

**AGENDA**

**REGULAR CITY COUNCIL MEETING**

December 9, 2013

5:30 p.m.

CITY HALL COUNCIL CHAMBER  
313 COURT STREET  
THE DALLES, OREGON

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

7. CITY MANAGER REPORT
8. CITY ATTORNEY REPORT
9. CITY COUNCIL REPORTS
10. 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 25, 2013 Regular City Council Meeting Minutes

**CITY OF THE DALLES**

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

11. CONTRACT REVIEW BOARD ACTIONS

- A. Approval to Continue With Merina and Company, LLC for the City's and Urban Renewal Agency's Audit Services [**Agenda Staff Report #13-081**]

12. ACTION ITEMS

- A. Appeal of Encroachment Permit for Basketball Hoop at 22<sup>nd</sup> and Garrison Streets [**Agenda Staff Report #13-082**]
- B. Approval of Intergovernmental Agreement With the Port of The Dalles Regarding Dedication of Public Infrastructure for the North Chenoweth Project [**Agenda Staff Report #13-080**]

13. EXECUTIVE SESSION

- A. Recess to Executive Session in Accordance With ORS 192.660 (2) (h) to Consult With Counsel Concerning the Legal Rights and Duties of a Public Body With Regard to Litigation or Litigation Likely to be Filed
- B. Reconvene to Open Session

14. DECISIONS FOLLOWING EXECUTIVE SESSION

15. ADJOURNMENT

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

Prepared by/  
Julie Krueger, MMC  
City Clerk

  
\_\_\_\_\_



**CITY of THE DALLES**

313 COURT STREET  
THE DALLES, OR 97058

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

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

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
December 9, 2013	Consent Agenda 10, A	N/A

**TO:** Honorable Mayor and City Council

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

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

**DATE:** November 26, 2013

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

A. **ITEM:** Approval of November 25, 2013 Regular City Council Meeting Minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the November 25, 2013 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 25, 2013 regular City Council meeting.

## MINUTES

REGULAR COUNCIL MEETING  
OF  
NOVEMBER 25, 2013  
5:30 P.M.

THE DALLES CITY HALL  
313 COURT STREET  
THE DALLES, OREGON

**PRESIDING:** Mayor Steve Lawrence

**COUNCIL PRESENT:** Bill Dick, Carolyn Wood, Dan Spatz, Tim McGlothlin, Linda Miller

**COUNCIL ABSENT:** None

**STAFF PRESENT:** City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Public Works Director Dave Anderson, Police Chief Jay Waterbury, Engineer Dale McCabe, Administrative Fellow Jon Chavers, Planning Director Dick Gassman, Finance Director Kate Mast

### CALL TO ORDER

Mayor Lawrence called the meeting to order at 5:30 p.m.

### ROLL CALL

Roll call was conducted by City Clerk Krueger; all Councilors present.

### PLEDGE OF ALLEGIANCE

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

### APPROVAL OF AGENDA

Mayor Lawrence asked that Action Item 13, A, be moved to the front of the agenda so the representatives of The Dalles Disposal would be able to attend another meeting. He also asked that an OLCC Change in Ownership application for La Cabana be added to the Consent Agenda.

It was moved by Wood and seconded by McGlothlin to approve the Agenda as amended. The motion carried unanimously.

### **ACTION ITEM**

#### **Request by The Dalles Disposal for a Rate Increase**

City Attorney Parker reviewed the staff report.

Jim Winterbottom, The Dalles Disposal explained the increase was primarily due to increased tipping fees, operational costs, and a large assessment for the local improvement district work recently completed. He noted that the proposed monthly increase for a 32 gallon can was 29 cents; 96 gallon roll cart, 41 cents; and a 1 ½ yard dumpster would increase \$1.52 per month.

Councilor McGlothlin said a citizen had asked him why residential customers couldn't have a bi-weekly pick up of garbage. Winterbottom said that service was offered and would cost \$12.93 per month for a 32 gallon can.

Councilor Spatz asked how much of the increase was due to landfill increases and how much was for the household hazardous waste program. Winterbottom said the entire 1% noted in the letter was for landfill cost increases.

Spatz asked if the employees paid a portion of their health care premiums. Winterbottom said they do pay a portion of the premiums, which helped keep costs down for the company.

Councilor Miller asked if The Dalles Disposal offered a senior discount. Winterbottom said they had a program through the Community Action Program which included seniors and low income.

#### **Public Comment**

No public comments were provided.

#### **Resolution No. 13-035 Approving a Rate Increase Resulting From Increased Operational and Tipping Fee Costs Incurred by The Dalles Disposal Service, Effective January 1, 2014**

Councilor Miller said she would abstain from voting as she was also an employee of Waste Connections.

MINUTES (Continued)  
Regular Council Meeting  
November 25, 2013  
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It was moved by Wood and seconded by Dick to adopt Resolution No. 13-035 approving a rate increase resulting from increased operational and tipping fee costs incurred by The Dalles Disposal Service, effective January 1, 2014. The motion carried unanimously, Miller abstaining.

### **PRESENTATIONS/PROCLAMATIONS**

#### **Presentation by Mid Columbia Economic Development District Regarding AGORA Investment Platform**

Maggie Hanna provided a Power Point presentation, explaining the AGORA Investment Platform Program, noting that agencies using the platform would have their proposed projects matched with funding criteria to help find funds that would help accomplish the projects. She said the Mid-Columbia area was designated for this pilot project and there were currently 40 projects on the platform, with four projects already funded. She said this information would be used as a tool in developing the Wasco County Needs and Issues list in the future.

Mayor Lawrence said the Civic Auditorium had recently registered and he understood that agencies who registered projects would receive an automatic notification if funding was matched for their project. Hanna said that was correct.

Councilor Miller asked what types of funding would be available through the program. Ms. Hanna said there were multiple types of funding, including tax credits, loans, and grants.

#### **2013 Audit Presentation**

Finance Director Mast reviewed the staff report. She noted the City had two audit findings this year, which were both Oregon Budget Law violations. In response to a question, she said the State may or may not send a letter to the City, but if they did, the City would be required to adopt a Resolution setting out how they would correct the errors. Mast introduced Tonya Moffet who provided an overview of the audit for fiscal year 2012-13.

It was moved by Wood and seconded by Spatz to accept the 2013 audit, as presented. The motion carried unanimously.

### **RECESS TO URBAN RENEWAL AGENCY MEETING**

Mayor Lawrence recessed the meeting at 6:05 p.m.

MINUTES (Continued)  
Regular Council Meeting  
November 25, 2013  
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Reconvene to City Council Meeting

The City Council meeting reconvened at 6:12 p.m.

**AUDIENCE PARTICIPATION**

None.

