

**AGENDA**

**REGULAR CITY COUNCIL MEETING**

**OCTOBER 11, 2021**

**5:30 p.m.**

**VIA ZOOM**

<https://zoom.us/j/93160851764?pwd=VVhUVkpSb1h2aFBhbUtsMEY2bnZHQT09>

Meeting ID: 931 6085 1764

Passcode: 216856

Dial +1 346 248 7799 or +1 669 900 6833

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. PRESENTATIONS/PROCLAMATIONS
  - A. Certificate of Recognition – Deputy Talley
  - B. Main Street Update - Victoria Davis, Executive Director

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 COUNCIL REPORTS

9. CONSENT AGENDA

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

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**CITY OF THE DALLES**

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

- A. Approval of the September 27, 2021 Regular City Council Meeting Minutes

10. ACTION ITEMS

- A. Approval of Task Order #14 to allow the Airport to contract the engineer and sub-contractors for the South Apron Rehabilitation and Taxiway Improvement project. AIP Project No. 3-41-0059-018-2021
- B. Resolution No. 21-020 Authorizing Transfers of Budgeted Amounts Between Categories of Various Funds of the City Of The Dalles Adopted Budget, Making Appropriations and Authorizing Expenditures for Fiscal Year Ending June 30, 2022
- C. Resolution No. 21-021 A Resolution Enforcing The Dalles Municipal Code Chapter 2.24 Public Rights of Way and Relating to Encroachment Removal on East 9<sup>th</sup> Street

11. ADJOURNMENT

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This meeting conducted VIA Zoom

Prepared by/  
Izetta Grossman, CMC  
City Clerk

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**CITY OF THE DALLES**

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

# CERTIFICATE OF RECOGNITION

Issued to

**Deputy Alicia Talley**

On the afternoon of July 6, 2021 NORCOR Corrections Deputy Alicia Talley was fishing with her daughter near the Columbia River when she heard someone's cries for help. Talley immediately located a man calling for help for his girlfriend and her young son, both of which had been swept away by the strong currents out into the Columbia River.


With no regard for her own personal safety (herself recovering from a recent major surgery), she dove into the river. Fighting the strong currents and exhaustion for what seemed like an eternity, she was finally able to reach the young boy and bring him safely back to shore

On behalf of the City Council and the citizens of The Dalles, please accept our gratitude for your selfless actions on July 6, 2021.

Dated this 11<sup>th</sup> day of October, 2021

  
Richard A. Mays, Mayor

Attest:

  
Izetta Grossman, CMC City Clerk



Objectives:

(1) Introductions, (2) Status Report

Author: Victoria Davis, MBA, CPIM, Executive Director

Contribution(s): Main Street Board of Directors

September 23, 2021

## Executive Summary: The Dalles Main Street Program

Greetings,

My name is Victoria Davis (Linebarger) and I am the new Executive Director for the Main Street Program. With that said, I thought it would be nice to take a moment and thank the Main Street Board of Directors for providing me with an opportunity to serve my community. So, thank you. My professional background has primarily been spent in the Aero-Space and Defense industry serving as a Production, Planning, and Controls Specialist as part of the Program Management team at Insitu. In addition, I also spent some time as an Engineering Support Specialist for the Bonneville Power Administration. And lastly, I hold a professional certification in Production, Planning, and Inventory Management from the Association for Supply Chain Management. My professional background is deeply rooted in analytics, planning, and solving problems with precision and decisiveness; all of which should serve us well for the challenges that lie ahead. As far as education is concerned, my undergrad is a double major in Marketing and Business Management. And I have a Master's Degree in Business Administration from Eastern Oregon University with Cum Laude honors. In short, I am pleased to put my skillsets to work for our community.

Sincerely,

*Victoria Davis*

### **Status Report:**

Main Street is currently being reorganized from the ground up. Our current objective is to implement a practical business plan that is driven by our new strategic business model. Our new model, will focus heavily on (1) identifying and addressing stakeholders needs, (2) solving unique problems that drive economic vitality, and (3) implement measurability's that enhance customer experiences. In short, it is an understatement to say that our 30-day goal is ambitious. With that said, we are currently building a coalition of talented individuals by accepting applications for new board members and volunteers that want to be a part of a something different. The bottom line is this, Main Street is going to "bring it" this year and we will grow this organization into what its founders intended it to be. And I cannot wait to start moving the needle forward. And I hope you will join us too.



## AGENDA STAFF REPORT

**AGENDA LOCATION:** Item #9A

**MEETING DATE:** October 11, 2021

**TO:** Honorable Mayor and City Council

**FROM:** Izetta Grossman, CMC, City Clerk

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

- A. **ITEM:** Approval of the September 27, 2021 Regular City Council Meeting Minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the September 27, 2021 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 September 27, 2021 Regular City Council meeting minutes.

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MINUTES

CITY COUNCIL MEETING  
SEPTEMBER 27, 2021

5:30 p.m.

VIA ZOOM  
LIVESTREAM VIA City website

**PRESIDING:** Mayor Richard Mays

**COUNCIL PRESENT:** Darcy Long, Tim McGlothlin, Rod Runyon, Scott Randall, Dan Richardson

**COUNCIL ABSENT:** None

**STAFF PRESENT:** City Manager Julie Krueger, Legal Counsel Jonathan Kara, City Clerk Izetta Grossman, Finance Director Angie Wilson, Community Development Director Alice Cannon, Public Works Director Dave Anderson, Police Chief Tom Worthy

**CALL TO ORDER**

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

**ROLL CALL OF COUNCIL**

Roll Call was conducted by City Clerk Grossman. All Councilors present.

**PLEDGE OF ALLEGIANCE**

Mayor Mays asked Councilor Randall to lead the Pledge of Allegiance.

Councilor Randall invited the audience to join in the Pledge of Allegiance.



### **APPROVAL OF AGENDA**

It was moved by Long and seconded by McGlothlin to approve the agenda as submitted. The motion carried 5 to 0; Long, McGlothlin, Richardson, Randall, Runyon voting in favor; none opposed.

### **PRESENTATIONS PROCLAMATIONS**

#### Northwest Natural Gas Update on Low Carbon Pathway

Tonya Brumley, local Northwest Natural Gas representative introduced Kathryn Williams, Vice President Public Affairs and Sustainability, and Mary Moerlins, Director of Environmental Policy.

Moerlins reviewed the PowerPoint presentation (attached).

### **CITY MANAGER REPORT**

City Manager Julie Krueger said it had been three years since City Council moved to demolish the Gitchell Building. She said she was double checking with Council, before moving forward with request for proposals for the demolition.

City Manager Krueger said there was interest in recreating the mural on the building in another location.

### **CITY COUNCIL REPORTS**

Councilor Long reported:

- Traffic Safety Commission
  - No parking loading zone at Lone Pine
  - Awareness of fog lights and tires beyond fender being illegal; no action
  - Burgerville alley – not two way, drive through blocking traffic on Liberty
  - Chenoweth Elementary – parents blocking northbound traffic; representatives will attend next meeting
- Urban Renewal Agency Board meeting

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Councilor Randall reported:

- QLife meeting – financial report

Councilor McGlothlin reported:

- Urban Renewal Agency Board meeting

Councilor Richardson reported:

- Various meetings with Citizens – has reviewed with staff
- Urban Renewal Agency Board – 1<sup>st</sup> Street moving along; Strategic Planning process in the fall

## **CONSENT AGENDA**

It was moved by Randall and seconded by Long to approve the Consent Agenda as presented. The motion carried 5 to 0, Randall, Long, Runyon, Richardson, McGlothlin voting in favor; none opposed.

Items approved on the consent agenda were: 1) The minutes of the September 13, 2021 Regular City Council Meeting.

## **ACTION ITEMS**

### Reimburse Klickitat County for Installation of Aviation Fuel Tank System at the Airport

Finance Director Angie Wilson reviewed the staff report.

It was moved by McGlothlin and seconded by Randall to authorize the payment of the Klickitat County Invoice in the amount of \$58,887.82 and to authorize the payment to Klickitat County for the upgrade to Bulk Fuel Farm for the Jet A conversion in the amount of \$109,768.33. The motion carried 5 to 0, McGlothlin, Randall, Richardson, Runyon, Long voting in favor; none opposed.

## **DISCUSSION ITEMS**

### Potential Development Agreement with Design LLC Related to Utilities

Mayor Mays stated the utilities agreement was a discussion item. He said the potential agreement was not the Strategic Investment Project that had been discussed a number of times at public meetings.

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Mayor Mays said that the Council would be taking audience comments after the staff report and Council questions.

