



**TUALATIN VALLEY**  
WATER DISTRICT

## TVWD BOARD OF COMMISSIONERS

President Todd Sanders, PhD | Vice President Carl Fisher

Secretary Jim Doane, PE | Treasurer Elliot Lisac | Commissioner Jim Duggan, PE

# Board Meeting Agenda

November 15, 2023

**REGULAR SESSION – 6:00 PM – TVWD HEADQUARTERS**

### CALL TO ORDER

#### 1. PUBLIC HEARINGS

- A. Proposed Supplemental Budget establishing three new funds and adjusting appropriations in two existing funds. *Staff Report – Justin Carlton, Interim Chief Financial Officer*
- B. Proposed Amendments to System Development Charges Ordinance 01-12 - *Staff Report – Clark Balfour*

### REPORTS BY THE CHIEF EXECUTIVE OFFICER AND MANAGEMENT STAFF

#### COMMISSIONER COMMUNICATIONS

- A. Reports of meetings attended
- B. Topics to be raised by the Commissioners

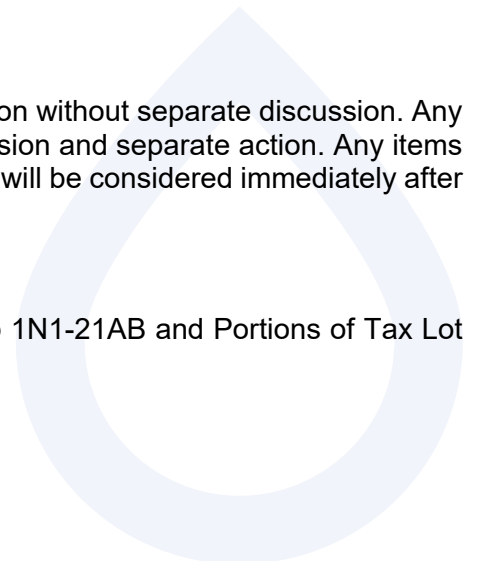
#### PUBLIC COMMENT

This time is set aside for persons wishing to address the Board on items on the Consent Agenda and matters not on the agenda. Additional public comment will be invited on agenda items as they are presented. Each person is limited to five minutes, unless an extension is granted by the Board. Should three or more people testify on the same topic, each person will be limited to three minutes.

#### 2. CONSENT AGENDA

These items are considered to be routine and may be approved in one motion without separate discussion. Any Board members may request that an item be removed by motion for discussion and separate action. Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Board has approved those items which do not require discussion.

- A. Approve the October 18, 2023, regular meeting minutes.
- B. Request for Endorsement of Annexation – Tax Lot 200 on Tax Map 1N1-21AB and Portions of Tax Lot 100 on Tax Map 1N1-21AB.



### 3. BUSINESS AGENDA

- A. Consider a resolution updating Local Contract Review Board rules. *Staff Report – Clark Balfour*
- B. Consider Board action on potential employment negotiations regarding the Chief Executive Officer.

#### ADJOURNMENT

If you wish to attend this meeting remotely or in person, please email [sam.kaufmann@tvwd.org](mailto:sam.kaufmann@tvwd.org) or call 503-848-3094 by 4:30 p.m. on November 15, 2023.

The meeting is accessible to persons with disabilities and those who need qualified bilingual interpreters. A request for an interpreter for the hearing impaired, a bilingual interpreter or for other accommodations should be made at least 72 hours before the meeting to the contact listed above.

For online meeting information, Commissioner bios and more, visit [tvwd.org](http://tvwd.org).





# TUALATIN VALLEY

## WATER DISTRICT

**Date:** November 15, 2023  
**To:** Board of Commissioners  
**From:** Justin Carlton, Interim Chief Financial Officer  
Paul L. Matthews, Interim Chief Executive Officer/Budget Officer

**Subject:** Resolution Adopting 2023-25 Supplemental Budget establishing three new funds and adjusting appropriations in two existing funds.

### **Requested Board Action:**

Consider a resolution adopting 2023-25 Supplemental Budget establishing the System Development Charges Fund, 2023 Revenue Bond Fund, and 2024 Revenue Bond Fund, and adjusting appropriations for 2023-25 Biennium.

### **Key Concepts:**

- The District issued its *Water Revenue Bonds, Series 2023* on May 31, 2023, after the Budget Committee approved the District's 2023-25 Biennial Budget.
- After analyzing the District's financial system capabilities and reviewing best practices for accounting for the use of debt proceeds, staff recommends that the District create new funds to account for each individual debt issuance and the District's system development charges (SDCs).
- As such, a supplemental budget is required to establish the new funds and their appropriations for the current biennium.
- The proposed resolution will establish three new funds (SDC Fund, 2023 Revenue Bond, 2024 Revenue Bond Fund) and will rename the Debt Proceeds Fund to WIFIA Proceeds Fund.
- The proposed supplemental budget does not increase appropriations for the 2023-25 biennium.

### **Background:**

As the District approaches the spending peak of the Willamette Water Supply Program (WWSP), its financing of the infrastructure requires a mix of funding sources including reserves, the Water Infrastructure Finance and Innovation Act (WIFIA) loan, and revenue bonds. On May 31, 2023, the District closed on its *Water Revenue Bonds, Series 2023* (Revenue Bonds), which increased the complexity of the accounting required to comply with the Internal Revenue Service rules for tax-exempt borrowings.

As part of the Adopted 2023-25 Biennial Budget, the District accounted for the receipt of funds and transfers to reserves and capital improvements for both the WIFIA loan proceeds and the Revenue Bonds in a single debt proceeds fund. After completing further analysis of the District's financial management software and reviewing best practices for accounting for the use of debt proceeds, the finance team determined that establishing separate funds for each debt issue and the District's SDCs will enable the District to track the usage of the different funding sources in a more transparent method, reducing the risk of noncompliance.

To establish new funds and appropriations in those funds, Oregon Budget Law requires a supplemental budget process including a properly noticed budget hearing, where the Board will receive public comment. The supplemental budget process does not require input from the District's Budget Committee; however, the citizen members of Budget Committee were provided with a summary of the proposed changes and invited to

participate in the public hearing. The public hearing was noticed in the *Oregonian* November 4, 2023, and on the District's website. A summary of the budget changes is attached to this staff report.

**Budget Impact:**

The supplemental budget will reduce total transfer appropriations by \$16,304,855 as compared to the Adopted 2023-25 Budget. The three new funds will have transfer appropriations totaling \$211,117,945, while the two existing funds will have a total reduction in transfer appropriations of \$227,422,800. The reduction is the result of a change in how debt proceeds are transferred from the debt funds, capital reserves, and CIP fund.



**Staff Contact Information:**

Justin Carlton; Interim Chief Financial Officer; 503-848-3070; [justin.carlton@tvwd.org](mailto:justin.carlton@tvwd.org)

**Attachments:**

Supplemental Budget Summary  
Proposed Resolution

**Leadership Team Initials:**

Interim Chief Executive Officer		Customer Service Manager	N/A
Chief Operating Officer	N/A	IT Services Director	N/A
Interim Chief Financial Officer	JC	Human Resources Director	
General Counsel	N/A	Water Supply Program Director	N/A







**TUALATIN VALLEY**  
WATER DISTRICT

## RESOLUTION NO. 18-23

A RESOLUTION ADOPTING 2023-25 SUPPLEMENTAL BUDGET ESTABLISHING THE SYSTEM DEVELOPMENT CHARGES FUND, 2023 REVENUE BOND FUND, AND 2024 REVENUE BOND FUND, AND ADJUSTING APPROPRIATIONS FOR 2023-25 BIENNIUM.

WHEREAS, on May 31, 2023, the District issued its *Water Revenue Bonds, Series 2023*; and

WHEREAS, the Board of Commissioners adopted Resolution 08-23 on June 21, 2023, a resolution adopting the budget and making appropriations for the Tualatin Valley Water District for the 2023-2025 biennium; and

WHEREAS, staff recommends the creation of additional budgetary funds for each capital funding source to help ensure legal and tax compliance of the District's tax-exempt bond issues; and

WHEREAS, at the District's October 3, 2023 Board Work Session, staff presented the Board of Commissioners a recommendation to establish the additional funds; and

WHEREAS, Oregon Revised Statutes (ORS) 294.471 allows the District to adopt supplemental budgets and authorize appropriations by resolution of the governing body; and

WHEREAS, the supplemental budget will create three new funds: the System Development Charges (SDC) Fund, the 2023 Revenue Bond Fund, and the 2024 Revenue Bond Fund; and

WHEREAS, the supplemental budget will create Transfer appropriation of \$8,906,616 in the SDC Fund, \$82,211,329 in the 2023 Revenue Bond Fund, and \$120,000,000 in the 2024 Revenue Bond Fund; and

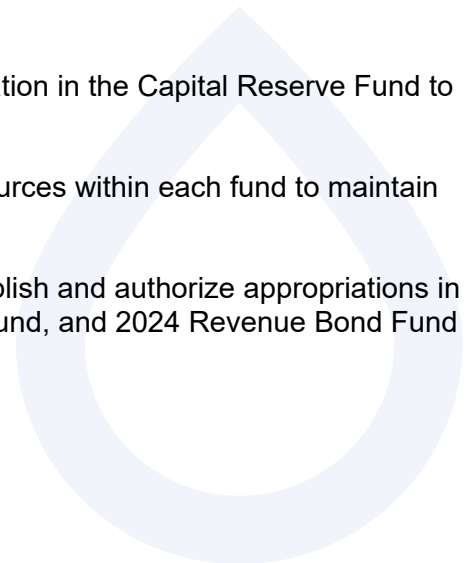
WHEREAS, the supplemental budget will rename the Debt Proceeds Fund to the WIFIA Proceeds Fund, and

WHEREAS, the supplemental budget will reduce Transfer appropriation in the renamed WIFIA Proceeds Fund to \$243,130,240; and

WHEREAS, the supplemental budget will reduce the Transfer appropriation in the Capital Reserve Fund to \$453,806,728; and

WHEREAS, the proposed supplemental budget provides sufficient resources within each fund to maintain a balanced budget for each fund; and

WHEREAS, the Board of Commissioners finds that it is prudent to establish and authorize appropriations in the System Development Charges (SDC) Fund, the 2023 Revenue Bond Fund, and 2024 Revenue Bond Fund for the purposes described in this resolution; and



WHEREAS, the District published a Notice of Supplemental Budget Hearing in the *Oregonian*, a newspaper of general circulation, on November 4, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT THAT:

Section 1: The SDC Fund (Fund 19) is established and Transfer appropriation in the amount of \$8,906,616 is hereby adopted.

Section 2: The 2023 Revenue Bond Fund (Fund 23) is established and Transfer appropriation in the amount of \$82,211,329 is hereby adopted.

Section 3: The 2024 Revenue Bond Fund (Fund 24) is established and Transfer appropriation in the amount of \$120,000,000 is hereby adopted.

Section 4: The Debt Proceeds Fund (Fund 22) is renamed to WIFIA Proceeds Fund and Transfer appropriation is hereby reduced to \$243,130,240.

Section 5: Transfer appropriation in the Capital Reserve Fund (Fund 18) is hereby reduced to \$453,806,728.

Approved and adopted at a regular meeting held on the 15<sup>th</sup> day of November 2023.

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Todd Sanders, President

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Jim Doane, Secretary





### 2023-25 Supplemental Budget Summary

<b>Capital Reserve Fund (Fund 18)</b>	<b>2023-25 Adopted</b>		<b>Supplemental Proposed</b>		<b>Change</b>
<u>Resources</u>					
Beginning Fund Balance	\$	108,757,547	\$	108,757,547	\$ -
Interest Income	\$	5,221,939	\$	5,221,939	\$ -
Sales of Meters & Services	\$	3,576,750	\$	3,576,750	\$ -
System Development Charges	\$	8,906,616	\$	-	\$ (8,906,616)
Transfers In:					
From General Fund	\$	120,000,000	\$	120,000,000	\$ -
From Debt Proceeds (WIFIA) Fund	\$	314,436,597	\$	161,248,990	\$ (153,187,607)
From 2023 Revenue Bond Fund	\$	-	\$	55,001,502	\$ 55,001,502
Total Transfers In	\$	434,436,597	\$	336,250,492	\$ (98,186,105)
<b>Total Resources</b>	<b>\$</b>	<b>560,899,449</b>	<b>\$</b>	<b>453,806,728</b>	<b>\$ (107,092,721)</b>

Requirements

Transfers Out:					
To Capital Improvement Fund	\$	471,065,937	\$	363,973,216	\$ (107,092,721)
Total Transfers Out	\$	471,065,937	\$	363,973,216	\$ (107,092,721)
Ending Fund Balance	\$	89,833,512	\$	89,833,512	\$ -
<b>Total Requirements</b>	<b>\$</b>	<b>560,899,449</b>	<b>\$</b>	<b>453,806,728</b>	<b>\$ (107,092,721)</b>

**WIFIA Proceeds Fund (Fund 22) - Renamed**

	<b>2023-25 Adopted</b>		<b>Supplemental Proposed</b>		<b>Change</b>
<u>Resources</u>					
Beginning Fund Balance	\$	99,023,722	\$	99,023,722	\$ -
Interest Income	\$	330,079	\$	-	\$ (330,079)
Debt Proceeds	\$	264,106,518	\$	144,106,518	\$ (120,000,000)
<b>Total Resources</b>	<b>\$</b>	<b>363,460,319</b>	<b>\$</b>	<b>243,130,240</b>	<b>\$ (120,330,079)</b>

Requirements

Transfers Out:					
To Capital Improvement Fund	\$	49,023,722	\$	-	\$ (49,023,722)
To Capital Reserve Fund	\$	314,436,597	\$	161,248,990	\$ (153,187,607)
To 2023 Revenue Bond Fund	\$	-	\$	81,881,250	\$ 81,881,250
Total Transfers Out	\$	363,460,319	\$	243,130,240	\$ (120,330,079)
<b>Total Requirements</b>	<b>\$</b>	<b>363,460,319</b>	<b>\$</b>	<b>243,130,240</b>	<b>\$ (120,330,079)</b>



## 2023-25 Supplemental Budget Summary New Funds

### System Development Charges Fund (Fund 19)

<u>Resources</u>	<u>2023-25 Adopted</u>	<u>Supplemental Proposed</u>	<u>Change</u>
System Development Charges	\$ -	\$ 8,906,616	\$ 8,906,616
<b>Total Resources</b>	<b>\$ -</b>	<b>\$ 8,906,616</b>	<b>\$ 8,906,616</b>

#### Requirements

##### Transfers Out:

To Capital Improvement Fund	\$ -	\$ 8,906,616	\$ 8,906,616
<b>Total Transfers Out</b>	<b>\$ -</b>	<b>\$ 8,906,616</b>	<b>\$ 8,906,616</b>
<b>Total Requirements</b>	<b>\$ -</b>	<b>\$ 8,906,616</b>	<b>\$ 8,906,616</b>

### 2023 Revenue Bonds Fund (Fund 23)

<u>Resources</u>	<u>2023-25 Adopted</u>	<u>Supplemental Proposed</u>	<u>Change</u>
Transfers In	\$ -	\$ 81,881,250	\$ 81,881,250
Interest Income	\$ -	\$ 330,079	\$ 330,079
<b>Total Resources</b>	<b>\$ -</b>	<b>\$ 82,211,329</b>	<b>\$ 82,211,329</b>

#### Requirements

##### Transfers Out:

To Capital Improvement Fund	\$ -	\$ 27,209,827	\$ 27,209,827
To Capital Reserve Fund	\$ -	\$ 55,001,502	\$ 55,001,502
<b>Total Transfers Out</b>	<b>\$ -</b>	<b>\$ 82,211,329</b>	<b>\$ 82,211,329</b>
<b>Total Requirements</b>	<b>\$ -</b>	<b>\$ 82,211,329</b>	<b>\$ 82,211,329</b>

### 2024 Revenue Bonds Fund (Fund 24)

<u>Resources</u>	<u>2023-25 Adopted</u>	<u>Supplemental Proposed</u>	<u>Change</u>
Debt Proceeds	\$ -	\$ 120,000,000	\$ 120,000,000
<b>Total Resources</b>	<b>\$ -</b>	<b>\$ 120,000,000</b>	<b>\$ 120,000,000</b>

#### Requirements

##### Transfers Out:

To Capital Improvement Fund	\$ -	\$ 120,000,000	\$ 120,000,000
<b>Total Transfers Out</b>	<b>\$ -</b>	<b>\$ 120,000,000</b>	<b>\$ 120,000,000</b>
<b>Total Requirements</b>	<b>\$ -</b>	<b>\$ 120,000,000</b>	<b>\$ 120,000,000</b>



# TUALATIN VALLEY

## WATER DISTRICT

**Date:** November 15, 2023  
**To:** Board of Commissioners  
**From:** Clark Balfour, General Counsel  
**Subject:** Proposed Amendments to System Development Charges Ordinance 01-12

### **Requested Board Action:**

Conduct a second reading by title only of proposed Ordinance 02-23, amending Ordinance 01-12, hold a public hearing and adopt proposed Ordinance 02-23 at the regular meeting on November 15, 2023.