**CITY MANAGER REPORT**

City Manager Young reported on Planning Commission work regarding the infill development issues. He said two sub-committees had been established, with members being both Planning Commission members and citizens. Young said he would be the staff representative on the budget sub-committee.

Young said since the City Council approved a water bill waiver for the Port in September, they had shut off water to the marina for the winter and were working to get the repairs completed. He said they would exceed the 120 days allowed by the Council, but since they were not using any water during this time, he would allow them to go beyond the 120 days unless the City Council objected. It was the consensus of the Council to allow the City Manager to work with the Port to resolve the issue.

City Manager Young said staff had sent the notice to governmental agencies concerning the City's Vertical Housing Zone Incentive Program. It was explained they would have 45 days to opt out of the zone. Planning Director Gassman further explained that the State would be reviewing the application during this time period. He said the benefit of opting out was a partial tax credit, but there would be no net affect because the zone was within the Urban Renewal boundary.

Mayor Lawrence asked staff to provide the City Council with a copy of the notice that was sent to the taxing districts.

**CITY ATTORNEY REPORT**

City Attorney Parker said the bids had been received regarding the providing of title insurance in the City's upcoming foreclosure proceedings and that Wasco Title was the successful bidder. He said the process would be moving forward in December.

### **CITY COUNCIL REPORTS**

Councilor Wood said the Historic Landmarks Commission had met last week and was working with the United Congregational Church regarding their window restoration project. She said she would be attending the Council of Governments meeting on Tuesday and QLife Agency meeting on December 12.

Councilor McGlothlin said the November Airport Board meeting had been cancelled, but projects were all on schedule. He said he missed a portion of the Traffic Safety Commission meeting, but would provide a full report at a later time. McGlothlin thanked staff for the update to the City's website.

Councilor Dick said he had attended the QLife meeting and would be attending the next on in December.

Councilor Spatz said he would be attending the Mid Columbia Economic Development District meeting on December 12. He said he attended a meeting last week regarding investing and manufacturing issues and said a bi-state legislative summit would be scheduled for the Spring of 2014.

Councilor Miller said the last Urban Renewal Advisory Committee meeting had been cancelled. She said she had attended the Sister City farewell party and participated in a tour of the Cherry Growers facility.

Mayor Lawrence said he had enjoyed welcoming the Sister City delegation and believed they enjoyed their visit to The Dalles.

Councilor Spatz thanked staff for providing the beautiful gift that was given to the delegation.

Mayor Lawrence said he had met with the Secretary of State and provided her with a tour of the Civic Auditorium; participated in the Veteran's Day Parade, spoke at a Government Affairs meeting, and also participated in the Cherry Growers facility tour.

Councilor McGlothlin reported the Lions and Leo Club had screened First, Third and Fifth Grade students and provided vision tests, noting that 91 of 752 students had been identified for further diagnoses.

MINUTES (Continued)  
Regular Council Meeting  
November 25, 2013  
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### **CONSENT AGENDA**

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

The items approved by Consent Agenda were: 1) approval of the October 28, 2013 regular City Council meeting minutes; and 2) authorization for City Clerk to endorse OLCC change in ownership application for La Cabana.

### **ACTION ITEMS**

General Ordinance No. 13-1331 Approving Zoning Ordinance Amendment No. 83-13 Amending Section 6.080 (A) (2) of General Ordinance No. 98-1222, the City's Land Use Development Ordinance

City Attorney Parker reviewed the staff report.

City Clerk Krueger read General Ordinance No. 13-1331 by title.

It was moved by Spatz and seconded by Wood to adopt General Ordinance No. 13-1331 approving Zoning Ordinance Amendment No. 83-13 amending Section 6.080 (A) (2) of General Ordinance No. 98-1222, the City's Land Use Development Ordinance. The motion carried unanimously.

General Ordinance No. 13-1332 Approving Zoning Ordinance Amendment No. 85-13 Amending Certain Sections of General Ordinance No. 98-1222, the City's Land use Development Ordinance, Related to Passage of House Bill 3479

City Attorney Parker reviewed the staff report.

There was discussion regarding the definition of development and the Council was comfortable that the language reflected their desire to allow a total of 3 lots, including the original one, before it would be considered "development" as opposed to a minor partition.

City Clerk Krueger read General Ordinance No. 13-1332 by title.

It was moved by McGlothlin and seconded by Dick to adopt General Ordinance No. 13-1332 approving Zoning Ordinance Amendment No. 85-13 amending certain sections of General Ordinance No. 98-1222, the City's Land Use Development Ordinance, related to passage of House Bill 3479. The motion carried unanimously.

**DISCUSSION ITEMS**

Annual Update Regarding Transportation Systems Development Charge Credits

Public Works Director Anderson reviewed the staff report, noting this was an annual review.

Mayor Lawrence said the Barriers Committee report had expressed a concern about the City's systems development fees. Anderson said the credits were as a result of that report. He said the Planning Department was not aware of anyone not placing a business in The Dalles due to the SDC rates and that people who were not local developers expected to pay SDC's as part of their development. He said most credits were a result of local businesses expanding or moving to other properties.

It was the consensus of the Council to continue the program and direct staff to provide another report in one year.

**ADJOURNMENT**

Being no further business, the meeting adjourned at 6:55 p.m.

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SIGNED:

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

ATTEST:

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Julie Krueger, MMC, City Clerk



CITY of THE DALLES  
313 COURT STREET  
THE DALLES, OREGON 97058

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## AGENDA STAFF REPORT CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
December 9, 2013	Contract Review Board 11, A	13-081

**TO:** Honorable Mayor and City Council & Urban Renewal Board of Directors

**FROM:** Kate Mast, Finance Director

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

**DATE:** November 21, 2013

**ISSUE:** Proposal by Merina & Company, LLP, to Continue to Provide Audit Services for the City of The Dalles and Columbia Gateway Urban Renewal Agency.

**BACKGROUND:** Merina & Company, LLP, has just completed their first three-year contract for audit services for the City and Urban Renewal. City staff has worked very well with these auditors and wishes to continue that relationship for another three years. These auditors are very knowledgeable, thorough and professional. They are always open to questions and discussion and helping us to understand issues that arise.

Over the past three years I have contacted them several times outside of the scope of the audit to ask about new or complex situations. They have always responded and, even though they would be entitled to charge us for their time, they have not done so.

It is not uncommon for a city to continue to use the same auditors for several years. There is something to be said for changing auditors periodically so that new eyes are examining the City's books and accounting processes. However, the first year or so with new auditors is much more time consuming as they have to familiarize themselves with all aspects of the entities' functions before they can determine the focus of their audit. This not only increases the cost of the audit, but also uses significantly more of staff's time. Keeping the same auditors for another three years will allow us to take advantage of their familiarity with us, and to continue to learn from them.