Mayor Mays asked Public Works Director Anderson to review his qualifications.

Anderson said he had worked for the City for over 33 years; managed the Wicks Water Treatment Plant and The Dalles Municipal Watershed for about 15 years before becoming the City's Public Works Director wherein he served for the last 14+ years. Anderson said he had been involved in the City's water supply planning and managed the City's water rights for over 20 years, defending its existing rights when they've been challenged, applying for and obtaining new rights to meet future needs, and consolidating and extending water rights to optimize flexibility for the City. He said he was the lead staff person for the City to negotiate the 2015 Development Agreement with Design for their last development in town.

Anderson said the other members of the City's utility planning team were Eric Hansen, Public Works Asst Director and Dale McCabe, City Engineer.

Public Works Director Dave Anderson reviewed the staff report.

The Council thanked Anderson for a thorough report, and asked questions regarding:

- Amounts of water available long term (the project increases water availability 5 million gallons/ more than the development will need);
- Why Anderson was in favor of the agreement (storage of the water benefit; City having control of water use; \$28 million project paid by Google);
- Did the agreement only applying to the specific buildout (Google would need a new development agreement for any other development done);
- Effects of climate change (reports looked at climate change and seismic issues as part of the criteria).

The following citizens commented:

Vance Ellet

Dawn Rasmussen 1335 Oak Hill Drive

Steve Murray, 2645 East 11<sup>th</sup>

Rodger Nichols, 1617 Oregon

Philip Mascher, 914 West 15<sup>th</sup>

Sarah McKenna, 112 West 13<sup>th</sup>

Bruce Schwartz, 348 3 Mile Road

Benjamin, 1014 East 14<sup>th</sup>

Karen, 1822 Cherry Heights

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Mike Ballinger

Mike Courtney

James

The citizens questioned:

- Legal expertise (City Legal Counsel experienced; Anderson experience with development agreements and water sewer issues);
- Affect on water outside City of The Dalles (cannot compete with senior water rights; State steps in if water drops; The Dalles groundwater not defined to the south);
- Current Google used water (goes to city sewer system plant; plant must meet DEQ discharge requirements);
- Superfund site (not owned by Google)
- Evaporation loss (not part of the 10% that must stay in the Aquifer Storage & Recovery (ASR));
- Dog River leakage (1 million gallons/day during peak months, once new pipeline in place this could be stored in ASR);
- Non-Disclosure – water use revealed in other states (City is bound by non-disclosure; other states law suits involved)
- Can citizens vote on agreement (not something that could go to referendum; City Charter updated in 2020, continued giving Council authority);
- Who paid for three reports (Google, City helped create the criteria, challenged initial analysis)

Bill Lennox, 1005 Federal, asked if City would consider a policy giving special districts/non-profits a reduced rate. He said Northern Wasco County Parks & Recreation District (NWCPRD) could use a reduced water rate to keep parks green and healthy.

City Manager Julie Krueger said everyone wasn't aware that the City provides NWCPRD 2% of the Transient Room Tax revenues annually. She said last year that amount was \$300,000; their irrigation bill was \$40,000.

Mayor Mays thanked everyone for their questions. He said the agreement would come before Council for approval at the October 25, 2021 Regular City Council meeting.

Long said she welcomed comments for all citizens.

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Mayor Mays said all the Councilors welcomed comments.

**ADJOURNMENT**

Being no further business, the meeting adjourned at 7:55 p.m.

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Submitted by/  
Izetta Grossman, CMC  
City Clerk

SIGNED:

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Richard A. Mays, Mayor

ATTEST:

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Izetta Grossman, CMC City Clerk

# Our Low Carbon Pathway: Vision 2050



Mary Moerlins  
Director of Environmental Policy & Corporate Responsibility

# DEFINING ZERO

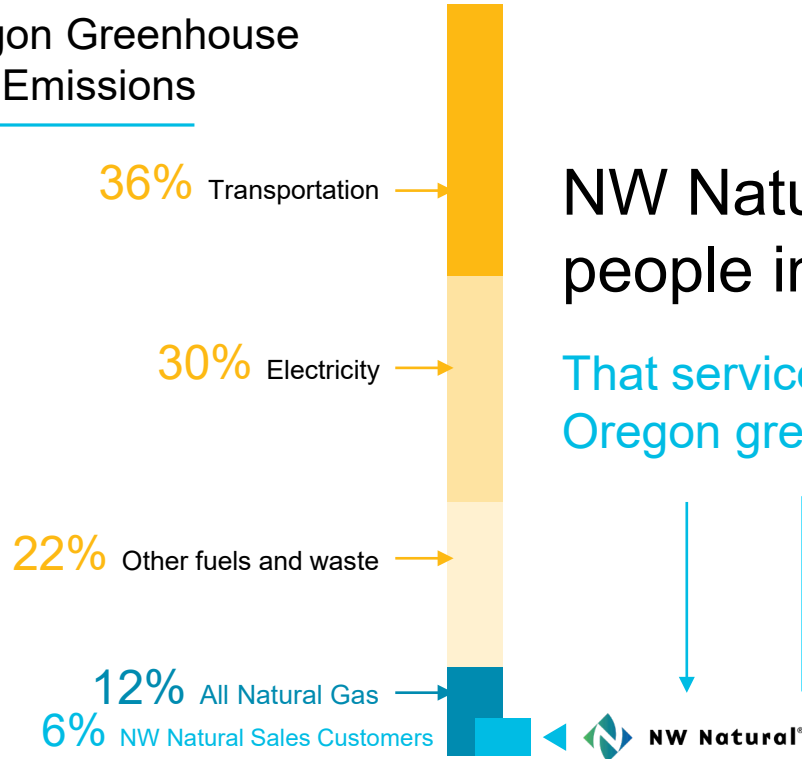
## *What carbon-neutral means and why we're considering it*

- Carbon neutrality means having a balance between emitting carbon and absorbing carbon from the atmosphere in carbon sinks and displacement.
- In order to achieve net zero emissions, all worldwide greenhouse gas (GHG) emissions will have to be counterbalanced by carbon reducing actions.
- Holistically, a carbon neutral goal optimizes for the least cost - highest impact solutions.



# Role of our Current System

## Oregon Greenhouse Gas Emissions



NW Natural serves 2.5 million people in 140 communities.

That service creates 6% of the current Oregon greenhouse gas emissions.

**In Washington, our customers' use of gas is approximately 0.5% of state GHG emissions**



# Our Shared Values

We must innovate and evolve together, in a way that leaves no one behind.

## EQUITY

Provide warmth affordably to the people that depend on us



## ENVIRONMENT

Drive down emissions with efficiency, renewables, new technology



## ECONOMY

Use our tightest, modern system to support economic vitality and health



# Getting to Zero

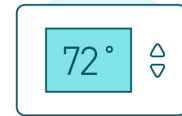
The pathway to our vision of carbon neutral by 2050



Renewable sources that do not contribute new carbon to the atmosphere



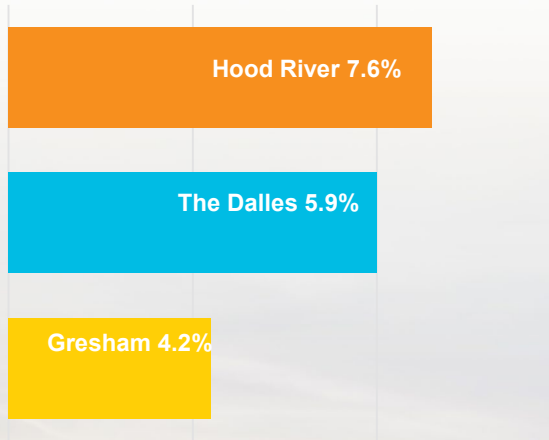
Partnership with cleaner electric systems to create seasonal and peak energy storage



Encouraging end-use innovation for deep efficiency

# SMART ENERGY PARTICIPATION

## Residential Customer Participation Rate<sup>1</sup>



**7.9%** of all residential customers Participating across territory (WA + OR)

<sup>1</sup> As a percentage of NW Natural sales customers in each city June 2020.



# Carbon Regulation & Low Carbon Goals

## OR & WA Building Carbon Regulation programs

- Executive order in OR (Climate Protection Program)
- Legislative approach in WA (cap and trade)

## Directional alignment with NW Natural Carbon Neutral Goal

- Deep decarbonization is possible through conservation, renewable integration & innovation

## Goal achievement is possible, tactics matter.

- NW Natural is actively engaged in both states advocating for thoughtful program design & customer protections

# Regulation, Goals and Impacts

- NW Natural can and will decarbonize the system and the product delivered to customers
- *How* we achieve the regulated and voluntary goals is influenced by the rules-
  - NW Natural formal comments and engagement
  - Input from community members, industry and advocates
- All energy systems in our region are decarbonizing- all sectors will see cost impacts
- Best outcomes happen with all solutions on the table

**We embrace the change.** With the electric and gas systems working together, The Northwest and beyond can meet climate goals.