### **Key Concepts:**

- House Bill 2984 was adopted during the 2023 Regular Session, signed by the Governor and now effective.
- It provides measures at the local government level to approve affordable housing including conversion of commercial structures to residential units.
- Additional System Development Charges (SDCs) may be collected upon conversion for these additional users and impacts if certain actions are taken by December 1, 2023.
- These amendments to Ordinance 01-12 accomplish that requirement.

### **Background:**

To encourage affordable housing, House Bill 2984 was introduced and passed to streamline approvals and other impediments to creation of affordable housing. Affordable housing is specifically defined by median income requirements along with long-term covenants (30 years) to remain qualified. There are provisions for conversion of existing commercial structures to residential uses. In that case, provisions were included regarding water and wastewater SDCs resulting from the increased usage.

The new law says that the District may collect the additional SDC upon conversion from commercial to residential if the charge is calculated pursuant to a policy adopted prior to December 1, 2023, or the District's SDCs for water include an offset for 100% of the SDCs paid when the building was constructed.

The provisions currently in Ordinance 01-12 allow the redevelopment of property and assignment of new equivalent residential units (ERUs) and collection of SDCs with a 100% credit for the value of already paid SDCs so at first glance, Tualatin Valley Water District seems to comply without further action. However, the new statute creates questions and in staff's view the Board should take action to respond so there is no question. The attached modifications are included in the proposed Ordinance.

First, the statute says that these provisions apply in cities that have an urban growth boundary (UGB) with at least 10,000 people. That certainly applies to part of the District but leaves open the question of our much larger Metro and Washington County adopted UGB that contains the large bulk of our customer base. The proposed Ordinance provides this uniformly over District boundaries.

Second, a full credit for the existing SDC upon redevelopment is not a new concept for the District. It has been part of Ordinance 01-12. The proposed Ordinance clarifies that if there is redevelopment for affordable housing, as defined in the new Oregon law, the credit is based on the size of the meter currently in use at current value and that amount is deemed to have been paid for credit purposes. This continues the District's past practices.

Even though it appears that the District complies with the new law already, staff believes the proposed Ordinance should be adopted by the Board prior to December 1, 2023 to clearly fall within the provisions of the new statute.

**Budget Impact:**

The cost of preparing this presentation and complying with the requirements of House Bill 2984 are within the District's Adopted 2023-25 Biennial Budget. The potential changes to the District's SDC methodology are not anticipated to affect the District's SDC revenue.

**Staff Contact Information:**

Clark Balfour; General Counsel; 503-848-3061; [clark.balfour@twwd.org](mailto:clark.balfour@twwd.org)




Paul L. Matthews; Interim Chief Executive Officer; 503-848-3017; [paul.matthews@twwd.org](mailto:paul.matthews@twwd.org)

**Attachments:**

Proposed Ordinance 02-23

Ordinance 01-12

**Leadership Team Initials:**

Interim Chief Executive Officer		Customer Service Manager	N/A
Chief Operating Officer	N/A	IT Services Director	N/A
Interim Chief Financial Officer		Human Resources Director	N/A
General Counsel		Water Supply Program Director	N/A





**TUALATIN VALLEY**  
WATER DISTRICT

## ORDINANCE NO. 02-23

### AN ORDINANCE AMENDING ORDINANCE 01-12 REGARDING SYSTEM DEVELOPMENT CHARGES

WHEREAS, Oregon Revised Statutes 223.297 to 223.314 establish procedures to provide a unified framework for the imposition of System Development Charges by governmental units for specified purposes and to establish that the charges may be made for Capital Improvements and for a Methodology to determine System Development Charges; and

WHEREAS, on August 17, 2012, the Board of Commissioners of Tualatin Valley Water District adopted Ordinance 01-12 Amending and Restating System Development Charges in accordance with Oregon Revised Statutes 223.297 through 223.314; and

WHEREAS, on May 21, 2014, the Board of Commissioners of Tualatin Valley Water District amended Ordinance 01-12 by adopting Ordinance 02-14 Amending Ordinance 01-12 Relating to System Development Charges and Declaring an Emergency; and

WHEREAS, pursuant to Ordinance 01-12, by resolution the Board of Commissioners has adopted the System Development Charges, separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development; and

WHEREAS, the Oregon Legislature recently adopted House Bill 2984, also known as 2023 Oregon Laws Chapter \_\_\_, to provide for conversion of commercial structures and uses to residential use with authorization to collect additional System Development Charges based upon the increased impact of such residential use; and

WHEREAS, this Ordinance amends Ordinance 01-12 to be in conformance with the new law and being advised.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT:

Section 1. The following provisions of Ordinance 01-12 are amended and restated as follows:

A. Section 3 F shall read:

“Where an existing meter is located on a parcel that is *developed, redeveloped*, partitioned or subdivided, the owner may apply to the District to assign the meter and any existing system development charge credit to the *development, redevelopment*, lot or apportioned among the lots that comprised the original parcel. The credit shall apply to the *development, redevelopment or the lot designated by the owner.*”

B. New Section 3 H (6) is added:

“Credits will be valued at the cost of:

1. Where available, the current SDC based on the size of the existing meter; or
2. Where available, the number of ERUs purchased under the requirements Section 3 D of the District’s SDCs Ordinance 01-12 or as subsequently amended; or
3. A reasonable estimate of the number of ERUs calculated by the District using prudent engineering principles,

for developed or redeveloped properties that are converted from commercial uses to residential uses, including affordable housing as defined in 2023 House Bill 2984, 2023 Oregon Laws Chapter \_\_. The credit will be applied to the total system development charges calculated for the number of ERUs and the owner shall pay the amount of system development charges remaining after application of the credit.”

Section 2. Severability

If any clause, section, or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

Section 3. Implementing Regulations

The Board of Commissioners may adopt by resolution any regulations or administrative procedures to implement the provisions of this Ordinance.

Section 4. Pursuant to Oregon Revised Statute Chapter 198, the ordinance was read at two regular meetings of the District Board of Commissioners on two different days, at least six days apart, prior to the adoption thereof, to wit: the 18<sup>th</sup> day of October 2023, and the 15<sup>th</sup> day of November 2023.

Section 5. This ordinance was adopted following a second reading by the affirmative vote of at least a majority of the members of the District Board of Commissioners at its regular meeting on the 15<sup>th</sup> day of November 2023, and was signed by the presiding officer and attested to by the secretary.

Section 6. This ordinance shall take effect on December 15, 2023, at 12:01 a.m., being at least 30 days from the date of its adoption.

\_\_\_\_\_  
Todd Sanders, President

\_\_\_\_\_  
Jim Doane, Secretary





# Tualatin Valley Water District



## ORDINANCE 01-12

### AN ORDINANCE AMENDING AND RESTATING SYSTEM DEVELOPMENT CHARGES.

WHEREAS, through Resolution No. 1-91, the Board of Commissioners established a methodology to determine the amount of System Development Charges for the Tualatin Valley Water District pursuant to Oregon Revised Statutes (ORS) 223.297 to 223.314, and the charges therefore which have been amended from time to time by various Resolutions; and

WHEREAS, Oregon Revised Statutes 223.297 to 223.314 establish procedures to provide a uniform framework for the imposition of System Development Charges by governmental units for specified purposes and to establish that the charges may be used for Capital Improvements; and

WHEREAS, Oregon Revised Statutes, under 223.297 to 223.314 provides procedures for establishing a Methodology to determine System Development Charges; and

WHEREAS, by this Ordinance, the District intends to reconfirm the authorization for system development charges for capital improvements pursuant to ORS 223.297 to 223.314 for the purpose of creating a source of funds to pay for existing system capacity and/or the installation, construction and extension of capital improvements to accommodate new connections to the system; and

WHEREAS, this Ordinance is adopted to restate existing provisions of the previously adopted Resolution 1-91 as amended and to provide updated provisions consistent with the statutes, but without change to the methodology for calculations of charges; and

WHEREAS these charges shall be due and payable at the time of permitted increased usage of the capital improvements that generate a need for those facilities; and

WHEREAS, the system development charges imposed are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development, and being fully advised

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT THAT:

#### **Section 1. Title**

This Ordinance shall be known as "System Development Charge Ordinance" and may be so referred to.

## Section 2. Definitions

- A. "Applicant" shall mean the owner or other person who applies for a residential, commercial, industrial or other connection to the District water system.
- B. "Board" means the Board of Commissioners of the Tualatin Valley Water District.
- C. "Building" shall mean any structure, either temporary or permanent, built for the support, shelter or enclosure of persons or property of any kind or for any public, commercial, industrial or other use. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.
- D. "Capital Improvements" shall mean public facilities or assets used for water supply, treatment and distribution.
- E. "Capital Improvement Plan" shall mean any Plan, Public Facilities Plan, Master Plan, Capital Improvements Plan or similar plan that contains capital improvements upon which system development charges are calculated.
- F. "Citizen or Other Interested Person" shall mean any person whose legal residence is within the boundaries of the District, as evidenced by registration as a voter within the District or by other proof of residency; or a person who owns, occupies, or otherwise has an interest in real property which is located within District boundaries or is otherwise subject to the imposition of system development charges, as outlined in Section 3 of this ordinance.
- G. "Connection" or "Connection Permit" shall mean connection to, or a permit to connect to, the capital improvements of the District.
- H. "District" shall mean the Tualatin Valley Water District, a unit of local government under ORS 174.116.
- I. "Development" shall mean a building or other construction, or making a physical change in the use of a structure or land, in a manner which increases the usage of any capital improvements or which may contribute to the need for additional or enlarged capital improvements, as determined by the Board.
- J. "Dwelling Unit" shall mean a single building or a portion of a building designed for complete, independent residential occupancy, consisting of one or more rooms which are arranged, designed or used as quarters for living, sleeping, eating, cooking and sanitation by one or more persons.
- K. "Encumbered" shall mean monies committed by contract or purchase order in a manner that obligates the District to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of a real property provided by a vendor, supplier, contractor or owner.

- L. "Equivalent Residential Unit (ERU)" shall mean the base element of the formula by which system development charge rates are determined, for various buildings or developments.
- M. "Improvement Fee" shall mean a fee for costs associated with capital improvements to be constructed after the effective date of this ordinance.
- N. "Lot" shall mean a unit of land created by subdivision or partition in compliance with state statutes and applicable planning and zoning codes and regulations.
- O. "Manufactured Housing" shall mean a dwelling unit which is constructed primarily at one location and is then transported to another location for either permanent or temporary siting.
- P. "Methodology" shall mean the system development charge methodology required by ORS 223.304(1) and (2).
- Q. "Owner" shall mean the person holding legal title to the parcel upon which development is to occur, or a contract purchaser of such parcel.
- R. "Parcel" shall mean any unit of land, lot or real property created by subdivision or partition in compliance with any state statute or the applicable planning and zoning codes and regulations; or by deed or land sale contract if not created by subdivision or partition.
- S. "Person" shall mean an individual, corporation, partnership, incorporated association, or any other similar entity.
- T. "Qualified Public Improvement" shall be defined as provided in ORS 223.304(3).
- U. "Reimbursement Fee" shall mean fee for costs associated with capital improvements already constructed or under construction when the fee is established and for which capacity exists.
- V. "Single-family housing" shall mean a detached dwelling unit, constructed on-site, and located on an individual parcel.
- W. "System Development Charge" or "SDC" shall mean a reimbursement fee and/or an improvement fee assessed or collected at the time of increased usage of, or connection to a capital improvement.

### Section 3. Assessment of Charge

- A. A System Development Charge is hereby imposed upon all new development within the District, which connects to a capital improvement or which increases the usage of any capital improvements, or which contributes to the need for additional or enlarged capital improvements. The system development charge shall apply to new development and alteration, expansion or replacement of an existing building, structure or development if such alteration, expansion or replacement results in an increase in the number of equivalent residential units (ERUs) compared to the present number of ERUs. For alterations, expansions and replacements, the amount of the system development charge to be paid shall be the difference between the SDC amount for the proposed development less a credit for the SDCs attributable to the existing ERUs.
- B. System development charge rates per ERU shall be established, and may be revised from time to time, by resolution of the District.
- C. The system development charges imposed by this ordinance are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development.
- D. For any meter larger than 1 1/2 inches, the owner shall execute a SDC Agreement to pay an SDC for that meter, subject to adjustment for actual usage. The SDC Agreement will have a term of five years (60 months). If actual usage is greater than 110% of anticipated daily usage during any 12-month period of time, during the 5-year (60 month) term from the date of the agreement, an additional SDC may be charged by calculating peak day and storage ERUs and multiplying the peak day SDC cost per ERU and the storage cost per ERU then in effect. If the District finds a violation of the SDC Agreement or exceedance of the volume limitation by the Owner, then it may extend the SDC Agreement for an additional five years along with the recalculation of the SDC rate.
- E. The SDC paid for a parcel shall be deemed to run with the land and is not transferrable to another parcel except as specified herein.
- F. Where an existing meter is located on a parcel that is partitioned or subdivided, the owner may apply to the District to assign the meter and any existing system development charge payment to a lot or apportioned among the lots that comprised the original parcel. The existing credit shall apply to the first lot to develop.
- G. Where contiguous parcels under the same ownership with existing connections wish to combine and seek a credit for the value of existing connections, such credit may be granted if:
  - (1) The ownership is the same or by closely related parties;
  - (2) The separate contiguous parcels are combined into one tax lot by the Assessor;  
and

- (3) All services and connections for the previous parcels are abandoned so that there will only be one connection for the consolidated parcel.

H. When a request or requirement for a larger meter is made to the District by an owner for parcels within the District, SDC credit for the existing meter at the parcel will be granted.

- (1) The credit for meters 1.5 inches or less will be based on the current SDC rate in effect at the time of the requested or required upsizing. For meters 2 inches and larger, the credit will be calculated based on anticipated water use as agreed to by the parcel owner at the time the original service connection was installed, or the most recent subsequent agreements between the parcel owners and the District when the connection was resized. If no anticipated water use agreement exists for the parcel, the Chief Engineer will determine, by examining information the Chief Engineer deems pertinent, an equivalent anticipated water use for the existing connection. In cases where the Chief Engineer makes such determination, the credit will be based on the SDC for customers with the determined anticipated water use using the SDC rate in effect at the time of the requested or required upsizing.
- (2) Credit shall be given for inactive or previously removed meters that can be verified by District records. The credit will be determined as stated in Section H (1) above.
- (3) Credits as computed will be subtracted from the determined SDC amount based on the District's current adopted SDC schedule. If an available credit exceeds the SDC amount, the balance shall remain with the parcel previously receiving water service for no more than two years from the date the credit is first used. No cash refunds shall be provided for the amount of this credit.
- (4) SDC credits are non-transferrable to other parcels within the District unless contiguous parcels under the same ownership within the District's service area are combined to facilitate development.
- (5) SDC credits will only apply to parcels with accounts with the District that are in good standing and have no unpaid charges.

The SDC paid for a residential ¾-inch or 1-inch water meter, in the circumstance where a larger meter is required only for the purpose of meeting a residential multi-purpose fire sprinkler system requirement, will consist of the SDC for the appropriate size meter that would be required without the multi-purpose fire sprinkler system plus a percentage of the difference between the price of the SDC for the meter size meeting the domestic water requirements and the SDC for the meter size meeting the fire sprinkler requirement. The percentage adjustment factor will be determined annually by the District's Chief Engineer and represent the approximate storage cost component of the SDC. Should the customer regularly use the capacity of the ¾" or 1" meter to meet their domestic needs, they will be required to pay the remainder of the SDC at the current rate in effect.

- J. If the customer has been charged by the District for an illegal connection and requests a contract for payment of the SDC, the District may withhold the option of providing a contract for said payment of SDC.
- K. If the SDC is financed as permitted by ORS 223.028, the financing charge established by the District shall be the maximum legal rate of interest as authorized in ORS 82.010.

#### **Section 4. System Development Charge Methodology**

- A. The methodology used to establish the reimbursement fee portion of the system development charge shall take into account the cost of then-existing facilities, prior contributions by then-existing users, the value of unused capacity, generally accepted rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the District. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of then-existing facilities.
- B. The methodology used to establish the improvement fee portion of the system development charge shall take into account the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and other relevant factors identified by the Board.
- C. The methodology used to establish the improvement fee and the reimbursement fee was developed and previously adopted by the District. Amendments thereto or adoption of a new methodology may be adopted by ordinance or resolution of the District.

#### **Section 5. System Development Charge Plan**

- A. The Board has adopted the Capital Improvement Plan (CIP) which is periodically updated. This Plan
  - (1) Lists the planned capital improvements that may be funded with improvement fee revenues; and
  - (2) Lists the estimated cost and time of construction of each improvement.