I asked Tonya Moffitt to send a proposal to continue auditing the City and Urban Renewal for the next three years, conditioned on all of the requirements from the previous contract remaining in place, and that she remain our engagement partner and that Melissa Goss remain as our lead accountant. Her proposal is attached to this staff report.

**BUDGET IMPLICATIONS:** Merina & Company, LLP estimates approximately 3% per year increases for the not-to-exceed amounts each year.

**ALTERNATIVES:**

- A. **Staff Recommendation:** *Move to approve Merina & Company as auditors for the City of The Dalles and Columbia Gateway Urban Renewal Agency for the fiscal years ending June 30, 2014, 2015 and 2016.*
- B. Reject the proposal and instruct staff to put out a request for proposals for audit services for the next three years.

**PROPOSAL TO CONTINUE TO PROVIDE  
AUDIT SERVICES  
FOR  
CITY OF THE DALLES,  
COLUMBIA GATEWAY URBAN RENEWAL AGENCY, AND  
QUALITY LIFE INTERGOVERNMENTAL AGENCY  
NOVEMBER 21, 2013**



**Prepared by**

**MERINA  
& COMPANY, LLP**

Certified Public Accountants and Consultants

**Contact: Tonya Moffitt, Partner**

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(503) 723-0300

[www.merinacpas.com](http://www.merinacpas.com)

**Proposal to Continue to Provide Audit Services for  
City of The Dalles, Columbia Gateway Urban Renewal  
Agency, and Quality Life Intergovernmental Agency  
November 21, 2013**



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**AUDIT SCOPE**

Merina & Company, LLP (MCO) has recently completed its contract for audit services with the City of the Dalles, Columbia Gateway Urban Renewal Agency, and QualityLife Intergovernmental Agency for the periods ended June 30, 2011, 2012, and 2013. MCO is presenting this proposal to continue to provide these audit services for the fiscal years ending June 30, 2014, 2015, and 2016. All conditions of the prior contract will remain in place. We appreciate the opportunity to propose on continuing these services.

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**AUDIT TEAM**

We have selected the staff for this engagement based on their experience and training in relation to the requirements of the City. We understand that an audit can either be a disruptive experience or an opportunity to bring to the City best practices we see in other audit clients. We are committed to providing our clients with competent services, professionally delivered.

***Engagement Partner***

Tonya Moffitt, CPA (CPA License #11063; Municipal License #1392), is a Partner at MCO and will be the Engagement Partner on this engagement and will be present for a portion of the fieldwork. She received her Bachelor of Science in Accounting from Portland State University and then a Master of Science in Financial Analysis.

Ms. Moffitt has experience working with various non-profits and municipalities with a focus on cities, special districts, state agencies, and semi-independent state boards. She has been Engagement Partner for MCO's audits of the City of Gresham, City of Damascus, City of Wood Village, City of Sandy, City of Happy Valley, and Clean Water Services of Washington County and many others. Ms. Moffitt has also been the Audit Manager for the City of The Dalles, Columbia Gateway Urban Renewal Agency, and QualityLife Intergovernmental Agency's audits for the last three years. She has also managed several federal compliance audits at the Oregon Secretary of State Audits Division. She is also responsible for training the new staff who assist in governmental and compliance audits.

She is a reviewer for the GFOA Certificate of Excellence in Financial Reporting Award program and has assisted several of our clients in their initial submission and retention of the award. Ms. Moffitt is also currently a committee member and former Co-chair of the Accounting Standards Review Committee for the Oregon Municipal Finance Officers Association and a member of the OSCP Legislative Committee. She participates in the Oregon Society of Certified Public Accountants Coaching Program as a guide to students as they make the transition from college into the accounting profession. She served as Chair of the Board of Directors and is a current finance committee member for Forward Stride, a non-profit therapeutic equine program which provides, promotes, and supports quality therapeutic recreation services for children and adults.

Ms. Moffitt focuses her continuing professional education in governmental accounting, Oregon Budget Law, and non-profit accounting. She meets all Yellow Book continuing education requirements for in-charge auditors.

**Proposal to Continue to Provide Audit Services for  
City of The Dalles, Columbia Gateway Urban Renewal  
Agency, and Quality Life Intergovernmental Agency  
November 21, 2013**

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***Quality Control Partner***

Kamala Austin, CPA (CPA License #9198; Municipal License #1287), will be the Quality Control Partner. She oversees the firm's municipal audit practice. Ms. Austin received her Bachelor of Science in Accounting from Portland State University. In her seventeen years of experience she streamlined the MCO's audit process and achieved significant efficiencies through development of custom audit programs, standardized workpapers, and financial statement templates. She is a reviewer for the GFOA Certificate of Excellence in Financial Reporting award program and has assisted several of our clients in their initial submission as well as retention of the award.

Ms. Austin will be responsible for the Engagement Quality Control Review.

***Senior Accountant***

Melissa Goss, CPA Candidate, will be the Senior Accountant leading this engagement. She joined MCO over six years ago as an Office Assistant and has five years of governmental auditing experience. Ms. Goss earned a Post-Baccalaureate Certificate in Accounting from Portland State University and has continued to advance and excel in her career. She has been the lead on many governmental audit engagements through all reporting stages including, planning, conducting, leading and reviewing the engagements. She has assisted or led the audits of the City of Gresham, City of Damascus, City of Sandy, City of Happy Valley, and City of Gladstone, among others. Ms. Goss also has assisted with the audits for the City of The Dalles, Columbia Gateway Urban Renewal Agency, and QualityLife Intergovernmental Agency and has advanced to a leading role. Her continuing professional education is focused on governmental and non-profit auditing with a focus on Yellow Book requirements.

Rochelle Friend, CPA (CPA License #13348; Municipal License #1550), will be a Senior Accountant on this engagement and is a new addition to MCO. She received a Bachelor of Arts in Accounting from Linnfield College. Prior to joining MCO Ms. Friend gained valuable audit experience as a Staff Accountant with Friend & Reagan, PC. Ms. Friend has three years of public accounting experience in governmental and non-profit auditing and specializes in performing single audits of federal programs. She has performed many aspects of financial audits including planning, conducting, leading and reviewing audits through the reporting stages. Ms. Friend has assisted on several clients with MCO such as the City of The Dalles, City of Sandy, City of Tillamook, City of Independence, and Clean Water Services of Washington County, among others. With her prior firm Ms. Friend led the audits of the component units of Wasco County, and assisted on the audits of Wasco County School District, Chenoweth Water District, and East Fork Irrigation District as well as other services for other municipalities. Her areas of focus include A-133 single audits and financial audits of municipalities and non-profit organizations including Yellow Book requirements.

***Staff Accountants***

Our staff accountants are all CPA's or CPA candidates. They have prior experience auditing other MCO governmental and non-profit clients, performing single audits, and testing compliance with Oregon Local Budget Law. Continuing education emphasizes governmental and non-profit auditing and accounting and also Oregon requirements. As a result of our specialization in governmental auditing all of our staff has in-depth experience with municipal engagements.