## We're committed to a carbon neutral pipeline by 2050.

There is no technical barrier.

## Coal plants will close.

Nearly half of Oregon natural gas use is for power generation, and more will be needed without coal.

## Electrification of heating is ineffective and expensive.

Roughly 2 out of 3 Oregonians rely on natural gas for home heating, yet it's 3% of greenhouse gas emissions.

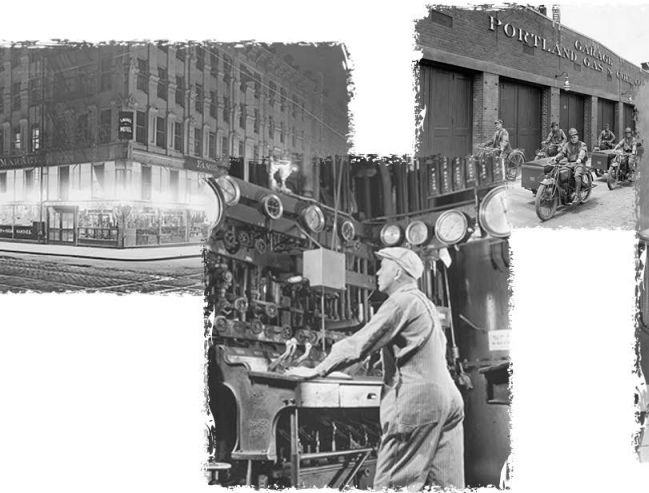
## Reliability must be a part of the solution.

Designed for winter; with 3x the peak capacity of the electric grid and seasonal storage, gas system can also operate when the power is out.

## Citizens choose natural gas.<sup>1</sup>

- **73%** of voters support use of natural gas because its affordable, reliable and has lower emissions.
- **78%** of voters agreed that families and businesses should have a choice of energy options to meet their needs.
- **83%** of voters believe use of renewable natural gas should be encouraged.

# A History of Looking Forward



1860s

1950s

2000s

2019 ▶ Beyond

Manufactured gas for lighting and heat

Network expands with arrival of Northwest pipeline

- Modernized system
- Leads rate decoupling
- First carbon offset program, Smart Energy

RNG and Renewable Hydrogen to deeply decarbonize

# Destination Zero:

The pathway to our vision of carbon neutral

A decarbonizing network:

- Renewable Natural Gas
- Hydrogen
- Waste CO<sub>2</sub>
- Renewable Electricity







Let's create the future we imagine.





## AGENDA STAFF REPORT

### AGENDA LOCATION: Action Item #10A

**MEETING DATE:** October 11, 2021

**TO:** Honorable Mayor and City Council

**FROM:** Jeff Renard, Airport Manager

**ISSUE:** Approval of Task Order #14 to allow the Airport to contract the engineer and sub-contractors for the South Apron Rehabilitation and Taxiway Improvement project. **AIP Project No. 3-41-0059-018-2021**

**BACKGROUND:** This Phase I: Design Project is in support of a 2023 Construction Project that will rehabilitate existing south apron pavements and will also construct up to 5 new taxilanes at the Columbia Gorge Regional/The Dalles Municipal Airport (DLS).

The project will include the rehabilitation (full depth) of approximately 100,000 square feet of existing south apron pavement and construct up to 1,500 LF of new taxilane pavement.

The existing south apron rehabilitation will rehabilitate the apron pavements adjacent to, and directly south of the airport terminal and main apron area.

A recent 2017 *Pavement Evaluation/Maintenance Management Program Report* (PEMMPR) of the pavement(s) at the airport, identified aging south apron pavements that are well beyond their original pavement design life. The PEMMPR identified that the Pavement Condition Index (PCI) rating in 2017 for the south apron pavements were “*satisfactory*,” but the same report reported that by 2022, the PCI projections for the same pavements range would be considered “*Fair*” with PCI projections ranging from 70 to 55.

The new taxilane’s being constructed will be located directly south of existing taxilanes servicing 5 rows of existing hangars located south of the terminal building and main apron area. The new taxilanes will facilitate the construction of future hangars in order to meet the airports current needs.

This project has been broken into two Phases:

Phase I: Geotechnical Investigation, Topographic Design Survey, Engineering Design and Bidding (This scope of services)

Phase II: Project Construction and Engineering Services During  
Construction (SDC) – (future scope of services)

Due to the age and condition of the existing south apron pavements, the need to meet current FAA pavement design standards (for pavement strength and frost mitigation) for this project, and the need for new taxiways to facilitate future hangar development at the airport, FAA and DLS have determined that both phases of this project are justified and eligible for funding through the FAA's Airport Improvement Program (AIP) grant program.

**BUDGET IMPLICATIONS:**

No Budget Implications, Task Order #14 airport budget does not have any grant match requirement due to the FAA 100% funding on these projects. Attachment (B)

**COUNCIL ALTERNATIVES:**

1. **Staff recommendation:** *Move to approve Task Order # 14 Contracting Precision Approach Engineering for the scope of work in the Task order. (attachment A)*
2. Move to decline approval of Task Order #14 postponing South Apron Rehab.

**TASK ORDER NO. 14**

**SOUTH APRON REHABILITATION AND NEW TAXILANES: ENGINEERING DESIGN SERVICES**

**CITY OF THE DALLES/KLICKITAT COUNTY  
COLUMBIA GORGE REGIONAL/THE DALLES MUNICIPAL AIRPORT (DLS)**

**GEOTECHNICAL INVESTIGATION, TOPOGRAPHIC DESIGN SURVEY AND  
ENGINEERING DESIGN AND BIDDING SERVICES**

**AIP Project No. 3-41-0059-018-2021**

Included herein is TASK ORDER NO. 14 to the Professional Services Agreement and any Amendments dated June 20, 2018, hereinafter called CONTRACT, between CITY OF THE DALLES/KLICKITAT COUNTY, hereinafter called OWNER, and PRECISION APPROACH ENGINEERING, INC., hereinafter called CONSULTANT.

WHEREAS, the OWNER has defined a PROJECT at Columbia Gorge Regional/The Dalles Municipal Airport and is desirous to seek the assistance of the CONSULTANT in accordance with Section A of the CONTRACT for the PROJECT listed below, and further defined in attached Exhibit A, Scope of Services.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto do mutually agree as follows:

**A. EMPLOYMENT OF CONSULTANT**

The OWNER hereby employs the CONSULTANT and the CONSULTANT accepts and agrees to perform the following engineering services to the PROJECT:

1. The CONSULTANT shall prepare documents, including drawings and related information, for the work listed above.
2. The CONSULTANT shall perform the Engineering Design Services identified in **Exhibit A – Scope of Services**, attached.

**B. OWNER'S RESPONSIBILITIES**

1. The OWNER shall pay publishing costs for advertisement of notices, public hearings, requests for bids, and other similar items; pay for all permits and licenses that may be required by local, state, or federal authorities; and secure the necessary land, easements, rights-of-way, required for the project.
2. The OWNER shall provide access to the site as necessary to allow performance of engineering services.
3. The OWNER shall pay publishing costs for advertisement of notices, public hearings, requests for bids, and other similar items; pay for all permits and licenses that may be required by local, state, or federal authorities; and secure the necessary land, easements, rights-of-way, required for the project.
4. Other OWNER's responsibilities shall be as stated in the Professional Services Agreement.

**C. COMPENSATION FOR CONSULTING SERVICES**

The OWNER shall pay the CONSULTANT the appropriate fee as complete compensation for all services rendered as herein agreed and as stated in the PROFESSIONAL SERVICES AGREEMENT:

1. The OWNER shall pay the CONSULTANT for the Engineering Design Services set forth in Exhibit A, attached, according to the labor rates shown in Exhibit B agreement and direct non-salary expenses at actual cost. The maximum estimated total cost for these services is **TWO HUNDRED SIXTY-FIVE THOUSAND Dollars (\$265,000)**.
2. Any amount over the maximum estimated cost for the services as set forth in Exhibit A because of scope of work changes will be negotiated and agreed upon between the OWNER, the FAA, and the CONSULTANT in writing prior to beginning of additional work.
3. In the event that the engineering services are required in connection with this project beyond 2021, the Consultant's Hourly Rates shall be adjusted to conform with the CONSULTANT's standard rates as established for the subsequent years.

WITNESSETH, that the parties hereto do mutually agree to all mutual covenants and agreements contained within the CONTRACT.

**D. AUTHORIZE SIGNER**

Each person signing this Task Order represents and warrants that they are duly authorized and has the legal capacity to execute and deliver this Agreement.

**CITY OF THE DALLES**

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

**KLICKITAT COUNTY**

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

**PRECISION APPROACH ENGINEERING, INC.**

By: Cochran McFarland  
 Title: President  
 Date: 9/7/2021

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**EXHIBIT A  
TO  
TASK ORDER # 14**

**SCOPE OF SERVICES FOR  
SOUTH APRON REHABILITATION AND NEW TAXILANES: ENGINEERING DESIGN  
SERVICES**

**CITY OF THE DALLES/KLICKITAT COUNTY  
COLUMBIA GORGE REGIONAL/THE DALLES MUNICIPAL AIRPORT (DLS)**

**GEOTECHNICAL INVESTIGATION, TOPOGRAPHIC DESIGN SURVEY AND  
ENGINEERING DESIGN AND BIDDING SERVICES**

**AIP Project No. 3-41-0059-018-2021**

**PROJECT DESCRIPTION/JUSTIFICATION**

This Phase I: Design Project is in support of a 2023 Construction Project that will rehabilitate existing south apron pavements and will also construct up to 5 new taxilanes at the Columbia Gorge Regional/The Dalles Municipal Airport (DLS).

The project will include the rehabilitation (full depth) of approximately 100,000 square feet of existing south apron pavement and construct up to 1,500 LF of new taxilane pavement.

The existing south apron rehabilitation will rehabilitate the apron pavements adjacent to, and directly south of the airport terminal and main apron area.

A recent *2017 Pavement Evaluation/Maintenance Management Program Report* (PEMMPR) of the pavement(s) at the airport, identified aging south apron pavements that are well beyond their original pavement design life. The PEMMPR identified that the Pavement Condition Index (PCI) rating in 2017 for the south apron pavements were “*satisfactory*,” but the same report reported that by 2022, the PCI projections for the same pavements range would be considered “*Fair*” with PCI projections ranging from 70 to 55.

The new taxilane’s being constructed will be located directly south of existing taxilanes servicing 5 rows of existing hangars located south of the terminal building and main apron area. The new taxilanes will facilitate the construction of future hangars in order to meet the airports current needs.

This project has been broken into two Phases:

- Phase I: Geotechnical Investigation, Topographic Design Survey, Engineering Design and Bidding (This scope of services)
- Phase II: Project Construction and Engineering Services During Construction (SDC) – (future scope of services)

Due to the age and condition of the existing south apron pavements, the need to meet current FAA pavement design standards (for pavement strength and frost mitigation) for this project, and the need for new taxilanes to facilitate future hangar development at the airport, FAA and DLS have determined that both phases of this project are justified and eligible for funding through the FAA’s Airport Improvement Program (AIP) grant program.

## **ESTIMATED CONSTRUCTION COSTS**

A planning level construction cost opinion, prepared in the fall of 2020, estimated construction costs for a 2023 construction project at approximately \$2.9 million for all elements of work.

## **ANTICIPATED PROJECT SCHEDULE**

It is anticipated that services associated with this Design project will generally be completed over 24 months (September 2021 – August 2023) and will generally occur as outlined below:

- Project coordination/management is anticipated to occur September 2021 – August 2023
- The geotechnical and design survey work will take 3-5 months and is anticipated to occur September 2021 – January 2022
- Project Design will take approx. 5 months and will be completed February 2022 – October 2022
- Project advertisement for bids will take approx. 4-6 weeks and is anticipated to occur sometime November 2022 – March 2023
- Project closeout will take 1-2 months and is anticipated to be completed prior to September 2023

## **CONSULTANT ELEMENTS OF WORK**

Precision Approach Engineering, Inc. (PAE) and its subconsultants will provide professional civil engineering design services as listed below. The design will follow FAA standards and guidelines.

## **SCOPE OF SERVICES**

### **Task 1 – Project Administration/Management**

PAE will manage internal project efforts and coordination with DLS, FAA, and subconsultants.

PAE's specific responsibilities/activities consist of:

- a. Project management/administration
- b. Client communications and information exchange
- c. FAA communications, coordination and information exchange
- d. Develop documents to be used by DLS for solicitation of an Independent Fee Estimate (IFE) and provide support info as needed to complete the process
- e. Contracting with DLS (includes development of a detailed scope of work, Draft and Final)
- f. Prepare and maintain the project schedule
- g. Coordination and communication with subconsultant, includes the development of detailed subconsultant scope of work
  - Topographic Survey
  - Geotechnical
- h. In-house file and network management (anticipate up to 24 months)
- i. Project Invoicing (anticipate up to 24 months)
- j. Preparation of FAA required Quarterly Performance Reports (anticipate up to 8 submittals)



- k. Assist DLS with annual SF 425/SF 271 reporting at the end of Federal Fiscal Year (anticipate 3 years – 2021, 2022 and 2023)

#### **Deliverables**

- Contract and/or contract exhibits for DLS signature as required
- IFE packet (Scope of work/blank fee worksheet)
- Monthly invoices
- Project schedule
- FAA Quarterly Performance Reports to DLS for submittal to FAA
- Draft annual SF-425 and SF-271 for DLS submittal

#### **Task 2 – Kickoff and Design Review Meetings**

In support of project kickoff and design activities, PAE will coordinate and attend on-site and conference call meetings to review the status of the project with DLS and the FAA.

PAE's specific responsibilities/activities consist of:

- a. On-site meeting, including meeting preparation for project kickoff, 50 and 90 percent submittals. (3 on-site meetings total). It is anticipated that the PM and design engineer will attend all meetings. Includes meeting prep and travel time
- b. Conference calls with FAA/DLS, including meeting preparation, to discuss project progress, and review FAA comments to design submittals (Up to 4 conference calls total)
- c. Conference call meetings with DLS, including meeting preparation, to discuss project progress/incorporate changes/answer questions (Up to 6 conference calls total)
- d. Conference call meetings with DLS to discuss grant application, quarterly/annual reporting and grant closeout (up to 4 conference calls total)

#### **Deliverables:**

- Minutes for meetings and conference calls, if requested

#### **Task 3 – Quality Assurance/Quality Control**

PAE will provide in-house quality assurance and quality control procedures for review of design elements and will incorporate QA/QC findings into the final design.

PAE's specific QA/QC activities and responsibilities consist of:

- a. Work review of progress/constructability of designs and concepts by senior staff for compliance with FAA standards and airport operations
- b. Provide a detailed review of the 90% submittal
- c. Evaluate and incorporate DLS, FAA, and in-house 90% submittal review into design concepts – includes preparation of the response to DLS and FAA comments

#### **Task 4 – Topographic Survey**

Survey Subconsultant will provide a topographic survey of the project work site. PAE will review the survey data and set up electronic drawings and files. In general, survey work for this project will consist

of research, location, and verification of existing survey control, establishment of a secondary control network to be used during design and construction, and survey as required to provide a base map, topographic data, and surfaces to be used in the design.

Survey Subconsultant specific responsibilities/activities consist of:

- Topographic survey/Triangular Irregular Network (TIN) for the project areas

PAE's specific responsibilities/activities consist of:

- a. PM and design engineer site visit during the performance of survey work (1 day on-site), includes travel time
- b. Review and comment on draft survey deliverable (TIN, ASCII, field notes, photos, etc.)
- c. Set up Civil 3-D (AutoCAD) project
- d. Create base maps for design work areas and an overall site base to support site plan and Construction Safety and Phasing Plan sheets

**Deliverables:**

- Topographic base map
- Electronic digital terrain model

**Exclusions:**

- Locating of any private utilities (Public utility locates "One Call" will be requested prior to performing field work)

**Task 5 – Geotechnical Work**

Geotechnical subconsultant will provide geotechnical investigation of the project work sites to include pavement section cores to verify the existing pavement section, field exploration of subgrade soils, and laboratory testing.

Geotechnical subconsultant will provide a geotechnical report to include conclusions and recommendations for pavement subgrade support, frost depth protection and earthwork and site preparation recommendations, and evaluation of effects of weather/construction equipment on site soils.