In adopting this CIP, the Board may incorporate by reference all or a portion of any Public Facilities Plan, Master Plan, Capital Improvements Plan or similar plan that contains the information required by this Section. The Board may modify the projects listed in that Plan at any time through the adoption of a resolution.

## Section 6. Collection

- A. The System Development Charge shall be due and payable at the time of issuance of a permit or approval by the District to connect to the District system or upon such connection or upon increased usage of the District's system. This ordinance shall apply to any building or development for which connection approval has not been given prior to the adoption hereof.
- B. If development is commenced or connection is made to the system provided by the District without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required or increased usage occurred.
- C. The District shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full, unless an exemption is granted pursuant to Section 6E.
- D. In addition, each person making an application for connection shall pay an inspection charge and all other applicable fees and costs imposed by the District. The fees and charges shall be immediately due and payable.
- E. Notwithstanding Section 3A, the following developments shall be exempt from payment of the System Development Charges:
  - (1) Alterations, expansion or replacement of a building or development where no additional equivalent residential unit is created or plumbing fixtures added.
  - (2) The construction of accessory buildings or structures which will not create additional equivalent residential units or plumbing fixtures and which do not create additional demands on the District's capital facilities.
  - (3) The issuance of a permit for a manufactured housing unit on which applicable system development charges have previously been paid.
  - (4) Development with vested rights, determined as follows:
    - a. Any owner of a parcel which was the subject of a building permit or development permit issued prior to the effective date of Ordinance No. 01-12 may petition the District for a vested rights determination which would exempt the owner from the provisions of this ordinance. Such petition shall be evaluated by the Board and a decision made based on *all three* of the following criteria being met:
      - (1) The existence of a valid, unexpired building or development permit authorizing the specific development for which a determination is sought, and;

- (2) Substantial expenditures or obligations made or incurred in reliance upon such permit, and;
- (3) Other factors that demonstrate it is inequitable to deny the owner the opportunity to complete the previously approved development under the prior conditions of approval by requiring the owner to comply with the requirements of this ordinance. For the purposes of this paragraph, the following factors shall be considered in determining whether it is inequitable to deny the owner the opportunity to complete the previously approved development:
  - (a) Whether the injury suffered by the owner outweighs the public cost of allowing the development to go forward without payment of the system development charges required by this ordinance; and
  - (b) Whether the expenses or obligations for the development were made or incurred prior to the effective date of this ordinance.
- b. The Chief Executive Officer shall make a written determination as to whether the owner has established a vested right in the development and, if so, whether the development would be exempt from the provisions of this ordinance.
- (5) Fire only service connections.
- (6) Temporary connections for Irrigation Purposes.

**Section 7. Credits for Developer Contributions of Qualified Public Improvements**

- A. The District may grant a credit against the improvement fee component of system development charges imposed pursuant to Section 3 for the donation of land for, or for the actual cost of construction of, any qualified public water improvements set forth in the CIP.
- B. Prior to issuance of a building permit or development permit, the applicant shall submit to the District a proposed plan and estimate of cost for contributions of qualified public water improvements. The proposed plan and estimate shall include:
  - (1) A designation of the development for which the proposed plan is being submitted;
  - (2) A legal description of any land or interest in land such as an easement or right-of-way proposed to be donated and a written appraisal prepared in conformity with Section 7(C)(1).;



- (3.) A list of the contemplated capital improvements contained within the plan;
  - (4.) An estimate of proposed construction costs certified by a professional engineer; and
  - (5.) A proposed time schedule for completion of the proposed plan.
- C. The applicant shall have the burden of demonstrating that a particular improvement qualifies for credit. The amount of credit to be applied shall be tentatively determined according to the following standards of valuation:
- (1.) The value of donated lands shall be based upon a written appraisal of fair market value by a qualified and professional appraiser acceptable to the District. The appraisal will be based upon comparable sales of similar property between unrelated parties in a bargaining transaction; and
  - (2.) The cost of anticipated construction of qualified public improvements shall be based upon cost estimates certified by a professional engineer and relevant District data as determined by the Chief Engineer.
- D. Upon completion of construction and placement of the improvement in service the actual credit shall be calculated based upon the land value, if any, and the actual cost of the qualified public improvement based on a verified accounting of costs provided to the Chief Executive Officer. The District may require such documentation as it deems necessary to evaluate actual costs.
- E. This credit shall be only for the improvement fee charged for the type of improvement being constructed. Credit under this Section may be granted only for the cost of that portion of the improvement that exceeds the facility size or capacity needed to serve the development project and their oversizing provides capital usable by the District.
- F. If a donation or construction of a qualified public improvement gives rise to a credit amount greater than the amount of the system development charge that would otherwise be levied against the project receiving development approval, the excess credit may be applied against system development charges that accrue in subsequent phases of the original development project. Any excess credit must be used not later than ten years from the date it is given.
- G. The decision of the Chief Executive Officer as to whether to accept the proposed improvement and the value of such contribution shall be in writing and issued within fifteen (15) working days of the date all data is received for review. Notification shall be provided to the applicant via regular mail.
- H. After completion of a qualified public improvement, the applicant shall, within 30 days of completion, submit to the District an accounting of actual costs. Upon District verification of such costs, the credit shall be increased or reduced accordingly. If

reduced, the applicant shall pay to the District the amount of such reduction in cash within 20 days of notice of such reduction.

- I. Any applicant who submits a proposed plan pursuant to this Section and desires the immediate issuance of a building permit or development permit shall pay the applicable system development charges. Said payment shall not be construed as a waiver of any credit. Any difference between the amount paid and the amount due, as determined by the Board, shall be refunded to the applicant. In no event shall refund by the District under this subsection exceed the amount originally paid by the applicant.
- J. Credits shall be apportioned against the parcel, which was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots constituting the entire parcel shall be proportionate to the anticipated public facility service requirements generated by the respective lots or parcels. Upon written application to the District, however, credits shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the entire parcel originally eligible for the credit.

#### **Section 8. Appeals and Review Hearings**

- A. An applicant who is required to pay system development charges shall have the right to request a hearing before the Board to review the denial by the Chief Executive Officer of any of the following:
  - (1.) A petition for vested rights pursuant to Section 6(E)(4).
  - (2.) A proposed credit for contribution of qualified public improvements pursuant to Section 7.
  - (3.) A decision of the Chief Executive Officer interpreting the provisions of this Ordinance.
- B. Such hearing shall be requested by the applicant within thirty (30) days of the date of the Chief Executive Officer's written decision. Failure to request a hearing within the time provided shall be deemed a waiver of such right.
- C. The request for hearing shall be filed with the Chief Executive Officer and shall contain the following:
  - (1.) The name and address of the applicant;
  - (2.) The legal description of the parcel in question;
  - (3.) If issued, the date the building permit or development permit was issued;

- (4.) A brief description of the nature of the development being undertaken pursuant to the building or development permit;
  - (5.) If paid, the date the system development charges were paid; and
  - (6.) A statement of the reasons why the applicant is requesting review.
- D. Upon receipt of such request, the Chief Executive Officer shall schedule a hearing before the Board of Commissioners at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within forty-five (45) days of the date the request for hearing was filed.
- E. Such hearing shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing as determined by the Board. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.
- F. Any applicant who requests a hearing pursuant to this Section and desires the immediate issuance of a connection permit or dwelling shall pay prior to or at the time the request for hearing is filed the applicable system development charges. Said payment shall not be construed as a waiver of any review rights.
- G. An applicant may request review under this Section without paying the applicable system development charges as long as no connection permit or approval has been issued and no connection has occurred.
- H. The decision of the Board shall be subject to writ of review under ORS 34.010 to 34.100.

### **Section 9. Review of Methodology and Rates**

- A. This ordinance, the system development charge methodology, and the capital improvement plan required by ORS 223.309 shall be reviewed by the Board of Commissioners at intervals it deems appropriate. The review shall consider new estimates of population and other socioeconomic data, changes in the cost of construction and land acquisition, and adjustments to the assumptions, conclusions or findings set forth in the methodology. The purpose of this review is to evaluate and revise, if necessary, the rates of the system development charges to ensure that they do not exceed the actual or reasonably anticipated costs of the District's capital improvements.
- B. Notwithstanding any adjustments made under Section 9.A. of this Ordinance, annually the District shall review the SDC methodology and rates in relation to the Engineering News Record (ENR) Construction Cost Index (CCI) for Seattle, Washington, or comparable index as adopted by the Board, for the geographical region for which such index is prepared that more appropriately reflects cost indexing for the Portland

Metropolitan Area. The Board may, by resolution, modify the District's SDC charges in keeping with such index. A change in an SDC under this subsection shall not be considered a modification to the SDC or methodology under ORS 223.297 through ORS 223.314.

- C. In the event the review of the ordinance or the methodology alters or changes the assumptions, conclusions and findings of the methodology, or alters or changes the amount of system development charges, the methodology shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews. If changes in the methodology are undertaken by the District, the District shall comply with the requirements of ORS 223.297 through ORS 223.314, and coordinate such changes with other affected jurisdictions as necessary.

#### **Section 10. Receipt and Expenditure of System Development Charges**

- A. The District shall establish separate accounts for each type of system development charge, which shall be maintained apart from all other accounts of the District. All system development charge payments shall be deposited in the appropriate account immediately upon receipt.
- B. Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.
- C. Improvement fees shall be applied only to capacity-increasing capital improvements, including expenditures relating to repayment of debt for the improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the capital improvements funded by improvement fees shall be related to demands created by development. A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the Capital Improvement Plan, Master Plan or other plan adopted by the District pursuant to ORS 223.309.
- D. Notwithstanding subsections B and C of this Section, system development charge revenues may also be expended on the direct costs of complying with the provisions of this ordinance, including, but not limited to, the costs of developing system development charge methodologies and providing an annual accounting system for development charge expenditures.
- E. The monies deposited in the above accounts shall be used solely as allowed by ORS 223.307, including, but not limited to:
  - (1.) Design and construction plan preparation;
  - (2.) Permitting and fees;

- (3.) Land and materials acquisition, including any costs of acquisition or condemnation;
- (4.) Construction of capital improvements;
- (5.) Design and construction of new water facilities required by the construction of capital improvements and structures;
- (6.) Relocating utilities required by the construction of improvements;
- (7.) Landscaping;
- (8.) Construction management and inspection;
- (9.) Surveying, soils and material testing;
- (10.) Acquisition of capital equipment;
- (11.) Repayment of monies transferred or borrowed from any budgetary fund of the District which were used to fund any of the capital improvements as herein provided;
- (12.) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the District to fund capital improvements;
- (13.) Costs of complying with the provisions of ORS 223.297 to 223.314, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodology report, resolution/ordinance, and capital improvements plan; and the costs of collecting and accounting for system development charges expenditures.

F. Funds on deposit in system development charge accounts shall not be used for:

- (1.) Any expenditure that would be classified as a maintenance expense; or
- (2.) Costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

G. Any capital improvement being funded wholly or in part with improvement fee revenue shall be included in the District's capital improvement plan. The capital improvement plan may be modified at any time by the Board of Commissioners and shall:

- (1.) List the specific capital improvement projects that may be funded with improvement fee revenue;

- (2.) Provide the estimated cost of each capital improvement project,
  - (3.) Provide the estimated timing of each capital improvement project; and
- H. Any funds on deposit in system development charge accounts which are not immediately necessary for expenditure may be invested by the District. All income net of the cost of investment, derived from such investments shall be deposited in the system development charges accounts and used as provided herein.
- I. System development charges shall not be refunded.
- J. The District shall prepare an annual report accounting for system development charges, including the total amount of system development charge revenue collected in the accounts, and the capital improvement projects that were funded. The report shall be completed by January 1 of each year for projects that were funded in the previous fiscal year.
- K. Any citizen or other interested person may challenge an expenditure of system development charges revenues.
- (1.) Such challenge shall be submitted, in writing, to the Board for review within two years following the subject expenditure, and shall include the following information:
    - a. The name and address of the citizen or other interested person challenging the expenditures;
    - b. The amount of the expenditure, the project, payee or purpose, and the approximate date on which it was made; and
    - c. The reason why the expenditure is being challenged.
  - (2.) If the Board determines that the expenditure was not made in accordance with the purposes of this ordinance and other relevant laws, a reimbursement of system development charge account revenues from other revenue sources shall be made within one year following the determination that the expenditures were not appropriate.

- (3.) The Board shall make written notification of the results of the expenditure review to the citizen or other interested person who requested the review within ten (10) days of completion of the review.

**Section 11. Severability**

If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

**Section 12. Implementing Regulations**

The Board may adopt by Resolution any regulations or administrative procedures, to implement the provisions of this ordinance.

**Section 13. ORS Chapter 198.**

Pursuant to Oregon Revised Statutes, Chapter 198.540, the ordinance was read at two regular meetings of the Board of Commissioners on two different days, at least six (6) days apart and prior to the adoption thereof.

**Section 14. Adoption.**

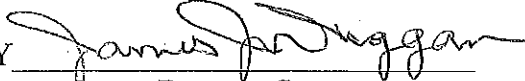
This ordinance was adopted by at least the affirmative vote of a majority of the members of the Board of Commissioners of Tualatin Valley Water District at a public meeting and was attested to by the Chief Executive Officer. The Secretary of the Tualatin Valley Water District is instructed to cause the ordinance to be filed in the records of Tualatin Valley Water District and file a certified copy of this ordinance with the County Clerk

**Section 15.**

**Effective Date.** This Ordinance shall take effect at 12:01 a.m., Pacific Daylight Time, on August 17, 2012, being at least thirty (30) days from the date of its adoption.

TUALATIN VALLEY WATER DISTRICT

BY   
Dick Schmidt, President

BY   
James Duggan, Secretary



**TUALATIN VALLEY**  
WATER DISTRICT

# Board Meeting Minutes

October 18, 2023

## REGULAR MEETING – 6:00 PM

### CALL TO ORDER

Commissioners Present: Jim Doane, PE; Jim Duggan, PE; Carl Fisher; Elliot Lisac, Todd Sanders

Staff Present: Paul Matthews, Interim Chief Executive Officer; Clark Balfour, General Counsel; Justin Carlon, Interim Chief Financial Officer; Pete Boone, PE, Chief Operating Officer; Dave Kraska, PE, Water Supply Program Director; Andrew Carlstrom, Customer Service Manager; Justin Dyke, Interim Communications and Public Affairs Supervisor; Kylie Bayer, Human Resources Director; Tim Boylan, IT Services Director and Sam Kaufmann, District Recorder.

### 1. PUBLIC HEARING

- A. Consider the first reading of an ordinance amending System Development Charges. *Staff Report – Clark Balfour*

Clark Balfour presented his staff report on the proposed amendments to System Development Charges.

Commissioner Sanders opened the public hearing at 6:02 p.m. and called for questions from the public. There were none. Commissioner Sanders Closed the public hearing at 6:03 p.m.

Motion was made by Duggan, seconded by Doane, to perform the first reading of Ordinance 02-23 by title. The motion passed unanimously with Doane, Duggan, Fisher, Lisac and Sanders voting in favor.

The district recorder read Ordinance 02-23 by title.

### REPORTS BY THE CHIEF EXECUTIVE OFFICER AND MANAGEMENT STAFF

Paul Matthews presented the CEO report and Pete Boone presented his department update.

### COMMISSIONER COMMUNICATIONS

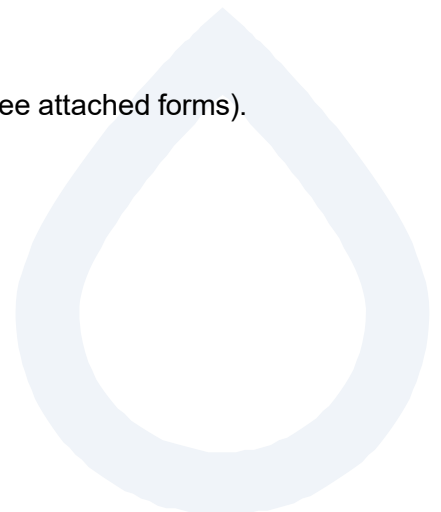
- A. Reports of meetings attended.

Commissioners described and submitted a list of recently attended meetings (see attached forms).

- B. Topics to be raised by the Commissioners.

None.

### 2. CONSENT AGENDA





- A. Approve the September 20, 2023, regular meeting minutes.
- B. Approve the October 3, 2023, work session meeting minutes.
- C. Approve the October 3, 2023, special meeting minutes.

Motion was made by Lisac, seconded by Fisher, to approve the Consent Agenda as presented. The motion passed unanimously with Doane, Duggan, Fisher, Lisac and Sanders voting in favor.

