

# City of Wilsonville

City Council Meeting

February 5, 2018



**AGENDA**

**WILSONVILLE CITY COUNCIL MEETING  
FEBRUARY 5, 2018  
7:00 P.M.**

**CITY HALL  
29799 SW TOWN CENTER LOOP  
WILSONVILLE, OREGON**

Mayor Tim Knapp

Council President Scott Starr  
Councilor Susie Stevens

Councilor Kristin Akervall  
Councilor Charlotte Lehan

**CITY COUNCIL MISSION STATEMENT**

To protect and enhance Wilsonville's livability by providing quality service to ensure a safe, attractive, economically vital community while preserving our natural environment and heritage.

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**Executive Session is held in the Willamette River Room, City Hall, 2<sup>nd</sup> Floor**

- 5:00 P.M. EXECUTIVE SESSION [30 min.]**  
A. Pursuant to: ORS 192.660(2)(e) real property transactions  
ORS 192.660(2)(h) legal counsel / litigation  
ORS 192.660(2)(i) performance evaluations of public officers and employees
- 5:30 P.M. REVIEW OF AGENDA [5 min.]**
- 5:35 P.M. COUNCILORS' CONCERNS [5 min.]**
- 5:40 P.M. PRE-COUNCIL WORK SESSION**
- A. City Attorney's Contract Renewal [10 min.]
  - B. Memorial Park Parking Lot Update (Blankenship/Rappold) [10 min.]
  - C. 5<sup>th</sup> to Kinsman Project Cost Update (Adams) [10 min.]
  - D. Tooze Road Contract (Ward) [5 min.]
- 6:15 P.M. ADJOURN**
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**CITY COUNCIL MEETING**

The following is a summary of the legislative and other matters to come before the Wilsonville City Council a regular session to be held, Monday, February 5, 2018 at City Hall. Legislative matters must have been filed in the office of the City Recorder by 10 a.m. on January 24, 2018. Remonstrances and other documents pertaining to any matters listed in said summary filed at or prior to the time of the meeting may be considered therewith except where a time limit for filing has been fixed.



**7:00 P.M. CALL TO ORDER**

- A. Roll Call
- B. Pledge of Allegiance
- C. Motion to approve the following order of the agenda and to remove items from the consent agenda.

**7:05 P.M. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS**

This is an opportunity for visitors to address the City Council on items *not* on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. Please limit your comments to three minutes.

**7:10 P.M. MAYOR'S BUSINESS**

- A. City Attorney's Contract Renewal
- B. Place holder for Appointments
- C. Upcoming Meetings

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**7:20 P.M. COUNCILOR COMMENTS**

- A. Council President Starr
- B. Councilor Stevens
- C. Councilor Lehan
- D. Councilor Akervall

**7:25 P.M. CONSENT AGENDA**

- A. Minutes of the, January 18, 2018 Council Meetings. (Veliz)

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**7:30 P.M. PUBLIC HEARING**

- A. **Ordinance No. 812** – 1<sup>st</sup> Reading

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An Ordinance Of The City Of Wilsonville Adopting The Coffee Creek Industrial Form-Based Code, Coffee Creek Design Overlay District Pattern Book And Related Comprehensive Plan And Development Code Changes, And Repealing WC Section 4.134 Day Road Design Overlay District, For The Coffee Creek Industrial Master Plan Area. (Rybold)

- B. **Ordinance No. 813** – 1<sup>st</sup> Reading

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An Ordinance Approving The Willamette Intake Facilities Intergovernmental Agreement To Form The Willamette Intake Facilities Commission, An Intergovernmental Entity Formed Under ORS Chapter 190 Between Tualatin Valley Water District And The Cities Of Wilsonville, Hillsboro, Sherwood, Beaverton, And Tigard. (Jacobson)

**8:00 P.M. CITY MANAGER'S BUSINESS**

- A. Willamette Governance Group

**8:05 P.M. LEGAL BUSINESS**

**8:10 P.M. ADJOURN**

**AN URBAN RENEWAL AGENCY MEETING  
WILL IMMEDIATELY FOLLOW** Page 301

Time frames for agenda items are not time certain (i.e. Agenda items may be considered earlier than indicated.) Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this meeting if required at least 48 hours prior to the meeting. The city will also endeavor to provide the following services, without cost, if requested at least 48 hours prior to the meeting: Qualified sign language interpreters for persons with speech or hearing impairments. Qualified bilingual interpreters. To obtain services, please contact the City Recorder, (503) 570-1506 or [veliz@ci.wilsonville.or.us](mailto:veliz@ci.wilsonville.or.us).

# **CITY COUNCIL ROLLING SCHEDULE**

## **Board and Commission Meetings 2018**

**Items known as of 02/02/18**

### **February**

<b>DATE</b>	<b>DAY</b>	<b>TIME</b>	<b>EVENT</b>	<b>LOCATION</b>
2/8	Monday	4:30 p.m.	Parks & Recreation Board	Parks and Recreation Administration Building
2/12	Monday	5:00 p.m.	Joint Meeting Between City Council and West Linn-Wilsonville School District Board	City Hall
2/12	Monday	6:30 p.m.	DRB Panel A	Council Chambers
2/13	Tuesday	1:00 p.m.	Tourism Promotion Committee	City Hall
2/14	Wednesday	1:00 p.m.	Wilsonville Community Seniors, Inc. Advisory Board	Community Center
2/14	Wednesday	6:00 p.m.	Planning Commission	Council Chambers
2/15	Thursday	6:00 p.m.	Wilsonville Citizens Academy	City Hall
2/22	Thursday	7:00 p.m.	City Council Meeting	Council Chambers
2/26	Monday	6:30 p.m.	DRB Panel B	Council Chambers
2/28	Wednesday	6:30 p.m.	Library Board Meeting	Library

### **Community Events:**

- 2/8** Town Center Open House, 5:30 - 8:00 p.m., at City Hall
- 2/19** City Offices Closed - President's Day
- 3/2** Daddy Daughter Dance, 7-9 p.m., at the Community Center
- 3/2** Deadline for Community Opportunity Grant Program.
- 3/3** Wilsonville Rotary Club Heart of Gold Dinner and Auction, 5 - 9:00 p.m., at Wilsonville Holiday Inn
- 3/31** Egg Hunt, 10:00 a.m., at Memorial Park.
- 4/25** Spring Walk at Lunch - Visit [Ridesmart.com/walksmart](http://Ridesmart.com/walksmart) for times and locations.
- 5/9** Spring Walk at Lunch - Visit [Ridesmart.com/walksmart](http://Ridesmart.com/walksmart) for times and locations.
- 5/12** W.E.R.K Day, 9-11:30 a.m., meet at the Community Center.
- 5/23** Spring Walk at Lunch - Visit [Ridesmart.com/walksmart](http://Ridesmart.com/walksmart) for times and locations.

All dates and times are tentative; check the City's online calendar for schedule changes at [www.ci.wilsonville.or.us](http://www.ci.wilsonville.or.us).

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A regular meeting of the Wilsonville City Council was held at the Wilsonville City Hall beginning at 7:00 p.m. on Thursday, January 18, 2018. Mayor Knapp called the meeting to order at 7:06 p.m., followed by roll call and the Pledge of Allegiance.

The following City Council members were present:

- Mayor Knapp
- Council President Starr
- Councilor Stevens
- Councilor Lehan
- Councilor Akervall

Staff present included:

- Bryan Cosgrove, City Manager
- Jeanna Troha, Assistant City Manager
- Barbara Jacobson, City Attorney
- Kimberly Veliz, City Recorder
- Nancy Kraushaar, Community Development Director
- Mark Ottenad, Public/Government Affairs Director
- Angela Handran, Assistant to the City Manager
- Kimberly Rybold, Associate Planner
- Eric Mende, Capital Projects Engineering Manager
- Jason LaBrie, Utilities Supervisor

Motion to approve the order of the agenda.

**Motion:** Councilor Starr moved to approve the order of the agenda. Councilor Stevens seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes

**COMMUNICATIONS**

A. NW Natural – “Our Low-Carbon Pathway”

Nina Carlson, Government and Community Affairs Consultant for NW Natural presented on the company’s efforts on conserving, offsetting, innovating to address climate change and reduce carbon. NW Natural objectives comprise of the following:

1. Long-term goal of deep decarbonization that leaves no one behind.
2. Near-term actions take advantage of the natural gas infrastructure already in place.

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- 3. Lead the way on natural gas innovations and share broadly for larger impact.

**CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS**

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None.

**MAYOR'S BUSINESS**

**A. Budget Committee – Reappointment**

Reappointment of Arthur Park to Budget Committee for a second term beginning 1/1/18 to 12/31/20.

**Motion:** Councilor Starr moved to ratify the reappointment of Arthur Park to the Budget Committee for a second term beginning 1/1/18 to 12/31/20. Councilor Lehan seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes

**B. Planning Commission Reappointment**

Reappointment of Gerald Greenfield to Planning Commission for a second term beginning 1/1/18 to 12/31/21.

**Motion:** Councilor Lehan moved to ratify the reappointment of Gerald Greenfield to the Planning Commission for a second term beginning 1/1/18 to 12/31/21. Councilor Akervall seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes

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C. Place Holder for Appointments

**Development Review Board Panel A – Reappointment**

Reappointment of Fred Ruby to Development Review Board Panel A for a second term beginning 1/1/18 to 12/31/19.

**Motion:** Councilor Akervall moved to ratify the reappointment of Fred Ruby to the Development Review Board Panel A for a second term beginning 1/1/18 to 12/31/19. Councilor Lehan seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes

**Development Review Board Panel B – Reappointment**

Reappointment of Samy Nada to Development Review Board Panel B for a second term beginning 1/1/18 to 12/31/19.

**Motion:** Councilor Starr moved to ratify the reappointment of Samy Nada to the Development Review Board Panel B for a second term beginning 1/1/18 to 12/31/19. Councilor Stevens seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes

