College's Columbia Gorge Regional Center of Innovation initiative.
2. Mid-Columbia Fire and Rescue, \$90,000 to improve fire insurance rating. This \$90,000 includes \$34,000 for a student-volunteer program; and \$56,000 to be used to retire a 15 year \$580,000 debt to build a new training tower at the main fire station.
3. The City will retain \$115,000 to assist with existing General Fund Services or street needs as identified during each year's budget process.

**BUDGET IMPLICATIONS:** The City will receive \$280,000 each year for an anticipated 15 years. \$165,000 will be distributed to others and \$115,000 budgeted for City use.

**COUNCIL ACTION:**

1. Approve the proposed distribution of the City's share of the annual Enterprise Zone Fees from the agreement with Design, LLC, and direct the City Manager to negotiate Intergovernmental Agreements with Columbia Gorge Community College and Mid-Columbia Fire and Rescue District.
2. Delay action to allow for further review.

**PLAN FOR DISTRIBUTION AND USE OF CITY'S ANNUAL FEE  
(Anticipated to be available fiscal year 2015-16)**

Total Fee: \$800,000

|           |  |
|-----------|--|
| \$280,000 | City of The Dalles (35%)                               |
| \$ 90,000 | Mid-Columbia Fire and Rescue*                          |
| \$ 75,000 | Columbia Gorge Community College – Work Force Training |
| \$115,000 | City of The Dalles                                     |

\*MCF&R: 1. \$34,000: Student Volunteer Program  
2. \$56,000: Retirement of \$580,000 debt for training tower