## **ADJOURNMENT**

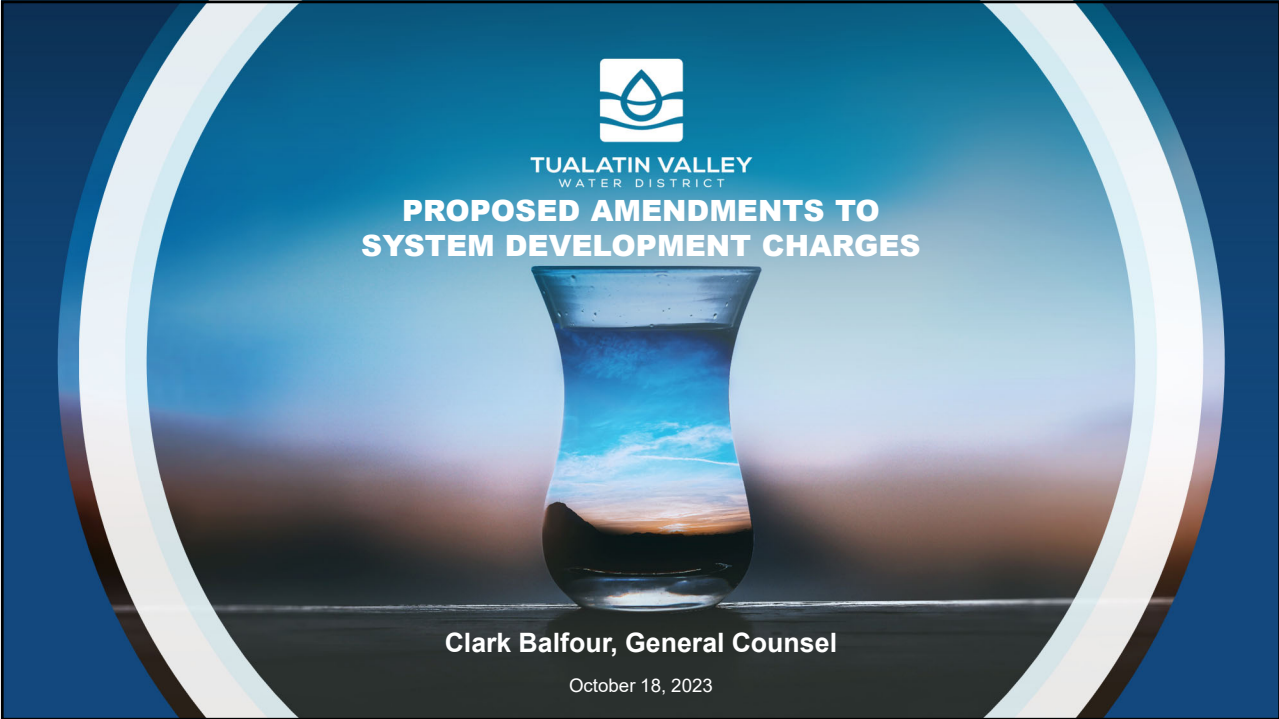
There being no further business, President Sanders adjourned the meeting at 6:31 p.m.

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Todd Sanders, President

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Jim Doane, Secretary



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## TALKIN' WATER

TVWD's next virtual forum will be held noon, October 25, and focus on residential winter irrigation preparation. Pre-registration is not required for this event. Those who may be interested can find the link at: [www.tvwd.org/talkingwater](http://www.tvwd.org/talkingwater).

## BOARD EDUCATIONAL OPPORTUNITIES

Tomorrow, TVWD's Executive Assistant will send the Board a list of upcoming conference/educational opportunities. As a reminder, the District's Board Policies encourage Commissioners "...to attend the annual conferences of AWWA or one other non-political national conference as well as the annual conferences of the Pacific Northwest Section of AWWA and SDAO."

Also, House Bill 2805 requires annual training on the best practices and requirements of public meetings law. This training needs to be provided by Oregon Government Ethics Commission or another organization of the Commission's choice.

## **LEADERSHIP TEAM PLANNING SESSION**

On November 13, the Leadership Team will meet to review TVWD's 2023-2025 strategic plan, initiatives, and project list. The Leadership Team will discuss priorities, timelines, and resource constraints. I plan to provide you an update at the December work session. In addition to that update, I plan to present more detailed information and recommendations during the February work session.

## **DEPARTMENT REPORT**

Chief Operating Officer Pete Boone will present the department report this evening.



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## SERVICE LINE INVENTORY

Project background and summary

- **EPA requires water systems to develop a “lead service line (LSL) inventory” under new rules**
  - Initial inventory must be submitted to the Oregon Health Authority by October 16, 2024
- **TVWD has no known LSLs**
  - The “Service Line Project” is designed to confirm this using ~400 randomly selected sites for physical evaluation (i.e., minor excavation adjacent to the meter)
  - Statistical modeling then used to confirm absence of LSLs across the District

8 | Service Line Inventory Update

8



9 | Service Line Inventory Update

## PROJECT UPDATES

### Milestones, timelines, and next steps

- **Through a competitive RFP, the District is in the process of awarding the excavation work to our selected contractor**
  - The contractor will perform all on-site work w/ District support for data collection and customer engagement
  - The work is expected to be completed by February, well in advance of the inventory submission deadline
- **Additional outreach and communications underway by District staff**
  - Selected sites will be notified in the coming weeks of the pending work
  - Tailored communications for sites in or outside of the public right of way



## COMMUNITY FOCUSED

### Portfolio of resources

- **“Keeping Water Safe” microsite**
  - Project background
  - Timeline
  - FAQs
  - Video content
  - Bi-lingual
- **Staff resources**
  - Fact sheets/brochures
  - Field and office staff talking points



10 | Service Line Inventory Update





**THANK YOU. QUESTIONS?**

**Peter Boone, PE, PLS**

Chief Operating Officer

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## **CONSENT AGENDA**

- A. Approve the September 20, 2023, regular meeting minutes.
- B. Approve the October 3, 2023, work session meeting minutes
- C. Approve the October 3, 2023, special meeting minutes

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**TUALATIN VALLEY**  
WATER DISTRICT

**Report of Meetings Attended**

Commissioner: Carl Fisher

Date: 10/18/2023

Date	Meeting or Function	Purpose	\$	Claimed
10/2/23	Met with Paul Matthews	Check in Meeting	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/3/23	TVWDSpecial Board Meeting, Executive Session	Board Meeting	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/10/23	Agenda Planning Meeting	Met with Paul Matthews and Comm. Sanders to plan next board meeting	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/11/23	Phone Call with Comm. Sanders	to discuss upcoming board meetings	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/15/23	Met with WEA Director	to discuss how they can start presenting about water issues in the county	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/18/23	TVWD Board Meeting	Regular monthly meeting	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No

OK to pay \$300 - SK

Date: 10/18/23

Approved by:



President



Secretary

ORS 198.190, "A member of the governing body of a district may receive, not to exceed \$50.00 for each day or portion thereof as compensation for services performed as a member of the governing body. Such compensation shall not be deemed lucrative. The governing body may provide for reimbursement of a member for actual and reasonable traveling and other expenses necessarily incurred by a member in performing official duties." *Please note that in accordance with ORS 294.331 (3), members of the budget committee shall receive no compensation for their services as members of such committee.*

In accordance with Board Policies, an amount equal to the unclaimed reimbursements for meetings will be transferred to the District's Customer Emergency Assistance Fund.





# TUALATIN VALLEY WATER DISTRICT

## Report of Meetings Attended

Commissioner: Lisac

Date: 10/18/23

Date	Meeting or Function	Purpose	\$	Claimed
10/3/23	TVWD work session, special meeting, and executive session	WWSP update, Supplemental Budget, affordable housing SDCs	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/4/23	Check-in with Interim CEO	Broad discussion regarding District priorities	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/11/23	Call with President Sanders	Planning for future executive session	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/13/23	BRJOC/JWC Board Meetings & executive session	Quarterly board meetings	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/18/23	TVWD Board Meeting	October meeting	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No

Ok to pay \$250 -SK

Date: 10/18/23

Approved by



President



Secretary

ORS 198.190, "A member of the governing body of a district may receive, not to exceed \$50.00 for each day or portion thereof as compensation for services performed as a member of the governing body. Such compensation shall not be deemed lucrative. The governing body may provide for reimbursement of a member for actual and reasonable traveling and other expenses necessarily incurred by a member in performing official duties." *Please note that in accordance with ORS 294.331 (3), members of the budget committee shall receive no compensation for their services as members of such committee.*

In accordance with Board Policies, an amount equal to the unclaimed reimbursements for meetings will be transferred to the District's Customer Emergency Assistance Fund.



**Report of Meetings Attended**

**Commissioner Jim Duggan**

Date	Meeting or Function	Purpose	\$	Claimed
9/28&29/23	OSBEELS Symposium - Traverse	Webinar – PDH for P.E.	-	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10/03/2023	TVWD Work & Exec. Sessions	WWSP & CEO Updates	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/04/2023	RWPC Board Meeting	Regular 1/3 Yr. Mtg.	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/05/2023	Meeting with Paul Matthews	Interim CEO Update	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/10/2023	Wash. Co. CPO #1	Local Updates – Sheriff	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/18/2023	TVWD Board Meeting	Regular Monthly Mtg.	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No


OK to pay \$250 - SK

Date: 10/18/2023

Requested by: James. J. Duggan

Commissioner

Date: 10/18/23

Approved by: 

President

ORS 198.190, "A member of the governing body of a district may receive, not to exceed \$50.00 for each day or portion thereof as compensation for services performed as a member of the governing body. Such compensation shall not be deemed lucrative. The governing body may provide for reimbursement of a member for actual and reasonable traveling and other expenses necessarily incurred by a member in performing official duties." *Please note that in accordance with ORS 294.331 (3), members of the budget committee shall receive no compensation for their services as members of such committee.*

In accordance with Board Policies, an amount equal to the unclaimed reimbursements for meetings will be transferred to the District's Customer Emergency Assistance Fund.



**Report of Meetings Attended**

Commissioner: Todd Sanders

Date: 10/18/23

Date	Meeting or Function	Purpose	\$	Claimed
10/4	Meeting with consultant Norm Eder	Intergovernmental Relations	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/3	Monthly Work Session	Work Session	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/2	Check in with Interim CEO	Interim CEO expectations	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9/29	Phone calls and emails with staff	Intermin CEO placement	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9/28	Phone calls and emails with staff	Intermin CEO placement	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9/26	Meeting with consultant Norm Eder	Intergovernmental Relations	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9/25	Meeting with CFM	Lobbying work	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9/22	PHone calls and emails with staff	CEO retirement	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9/21	Phone calls and emails with staff	CEO retirement	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No

Date: 10/18/23

Approved by




President

Secretary

ORS 198.190, "A member of the governing body of a district may receive, not to exceed \$50.00 for each day or portion thereof as compensation for services performed as a member of the governing body. Such compensation shall not be deemed lucrative. The governing body may provide for reimbursement of a member for actual and reasonable traveling and other expenses necessarily incurred by a member in performing official duties." *Please note that in accordance with ORS 294.331 (3), members of the budget committee shall receive no compensation for their services as members of such committee.*

In accordance with Board Policies, an amount equal to the unclaimed reimbursements for meetings will be transferred to the District's Customer Emergency Assistance Fund.



**TUALATIN VALLEY**  
WATER DISTRICT

**Report of Meetings Attended**

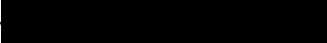
Commissioner: Todd Sanders

Date: 10/18/23

Date	Meeting or Function	Purpose	\$	Claimed
10/18/23	Monthly Board meeting	Rates, SDC	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/17	Meeting with Consultant Norm Eder	Intergovernmental Relations	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/16	Phone calls & emails with staff	Board actions and proposals	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/13	Phone calls & emails with Board members	Non decision discussions	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/12	Meeting with interim CEO	Intergovernmental Relations	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/11	Phone calls & emails	Intergovernmental Relations	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/10	Agenda setting Meeting	Setting Agenda for Monthly Board Meeting	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/09	WRWC Meeting	Water Rights Certification	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/05	Meeting with interim CEO	Intergovernmental Relations	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10/4	Phone calls with staff	Leadership team discussion	50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

OK to pay \$950 - SK

Date: 10/18/23

Approved by 

President  Secretary

ORS 198.190, "A member of the governing body of a district may receive, not to exceed \$50.00 for each day or portion thereof as compensation for services performed as a member of the governing body. Such compensation shall not be deemed lucrative. The governing body may provide for reimbursement of a member for actual and reasonable traveling and other expenses necessarily incurred by a member in performing official duties." *Please note that in accordance with ORS 294.331 (3), members of the budget committee shall receive no compensation for their services as members of such committee.*

In accordance with Board Policies, an amount equal to the unclaimed reimbursements for meetings will be transferred to the District's Customer Emergency Assistance Fund.





**Report of Meetings Attended**

**Commissioner Doane**

Date	Meeting or Function	Purpose	\$	Claimed
10/18	Regular Meeting		50	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10/13	BJOC/JWC		50	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10/9	BJOC/JWC Premeeting		50	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9/28	First Day OSBEELS Symposium		50	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9/29	Second Day OSBEELS Symposium		50	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10/5	MTG CEO		50	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10/3	Work Session		50	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No

Date: 19 Oct 2023

Requested by: Jim Doane

OK to pay \$350 to CEAF  
-SK

Commissioner

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_

President

ORS 198.190, "A member of the governing body of a district may receive, not to exceed \$50.00 for each day or portion thereof as compensation for services performed as a member of the governing body. Such compensation shall not be deemed lucrative. The governing body may provide for reimbursement of a member for actual and reasonable traveling and other expenses necessarily incurred by a member in performing official duties." *Please note that in accordance with ORS 294.331 (3), members of the budget committee shall receive no compensation for their services as members of such committee.*

In accordance with Board Policies, an amount equal to the unclaimed reimbursements for meetings will be transferred to the District's Customer Emergency Assistance Fund.

**From:** [Todd Sanders](#)  
**To:** [Sam Kaufmann](#)  
**Subject:** Re: OCT Meetings Attended  
**Date:** Tuesday, October 24, 2023 4:37:38 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)

---

I approve Jim Doane's October 2023 Meeting Attended form.

Todd Sanders

Get [Outlook for Android](#)

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# TUALATIN VALLEY

WATER DISTRICT

**Date:** November 15, 2023  
**To:** Board of Commissioners  
**From:** Peter Boone, PE, Chief Operating Officer  
Matt Palmer, PE, Development Services Engineer  
**Subject:** Request for Endorsement of Annexation – Tax Lot 200 on Tax Map 1N1-21AB and Portions of Tax Lot 100 on Tax Map 1N1-21AB

## **Requested Board Action:**

Adopt a resolution endorsing a request to annex Tax Lot 200 and portions of Tax Lot 100 on Washington County Assessor's Tax Map 1N1-21AB to the Tualatin Valley Water District (TVWD).

## **Key Concepts:**

- The property owners of Tax Lot 200 on Washington County Assessor's Tax Map 1N1-21AB (13432 NW Springville Lane, Portland, OR 97229), and Tax Lot 100 on Washington County Assessor's Tax Map 1N1-21AB (Properties, collectively) have requested, through their authorized representative, annexation to Tualatin Valley Water District (TVWD) to receive water service.
- Properties are pending land use review by Washington County under Casefile #L2300200 for property line adjustment and preliminary review for a 38-lot subdivision. Upon Washington County approval, Properties will consolidate into a single, adjusted lot.
- Annexation requests require endorsement by the TVWD Board of Commissioners prior to providing water service to subject properties currently outside TVWD's service boundary.
- TVWD can serve the Properties from existing 8-inch water mains located on NW 132<sup>nd</sup> Avenue and NW Primino Avenue, north of NW Lombardy Drive. Extension of the existing water system onto the Properties will occur as part of anticipated residential development on the Properties.

## **Background:**

On October 13, 2023, Westlake Consultants, acting as the authorized representative for the property owners of Tax Lot 200 of Washington County Assessor's Tax Map 1N1-21AB (13432 NW Springville Lane, Portland, OR 97229), Jon and Jane Malinowski, and the property owners of Tax Lot 100 on Washington County Assessor's Tax Map 1N1-21AB, A & F Malinowski Marital Trust and A & F Malinowski Family Trust, (Owners, collectively), requested endorsement of annexation to TVWD to receive water service. The Properties currently do not have public water service.

Properties are pending land use review by Washington County for annexation and property line adjustment (under Casefile #L2300200). Upon approval by Washington County, the Properties will be consolidated into Adjusted Tax Lot 200 on Washington County Assessor's Tax Map 1N1-21AB. The Properties are currently separate legal tax lots. Refer to Exhibit B for the certified legal description and exhibit map of Adjusted Tax Lot 200.

The Properties are located outside of the TVWD service boundary, and therefore require the annexation to be endorsed by the TVWD Board of Commissioners. The Properties are located inside of the Urban Growth Boundary (UGB). The annexation request will also be subject to approval by the Washington County Board of Commissioners applying State law, Washington County ordinances, and Metro ordinances prior to water service being provided by TVWD.

TVWD has existing dead end 8-inch water mains located on NW 132<sup>nd</sup> Avenue and NW Primino Avenue, north of NW Lombardy Drive. Upon development of the Properties, water system improvements, including main extensions, will be required consistent with TVWD's Design and Construction Standards and subject to applicable Rules and Regulations. The Owners, and their successors and assigns, will be responsible for all costs associated with water system improvements at the time of development.