**Proposal to Continue to Provide Audit Services for  
City of The Dalles, Columbia Gateway Urban Renewal  
Agency, and Quality Life Intergovernmental Agency  
November 21, 2013**



**AUDIT FEES**

***Proposed Fees***

Based on our experience with the City of The Dalles, Columbia Gateway Urban Renewal Agency, and Quality Life Intergovernmental Agency, we estimate a fair price for these engagements of \$42,600, \$43,800, and \$45,080. A breakdown of this fee is presented below. This is a Not-To-Exceed fee and includes all incidental costs such as preparing all report copies, travel, subsistence, etc. If we are able to complete the project in less time, we will bill only for costs actually incurred. The single audit fee listed below is for one major program. Each additional required major program will be an additional \$3,000.

It is our practice to hold future fees at an increase of about three percent. If during the contract period there is a change in scope or if extraordinary situations arise that would require additional audit time, we would expect to be able to discuss this with management and arrive at a mutually agreeable adjustment to the basic fee. Also, if the federal program(s) for the single audit is significantly more complicated than expected we expect to discuss this with management and come to an agreed upon adjustment to the fee.

	<u>June 30, 2014</u>	<u>June 30, 2015</u>	<u>June 30, 2016</u>
City financial audit	\$ 27,825	\$ 28,600	\$ 29,450
Single audit	5,450	5,600	5,750
Urban Renewal audit	4,175	4,300	4,430
QLife audit	5,150	5,300	5,450
GFOA Certificate	Included	Included	Included
Preparation of CAFRs	Included	Included	Included
<b>Total</b>	<b>\$ 42,600</b>	<b>\$ 43,800</b>	<b>\$ 45,080</b>

This fee has been determined according to the following schedule. Because interim fieldwork and final fieldwork will be performed in May and August, respectively, the City will receive a discount as these are slower months for the firm.

<u>Position</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total Cost for the Year Ending June 30,</u>		
			<u>2014</u>	<u>2015</u>	<u>2015</u>
Engagement Partner	35	\$ 175	\$ 6,700	\$ 6,900	\$ 7,110
Audit Manager	70	150	11,470	11,810	12,160
Senior Accountant	130	125	17,760	18,290	18,840
Staff Accountant	170	100	18,580	19,140	19,710
Administrative	10	60	660	680	700
Discount			(12,570)	(13,020)	(13,440)
<b>Total</b>			<b>\$ 42,600</b>	<b>\$ 43,800</b>	<b>\$ 45,080</b>

***Additional Technical Assistance Billing Rates***

Billing rates for additional technical assistance are the same as listed in the table above.



## AGENDA STAFF REPORT CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
December 9, 2013	Action Item 12, A	13-082

**TO:** Mayor and City Council

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

**DATE:** November 21, 2013

**ISSUE:** Citizen's Request for Repeal of City Manager's decision to issue a right of way encroachment permit for a basketball hoop on West 22<sup>nd</sup> Street

**BACKGROUND:** This summer Jeremiah and Kim Porter who live at 522 West 22<sup>nd</sup> Street placed a portable basketball hoop in the right of way at the back of the property of Thomas and Carol Tramontina at 2111 Garrison Avenue. Mr. & Mrs. Tramontina requested that the City have the basketball hoop removed. After a site visit and determining there was a low traffic level on West 22<sup>nd</sup> Street, it was decided that the basketball hoop could remain through an encroachment permit. Attached is a map of the area and the encroachment permit.

Prior to issuing the encroachment permit the City Manager required:

1. The Porters to show that a majority of the property owners in the cul-de-sac supported the request.
2. That they provide a signed letter of support from the property owner of the property adjacent to the right of way where the hoop would be placed.

Mr. & Mrs. Tramontina expressed opposition to this encroachment permit. Attached is a letter from Greg & Lori Burkart, who supported placing the basketball hoop at the rear of their property at 2115 Garrison, and the document of support signed by the neighbors on 22<sup>nd</sup>.

The Porters were unable to place the basketball hoop in front of their property because of

slope (grade) of 22<sup>nd</sup> Street. The selected location was chosen because the grade was level.

Attached is a letter from the attorney for the Tramontina's who appealed this issue to the City Council, and a letter from the City Manager providing them with the information they requested and a recommendation that they bring this issue before the Traffic Safety Committee.

The Traffic Safety Committee considered this request at their November 20 meeting. Mr. Tramontina and his attorney were at this meeting, the Porters were unable to attend. After hearing from Mr. Tramontina and his attorney, the Traffic Safety Committee recommended to the City Council that the basketball hoop be removed for safety reasons. Attached is a copy of those minutes.

### **COUNCIL ALTERNATIVES:**

1. Direct the City Manager to void the encroachment permit issued to Mr. & Mrs. Porter for a basketball hoop in the cul-de-sac at West 22<sup>nd</sup> Street, and require that the basketball hoop be removed, as recommended by the Traffic Safety Committee.
2. Uphold the decision of the City Manager to issue the encroachment permit and deny the Tramontina's request to have it voided.
3. Postpone action on this item to allow time for additional research.

SUBJECT TO COMMISSION  
APPROVAL AT THE  
NEXT REGULAR MEETING

TRAFFIC SAFETY COMMISSION  
November 20, 2013

COMMISSION PRESENT: John Nelson, Frank Pyles, Chuck Covert, Mike Kilkenny, Jim Bishop, Donna Lawrence and John Layson

ABSENT MEMBERS: None

STAFF PRESENT: Dale McCabe – City Engineer, Dave Anderson, Public Works Director, Nolan Young – City Manager, Jay Waterbury – City Police Chief, Tim McGlothlin – City Council Representative and Cindy Keever – Administrative Secretary

PUBLIC PRESENT: Sheldon Leigh, Chase Nagamatsu, Dorian Lovett, Shelly Lovett, Jim Habberstad, Tom Travintino, Mathew Klebes, Clay Smith and Ethan Wray.

Jim Bishop moved to approve the minutes as written. Mike Kilkenny seconded the motion and the motion passed unanimously.

**PUBLIC COMMENT/AUDIENCE PARTICIPATION/PRESENTATIONS:**

**NEW BUSINESS:**

**1) Sonrise Academy School Zone/Crosswalk Request**

Sheldon Leigh, President of Sonrise Academy Student Body asked the Commission to consider adding a mid-block crosswalk on 12<sup>th</sup> Street leading to the main entrance into their school and to install School Zone signs along 12<sup>th</sup> and Federal Streets. Sheldon explained there are approximately 70 students that attend Sonrise Academy and over 50% walk at least to or from school each day.