PAE and Subconsultant's specific responsibilities/activities related to Geotechnical Investigation are:

- a. Field investigation: Test pits, pavement cores, and Dynamic Cone Penetrometer (DCP) testing in apron areas (up to 6 test pits and up to 6 pavement cores are anticipated)
- b. PAE PM and design engineer site visit during the performance of Geotechnical work (1 day on-site), includes travel time
- c. Lab testing: Moisture-density, California Bearing Ratio (CBR), Atterberg limits, sieve/hydrometer grain-size, natural water content determinations, and USCS/FAA soil classifications
- d. Review field reports, test pit and pavement core determinations, lab test results, frost depth etc. and prepare geotechnical report
- e. PAE review of geotechnical investigation findings and draft geotechnical report including review coordination with DLS and providing comments for final report

**Deliverables:**

- Draft and Final Geotechnical report

**Exclusions:**

- Locating of any private utilities (Public utility locates “One Call” will be requested prior to performing field work)

**Task 6 – Design (In accordance with FAA AC’s 150/5300-13A Change 1, 150/5320-5, 150/5320-6 and 150/5340-1 current at the time of contract execution)**

Design services will include elements of work necessary for the proposed work in preparation for bidding and construction.

PAE specific responsibilities/activities consist of:

- a. In-house project design team meetings (anticipate up to 6 meetings during design duration)
- b. Erosion and Sediment Control Plan (ESCP) meeting DEQ requirements
- c. Develop pavement geometry layout – limits of new pavement
  - Apron Rehabilitation
  - New Taxilanes (5 total)
- d. Limits of demolition
  - Define limits and removal methods as needed to incorporate final design concepts
    - Apron Rehabilitation
    - New Taxilanes (5 total)
- e. Pavement Design
  - Evaluate existing aircraft loading and existing forecasted aircraft usage based on data from the current master plan and available airport data
    - Apron Rehabilitation
    - New Taxilane
  - Develop approved critical aircraft(s) and loading forecasts
    - Apron Rehabilitation
    - New Taxilanes
  - Utilize FAA design software FAARFIELD calculations to develop new pavement sections
    - Apron Rehabilitation
    - New Taxilanes
  - Develop new PCN values to reflect the new pavements
    - Apron Rehabilitation
    - New Taxilanes
- f. Taxilane Centerline FG Profiles
  - Develop FG profiles for the new taxilanes (5 total)
  - Develop apron grading and typical taxilane cross-sections in conformance with current FAA grading criteria
    - Apron Rehabilitation

- New Taxilanes (5 total)
- g. Taxilane Intersection grading
  - Develop grading for new pavement connections to existing pavements
    - New taxilanes to existing taxilane (5 areas)
- h. Apron Intersection grading
  - Develop grading for apron pavement connections to existing pavements (4 areas)
- i. Drainage Improvements
  - Evaluate existing drainage system for compatibility with new drainage improvements
  - Perform hydrology for pipe and structure sizing and locations as required
  - Incorporate new drainage structures as necessary
  - Provide conveyance to existing systems
  - Develop subsurface (underdrain) system design including structure design for access/maintenance and connections to the existing drainage system
    - New Taxilanes (5 total)
- j. Pavement marking
  - Develop new Apron Pavement Markings
  - Develop new Taxilane Pavement Markings – includes new taxilanes (5 total)

**Deliverables:**

- Design elements in conformance with industry standards following FAA standards and guidelines that will be incorporated into the contract documents drawings for bidding and construction (50% conceptual design submittal, 90%, and final submittals)
- Erosion and Sediment Control Plan

**Exclusions:**

- Utility improvement design (SS, Water, Power, Telecom, etc.)

**Task 7 – General Tasks**

During the course of providing professional design services, certain general tasks will be required in conjunction with the deliverables.

PAE’s specific responsibilities/activities consist of:

- a. Coordinate determination of Environmental action requirements with FAA and the Airport - Previous coordination with FAA identified that the scope of the Apron and new taxilanes work associated with this project will not require additional environmental investigation, studies or reports and it is anticipated that FAA will issue a NEPA determination of “Categorically Excluded” for this project.
  - Provide applicable information for FAA NEPA determination - anticipate FAA Categorical Exclusion determination – No site studies or reports anticipated
- b. Prepare the predesign conference agenda based on FAA’s predesign conference checklist (EG 2013-04) and conduct a predesign conference call with DLS and FAA.

- c. Prepare draft grant application including project sketch for DLS submittal to FAA (Grant is for Phase I: Geotechnical Investigation, Topographic Design Survey, Engineering Design and Bidding)
- d. Prepare FAA Construction Phasing and Safety Plan (CSPP) in accordance with AC 150/5370-2G, incorporating above construction phasing concepts. Includes draft submittal to DLS and FAA, followed by the incorporation of comments and final document submittal. Also includes the development of FAA Construction Safety and Phasing Plan (CSPP) drawings (Up to 5 drawings)
- e. Prepare and submit up to one (1) FAA 7460-1 submittal associated with the FAA Construction Safety and Phasing Plan, and up to two (2) FAA 7460-1 submittals associated with temporary construction impacts
- f. Prepare OR DEQ 1200-C permit application including the narrative Part I & II and obtaining signature(s) on land use compatibility statement (LUCS) if applicable
- g. Prepare Design Report per FAA NW Mountain Region Engineering Guidance 2013-04, includes 90% and Final submittals
- h. Prepare and submit FAA-format Final Report (per FAA checklist for final report requirements EG 2013-12), to include the project financial information which will require coordination with DLS records
- i. Provide DBE Reporting (3 cycles) – support DLS in completion of FY 2021, 2022 and 2023 summary of DBE participation (draft FAA “Uniform Report of DBE Awards or Commitments and Payments”) for DBE Liaison Officer (DBELO) input into FAA Civil Rights Connect system. Includes 6 telephonic meetings with DBELO to review reporting data and incorporation of 1 round of FAA Civil Rights staff comments followed by an updated submittal for each FY reporting

**Deliverables:**

- Predesign conference agenda to FAA and DLS Staff
- Completed predesign conference checklist minutes to FAA and DLS Staff
- Analysis of construction phasing options
- Draft and final CSPP submittal to FAA
- FAA 7460-1 submittals through OE/AAA portal
- DEQ 1200-C permit application
- 90% and Final Design report
- Draft grant application
- Final AIP grant closeout reports
- DBE reports

**Task 8 – Construction Documents**

Documents for construction will incorporate the consultant’s elements of work for the bidding and construction of the project.

PAE’s specific responsibilities/activities consist of:

- a. Create construction drawings incorporating design concepts (anticipate 40 drawings)

- b. Technical Specifications (FAA AC 150/5370-10H) – Includes General Requirements and approximately 26 technical specifications, including P-401 Asphalt Mix Pavements. Includes submittal of technical specifications showing “Project Specific Specification Clarifications” in a track changes format at 90% submittals, documenting all proposed changes to the FAA boilerplate. (required to clarify, update references to standards that are no longer current, meet the specific needs of the project, and provide enhancement to FAA boilerplate) followed by the final submittal. Also includes submittal of “Project Specific Specification Clarification” justification form for FAA review/determination of approval for all changes proposed to FAA boilerplate
- c. Prepare draft Legal Specifications for DLS and FAA review
- d. Incorporate DLS requirements into legal specifications
- e. Compile, prepare, and print 90% submittal review document
- f. Incorporate DLS and FAA 90% submittal review comments into final plans and technical specifications
- g. Develop construction quantities – 50%, 90%, and final submittals
- h. Develop construction cost estimate – 50%, 90%, and final submittals
- i. Compile, prepare, and print Final contract documents

**Deliverables:**

- 90% submittal documents for review (electronic pdf file to DLS and FAA PM)
- Final design submittal package to DLS and FAA (electronic pdf to DLS and FAA PM)
- 3 paper sets of bid documents to DLS
- Full-size drawings (1 set)
- Electronic PDF bid document with drawings to FAA PM

**Task 9 – Bidding Services**

PAE will assist DLS Staff, distribute documents, attend on-site meetings, and review bids with DLS, FAA, and Contractors for proposed work.

PAE’s specific responsibilities/activities consist of:

- a. Prepare project files (.pdf) for advertisement
- b. Assist DLS with text and publishing of bid advertisement
- c. Respond to bidders’ questions during the bidding process
- d. Prepare addenda as required
- e. Prepare and conduct pre-bid conference (PM and design engineer site visit), including meeting preparation and travel time
- f. Pre-bid conference meeting minutes
- g. Review bid proposals, prepare bid abstract with recommendations for bid acceptance and assist in necessary approvals for awarding the contract

**Deliverables:**

- Bid advertisement (if requested)

- Project files (.pdf) for DLS advertisement
- Addenda (if necessary)
- Pre-Bid Meeting minutes
- Bid abstract with a recommendation for Bid acceptance
- Draft Notice of Award for DLS use

### **ADDITIONAL EXCLUSIONS**

This Scope of Services is completed upon the opening of bids and the Engineer's recommendation for the award of the construction contract to DLS and FAA. It is anticipated that a Construction Administration/Services During Construction contract will be negotiated with DLS prior to construction that will cover construction-related activities required during project award, project construction, and project/grant closeout.