**Budget Impact:**

No change or impact to current budget.

**Staff Contact Information:**

Peter Boone, PE; Chief Operating Officer; 503-848-30xx; [pete.boone@twwd.org](mailto:pete.boone@twwd.org)

Matt Palmer, PE; Development Services Engineer; 503-848-3047; [matt.palmer@twwd.org](mailto:matt.palmer@twwd.org)

**Attachments:**

Proposed Resolution No. 19-23



Exhibit A: Request for Endorsement of Annexation

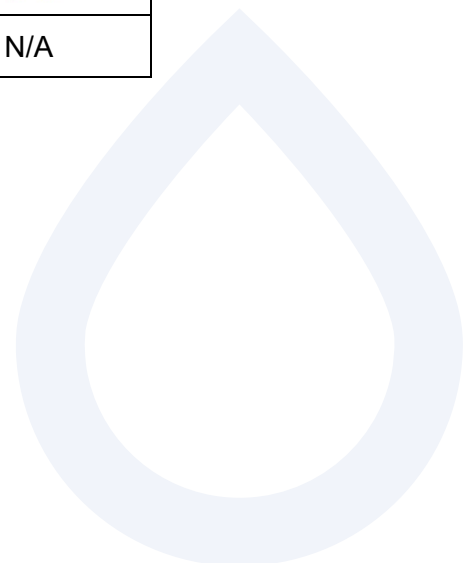
Exhibit B: Legal Description and Exhibit Map

Exhibit C: Tabled Summary of Tax Lot Ownership

Exhibit D: TVWD Water Main Map

**Leadership Team Initials:**

Interim Chief Executive Officer		Customer Service Manager	N/A
Chief Operating Officer	N/A	IT Services Director	N/A
Interim Chief Financial Officer	JC	Human Resources Director	
General Counsel	N/A	Water Supply Program Director	N/A







**TUALATIN VALLEY**  
WATER DISTRICT

## RESOLUTION NO. 19-23

A RESOLUTION ENDORSING THE ANNEXATION TO THE TUALATIN VALLEY WATER DISTRICT TAX LOT 200 AND PORTIONS OF TAX LOT 100 ON WASHINGTON COUNTY ASSESSOR'S TAX MAP 1N1-21AB.

WHEREAS, this matter came before the Board of Commissioners of the Tualatin Valley Water District, hereinafter referred as the Board; and

WHEREAS, Jon and Jane Malinowski, A & F Malinowski Marital Trust, and A & F Malinowski Family Trust, (Owners, collectively), are the owners of Tax Lot 100 and Tax Lot 200 on Washington County Assessor's Tax Map 1N1-21AB (Properties, collectively), allocated as set forth in Exhibit C, attached hereto and incorporated by reference; and

WHEREAS, the area described as set forth in Exhibit B (Adjusted Property), attached hereto and incorporated by reference, is pending land use review under Washington County Casefile #L2300200 for property line adjustment and subsequent preliminary review for a 38-lot subdivision; and

WHEREAS, Owners' Authorized Representative has requested endorsement to annex the Adjusted Property to the District as set forth in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, the Board is required by ORS 198.850 to endorse an annexation upon receiving the necessary consent in writing from the Owner of the property and endorse the annexation if deemed in the best interest of the District; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT THAT:

Section 1: The Board, by this resolution, endorses the proposed annexation as described in Exhibit A, Exhibit B, Exhibit C, and Exhibit D, attached hereto and incorporated by reference.

Section 2: The Board hereby directs and authorizes District staff to take all action to file this resolution with the Board of County Commissioners of Washington County to cause the annexation of the Area to the District.

Section 3: The Board requests that the Board of County Commissioners conduct the annexation process as required by law and approve annexation of the property by the District.

Approved and adopted at a regular meeting held on the 15th day of November 2023.

---

Todd Sanders, President

---

Jim Doane, Secretary

October 13, 2023

**Tualatin Valley Water District Board of Commissioners**

**RE: Request for Endorsement of Service District Annexation  
for 13432 NW Springville Lane**

Dear Commissioners:

Westlake is the Applicant's Representative for a proposed subdivision development located at 13432 NW Springville Lane, in unincorporated Washington County. The property is owned by the individuals and trusts listed on the attached signed and County-certified annexation petition. Noyes Development Company is currently under contract with the Owners to purchase and develop the property with a 38-lot single-family residential subdivision.

With this letter and attached documents, Westlake is requesting, on behalf of the Property Owners and Noyes Development Company, the TVWD Board of Commissioners' endorsement of the proposed annexation.

Attached to this letter, please find the following County-certified documents:

- Legal Description and Map of Annexation Area
- Annexation Petition, Signed (100% Ownership)

We appreciate your consideration of this request and look forward to receiving confirmation of your endorsement of the proposed annexation area.

Sincerely,

**Westlake Consultants, Inc.**



Kenneth L. Sandblast, AICP  
Principal I Director of Planning

Enclosure

KLS/jg

J:\2740-008.22\5. Planning\4-PRE Application\Annexation\TVWD Letter Request for Endorsement.docx

October 16, 2023

Board of Commissioners  
Tualatin Valley Water District

Re: Property Owner Authorization for District Annexation Request

Dear Commissioners,

As owners of the property that is subject of the annexation request, please accept this letter as proof of our authorization allowing Noyes Development Company as Applicant, and Westlake Consultants, Inc. as Applicant's Representative, to file an annexation request with Tualatin Valley Water District for the property identified as Adjusted Tax Lot 200 of Tax Map 1N121AB and shown in the attached map. The property is pending Washington County land use review for a 38-lot subdivision (Casefile #L2300200).

Please contact Clark Vorm of Noyes Development Company at 503-951-3418 or [clark@noyesdevelopment.com](mailto:clark@noyesdevelopment.com), or Julia Glisson of Westlake Consultants at 503-684-0652 or [jglisson@westlakeconsultants.com](mailto:jglisson@westlakeconsultants.com) if you have any questions.

Sincerely,

DocuSigned by: Jon Malinowski 10/16/2023 | 5:06 PM PDT  
Jon Malinowski  
5BB3124F62DA4CA...  
Owner and Trustee, A&F Marital Trust and A&F Family Trust

DocuSigned by: Jane Malinowski 10/16/2023 | 5:07 PM PDT  
Jane Malinowski  
5BB3124F62DA4CA...  
Owner

\_\_\_\_\_  
Greg Malinowski  
Owner and Trustee, A&F Marital Trust and A&F Family Trust

DocuSigned by: Richard Malinowski 10/16/2023 | 6:53 PM PDT  
Richard Malinowski  
7F7BC32FAE03478...  
Trustee, A&F Marital Trust and A&F Family Trust

October 16, 2023

Board of Commissioners  
Tualatin Valley Water District

Re: Property Owner Authorization for District Annexation Request

Dear Commissioners,

As owners of the property that is subject of the annexation request, please accept this letter as proof of our authorization allowing Noyes Development Company as Applicant, and Westlake Consultants, Inc. as Applicant's Representative, to file an annexation request with Tualatin Valley Water District for the property identified as Adjusted Tax Lot 200 of Tax Map 1N121AB and shown in the attached map. The property is pending Washington County land use review for a 38-lot subdivision (Casefile #L2300200).

Please contact Clark Vorm of Noyes Development Company at 503-951-3418 or [clark@noyesdevelopment.com](mailto:clark@noyesdevelopment.com), or Julia Glisson of Westlake Consultants at 503-684-0652 or [jglisson@westlakeconsultants.com](mailto:jglisson@westlakeconsultants.com) if you have any questions.


Sincerely,

---

Jon Malinowski  
Owner and Trustee, A&F Marital Trust and A&F Family Trust

---

Jane Malinowski  
Owner

DocuSigned by:  
 10/16/2023  

---

Greg Malinowski  
Owner and Trustee, A&F Marital Trust and A&F Family Trust

---

Richard Malinowski  
Trustee, A&F Marital Trust and A&F Family Trust

July 7, 2023  
Project No. 2740-008

**EXHIBIT A**

A tract of land lying in the Northeast 1/4 of Section 21, Township 1 North, Range 1 West of the Willamette Meridian, in Washington County, Oregon, being a portion of that tract of land described in a deed to Fern E. Malinowski, Trustee for A & F Malinowski Family Trust and Fern E. Malinowski, Trustee for A & F Malinowski Marital Trust, recorded as Document Number (Doc. No.) 99140389, Washington County Deed Records, and that tract of land described in a deed to John Malinowski and Jane Malinowski, recorded as Doc. No's. 98012077 and 98012078 Washington County Deed Records; and being more particularly described as follows:

**BEGINNING** at a 3-1/4" aluminum cap in concrete found marking the SE corner of the Jacob R. French DLC No. 51 same being the southeasterly corner of the herein described tract;

**THENCE**, along the south line of said 99140389 tract, same being the north lines of the plats of Arbor Heights No. 5 and Arbor Heights No. 6, Washington County Plat Records, North 89°24'40" West, for a distance of 956.94 feet the southwesterly corner of the herein described tract, from which a 3-1/4" aluminum cap in concrete found marking the NE corner of the John Brugger DLC No. 49 bears North 89°24'40" West, a distance of 334.36 feet;

**THENCE**, leaving said south line, North 00°35'20" East, for a distance of 165.55 feet to the southeast corner of that called 0.307 acre tract described in a deed to Gregory P. Malinowski and Jonella K. Malinowski recorded in Doc. No. 99080152 Washington County Deed Records, from which a 5/8" iron rod with yellow plastic cap stamped "RPLS 1910" bears North 8°21'18" East, a distance of 0.23 feet;

**THENCE**, along the east line of said called 0.307 acre tract, North 08°21'18" East, for a distance of 273.11 feet to 5/8" iron rod found marking the northeasterly corner thereof on the section line common to sections 16 and 21 of Township 1 North, Range 1 West, of the Willamette Meridian, and northwesterly corner of the herein described tract, from which a 4-1/4" brass disk in concrete found marking the 1/4 corner of said sections 16 and 21 bears North 88°48'17" West, a distance of 404.08 feet;

**THENCE**, along said section line, South 88°48'17" East, for a distance of 912.41 feet to a 1/2" iron pipe found marking the north-northeast 1/16 corner of said section 21, same being the northwest corner of the plat of Arbor Heights East No. 3, Washington County Plat Records and northeasterly corner of the herein described tract;

**THENCE**, along the east line of aforementioned Doc. No. 99140389 tract, same being the west line of said plat, South 00°26'31" East, for a distance of 426.57 feet the **POINT OF BEGINNING**.

Containing 406,264 square feet, more or less.

Bearings are Oregon Coordinate Reference System (OCRS), Portland Zone, NAD83(2011), International feet

**ANNEXATION CERTIFIED**

BY           *JF*          

**OCT 06 2023**

**WASHINGTON COUNTY A & T  
CARTOGRAPHY**

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*[Signature]* 7/7/23

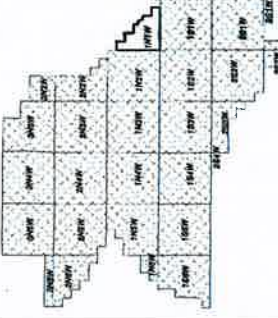
OREGON  
MARCH 9, 2021  
MICHAEL DOWNHOUR  
95338PLS

RENEWS: 12-31-2023



1N 1 21AB

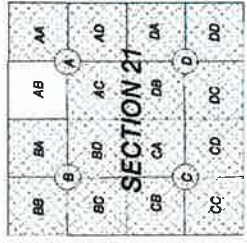
1N 1 21AB



WASHINGTON COUNTY OREGON  
 NW1/4 NE1/4 SECTION 21 T1N R1W W.M.  
 SCALE 1" = 100'

30	31	32	33	34	35	36	37
1	6	5	4	3	2	1	8
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
19	24	23	22	21	20	19	24
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	8

FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT  
[www.wco.washington.or.us](http://www.wco.washington.or.us)



Cancelled Taxlots For: 1N121AB  
 800.400.800.700.8400.3700.

ANNEXATION CERTIFIED BY  
 WASHINGTON COUNTY  
 CARTOGRAPHY  
 10623

SCALE: 1" = 100'



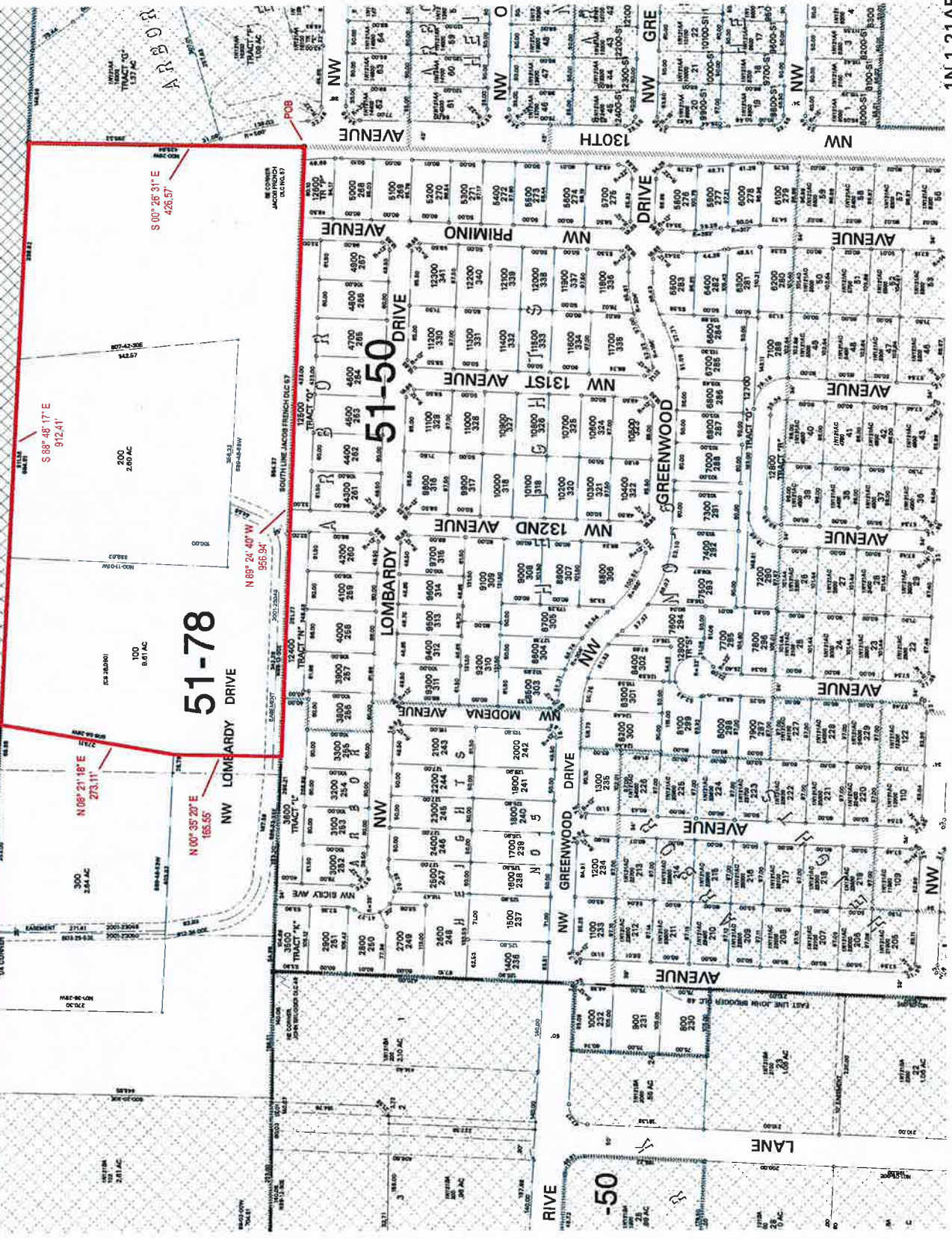
PLOT DATE: March 29, 2017  
 FOR ASSESSMENT PURPOSES  
 ONLY - DO NOT RELY ON  
 FOR OTHER USE

Map areas delineated by either grey shading or a cross-hatch pattern are for reference only and may not indicate the most current property boundaries. Please consult the appropriate title for the most current information.

EXHIBIT B

1N 1 21AB

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**51-78**  
 NW LOMBARDY DRIVE

S 88° 48' 17" E 912.41'  
 S 00° 26' 31" E 426.57'  
 N 08° 21' 18" E 273.11'  
 N 00° 35' 20" E 185.85'  
 N 89° 24' 40" W 956.94'

1N 1 21AB

1N 1 21AB









<u>Tax Lot</u>	<u>Tax Map</u>	<u>Site Address</u>	<u>Property Owner(s)</u>
100	1N1-21AB	NO SITUS	A & F MALINOWSKI MARITAL TRUST A & F MALINOWSKI FAMILY TRUST
200	1N1-21AB	13432 NW SPRINGVILLE LANE, PORTLAND, OR 97229	JON MALINOWSKI JANE MALINOWSKI

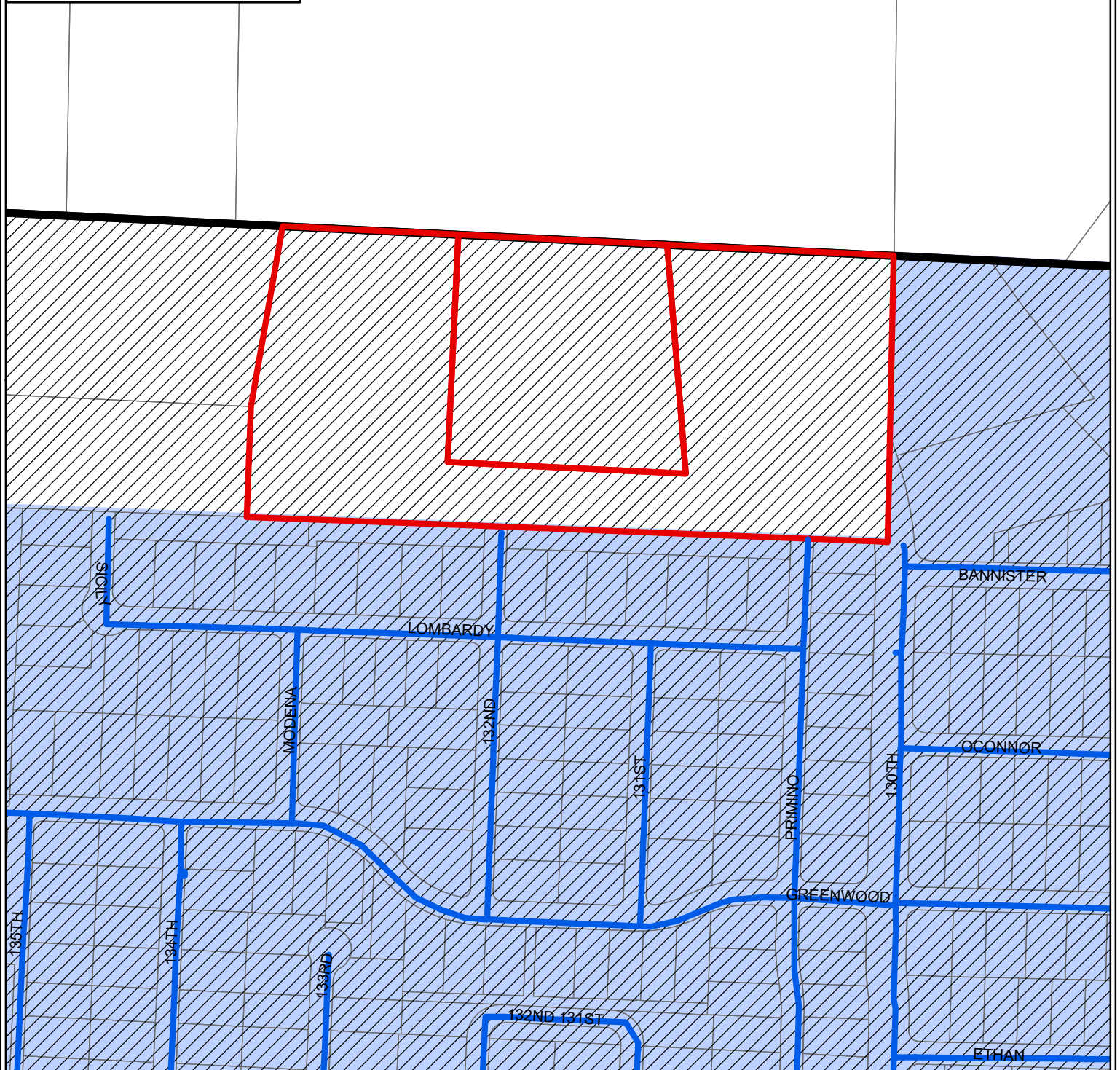
# EXHIBIT C

<u>Tax Lot</u>	<u>Tax Map</u>	<u>Site Address</u>	<u>Property Owner(s)</u>
100	1N1-21AB	NO SITUS	A & F MALINOWSKI MARITAL TRUST A & F MALINOWSKI FAMILY TRUST
200	1N1-21AB	13432 NW SPRINGVILLE LANE, PORTLAND, OR 97229	JON MALINOWSKI JANE MALINOWSKI



**Legend**

-  Water Main
  -  Subject Property
  -  County Boundary
  -  Urban Growth Boundary
  -  TVWD District Boundary
- 0      140      280  
Feet 





**TUALATIN VALLEY**  
WATER DISTRICT

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# TUALATIN VALLEY

WATER DISTRICT

**Date:** November 15, 2023  
**To:** Board of Commissioners  
**From:** Clark Balfour, General Counsel  
Heather Speight, Procurement and Contracts Administrator  
**Subject:** Resolution Adopting Revisions to the Local Contract Review Board Rules

**Requested Board Action:**

Acting as the Local Contract Review Board, consider adopting a resolution revising the Local Contract Review Board Rules.

**Key Concepts:**

- The Board of Commissioners is the Local Contract Review Board (LCRB) for Tualatin Valley Water District (District). As the LCRB, the Board has adopted Local Contract Review Board Rules (Rules) to govern procurement of goods, services, and capital projects.
- The proposed resolution would revise procurement limits to align with legislative changes to the Oregon Revised Statutes.

**Background:**

The District's current rules set its procurement thresholds at \$10,000 for small procurements and \$150,000 for intermediate procurements. These procurement thresholds were consistent with state law when adopted in the District's Rules.

During the 2023 legislative session, the legislature passed Senate Bill (SB) 1047 which amended state law regarding small and intermediate procurement thresholds. Under SB 1047, the District is allowed to set the threshold for small procurements to \$25,000 and intermediate procurements to \$250,000. SB 1047 took effect September 24, 2023.

The proposed resolution establishes new procurement thresholds for the District that are consistent with SB 1047.

**Budget Impact:**

There is no direct budgetary impact of a change in the District's Rules.

**Staff Contact Information:**

Clark Balfour; General Counsel; 503-848-3061; [clark.balfour@tvwd.org](mailto:clark.balfour@tvwd.org)

Heather Speight; Procurement and Contract Administrator; 503-848-3055; [heather.speight@tvwd.org](mailto:heather.speight@tvwd.org)

**Attachments:**

Proposed rule revisions as Exhibit A.

**Leadership Team Initials:**



Interim Chief Executive Officer	<i>PM</i>	Customer Service Manager	N/A
Chief Operating Officer	N/A	IT Services Director	N/A
Interim Chief Financial Officer	JC	Human Resources Director	<i>dB</i>
General Counsel	N/A	Water Supply Program Director	N/A





**TUALATIN VALLEY**  
WATER DISTRICT

## RESOLUTION NO. 20-23

A RESOLUTION AMENDING THE LOCAL CONTRACT REVIEW BOARD (LCRB) RULES TO ALIGN WITH OREGON REVISED STATUTES.

WHEREAS this matter comes before the Board of Commissioners acting in its capacity as the Local Contract Review Board for Tualatin Valley Water District pursuant to ORS 279A.060 and Resolution 14-84; and

WHEREAS, the Local Contract Review Board adopted Local Contract Review Board Rules (Rules by Resolution 12-12 on May 20, 2012 and has made amendments by various resolutions since; and

WHEREAS, the Oregon Legislature passed amendments to the public contracting statutes increasing the monetary thresholds in certain categories and District staff has recommended conforming amendments to the Rules as set forth below and on Exhibit A, attached hereto and incorporated by reference, and being advised

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TUALATIN VALLEY WATER DISTRICT ACTING AS THE LOCAL CONTRACT REVIEW BOARD THAT:

- Section 1:** Divisions 100-020, 110-010, 120-010, 120-020, and 160 are amended to reflect \$25,000 as the threshold for procurement of small purchases as set forth on Exhibit A, attached hereto and incorporated by reference.
- Section 2:** Division 120-010(2) is amended to reflect \$26,000 as the total contract amount for a small procurement as set forth on Exhibit A, attached hereto and incorporated by reference.
- Section 3:** Divisions 100-020, 110-010, 120-010, 120-020, 120-030, 120-040, 120-050, 150, and 160 are amended to reflect \$250,000 as the threshold for procurement of intermediate purchases as set forth on Exhibit A, attached hereto and incorporated by reference.

Approved and adopted at a regular meeting held on the 15<sup>th</sup> day of November, 2023.

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Todd Sanders, President

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Jim Doane, Secretary



# Local Contract Review Board Rules

## DIVISION 100 – INTRODUCTION AND DEFINITIONS

### 100-020 – Definitions

The following definitions apply to these rules, unless the context requires otherwise:

- (1) **Addenda to the Solicitation Documents:** Addenda are additions or deletions to, material changes in, or general interest explanations of the District's Solicitation Documents.  
  
Addenda shall be labeled as such and distributed to all interested persons on the list of proposers/bidders and shall be communicated electronically or by post.
- (2) **Bid:** A competitive offer or proposal, which is binding on the responsible bidder, in which price, delivery (or project completion) and conformance with specifications and the requirements of the Invitation to Bid will be the predominant award criteria. A bid may be formal or informal.
- (3) **Bidder:** An individual, firm or corporation who submits a bid in response to the District's solicitation.
- (4) **Bidding Period:** The span of time between the date of issuance of the solicitation and closing of the solicitation, i.e., the time and date set as the deadline for submitting bids. For informal solicitations under ~~\$150,000~~\$250,000, a minimum seven (7) calendar day bidding period shall be provided, unless a shorter time period is deemed necessary in the District's interest for a particular procurement and will not substantially affect competition. For Competitive Sealed bids, not less than fourteen (14) calendar days shall be provided, unless a shorter time is deemed necessary in the District's interest for a particular procurement and will not substantially affect competition. For Requests for Proposals, not less than thirty (30) days shall be provided unless a shorter time is deemed necessary in the District's interest for a particular procurement and will not substantially affect competition.
- (5) **Board:** Means the Board of Commissioners of Tualatin Valley Water District acting as the Local Contract Review Board for the District.
- (6) **Class Special and Contract Specific Procurements:** Contracting procedures that allow for a Public Contract to be entered into using alternative procurement methods rather than through competitive bidding process.
  - (A) A "class special procurement" is for the purpose of entering into a series of contracts over time for the acquisition of a specified class of goods or services.
  - (B) A "contract specific procurement" is for the purpose of entering into a single contract or a number of related contracts for the acquisition of specified goods or services on a one- time basis or for a single project.
- (7) **Closing/Due Date:** The date and time announced in the District's solicitation (e.g., Invitation to Bid or Request for Proposals) as the deadline for submitting bids or proposals.
- (8) **Competitive Bidding:** A price-based selection process typically used for procurements above \$150,000, as provided in ORS 279B.055 and public improvement contracting above \$100,000 as provided in ORS 279C.365, that involves an advertised public notice, issuance of a written Solicitation Document inviting interested persons or firms to submit written,

## Local Contract Review Board Rules

signed, and sealed bids, that are received by the District and publicly opened at the designated time and place, and a contract awarded (if one is awarded) to the lowest responsive, responsible bidder.

- (9) **Competitive Quotes:** Bids submitted to the District by competing bidders in response to a request for quotes issued by the District. The Request for Quotes may be accomplished by advertisement and/or by the District initiating a request to vendors to submit a bid. The solicitation and the bid may be in writing or submitted electronically as prescribed by these rules. Competitive quotes are required for purchases whose value is estimated between ~~\$10,000~~\$25,000 and ~~\$150,000~~\$250,000 per ORS 279B.070 and between ~~\$10,000~~\$25,000 and \$100,000 per ORS 279C.335 (c) (d).
- (10) **Construction Manager/General Contractor (CMGC):** A method of Public Improvement Contracting utilizing a construction manager to perform value engineering, act as general contractor, coordinate and manage the building process, provide general contractor expertise, establish a guaranteed maximum price for construction and be a member of the construction team with the District, architect/engineers and other consultants as the District and/or the project may require.
- (11) **Contract:** The written agreement, including the District's scope of work or specifications and the accepted portions of a bid or proposal, between the District and the contractor describing the work to be done and the obligations of the parties. Depending upon the goods and services being procured, the District may use "Contract" as meaning a purchase order, price agreement, or other contract document in addition to the District's Solicitation Document and the accepted portions of a bid or proposal. If the contract is for a public improvement, the contract may consist of the District's Solicitation Document, including any addenda, the general and special conditions governing the work, the accepted portions of the bid or proposal, the performance and payment bond (if required), plans, technical specifications, approved shop drawings, and any contract amendments, including approved change orders.
- (12) **Contractor:** The individual, firm or corporation awarded the Public Contract to furnish the District the goods, services or work procured in the District's solicitation.
- (13) **Cost:** This term includes not only the product price but also other items of expense such as the actual or reasonably estimated costs related to quality or life cycle, and may include such actual or estimated items as shipping, delivery, setup, installation and training.
- (14) **Contract Price:** The total of the awarded bid or proposal amount, including any approved alternates, and any fully executed change orders or amendments.
- (15) **Days:** Calendar days, including weekdays, weekends and holidays, unless otherwise specified.
- (16) **Design/Build:** Means a method of Public Contracting where the responsibility for project team participation with the District, project design, value engineering, management of the design and construction process, general contractor expertise, a guaranteed maximum price and construction is vested in a single entity, through one contract with the District.
- (17) **Descriptive Literature:** Materials submitted by bidders or proposers to provide information concerning the products available in response to the District's solicitation.
- (18) **Disabled Individuals:** An individual who, because of the nature of the individual's disabilities, is not able to participate fully in competitive employment and for whom specialized

# Local Contract Review Board Rules

employment opportunities must be provided.

- (19) **District:** Tualatin Valley Water District or TVWD.
- (20) **District Staff:** All employees and agents of Tualatin Valley Water District.
- (21) **Electronic:** Submission of data, on Invitations to Bid, Requests for Proposals, Requests for Qualifications, Bids, Proposals and Statements of Qualifications that are transmitted electronically, via e-mail or facsimile as permitted by the District and these Rules.
- (22) **Emergency Procurement:** A procurement made directly with a supplier, contractor or consultant without competitive bidding due to circumstances that could not have been reasonably foreseen and that require the prompt purchase of goods or services in order to avoid a substantial risk of loss, damage, interruption of service or a substantial threat to property, public health, welfare or safety.
- (23) **Guaranteed Maximum Price:** Means the price provided to the District by the contractor that includes all costs of the work, as defined in the contract documents, excepting material changes in the scope of work. This pricing mechanism is most often used in Construction Manager/General Contractor or Design/Build contracts where the guaranteed maximum price is provided early in the design to assist the District in determining whether or not the project scope is within the District's budget, allowing for design changes to be made at the preliminary design phase rather than after significant design work has been completed.
- (24) **Foreign Contractor:** One who is not domiciled in or registered to do business in the State of Oregon and considered a non-resident bidder in accordance with ORS 279A.120.
- (25) **Formal Bid, Competitive Sealed Bid, Competitive Sealed Proposal:** Where the procurement for goods and services is anticipated to be more than ~~\$150,000~~\$250,000 the bid, proposal or quote shall be in writing-and, signed as required by ORS 279B. For public improvement contracts governed by ORS 279C where the estimated value is more than \$100,000, the bid, proposal or quote shall be in writing and signed as provided in ORS 279C.
- (26) **Informal Bid, Proposal or Quote, Invitation to Bid:** When the price of the procurement is anticipated to be between ~~\$10,000~~\$25,000 and ~~\$150,000~~\$250,000 the PCO may use, written or electronic solicitation methods as appropriate in order to provide a fair opportunity to potential bidders or proposers. Informal bids shall be solicited in such a fashion and in such form that the bidder is bound to his/her proposal or bid as required by ORS 279B. For public improvement contracts less than \$100,000, informal bids, proposals or quotes may be used as determined by the PCO as provided herein.
- (27) **Invitation to Competitive Sealed Bid (formal) (over ~~\$150,000~~\$250,000):** A solicitation of for competitive, written, signed and sealed bids in which specification, price and delivery (or project completion) are the predominant award criteria. Informal bids (under ~~\$150,000~~\$250,000) shall be solicited in a competitive fashion and in such form that the bidder is bound to his/her proposal if accepted. Solicitation Documents may be issued via paper or in electronic form.
- (28) **Minority, Women, Service-Disabled Veteran and Emerging Small Business Enterprise.** An enterprise or business that is certified by the State of Oregon's Certification Office for



# Local Contract Review Board Rules

Business Inclusion and Diversity in the Oregon Business Development Department as a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns, and/or an emerging small business.