Chief Waterbury said the City has not put in mid-block cross walks in compliance with the MUTCD manual

**2) W 7<sup>th</sup> – Myrtle to Snipes Area Speed Posting**

**3) Basketball Hoops on W 22<sup>nd</sup>**

Nolan Young began the discussion explaining the background for the request for the Encroachment Permit by Mr. & Mrs. Porter of 522 W 22<sup>nd</sup> Street, for the basketball hoop in the cul-de-sac on W 22<sup>nd</sup> Street. Upon receipt of the original request Nolan asked the Porters to gather a signed petition from the neighbors agreeing upon the placement of the basketball hoop. Basketball hoop was originally placed in front of the lot owned by Tom and Carol Tramontina (2111 Garrison). Tramontina's did not agree to the placement so the hoop was moved to its current location in front of 2115 Garrison. Nolan issued an encroachment permit once the Porter's brought him the signed petition from area neighbors.

Discussion was held regarding why the basketball hoop was not originally put in front of the Porter's house, the slope of the road into the cul de sac, steepness of the area yards and locations areas that are not conducive to play basketball.

Jim Habberstad, representative for the Tramontinas spoke to the group regarding Tom's belief there is a serious safety concern by having the hoop in the street. Tom said West 22<sup>nd</sup> Street is offset and does not intersect at a 90 degree angle. He explained there is an approximate 16 degree grade change and he gave a presentation of what drivers can see as they round the corner entering the cul de sac. Tom said there are 2 basketball hoops in 2 private driveways in that cul de sac and they are an 8 minute walk away from Col. Wright School. Mr. Tramontina is appealing Nolan's approval for an Encroachment Permit and is requesting the issue be brought before the City Council. Mr. Habberstad doesn't believe an adequate safety study was done prior to the approval of the Encroachment Permit.

A discussion was held among commission members with the consensus being that the City should not be issuing any permits that would encourage children to play in the street.

Donna Lawrence made a motion to recommend to Nolan and the City Council for removal of the basketball hoop in the cul de sac on W 22<sup>nd</sup> Street. Chuck Covert seconded the motion and the motion passed unanimously. Mike Kilkenney abstained from voting due to a professional relationship with the Porters.

### **OLD BUSINESS:**

#### **1) Right Turn Yield at 2<sup>nd</sup> & Hostetler**

Cindy Kever told the members she had received a call shortly after the October meeting from Shirley Hovda and she had explained the commissions' decision to leave the signage as is. Because of the phone call, Cindy did not send a letter to Shirley Hovda. Mrs. Hovda thanked the commission for their time.

#### **2) Speed Study at 6<sup>th</sup> & Division**

Dale McCabe told the Commission that the speed study had not been done, but that the computer part of the radar trailer had been taken off of the machine and packaged and shipped back to the manufacturer for their help in retrieving the information. Information will be shared with the members as soon as it is received.

#### **3) Webber Street Water Line Project**

Dale McCabe told members that the contractor is going to be doing a pressure test on the water line today. He also told members he has been in contact with the contractor daily (if not several times a day) regarding the CDF that is starting to wash out of the cuts because of the recent rains we have experienced. The cut is difficult to drive across due to ruts, ridges and potholes The contractor has filled the areas with gravel as a temporary fix and is meeting this afternoon with the asphalt plant owner to schedule hot mix to patch the cuts.

#### **4) 7<sup>th</sup> & Pomona Site Visibility Issue**

John Nelson read an email from Cindy Kever regarding her conversation with Steve Horzenik, Operations Manager with PUD. Steve had explained that the PUD does not normally trim ivy (or other vegetation) off of poles unless it is becoming a hazard to their lines. In this instance and because of the aggressive nature of ivy, he did agree to cut the ivy close to the ground and then spray it. He also suggested calling the City's Codes Enforcement Officer and reporting the site hazard that is caused by the ivy growing on the wall. Commission members agreed with the suggestion and an email will be sent to the Codes Enforcement Officer so that a letter can be sent to the property owner.

#### **5) Oregon Impact Traffic Study**

John Nelson explained the Oregon Impact Traffic Study and asked if members could also take a look at the study, send their comments to him and he will compile the information and bring it back to the table for the December meeting.

There being no further business to come before the Commission, Chuck Covert moved to adjourn. Mike Kilkenney seconded the motion and the motion passed unanimously.

Cindy Keever  
Administrative Secretary  
City of The Dalles

Final approval

---

John Nelson

September 3, 2013

Mr. Nolan Young,

We, Jeremiah and Kim Porter, request a permit from the city to place a basketball hoop in our cul-de-sac (W 22nd St).

Our 4 children, our neighbors' children, grandchildren and great-grandchildren, as well as some adults have enjoyed time together playing on this basketball hoop. It has been expressed by residents of our cul-de-sac that having the hoop is "wonderful" and they "love to hear the laughter and watch the play" that ensues. This has been a blessing and we have enjoyed a communal bond between neighbors and kiddos that has come by "meeting" in the cul-de-sac through this spring and summer.

All involved and residing on the said cul-de-sac want this hoop to remain. We would like to go through the necessary process to make sure the hoop does in fact remain a part of the cul-de-sac and communal atmosphere we have built.

Thank you for your time and consideration.

Sincerely,

Jeremiah & Kim Porter  
522 W 22nd St  
The Dalles, OR 97058  
541-705-7227

We the residents of West 22<sup>nd</sup> Street do not oppose the placement of a basketball hoop in the cul-de-sac, and approve of the city granting a permit for it.

Signature: [Handwritten Signature]

Address: 522 W. 22<sup>nd</sup> St.

Signature: Sue Hill

Address: 524 W 22 St.

Signature: [Handwritten Signature]

Address: 515 W 22<sup>nd</sup> St.

Signature: Louis Hammer

Address: 518 W. 22<sup>nd</sup> St.

Signature: [Handwritten Signature]

Address: 520 W. 22<sup>nd</sup> St.

Greg and Lori Burkart  
2115 Garrison ST  
The Dalles, OR 97058  
September 30, 2013

Subject: Consent for basketball hoop

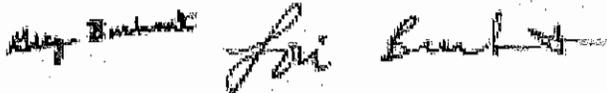
To Whom It May Concern:

We are writing to let you know that we are permitting our neighbors, Jeremiah and Kim Porter, at 522 W. 22<sup>nd</sup> ST, to place their portable basketball hoop in the street (cul-de-sac) behind our home at 2115 Garrison ST (the corner of Garrison and 22<sup>nd</sup>) in The Dalles, Oregon. We recognize that the street on the back of our property is one of the few level areas in the cul-de-sac and, as teachers, we understand the importance of outdoor play in a child's physical and social-emotional development.

We are also permitting those using the basketball hoop to access our property, as needed, to retrieve a ball. We are not responsible for supervising the use of the basketball hoop nor are we responsible for any damages or accidents related to the placement of the basketball hoop.

If you have any further questions, please contact us at 541-296-6199.

Sincerely,



Greg and Lori Burkart

After recording, return to:

City Clerk  
313 Court Street  
The Dalles, OR 97058

### ENCROACHMENT AGREEMENT

**WHEREAS**, Jeremiah & Kim Porter, hereinafter referred to as "Applicants", reside at the real property described as Assessor's Map No. 1N 13E 4DC, Tax Lot 3000, located at 522 West 22nd, The Dalles, Oregon; and

**WHEREAS**, the Applicants have submitted a request to the City of The Dalles for permission to encroach upon a portion of public right-of-way on West 22nd Street which is adjacent to the property located at 2115 Garrison Street, which property is owned by Greg and Lori Burkhardt, which property is further described as Krauss Addition to the City of The Dalles, Lot 14, Block I, for the purpose of allowing two basketball standards to remain in the public right-of-way; and

**WHEREAS**, Greg and Lori Burkhardt are in agreement with permitting this requested encroachment; and

**WHEREAS**, the four (4) neighbors whose property and homes front on the 500 block of West 22<sup>nd</sup> Street support this request; and

**WHEREAS**, this proposed encroachment is located on a street of low traffic because of its location on a cul-de-sac off a dead end street; and

**WHEREAS**, Section 4 of General Ordinance No. 97-1217 provides that no person may occupy or encroach on a public right-of-way without the permission of the City; and

**WHEREAS**, the City and the Applicants have agreed upon the provisions necessary for the approval of an encroachment upon a portion of West 22<sup>nd</sup> Street as requested by the Applicants;

#### **NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:**

1. The City of The Dalles hereby authorizes the Applicants to encroach upon the portion of the right-of-way of West 22nd Street, by placing the two basketball standards on the street against the curb adjacent to 2115 Garrison as shown in the map labeled Exhibit "A", which Exhibit is incorporated herein by this reference. The purpose of this Encroachment Agreement is to allow the Applicants to continue placement of the basketball standards in the public right-of-way, subject to the conditions set forth in this agreement.
2. The Applicants agree to be responsible for repairing any damage to the property located at 2115 Garrison Street, owned by Greg and Lori Burkhardt, and any other adjoining property, which is directly caused by the use of the basketball standards, by the Applicants' children or by anyone else using the basketball standards.
3. The Applicants agree to remove any debris which accumulates adjacent to or underneath the basketball standards, which the City's street sweeper is unable to remove from the street due to the presence of the basketball standards.
4. The Applicants agree to indemnify and hold the City of The Dalles, its officers, agents, and employees, and Greg and Lori Burkhardt, and any subsequent owners of the property, harmless from any claims for personal injury or property damage of any nature, which may arise from the use of the basketball standards.

**COPY**





**CITY of THE DALLES**

313 COURT STREET  
THE DALLES, OREGON 97058

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

October 22, 2013

Tom & Carol Tramontina  
PO Box 1157  
The Dalles, OR 97058

Dear Mr. & Mrs. Tramontina;

I have received your letter of September 23, 2013. At that time I had received a request from Mr. & Mrs. Porter for an encroachment permit in the public right of way in the 500 block of West 22<sup>nd</sup> Street. The request included support for the basketball hoop from all the properties fronting West 22<sup>nd</sup> Street in the area of the neighbor in front of which the basketball hoop was placed.

Because of the low traffic volume, and the visibility in this area, I have approved this permit for placement at the back of the property at 2115 Garrison. Where you had previously expressed concern, I wanted to know I had taken this action. The permit does not allow the Porters to place the basketball hoop on the 22<sup>nd</sup> Street frontage of the property you own at 2111 Garrison Avenue.

As provided in General Ordinance No. 97-1217, action taken by the City Manager under this ordinance can be appealed to the City Council. If you wish to do so, please write me a letter requesting such and I will place the request on a City Council agenda, for the Council's consideration.

Regards,

Nolan K. Young  
City Manager

CC: James Habberstad

# LAW OFFICE OF JAMES M. HABBERSTAD

James M. Habberstad, Esq.

Samantha White  
Legal Assistant

106 East Fourth Street  
Second Floor  
The Dalles OR 97058-1863

541.296.8533 telephone  
541.296.6421 facsimile  
[jim@jhabberstad.com](mailto:jim@jhabberstad.com)

October 31, 2013

Mayor Steve Lawrence  
City of The Dalles  
222 West 12<sup>th</sup>  
The Dalles, OR 97058

**RE: PORTER ENCROACHMENT PERMIT**

Dear Mayor Lawrence:

Please be advised that I represent Tom and Carol Tramontina who reside at 2111 Garrison Avenue. Mr. and Mrs. Tramontina's lot also borders on West 22<sup>nd</sup> Street.

Since June, Jeremiah and Kim Porter who reside at 522 West 22<sup>nd</sup> Street, have periodically placed a basketball hoop in the city right of way on West 22<sup>nd</sup> Street.

Initially, my client contacted Mr. Parker complaining of the location of the basketball hoop. This resulted in Mr. Parker proposing an encroachment agreement in late June.

My clients were then, and are now, opposed to the encroachment agreement between the city and the Porter's. My clients have presented the city with a petition opposing the encroachment agreement. However, my clients now understand, as a result of a telephone conversation with Nolan Young on October 22, 2013, that an encroachment permit will be granted to the Porters. If this is accurate, my clients wish to appeal this decision to the city counsel.

In preparing for the appeal, I would appreciate the appropriate city employee providing me with the following document:

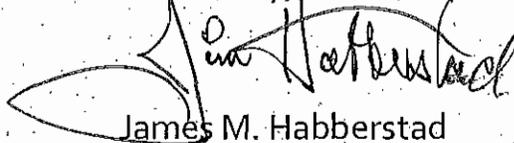
-A copy of the encroachment permit granted by the city manager;

-A copy of the written policy and procedures for granting an encroachment permit as provided under General Ordinance No. 97-1217 (2-12:5) Section 4 City Permission Requirement;

- A copy of the written criteria for determining that an encroachment permit is allowable under General Ordinance No. 97-1217 (2-12.5) Section 4 City Permission Requirement;
- All documents generated during the safety analysis/review portion of the permit application review process;
- A copy of any checklist, "score card" or any other documents used to determine that the criteria for granting an encroachment permit have been achieved;
- Any notes, minutes or any other documents that document the conclusion made as a result of the inspection made by City Attorney Gene Parker and Ms. Lesich of the location of the two basketball standards discussed in Gene Parker's letter dated June 13, 2013;
- A copy of documents generated during review with the Public Works Department representatives as discussed in Gene Parker's letter dated June 3, 2013 concerning the impacts of leaving the two basketball standards at their current location in the public right-of-way;
- An accounting of labor hours and the dollar cost incurred by the City of The Dalles as of October 23, 2013, related to the issuance of the subject encroachment permit;
- Amount of any fees collected by the City of The Dalles for issuance of subject encroachment permit.