The following items are specifically excluded from this scope of services:

- Airports Geographic Information System (Airports GIS) - It is anticipated that no AGIS survey or deliverables will be required for this design, or future construction, project. Should the project be found to require AGIS services or deliverables, a revised scope and fee additions will be proposed.
- Environmental – National Environmental Policy Act (NEPA) environmental requirements (CatEx) and FAA determination: previous coordination with FAA, identified that the scope of work associated with this project will not require additional environmental investigation or studies. FAA has stated that a “*Categorical Exclusion will apply pursuant to FAA Orders 1050.1, paragraph 5-6.4e*” for this project.

Therefore, no additional environmental work is anticipated or included in this Scope of Work.

This scope of services does not include the performance of any further special studies or services beyond those specifically stated. Should the project be found to require further studies or services, a revised scope and fee additions will be proposed.

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**CONFIDENTIAL**

**EXHIBIT B  
 TO  
 TASK ORDER NO. 14**

**OREGON  
 2021 STANDARD LABOR RATES**

Classification	2021 Rate
ADMIN 1	\$75.00
ADMIN 2	\$87.40
ADMIN 3	\$100.80
ADMIN 4	\$112.20
ADMIN 5	\$125.40
ADMIN 6	\$138.00
TECHNICIAN 1	\$100.60
TECHNICIAN 2	\$112.20
TECHNICIAN 3	\$125.40
TECHNICIAN 4	\$140.40
TECHNICIAN 5	\$157.20
TECHNICIAN 6	\$176.00
TECHNICIAN 7	\$195.40
ENGINEER 1	\$125.80
ENGINEER 2	\$141.20
ENGINEER 3	\$154.20
ENGINEER 4	\$170.80
ENGINEER 5	\$195.40
ENGINEER 6	\$221.80
ENGINEER 7	\$249.60
ENGINEER 8	\$278.60
ENGINEER 9	\$312.00



Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

**THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay 100 percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.**

**Assistance Listings Number (Formerly CFDA Number): 20.106**

**This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

### CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$275,000.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$ 0 for planning

\$ 275,000 airport development or noise program implementation; and,

\$ 0 for land acquisition.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:

- a. Period of Performance:

1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. (2 Code of Federal Regulations (CFR) § 200.1).

- b. Budget Period:

1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the period of performance provided in Paragraph a.1. Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period.
2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to § 200.308.

- c. Close Out and Termination

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the period of performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the period of performance end date with the information available at the end of 120 days. (2 CFR § 200.344).



## AGENDA STAFF REPORT

### AGENDA LOCATION: Action Item #10B

**MEETING DATE:** October 11, 2021

**TO:** Honorable Mayor and City Council

**FROM:** Angie Wilson, Finance Director

**ISSUE:** Resolution No. 21-020 Authorizing Transfers of Budgeted Amounts Between Categories of Various Funds of the City Of The Dalles Adopted Budget, Making Appropriations and Authorizing Expenditures for Fiscal Year Ending June 30, 2022

**RELATED COUNCIL GOAL:** Balanced Budget

**BACKGROUND:** Oregon Budget Law recognizes that after the beginning of the fiscal year, changes in appropriations in the budget sometimes become necessary and so allows for those changes via supplemental budgets and budget amendments. Supplemental budgets add funds to existing budgets, while budget amendments move already budgeted funds between categories of the same fund without adding to the fund's total budget.

The proposed resolutions contain the following items:

Resolution No. 21-020 transfers \$9,776 from the Contingency line item of the General Fund to cover the following items:

- 1) \$1,157 is needed from the General Fund Contingency to compensate the IT Technology Department for the Personnel Services that were inadvertently left out of the budget.
- 2) \$4,919 is needed from the General Fund Contingency to the City Clerk Department for additional personnel services. As the City Clerk Department currently has one full time position, and has projects that require focused time; and the Public Works Secretary has some available time; we are proposing a redistribution of the PW Secretary hour to 120 hours per fiscal year to part-time line item of City Clerk Department.

3) \$3,700 is needed from the General Fund Contingency to compensate for the Finance Department. The ability to identify and track short-term rentals has proved problematic as hosting platforms such as Airbnb and VRBO are not monitoring its listings for city and state regulation compliance. The Finance Department would like to purchase a program that would identify additional short term rentals. This service will increase our revenue which will offset the yearly fee and provide additional revenue. These funds can be used to improve our parks and trails as well as providing the opportunity to improve and expand the programs we offer through-out our community.

Resolution No. 21-020 transfers \$14,100 from the Airport Contingency line item of the Airport Fund to cover the following items:

1) \$14,100 is needed from the Airport Contingency to additional monies for equipment repair and maintenance. The tractor required unanticipated repairs, depleting the line item, leaving no funds for additional vehicle repairs through-out the year.

**BUDGET IMPLICATIONS:** Resolution No. 21-020 transfers currently budgeted amounts, and does not have any impact on the total budget of the General Fund or the Airport Fund.

**COUNCIL ALTERNATIVES:**

1. Staff recommendation: *Move to adopt Resolution No. 21-020 Authorizing Transfers of Budgeted Amounts between Categories of Various Funds of the City of The Dalles Budget, Making Appropriations and Authorizing Expenditures for Fiscal Year Ending June 30, 2022.*
2. Direct staff to make changes to the proposed resolutions and bring the resolutions back to a future Council meeting for consideration.
3. Decline to take action.

**RESOLUTION NO. 21-020**

**A RESOLUTION AUTHORIZING TRANSFERS OF BUDGETED AMOUNTS  
BETWEEN CATEGORIES OF VARIOUS FUNDS OF THE CITY OF THE DALLES  
ADOPTED BUDGET, MAKING APPROPRIATIONS AND AUTHORIZING  
EXPENDITURES FOR THE FISCAL YEAR ENDING JUNE 30, 2022**

**WHEREAS**, during the budget year certain funds may experience expenditures above approved category limits; and

**WHEREAS**, Oregon Budget Law recognizes these events and allows for transferring of funds between approved category limits within and between funds; and

**WHEREAS**, \$1,157 is needed from the General Fund Contingency to IT Tech Department to cover additional personnel services that was inadvertently left out of the budget; and

**WHEREAS**, \$4,919 is needed from the General Fund Contingency to compensate the City Clerk Department for personnel services for additional services with projects; and

**WHEREAS**, \$3,700 is needed from the General Fund Contingency to the Finance Department to cover additional contractual services for Host Compliance to be able to monitor the short-term rental market; and

**WHEREAS**, \$14,100 is needed from the Airport Fund Contingency to the Airport Repairs and maintenance for vehicles. Additional work is needed on the Tractor that was unanticipated; and

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

**Section 1. Authorizing Budget Transfers.** The City Council hereby authorizes the following transfers of funds between budgeted categories and funds:

<b><u>FUND OR DEPT.</u></b>	<b><u>BUDGETED</u></b>	<b><u>RESOURCES NEEDED</u></b>	<b><u>REALLOCATED</u></b>
<b><u>GENERAL FUND (001)</u></b>			
from General Fund Contingency	\$ 853,406	\$ 843,630	- \$ 9,776
to Finance Department	\$ 863,555	\$ 867,255	+ \$ 3,700
to IT Technology Department	\$ 436,154	\$ 437,311	+ \$ 1,157
to City Clerk Department	\$ 173,570	\$ 178,489	+\$ 4,919

<u>FUND OR DEPT.</u>	<u>BUDGETED</u>	<u>RESOURCES NEEDED</u>	<u>REALLOCATED</u>
<b><u>AIRPORT FUND (061)</u></b>			
From Airport Fund Contingency	\$ 380,956	\$ 14,100	- \$14,100
To Airport Department	\$ 10,000	\$ 24,100	+ \$14,100

**Section 2. Effective Date.** This Resolution shall become effective upon adoption by the City Council and shall remain in effect until receipt and acceptance of the FY21/22 audit report.