- (29) **Nonresident Bidder:** A bidder who does not have an Oregon business address and for which no unemployment or income taxes have been paid to the State of Oregon during the 12 months preceding the submission of their bid, does not have a business address in Oregon and has stated that bidder is not a resident bidder in the bid.
- (30) **Notice:** Notice of a formal solicitation shall be in accordance with ORS 279. In addition, the Board has authorized notice to be published on the District's website as allowed by ORS 279.
- (31) **Opening:** The date, time and place announced in the District's solicitation for the public opening of written, sealed bids or proposals.
- (32) **Personal Property:** Everything subject to ownership that is not real property, mobile homes or tax foreclosed property and has exchangeable value.
- (33) **Personal Service Contracts:** The type of contracts defined in 110-130 and 300-010. Services that are performed by an independent contractor in a professional capacity such as legal services, medical or therapeutic services, occupational health and safety consultant, information technology consultants and other professional consultants, consultants with expertise in financial, occupational, architectural, engineering, photogrammetric mapping, transportation planning or land surveying services. Personal services also include artistic services or services of a specialized, creative and research oriented nature, or educational training. The determination to use this exemption shall be made by the PCO or his designee.
- (34) **Price Agreement:** A Public Contract awarded through the competitive process for the procurement of goods or services at an agreed upon price with:
- (A) No guarantee of a minimum purchase, and,  
An initial order combined with a continuing obligation upon the awarded bidder to provide the goods and/or services for a specified contract term.
- (35) **Prequalification of Bidder, Proposer or Supplier:** A process followed by the District, in advance of issuance of Solicitation Documents, to determine the qualifications of prospective bidders, proposers or suppliers to perform Public Contracts.
- (36) **Proposal:** A competitive offer, binding on the proposer and submitted in response to a Request for Proposals, where proposal evaluation and contract award is based on criteria such as proposer qualifications and experience, product features and characteristics, service quality and efficiency, and conformance with the specifications and requirements of the solicitation. Price may be an evaluation criterion for proposals but will not necessarily be the predominant basis for contract award.
- (37) **Proposal Period:** The span of time between the date of issuance of the Request for Proposals and closing, i.e., the time and date set as the deadline for submitting proposals.
- (38) **Proposer:** A responsible person who submits a proposal in response to the District's Request for Proposals.
- (39) **Public Agency or Public Entity:** Any agency of the State of Oregon or any political subdivision thereof authorized by law to enter into Public Contracts.

## Local Contract Review Board Rules

- (40) **Public Bid Opening:** For all procurements above ~~\$150,000~~\$250,000, sealed bids must be submitted, but not opened until the date and time due for public bid opening. The PCO or his designee may accept electronically submitted proposals until the advertised date and time and then may distribute the electronic proposals to the evaluation team after said date and time.
- (41) **Public Contracting Officer (PCO):** The Chief Executive Officer of the District or his designee.
- (42) **Public Improvement:** Any construction of improvements on real property by or for a public agency. "Public improvement" does not include emergency work, minor alteration, ordinary repair or maintenance necessary in order to preserve a public improvement, or projects where no public funds are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection. Contracts for Public Procurements shall be issued according to Division 400 of these Rules.
- (43) **QRF:** Qualified Rehabilitative Facility (QRF) is a nonprofit corporation operating to provide individual with disabilities (as defined by ORS 279.835), with services, and enables them to maximize their opportunities for employment. The State of Oregon requires public agencies to employ individuals hired by QRFs for particular services or purchase goods offered by QRFs.
- (44) **Resident Bidder:** A bidder with an Oregon business address and for which unemployment or income taxes have been paid to the State of Oregon during the 12 months preceding the submission of their bid, has a business address in Oregon and has stated that bidder is a "resident bidder" in the bid.
- (45) **Responsive and Responsible Bidder:** A bidder who has substantially complied with the material requirements of the bidding process as required by the solicitation or bidding instructions as outlined in ORS 279B.110 and has met the standards of responsibility as outlined in ORS 279B.110.
- (46) **Request for Proposal:** The formal solicitation of written, competitive proposals, or bids, to be used as a basis for making an acquisition or entering into a contract when specification and price will not necessarily be the predominant award criteria. Informal proposals shall be solicited in a competitive fashion and in such form that the proposer is bound to his/her proposal if accepted.
- (47) **Requirements Contract:** An agreement in which the vendor agrees to supply some or all of the purchaser's requirements that arise for an item or items within a specified time period.
- (48) **Rules:** Rules of the Local Contract Review Board, Tualatin Valley Water District, Washington County, Oregon, and may be amended from time to time.
- (49) **Solicitation:** An Invitation to Bid, Request for Proposals, or Request for Statements of Qualifications, and includes all documents, whether attached or incorporated by reference, utilized for soliciting bids, proposals or Statements of Qualifications.
- (50) **Specification/Scope of Work:** Any description of the physical or functional characteristics, or of the nature of a supply, service or construction item. Specifications may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery and the quantities or qualities of materials to be furnished under the contract. Specifications/Scopes of Work generally will state the result to be obtained and may, on occasion, describe the method and manner of doing the work to be

# Local Contract Review Board Rules

performed. Specifications/Scopes of Work may be incorporated by reference and/or through attachment to the contract.

- (51) **Telecommunication Services:** Includes the lease, rental or purchase of the network transmission facilities, services, products, or central office services needed to communicate voice, data, text, images or video over a distance using electrical, electronic, satellite or light wave transmission media. It may or may not include acquisition or telephone network switching, PABX/PBX, customer premise station equipment, or purchase of customer premise wire or cable.
- (52) **Written:** Refers to documents that are produced on paper or in electronic form.

## DIVISION 110 – STATUTORY PUBLIC CONTRACT BIDDING EXCEPTIONS AND EXEMPTIONS

### 110-010 – Statutory Public Contract Bidding Exceptions and Exemptions

All Public Contracts shall be based upon competitive bids or proposals except:

- (1) Contracts made with other public agencies or the federal government
- (2) Contracts made with qualified non-profit agencies providing employment opportunities for disabled individuals (QRFs).
- (3) Emergency procurements
- (4) Sole-source procurements
- (5) Small procurements (under ~~\$10,000~~\$25,000)
- (6) Class-special procurements
- (7) Contract specific procurements
- (8) Grants
- (9) Professional expert or witness consulting
- (10) Acquisition or disposal of real property
- (11) Sole source expenditures where rates are set by law or ordinance for purposes of source selection
- (12) Energy Savings Performance Contracts (exempt under ORS 279C.335)
- (13) Contracts or other documents entered into, issued or established in connection with:
  - (A) The incurring of debt by a public body, including but not limited to the issuance of bonds, certificates of participation, and other debt repayment obligations, and any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited.
  - (B) The making of program loans and similar extensions or advances of funds, aid or assistance by a public body to a public or private body for the purpose of carrying out, promoting or sustaining activities of programs authorized by law.
  - (C) The investment of funds by a public body as authorized by law, and other financial transactions of a public body that by their character cannot practically be established under the competitive contractor selection procedures of ORS 279.
- (14) Contracts for employee benefit plans.

# Local Contract Review Board Rules

- (15) Any other public contracting of a public body specifically exempted from the code by another provision of law.
- (16) Affirmative Action Contracts  
Public Contracts may be let without competitive bidding and regardless of dollar value if the letting of the contract is pursuant to a specific affirmative action plan separately adopted by the District. Affirmative Action is a program designed to eliminate the effects of past and present discrimination, intended or unintended, and to ensure equal opportunity in employment and business for persons otherwise disadvantaged by reason of race, religion, national origin, age, gender, marital status, or physical or mental disabilities, including, but not limited to, personnel practices of contractors, “set-aside” programs and minority business enterprises. Nothing herein shall constitute a specific affirmative action plan.

## **DIVISION 120 – PROCUREMENT CLASSIFICATIONS**

### **120-010 – Classes of Procurements**

#### **(1) Special Procurements**

- (A) Special procurements cover two procedures where competitive bidding is not required: “Class-Special Procurements” and “Contract-Specific Procurements”.
  - i) Class-Special Procurements consist of entering into a series of contracts over time for the acquisition of a specified class of goods or services.
  - ii) Contract-Specific Procurements consist of entering into a single contract or a number of related contracts for the acquisition of specified goods or services on a one-time basis or for a single project.
- (B) To seek approval of a Special Procurement, a written request must be submitted to the Board that describes the proposed contracting procedure, the goods or services to be acquired, and the circumstances that justify the use of a special procurement whereby:
  - i) The special procurement is unlikely to encourage favoritism in the awarding of a Public Contract or substantially diminishes competition for Public Contracts, and
  - ii) Results in substantial cost savings to the District or to the public, or
  - iii) Substantially promotes the public interest in a manner that could not be realized through competitive bidding methods.
- (C) When the Board approves a Class-Special Procurement, the District may award contracts to acquire goods or services within that class without making a subsequent request to the Board.
- (D) Examples of Board approved Class-Special Procurements (formerly Exemptions) are:
  - i) Equipment repair and overhaul under \$75,000.
  - ii) Contracts for price regulated items.
  - iii) Laboratory and medical supplies.
  - iv) Documents, goods and services protected by intellectual property law, including but not limited to computer software, computer software maintenance, copyrighted materials and periodicals.

## Local Contract Review Board Rules

- v) Purchases of used personal property under \$75,000.
- vi) Advertising contracts.
- vii) Investment contracts - The District invests public funds pursuant to the Investment Policy Guidelines reviewed and adopted by the Board of Commissioners in January of each calendar year.
- viii) Telecommunication systems and service contracts.
- ix) Personal Service Contracts where the value is estimated to be under ~~\$150,000~~\$250,000, and where services are performed by an independent contractor in a professional capacity such as legal services, medical or therapeutic services, occupational health and safety consultant, information technology consultants and other professional consultants, consultants with expertise in financial, occupational, architectural, engineering, photogrammetric mapping, transportation planning or land surveying services. Personal services also include artistic services or services of a specialized, creative and research oriented nature, or educational training. The determination to use this exemption shall be made by the PCO or his designee.
- x) District General Counsel.
- xi) A Public Improvement Project where:
  - a) A private contractor working for another public agency or on a private development project and is required to make improvements, which impact the District's water system.

This may include alterations to the District's system that would not otherwise occur at that time but for this project. In these cases, the schedule does not permit time to put the project out to bid and the District cannot provide the work force to complete the work. For example, the site may involve new construction where another government entity would not allow street cuts for the next five years once the paving is complete, or the addition of a District contractor would impair the public agency or private entity's ability to complete the job; or
  - b) It is more economical and efficient to perform the District's portion of the work by inclusion of the public agency's or private entity's contractor.
- xii) Maintenance, repair and operations goods and services needed during the course of the day and purchased against annual purchase orders.
- xiii) The term length of Willamette Water Supply Program ("WWSP") contracts for professional and personal service contracts may extend beyond the five year term limitation outlined in these Rules to 2026 or other such date required to complete the WWSP.
- xiv) Municipal Advisory Services, including debt management, debt issuance and financial advisory services.

# Local Contract Review Board Rules

- xv) Insurance Agent of Record
- xvi) Government Affairs, Public Policy, and Communications

(2) **Small Procurements** [ORS 279B.065 and ORS 279C.335(c)]

When the amount of the contract does not exceed ~~\$10,000~~\$25,000, the District may obtain written, electronic or competitive quotes or may select a vendor/contractor through direct appointment. Amendments over the ~~\$10,000~~\$25,000 amount shall not exceed an additional \$1,000 for a total of

~~\$11,000~~\$26,000, unless the Amendment is approved by a department manager. This amendment limit does not apply to price agreements as they are term agreements and not individual purchases.

A procurement may not be artificially divided or fragmented so as so constitute a Small Procurement to avoid application of these Rules or ORS 279B.

(3) **Intermediate Procurements (ORS 279B.070)**

When the amount of the contract is more than ~~\$10,000~~\$25,000 but less than ~~\$150,000~~\$250,000, the District will use good faith efforts to obtain three informally solicited, competitive quotes electronically or on paper. For procurements exceeding \$25,000 and not involving a purchase for vehicle fuel, a written solicitation shall be issued according to these Rules. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available; a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

Cumulative amendments for intermediate procurements shall not exceed twenty-five percent (25%) of the original contract price, unless approved by the department manager and submitted to the Purchasing Agent/Inventory Controller for amendment of the Purchase Order or Contract. This amendment limit does not apply to price agreements as they are term agreements and not individual purchases.

A procurement may not be artificially fragmented to avoid application of these Rules or ORS 279B.

(4) **Emergency Procurements**

The PCO or his designee may make or authorize others to make Emergency Procurements for goods or services in an emergency. The District shall document the nature of the emergency and describe the method used for the selection of the particular contractor within 2-5 days following the emergency incident. The emergency documentation shall be kept on file with the contract, purchase order, or invoice covering the costs of the emergency.

(5) **Sole Source Procurements**

The District may award a contract for goods or services without competition where the PCO determines in writing that the goods or services, or class of goods or services, are available from only one source.

(A) The sole source determination must be based on written findings that may include:

- i) That the efficient utilization of existing goods requires the acquisition of compatible goods or services;
- ii) That the goods or services required for the exchange of software or data with other public or private agencies are available from only one source;



# Local Contract Review Board Rules

- iii) That the goods or services are for use in a pilot or experimental project; or
  - iv) Other finding that supports the conclusion that the goods or services are available from only one source.
- (B) Where practicable, the District shall negotiate with the sole source to obtain contract terms advantageous to the District.

## **120-020 – Intermediate Procurements (Informal) - Requests for Proposals (RFP) and Invitations to Bid (ITB) Under ~~\$150,000~~\$250,000**

The District may, at its discretion, use RFP or ITB competitive procurement methods for intermediate procurements greater than ~~\$10,000~~\$25,000 and less than ~~\$150,000~~\$250,000 subject to the following conditions:

- (1) Minimum contractual requirements are stated clearly in the Solicitation Document.
- (2) For purchases above \$25,000 and not involving the purchase of fuel: Solicitation documents shall be provided to all bidders and shall include an Invitation to Bid or Request for Proposal letter, a scope of work or specification, an example of the purchase order or contract and the Bidder/Proposer Certifications and Representations form.
- (3) Evaluation criteria to be applied in awarding the contract and the role of an evaluation committee are stated clearly in the RFP Solicitation Document. Criteria used to identify the proposal that best meets the District's needs may include but are not limited to cost, quality, service, compatibility, product reliability, operating efficiency expansion potential and proposer capability.
- (4) The Solicitation Document clearly states all complaint processes and remedies available.

## **120-030 – Competitive Sealed Bidding (ORS 279B.055), Required for Purchases Above ~~\$150,000~~\$250,000**

The District may solicit and award a Public Contract for goods, or goods and services, or may award multiple Public Contracts for goods or services when specified in the Invitation to Bid, by competitive sealed bidding.

- (1) The Invitation to Bid must include:
  - (A) Time and date bids are due and the place at which the bids must be submitted. At the sole discretion of the District, bids may be submitted and received electronically.
  - (B) The name and title of the person designated for the receipt of bids and the person designated by the District as the contact person for the procurement, if different.
  - (C) A procurement description.
  - (D) The time, date and place that prequalification applications, if any, must be filed and the classes of work, if any, for which bidders must be prequalified in accordance with ORS 279B.120.
  - (E) A statement that the District may cancel the procurement or reject any or all bids in accordance with ORS 279B.100.
  - (F) A statement that requires the contractor or subcontractor to possess an asbestos abatement license, if required under ORS 468A.710.
  - (G) All contractual terms and conditions to the procurement.
  - (H) Notice of any pre-bid conference with time, date and location, and whether

## Local Contract Review Board Rules

attendance is mandatory.

- (I) A provision that provides that statements made by the District's representatives at the time of the conference are not binding upon the District unless confirmed by written addendum. The form and instructions for submission of bids and any other special information.
  - (J) A statement that each bidder must identify whether they are a resident bidder as defined by ORS 279A.120 (1).
  - (K) Contractor's certification of non-discrimination in obtaining required subcontractors in accordance with ORS 279A.110 (4).
  - (L) How the District will notify bidders of addenda and how the District will make addenda available.
- (2) The District may require bid security if it determines that bid security is reasonably necessary or prudent in protecting the interests of the District. All bid security will be returned to the bidders upon execution of the contract.
- The District shall retain the bid security if a bidder who is awarded the contract fails to execute the contract promptly and properly. For purposes of this paragraph, prompt and proper execution of the contract includes all action by a bidder that is necessary to the formation of a contract in accordance with the Invitation to Bid, including the posting of performance security and the submission of proof of insurance as required by the Invitation to Bid.
- (3) The District shall give public notice of an Invitation to Bid under this section. Public notice is intended to foster competition among prospective bidders. The District shall make the Invitation to Bid available to prospective bidders. Public notice must be published at least once in one newspaper of general circulation. In addition to these modes of publication, the District may use any other medium reasonably calculated to reach prospective bidders or proposers.
- (4) The District shall open bids publicly at the time, date and place designated in the Invitation to Bid. When authorized by, and in accordance with, rules adopted under ORS 279A.065, bids may be submitted, received and opened through electronic means.
- The amount of a bid, the name of the bidder and other relevant information as may be specified by rule adopted under ORS 279A.065 shall be recorded by the District. The record shall be open to public inspection.
- Notwithstanding any requirement to make bids open to public inspection after the District's issuance of Notice of Intent to Award a Contract, the District may withhold from disclosure to the public, any trade secrets as defined in ORS 192.345 and information submitted to a public body in confidence as described in ORS 192.355, that are contained in the bid.
- (5) The District shall evaluate all bids that are received before the time and date indicated for bid opening in the Invitation to Bid. The District shall evaluate the bids based on the requirements set forth in the Invitation to Bid. The requirements may include, in addition to the information described above:
- (A) Criteria to determine minimum acceptability, such as inspection, testing, quality and suitability for intended use.