I would appreciate your advising me of when this matter can be considered by the City Council.

Yours truly,



James M. Habberstad

JMH:sw

cc: Tom and Carol Tramontina  
Nolan Young, The Dalles City Manager  
Gene Parker, The Dalles City Attorney



CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

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

November 7, 2013

Law Offices of James M. Habberstad  
106 East Fourth Street, Second Floor  
The Dalles, OR 97058-1863

RE: Porter Encroachment Permit

Dear Mr. Habberstad;

Mayor Steve Lawrence has provided me your letter of October 31, 2013, appealing my decision to issue an encroachment permit between the City of The Dalles and Jeremiah and Kim Porter, for placement of a basketball hoop in the City right of way on 22<sup>nd</sup> Street.

As you have requested I have enclosed a copy of the following:

- Encroachment Permit granted on behalf of the City, by myself, as the City Manager;
- General Ordinance No. 97-1217, Section 4 regarding activities allowed in public right of way. We do not have a specific written policy or procedure for the granting of Right of Way (ROW) encroachment requests, instead we consider each one individually on their merit.

You have also requested several other items, including written criteria for determining encroachment permits; safety analysis; check list for eligibility score card, relating to the issuance of Mr. and Mrs. Porter's encroachment permit. This documentation does not exist. We analyze requests for encroachment permits based on what we consider reasonable standards of safety. In this case, through a site visit, we determined that there was adequate sight distance, and because of the streets perceived level of traffic due to location on a cul-de-sac, that this particular placement of a basketball hoop would not create a negative impact on this street. We did determine that because of Mr. and Mrs. Tramontina's concerns that the basketball hoop would not be allowed in the right of way adjacent to their property.

We have not included labor hours and dollar costs related to this encroachment permit. The City does not track hours on this type of activity; so any documentation would be at best a guess. You also requested a list of any fees collected by the City of The Dalles for issuance of an encroachment permit. We currently do not have a fee for issuance of encroachment permits.

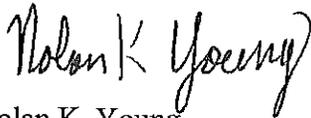
Your request for "notes, minutes or other documentation including discussions with the public works department, and correspondence from our files is included in this letter. This letter and attachments will also be provided to the City Council as part of the agenda staff report that will be sent to the City Council prior to the meeting you requested, and we will see that you get a copy of that report.

If prior to submitting to the City Council for review, your clients would like to bring this to the Traffic Safety Committee, that would be an appropriate step. This step is one that the City Council may request if this issue is brought to them without this step having been completed. If you wish to go this direction, please let us know.

We can place this item on the Council's December 9 meeting agenda. Please let me know at least two weeks in advance of this meeting if you wish to have the issue placed on the agenda for discussion. Also, let me know if you would like my assistance in taking this issue to the Traffic Safety Committee for review and recommendation prior to going to the City Council. The next Traffic Safety Committee meeting is scheduled for November 20, at 7 a.m. We need one week's notice for this meeting.

Please contact me once you have reviewed this information and determined your next course of action, or if you need additional information.

Regards,

A handwritten signature in black ink that reads "Nolan K. Young". The signature is written in a cursive style with a large, stylized "N" and "Y".

Nolan K. Young  
City Manager

## GENERAL ORDINANCE NO 97-1217

AN ORDINANCE PROVIDING FOR REGULATION OF PUBLIC RIGHTS-OF-WAY, AND FOR CONSTRUCTION PERMITS WITHIN THE PUBLIC RIGHTS-OF-WAY, AND REPEALING GENERAL ORDINANCE NO. 362

THE COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:

Section 1. Definitions. For purposes of this ordinance, the following mean:

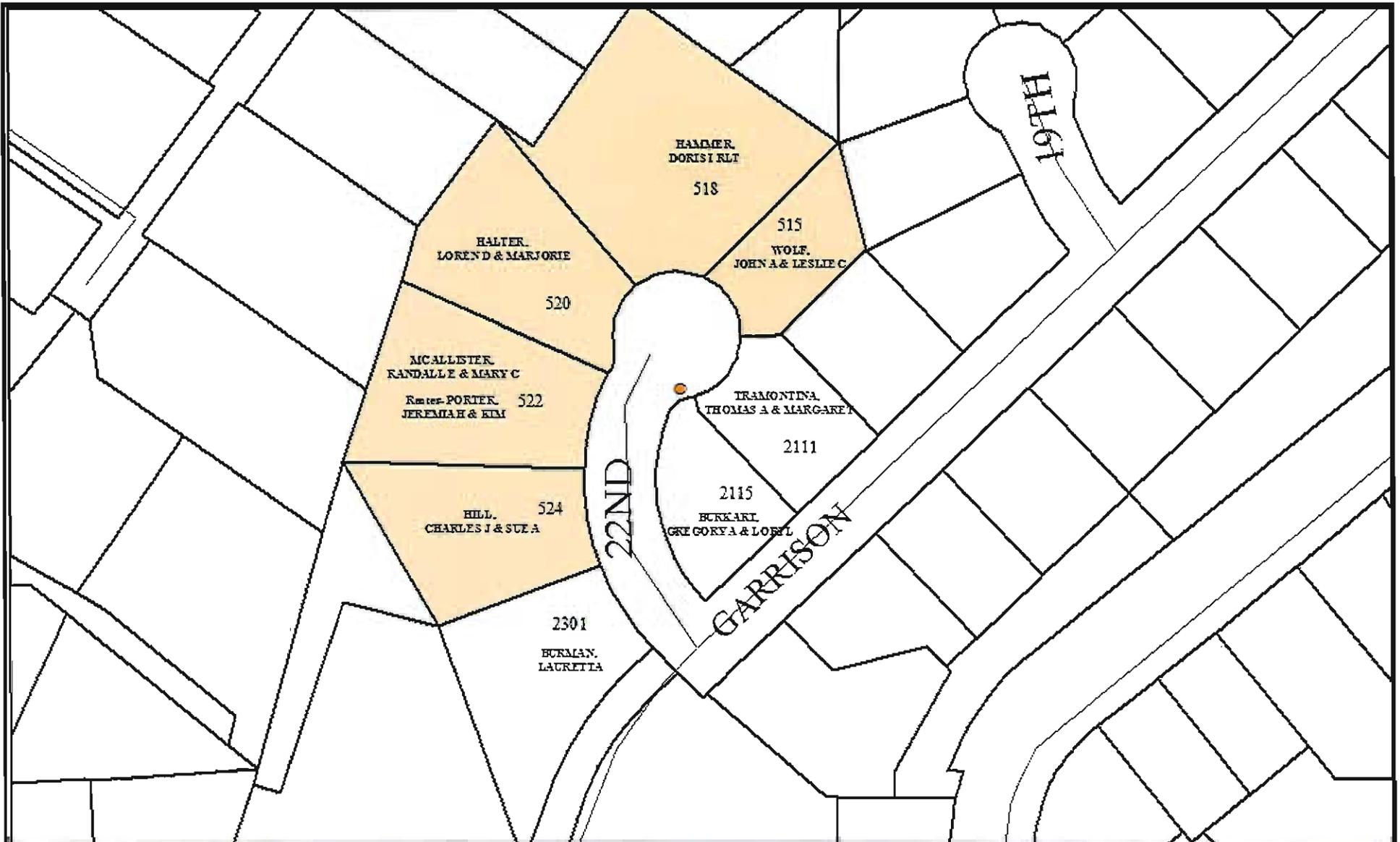
- A. City. The City of The Dalles, Oregon.
- B. Director. The duly appointed Director of the Department of Public Works, or his or her authorized designee.
- C. Person. Individual, corporation, association, firm, partnership, joint stock company, and similar entities.
- D. Public rights-of-way. Include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including subsurface and air space over these areas.
- E. Within the City. Territory over which the city now has or acquires jurisdiction for the exercise of its powers.