**PASSED AND ADOPTED THIS 11<sup>th</sup> DAY OF OCTOBER, 2021.**

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

**AND APPROVED BY THE MAYOR THIS 11<sup>th</sup> DAY OF OCTOBER, 2021.**

SIGNED:

ATTEST:

\_\_\_\_\_  
 Richard A. Mays, Mayor

\_\_\_\_\_  
 Izetta Grossman, City Clerk CMC



## AGENDA STAFF REPORT

### AGENDA LOCATION: Action Item #10C

**MEETING DATE:** October 11, 2021

**TO:** Honorable Mayor and City Council

**FROM:** Jonathan Kara, City Attorney

**ISSUE:** Adopting Resolution No. 21-021, a Resolution Enforcing The Dalles Municipal Code—Chapter 2.24 Public Rights-of-Way and Relating to Encroachment Removal on East 9<sup>th</sup> Street

**BACKGROUND:** In 1997, Council adopted General Ordinance No. 97-1217 to outline the City’s authority over public rights-of-way located within the city limits. General Ordinance No. 97-1217 is now codified in Title 2—Local Improvements of The Dalles Municipal Code (“TDMC”) as TDMC Chapter 2.24.

TDMC Chapter 2.24 is a remarkably strong authority establishing the City’s complete jurisdiction and full regulatory control over all public rights-of-way within The Dalles under both the City Charter and Oregon law. Specifically, TDMC 2.24.040 prohibits all occupancies or encroachments on public rights-of-way without the City’s express permission as granted exclusively by franchises, licenses, and permits. However, TDMC Chapter 2.24 does not provide a vehicle for enforcing the City’s right-of-way authority when the City discovers unauthorized encroachments on public rights-of-way already exist (as opposed to the City discovering an unauthorized encroachment during its construction, which is enforced with a stop work order and fine).

Title 5—Offenses codifies many of the City’s General Ordinances, including those relating to nuisance, and lists many types of common nuisance violations (the so-called “enumerated” nuisances). The list of common nuisances is non-exclusive: TDMC 5.04.130 explains every “thing, substance or act that is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the City” is declared an unenumerated nuisance and may be abated as provided in TDMC Chapter 5.04.

Oregon law (ORS 221.915) provides a broad definition of nuisance to give each city ultimate authority to define what constitutes a nuisance:

Every act or thing done, or anything existing with the limits of any city . . . which is or may be declared by any law of this state or by an ordinance of such city to be a nuisance, hereby is declared a nuisance, and shall be considered and treated as such in all actions, suits and proceedings whatsoever, unless such law or ordinance is declared void by a court of competent jurisdiction.

The Oregon judiciary and relevant case law have historically categorized existing encroachments upon public rights-of-way as nuisances. The policy supporting the categorization is based on the understanding public rights-of-way are entrusted to cities to use at their discretion for the benefit of the People of the State of Oregon (typically for traffic purposes, but not exclusively). Public rights-of-way are limited yet critical public resources vital to both the People and the City's municipal functions. Whenever a private encroachment occurs upon a public right-of-way, the City has an obligation to ensure the encroachment does not interfere with the City's responsibilities to uphold the public trust and promote the public safety and welfare, which is why the City grants permission to use public rights-of-way only by franchises (for utilities), licenses (for non-permanent uses), and permits (for relatively short-term uses), all subject to additional standards, consideration, and legal and technical review.

When the City finds an unauthorized encroachment does so interfere, the City requires a legal mechanism to enforce its jurisdiction and regulatory control. Classifying unauthorized encroachments upon public rights-of-way as nuisances is well supported in Oregon law and provides the City with the authority to remove or compel removal of existing encroachments.

This Resolution proposes to declare encroachments upon the public right-of-way of East 9<sup>th</sup> Street as nuisances subject to abatement when continuing to exist after a deadline of November 1, 2021. The nuisance abatement protocols established by TDMC Chapter 5.04 are particularly robust and are implemented regularly by the Codes Enforcement Officer and City Attorney.

If Council adopts this Resolution, staff intends to draft a proposed General Ordinance for Council's review within the next year to declare encroachments upon all public rights-of-way within city limits to be nuisances subject to abatement under TDMC Chapter 5.04. Staff is recommending Council adopt this Resolution ahead of the proposed General Ordinance because the Public Works Department is preparing to improve a portion of East 9<sup>th</sup> Street and a proposed ordinance of such broad applicability to all the City's rights-of-way requires additional legal and technical research.

**BUDGET IMPLICATIONS:** Staff time to enforce nuisance abatement.

**COUNCIL ALTERNATIVES:**

1. **Staff recommendation:** *Move to adopt Resolution No. 21-021, a Resolution Enforcing The Dalles Municipal Code—Chapter 2.24 Public Rights-of-Way and Relating to Encroachment Removal on East 9<sup>th</sup> Street.*
2. Do not adopt Resolution No. 21-021 and provide direction to staff on how to proceed.

**RESOLUTION NO. 21-021**

**A RESOLUTION ENFORCING THE DALLES MUNICIPAL CODE—  
CHAPTER 2.24 PUBLIC RIGHTS-OF-WAY AND RELATING  
TO ENCROACHMENT REMOVAL ON EAST 9<sup>TH</sup> STREET**

**WHEREAS**, The Dalles Municipal Code (“TDMC”) 2.24.010 defines “public right-of-way” as meaning and including, without limitation, “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.”; and

**WHEREAS**, TDMC 2.24.020 provides the City of The Dalles, a municipal corporation of the State of Oregon (“City”), 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.”; and

**WHEREAS**, the City holds such public rights-of-way in public trust for the People of the State of Oregon and for the public safety and welfare of the City; and

**WHEREAS**, TDMC 2.24.030 accords the City possesses full jurisdiction and may exercise complete 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.”; and

**WHEREAS**, on November 11, 1909, the Riverview Addition to The Dalles (“Riverview Addition”), attached to and made part of this Resolution as Exhibit “A”, surveyed, platted, and depicts those certain lands in The Dalles and dedicated “said streets to the use of the public forever”; and

**WHEREAS**, the street now known as East 9<sup>th</sup> Street is one of those certain streets dedicated to the City in 1909 by the Riverview Addition and is under the jurisdiction of and subject to the City’s regulatory control; and

**WHEREAS**, East 9<sup>th</sup> Street, extending 860 feet east from Quinton Street, is currently unimproved, as depicted on the diagram attached to and made part of this Resolution as Exhibit “B”; and

**WHEREAS**, TDMC 2.24.040 provides “[n]o 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.”; and

**WHEREAS**, TDMC 5.04.130 provides, in addition to the nuisances specifically enumerated in TDMC Chapter 5.04, “every other thing, substance or act that is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the City is declared a nuisance and may be abated as provided in [Chapter 5.04].”; and

**WHEREAS**, public rights-of-way are critical and limited public resources vital to both the People of the State of Oregon and the City’s municipal functions, and non-franchised, unlicensed, or non-permitted encroachments thereupon injure the public safety and welfare of the City.



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

1. All non-franchised, unlicensed, or non-permitted occupancies or encroachments upon East 9<sup>th</sup> Street (“Encroachments”) do not have the City’s permission to use or be located under, on, or above the public right-of-way therein.
2. All Encroachments shall be removed by, as defined in TDMC 5.04.010, either the:
  - a. person in charge of property; or
  - b. person responsible (collectively, “Person”).
3. Any Person claiming ownership of an Encroachment shall remove the Encroachment by November 1, 2021, (“Deadline”) at his or her sole expense.
4. Any Encroachment not removed by the Deadline is hereby determined to be injurious or detrimental to the public safety and welfare of the City and, if continuing to occupy or encroach upon East 9<sup>th</sup> Street after the Deadline, is so declared an unenumerated nuisance consistent with TDMC 5.04.130.
5. The Codes Enforcement Officer or City Attorney may institute enforcement actions to abate unenumerated nuisances, including Encroachments existing after the Deadline, on East 9<sup>th</sup> Street as provided in TDMC Chapter 5.04.

**PASSED AND ADOPTED THIS 11<sup>th</sup> DAY OF OCTOBER, 2021.**

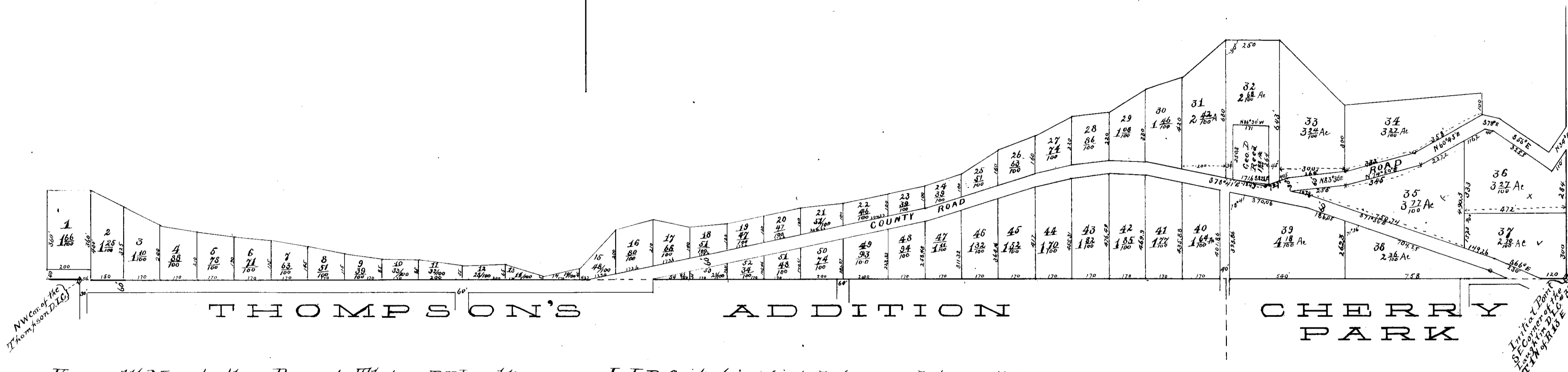
Voting Yes, Councilors: \_\_\_\_\_  
Voting No, Councilors: \_\_\_\_\_  
Absent, Councilors: \_\_\_\_\_  
Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 11<sup>th</sup> DAY OF OCTOBER, 2021.**

SIGNED: \_\_\_\_\_ ATTEST: \_\_\_\_\_  
Richard A. Mays, Mayor Izetta Grossman, CMC, City Clerk

Exhibit “A” – November 11, 1909, Riverview Addition to The Dalles  
Exhibit “B” – East 9<sup>th</sup> Street Utility Improvement Diagram

North  
↑  
MAP  
**RIVERVIEW**  
WASCO COUNTY OREGON  
Scale 300 feet = 1 inch



Know All Men by these Presents, That we, B.F. Laughlin and Clara A. Laughlin (his wife) of Portland, Multnomah County, State of Oregon, owners of the land represented in the accompanying map of Riverview in Wasco County, Oregon, have caused said land to be surveyed and staked into lots and streets as shown in said map and that we hereby dedicate said streets to the use of the public forever.

In Witness Whereof we have hereunto set our hands and seals this the 11 day of November 1909

S. F. Young } witness  
A. S. Lewis }  
B. F. Laughlin }  
Clara A. Laughlin }

State of Oregon } ss  
County of Multnomah }

This Certifies, That on the 11 day of November 1909, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the above named B.F. Laughlin and Clara A. Laughlin who are known to me to be the identical persons described in and who executed the above instrument and acknowledged to me that they executed the same for the uses and purposes therein mentioned.

In Testimony Whereof, I have hereunto set my hand and seal this the day and year last above written

Clarius J. Lewis  
Notary Public for Oregon

I, J. B. Goit, being first duly sworn, depose and say, That I surveyed the land represented in the above map of Riverview, That said map is a true and correct representation of said survey, That I caused proper monuments to be set at the corners of the lots shown on said map and That the Initial Point of said survey is a rock 8 inches x 10 inches x 1 1/4 inches set in the ground at the southeast corner of the Laughlin D.I.C. No 38 of Township 1 North of Range 13 East W.M.

J. B. Goit  
Surveyor

Subscribed and sworn to before me this the 6th day of November 1909

W. J. Nolan  
Notary Public for Oregon

Approved this the 20th day of November 1909  
A. W. Wick  
County Surveyor of Wasco County

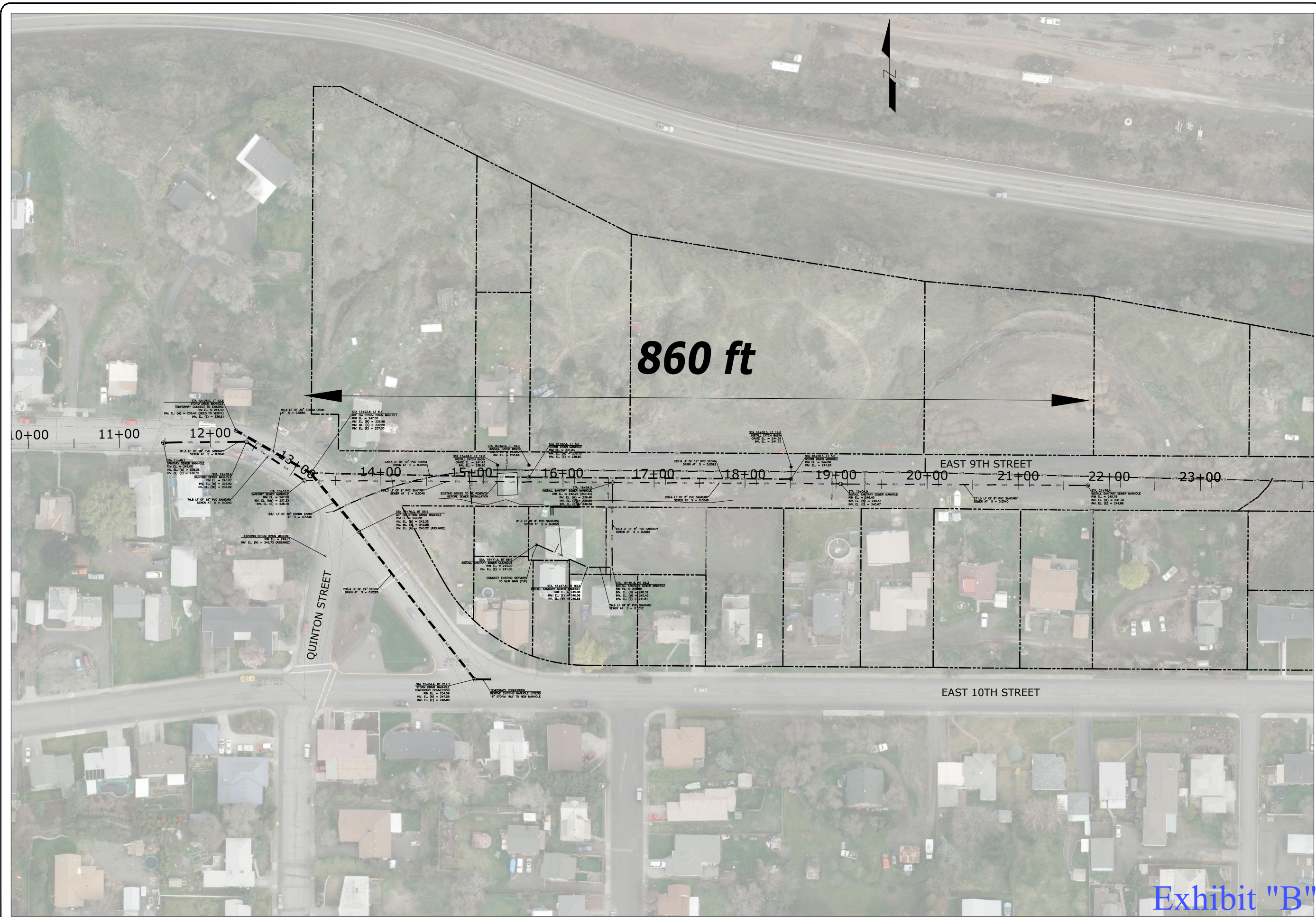
Approved this the 20th day of November 1909  
J. W. H. Smith  
County Assessor of Wasco County

Approved this the 1st day of December 1909  
County Court in the State of Oregon for the County of Wasco

A. C. Lake County Judge  
S. H. Laughlin County Commissioner  
J. C. Rooper County Commissioner

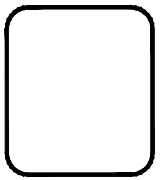
STATE OF OREGON }  
County of Wasco }  
This instrument of writing was filed for record on the 22 day of Dec 1909 at 1 o'clock P.M. and is recorded in Vol. 2 of 1909 on page 170  
J. B. Goit  
County Clerk  
Deputy

Exhibit "A"



**860 ft**

NO.	DATE	REVISIONS



**CITY OF THE DALLES**  
 PUBLIC WORKS DEPARTMENT  
 1215 West 1st Street  
 The Dalles, Oregon 97058  
 (541) 296-5401

A SANITARY SEWER PLAN:  
**E. 9TH STREET  
 UTILITY EXTENSION**  
 THE DALLES,  
 OREGON

NAME	TMS
DATE	9/28/2021
SCALE	1" = 100'
CHECKED	
SHEET	C5.1
OF SHEETS	
JOB NO.	Page 49 of 49

Exhibit "B"