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- (B) Criteria that affect the bid price include, but are not limited to: discounts, transportation costs, total cost of ownership or operation of a product over its life. The Invitation to Bid shall set forth the evaluation criteria to be used along with any characteristics from a qualified products list, where applicable. Criteria not listed in the Invitation to Bid or a qualified products list shall not be applied during bid evaluation.
- (6) No bids received after the time and date indicated on the Invitation to Bid shall be considered and shall not be accepted.
- (7) The District shall for the purpose of evaluating bids, apply any applicable preferences described in ORS 279A.120, 279A.125, ORS 282.210, and ORS 279A.128.
  - (A) 279A.120 covers preference for Oregon goods and services and non-resident bidders.
  - (B) ORS 279A.125 covers preference for goods manufactured with recycled products
  - (C) ORS 282.210 requires printing services, binding and stationery work to be performed within the State of Oregon.
  - (D) Per ORS 279A.128, the District may give a preference to a bidder or proposer for goods fabricated or processed or services that are performed entirely within the state of Oregon if the cost of those goods or services does not exceed more than ten percent (10%) of goods or services fabricated, processed or performed outside the state of Oregon. If more than one bidder or proposer qualifies for this preference, a further preference may be given to a qualifying bidder or proposer that resides in or is headquartered in this state. If the District wishes to use this preference, the preference must be included as part of the evaluation criteria listed in the solicitation.
- (8) All decisions to permit the correction or withdrawal of bids or to cancel an award or a contract based upon bid mistakes shall be supported by a written determination by the District covering the reasons for the actions taken.
- (9) Cancellation of invitations to bid, rejection of bids or delay of award may be issued when the cancellation, rejection or delay is in the best interest of the District or the public. The reasons for the rejection, cancellation or delay must be made part of the procurement file. The District is not liable for any costs or expenses to proposers or bidders caused by or resulting from the cancellation or rejections.
- (10) A Notice of Intent to Award shall be sent or transmitted to each bidder seven (7) days prior to award and the District may post the Notice of Intent to Award electronically or otherwise.
- (11) If a contract is awarded, the District shall award the contract to the lowest responsible bidder whose bid substantially complies with the requirements and criteria set forth in the Invitation to Bid and with all prescribed public procurement procedures and requirements; or, when the Invitation to Bid specifies or authorizes the award of multiple contracts to responsible bidders; those bids must substantially comply with the requirements and criteria set forth in the Invitation to Bid and with all prescribed public procurement procedures and requirements and who qualify for award under the terms of the Invitation to Bid.
- (12) The successful bidder shall promptly execute a contract, which includes all action

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necessary to implement the formation of a contract in accordance with the Invitation to Bid, including any performance security and proof of insurance required by the ITB.

- (13) The District may issue a request for information (RFI), a request for interest or other preliminary documents to obtain information useful in the preparation of an Invitation to Bid.

## **120-040 – Multi-Step Solicitations for Procurements above ~~\$150,000~~\$250,000**

When the District considers it impractical to prepare a procurement description to support an award based on price, the District may issue a multi-step solicitations for goods/and or services requesting the submission of un-priced submittals, and later issue a Request for Proposals limited to the bidders whom the District has determined to be eligible to submit a priced offer under the evaluation criteria set forth in the initial solicitation.

- (1) Phased Process: Multi-step solicitations are a phased process where proposers are pre-qualified in Request for Qualifications or providing information for products or services to be prequalified. The District's evaluation team selects the most highly qualified consultants or products and the selected proposers/bidders are invited to provide a priced proposal. A Contract/Purchase Order is then awarded to the lowest responsive and responsible proposer.

NOTE: This process does not apply to On-Call Consultant Services Contracts where Requests for Qualifications are used and then selection is made for the purpose of selecting several qualified consultants/contractors to provide on-call services as needed for intermediate level procurements. See Division 300 for Rules on Selection of Architectural, Engineering and Related Services Solicitations and Contracts.

- (2) Public Notice: Whenever multi-step solicitations are used, public notice for the first phase shall be given. Public notice is not required for the subsequent phases.
- (3) Procedures in multi-step bidding, generally:
  - (A) Solicitation Protest: Prior to the closing of Phase 1, the District shall provide an opportunity to protest the solicitation under ORS 279B.405.
  - (B) Exclusion Protest: The District shall provide an opportunity for a bidder to protest exclusion from the second round of multi-step sealed solicitations pursuant to ORS 279B.410.
  - (C) Award Protest: The District shall provide an opportunity for bidders/proposers selected for the second round of the multi-step solicitations to protest its intent to award a contract pursuant to ORS 279B.410.
- (4) Form: Multi-step solicitations shall be initiated by the issuance of RFP in the form and manner required for requests for competitive sealed proposals as specified in these Rules.

## **120-050 – Competitive Sealed Proposals - Procurements Above ~~\$150,000~~\$250,000 (ORS 279B.060)**

- (1) The District may solicit and award a Public Contract for goods or services, or may award multiple Public Contracts for goods or services when specified in the solicitation via Request for Proposal (RFP)

The RFPs must include:

- (A) The Time and Date by which sealed proposals must be received, and

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- (B) A place at which the proposals must be submitted, and
  - (C) Whether the proposals can be submitted electronically, and
  - (D) The name and title of the person designated for receipt of proposals, and
  - (E) The person designated by the District as the contact person for the procurement, if different, and
  - (F) A procurement description, and
  - (G) A time, date and place that prequalification applications, if any, must be filed and the classes of work, if any, for which the proposers must be prequalified, in accordance with ORS 279B.120, and
  - (H) A statement that the District may cancel the procurement or reject any or all proposals in accordance with ORS 279B.100, and
  - (I) A statement that requires the contractor or subcontractor to possess an asbestos abatement license, if required, under ORS 468A.710, and
  - (J) Provide the evaluation criteria, including how criteria are weighted, a discussion of the evaluation or selection process and how the proposer selection award is to be made, and
  - (K) All contractual terms and conditions applicable to the procurement.
- (2) Requests for Proposals may also include:
- (A) Identification of contractual terms or conditions the District reserves in the RFP for negotiations with proposers.
  - (B) Request that proposers propose contractual terms and conditions that relate to subject matter reasonably identified in the RFP.
  - (C) Contain or incorporate the form and content of the contract that the District will accept, or suggested contract terms and conditions that nevertheless may be the subject of negotiations with proposers.
  - (D) Announce the method of contractor selection, which may include but is not limited to:
    - i) Negotiation with the highest ranked proposer.
    - ii) Competitive negotiations.
    - iii) Multiple-tiered competition designed to identify a class of proposers that fall within a competitive range or to otherwise eliminate from consideration a class of lower ranked proposers, or any combination of methods authorized by rules adopted under ORS 279A.065.
  - (E) Contain a description of the manner in which proposals will be evaluated, including the relative importance of price and any other evaluation factors used to rate the proposals in the first tier of competition. If more than one tier of competitive evaluation is used, a description of the process under which the proposals will be evaluated in the subsequent tiers.
- (3) The District may require proposal security in any form deemed prudent as supported by ORS 279B.060.
- (A) The District shall return the proposal security to all proposers upon execution of the contract, or

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(B) The District shall retain proposal security if a proposer who is awarded a contract fails to execute the contract promptly and properly. Prompt and proper execution of the contract includes all action by a proposer necessary to the formation of a contract in accordance with the RFP, including the posting of performance security and the submission of proof of insurance when required by the RFP. If contract negotiations or competitive negotiations are conducted, the failure, prior to award of the District and a proposer to reach agreement does not constitute grounds for the retention of proposal security.

(4) Public Notice of the RFP shall be given in the same manner as provided for public notice as required by ORS 279B.060.

(5) Proposals may be opened in a manner to avoid disclosure of contents to competing proposers during, when applicable, the process of negotiation, but the District shall record and make available the identity of all proposers as part of the District's public records from and after the opening of the proposals.

Proposals are not required to be open for public inspection until after the Notice of Intent to Award a contract is issued. The fact that proposals are opened at a meeting does not make their contents subject to disclosure, regardless of whether the public body opening the proposals fails to give notice of or provide for an executive session for the purpose of opening proposals.

Notwithstanding any requirement to make proposals open to public inspection after the District's issuance of Notice of Intent to Award a Contract, the District may withhold from disclosure to the public materials included in a proposal that are exempt or conditionally exempt from disclosure under the Oregon Public Records Law, ORS 192.345 and 192.355.

(6) If an RFP is canceled under ORS 279B.100 after proposals are received, the District may return the proposals to the proposer making the proposal. The District shall keep a list of returned proposals in the file for solicitation.

(7) As provided for in the RFP or in written addenda issued, the District may conduct site tours, demonstrations, individual or group discussions and other informational activities with proposers before or after the opening of the proposals for the purpose of clarification to ensure full understanding of and responsiveness to the solicitation requirements or to consider and respond to requests for modifications of the proposal requirements. The District shall use procedures designed to accord proposers fair and equal treatment with respect to any opportunity for discussion and revision of proposals.

(8) For purposes of evaluation, when provided for in the Request for Proposal, the District may employ methods of contractor selection that include but are not limited to:

(A) An award or awards based solely on the ranking of proposals.

(B) Discussions leading to best and final offers, in which the District may not disclose private discussions leading to best and final offers.

(C) Discussions leading to best and final offers, in which the District may not disclose information derived from proposals submitted by competing proposers.

(D) Serial negotiations, beginning with the highest ranked proposer.

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- (E) Competitive simultaneous negotiations.
  - (F) Multiple-tiered competition designed to identify, at each level, a class of proposers that fall within a competitive range or otherwise eliminate from consideration a class of lower ranked proposers.
  - (G) A multi-step Request for Proposals requesting the submission of un-priced technical submittals, and then later issuing a Request for Proposals limited to the proposers whose technical submittals were determined to be qualified under the criteria set forth in the RFP.
  - (H) Any combination of methods described above, as authorized or prescribed by rules adopted under ORS 270A.065.
- (9) Revisions of proposals may be permitted after the submission of proposals and before award for the purpose of obtaining best offers or best and final offers.
- (10) After the opening of proposals, the District may issue or electronically post an addendum to the Request for Proposals that modifies the criteria, rating process and procedure for any tier of competition before the start of the tier to which the addendum applies. The District shall issue or electronically post an addendum to all proposers who are eligible to compete under the addendum.
- The District shall issue or post the addendum at least five (5) days before the start of the subject tier of competition or as otherwise determined by the District to be adequate to allow eligible proposers to prepare for competition in accordance with rules adopted under ORS 279A.065.
- (11) The cancellation of RFPs and the rejection of proposals must be in accordance with ORS 279B.100.
- (12) In the RFP, the District shall describe the methods by which the District will make the results of each tier of competitive evaluation available to the proposers who competed in the tier. The District shall include a description of the manner in which the proposers who are eliminated from further competition may protest or otherwise object to the District's decision.
- (13) The District shall issue or electronically post the Notice of Intent to Award to each proposer who was evaluated in the final competitive tier.
- (14) If a contract is awarded, the District shall award the contract to the responsible proposer whose proposal the District determines in writing to be the most advantageous based upon the evaluation process and evaluation criteria described in the RFP, any applicable preferences; and, where applicable, the outcome of any negotiations authorized by the Request for Proposal. Other factors may not be used in the evaluation. When the RFP specifies or authorizes the award of multiple Public Contracts, the District shall award Public Contracts to responsible proposers who qualify for the award of a contract under the terms of the Request for Proposal.
- (15) The District may issue a request for information, a request for interest, a request for qualifications or other preliminary documents to obtain information useful in preparation of an RFP.

### **DIVISION 130 – COOPERATIVE PROCUREMENTS**

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Joint Cooperative and Permissive Cooperative Procurements shall comply with ORS 279A.200, ORS 279A.205, ORS 279A.210, ORS 279A.215, ORS 279A.220 and ORS 279A.225.

## **DIVISION 140 – PURCHASES OF USED PERSONAL PROPERTY**

The District may purchase used personal property for \$75,000 or less without competitive bidding or quote if the District has determined that the direct purchase without competitive bidding will result in cost savings and will not diminish competition or encourage favoritism or the item is not readily available and time is of the essence. If the purchase is in excess of \$75,000, the District will seek three competitive quotes unless the District determines that three quotes cannot be obtained or the District's purchase without quotes will result in cost savings and will not diminish competition or encourage favoritism or the item is not readily available and time is of the essence. In all cases, a written record must be made of the attempt to obtain quotes or locate the item.

## **DIVISION 150 - PERSONAL SERVICE CONTRACTS AND INSURANCE AGENT OF RECORD CONTRACTS**

Personal Service Contracts whose value is under ~~\$150,000~~\$250,000 are exempt from going out for request for informal competitive proposals. Personal Service Contracts whose value is estimated to be greater than

~~\$150,000~~\$250,000 must use the Competitive Sealed proposal process outlined in Rule 120-050, unless the type of service in question qualifies as another exempted procurement, such as those listed in Section 120-010, Paragraph (5).

### **(1) The following are Personal Service Contracts:**

- (A) Contracts for services performed as an independent contractor in a professional capacity, including but not limited to the services of: an accountant, attorney providing special legal services, physician or dentist, therapist, psychologist, passenger aircraft pilot, aerial photographer, timber cruiser, communication or telemetry consultant or information technology consultant, a consultant for the services listed in Division 300 of these Rules, financial consultant, occupational health and safety consultant.
- (B) Contracts for services requiring special skills, such as an artist in the performing of fine arts, including but not limited to persons identified as photographer, filmmaker, painter, weaver, or sculptor.
- (C) Contracts for services of a specialized, creative and research-oriented noncommercial nature.
- (D) Contracts for educational training or informational resource referral services.
- (E) Personal Service Contracts provided by Consultants for services listed in Division 300 of these Rules where the contract dollar value is estimated to be below \$250,000.

### **(2) The following examples are not Personal Service Contracts:**

- (A) Contracts, even though in a professional capacity, if predominately for a product, e.g., a contract with a landscape architect to design a garden is for personal services, but a contract to design a garden and supply all the shrubs and trees is predominately for a tangible product.
- (B) A service contract to supply labor which is of a type that can generally be done by any competent worker, e.g., janitorial, security guard, crop spraying, laundry and

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landscape maintenance service contracts.

- (C) Contracts for trade-related activities considered to be labor and material contracts.
- (D) Contracts for services of a trade-related activity, even though a specific license is required to engage in the activity. Examples are repair and/or maintenance of all types of equipment or structures.

### **DIVISION 160 – CONTRACT AMENDMENTS FOR GOODS AND SERVICE CONTRACTS (INCLUDING CHANGE ORDERS AND EXTRA WORK)**

Any Public Contract amendment for additional work or product, including change orders, extra work, field orders, or other change in the original specifications that increases the original contract dollar value may be made without competitive bidding subject to the following conditions:

- (1) The original contract was let by (i) competitive bidding or alternative procurement process; or (ii) unit prices or additive alternates were provided which established the cost for additional work; or
- (2) For small procurements under ~~\$10,000~~\$25,000; the amount of the aggregate costs resulting from all amendments shall not exceed \$1,000, unless the amendment is approved by the department manager.
- (3) For intermediate procurements from ~~\$10,000~~\$25,000 to ~~\$150,000~~\$250,000, the amount of the aggregate costs from all amendments shall not exceed 25% of the original contract value, unless the amendment is approved by the department manager.
- (4) The amendment is within the scope of the services contemplated under the RFP and that amendment will not materially impact the field of competition for the services described in the RFP.
- (5) With respect to the rules on amendments, Public Contract amendments do not include amendments to intergovernmental agreements, and contracts with other state agencies or the federal government.
- (6) Renegotiated Contracts. The District may renegotiate the terms and conditions, including the contract price and/or contract term of a contract without additional competition and amend a contract if it is advantageous to the District subject to the following conditions:
  - (A) The amended contract is within the scope of the Solicitation Document, or if there was no Solicitation, the amended contract is within the scope of the original contract, or the purchase was approved as a special procurement; and
  - (B) A determination by the District that the renegotiated contract is at least as favorable as the original contract, and
  - (C) If a contractor offers a lower price in exchange for a change in terms or conditions that was expressly rejected in the original solicitation, the amended contract may be structured with this requested changed term as an optional, but not as a mandatory contract term.