Section 2. Jurisdiction. The city of The Dalles has jurisdiction and exercises regulatory control over all public rights-of-way within the city under the authority of the city charter and state law.

Section 3. Scope of Regulatory Control. The city has jurisdiction and exercises regulatory control over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory control over each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

\*Section 4. City Permission Requirement. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises, licenses, and permits.

Section 5. Obligations of the City. The exercise of jurisdiction and regulatory control over a public right-of-way by the city is not official acceptance of the right of way, and does not obligate the city to maintain or repair any part of the right-of-way.



**Legend**

-  Taxlots
-  Basketball Hoop Supporters
-  Basketball Hoop Location

Jeremiah & Kim Porter  
 Cul-de-sac Basketball Hoop  
 522 West 22nd Street



Planning Department  
 October 14, 2013 ~ DMH



## CITY OF THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

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

# AGENDA STAFF REPORT

## CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
December 9, 2013	Action Items 12, B	13-080

**TO:** Honorable Mayor and City Council

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

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

**DATE:** November 20, 2013

**ISSUE:** Approval of Intergovernmental Agreement between the City and the Port of The Dalles concerning dedication of the public infrastructure in the North Chenoweth Development.

**RELATED CITY COUNCIL GOAL:** Goal 1: Provide Public Works infrastructure that will ensure safe and well maintained streets and reliable utility systems for the citizens of The Dalles.

**PREVIOUS AGENDA REPORT NUMBERS:** None.

**BACKGROUND:** Staff members from the City Public Works Department have been working with staff representatives from the Port of The Dalles for the design and installation of public infrastructure for the development of the North Chenowith Subdivision by the Port. The City's standard practice for these types of development is that the developer installs the required public infrastructure in accordance with City standards and specifications. The City inspects the public infrastructure, and once the City verifies the public improvements have been properly constructed, the developer dedicates the improvements to the City. The City is then responsible for the maintenance of the public improvements. For the North Chenowith Subdivision, these

public improvements will include roads, water and sewer lines, a sewer lift station, and pressure lines.

The Port has obtained financial assistance from the State of Oregon for the installation of the public improvements. As a condition of the financial assistance, the State requires that the Port enter into an intergovernmental agreement with the City concerning the installation of the public improvements, including provisions as to which entity will ultimately be responsible for the maintenance of the public improvements.

Enclosed with this staff report is a proposed intergovernmental agreement between the City and the Port. The Port's Board of Commissioners has already approved the agreement, and the agreement is being submitted for the Council's review and approval.

**BUDGET IMPLICATIONS:** Once the City has verified that the public improvements have been installed by the Port to the City's standards and specifications, the City will be responsible for maintenance of the public improvements.

**ALTERNATIVES:**

- A. **Staff Recommendation.** *Move the authorize the City Manager to execute the Intergovernmental Agreement between the City and the Port of The Dalles concerning the dedication of the public infrastructure in the North Chenoweth Development.*
- B. Advise staff of any proposed revisions to the agreement and direct staff to present the revised agreement to the Port for its review and approval.

**INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF  
THE DALLES AND PORT OF THE DALLES CONCERNING THE  
DEDICATION OF THE PUBLIC INFRASTRUCTURE IN THE  
NORTH CHENOWETH DEVELOPMENT**

This Intergovernmental Agreement is entered into this \_\_\_\_ day of December, 2013, by and between the City of The Dalles, an Oregon municipal corporation, hereinafter called the "City", and the Port of The Dalles, an Oregon special district, hereinafter called the "Port"; each of which may also be referred to individually as a "Party" and collectively as the "Parties".

The purpose of this Agreement is to set forth the commitments of the Parties with regard to the Public Infrastructure on the North Chenoweth Development.

**RECITALS:**

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

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

**WHEREAS**, the Port and the City have worked jointly together on the design of the Public Infrastructure to be constructed for the North Chenoweth Development; and

**WHEREAS**, the Port will be constructing certain necessary Public Infrastructure improvements to the City standards; and

**WHEREAS**, the City has the capacity and expertise to operate and maintain constructed Public Infrastructure improvements, and the Parties have agreed it would be beneficial to the health and welfare of residents of the City and citizens who benefit from City services and improvements, including, but not limited to public roads and rights of way and utilities within same, for the City to assume ownership of the public roads and public utility infrastructure in the North Chenoweth Development, once completed;

**NOW, THEREFORE**, it is mutually agreed as follows:

1. City Responsibilities. City will be responsible for maintenance of the roads, water and sewer lines and sewer lift station and pressure lines to be installed as part of the North Chenowith Development project, upon verification that the roads and those specific public utilities have been installed in accordance with required City standards and specifications and such systems have been dedicated to the City by the Port.

2. Port Responsibilities. Upon verification from the City that the roads and the above mentioned specific public utilities have been installed in accordance with required City standards and specifications, the Port will dedicate said Public Infrastructure improvements to the City.

3. Ownership and Maintenance of the Public Infrastructure Utilities. Upon acceptance by the City, of the completed Public Infrastructure improvements set forth herein, the North Chenoweth Development project public roads, water and sewer lines and sewer lift station and pressure lines installed as part of the North Chenoweth Development project, will be owned and maintained by the City, until such time as jurisdiction over the utilities is passed to another public entity as agreed upon by the Parties.

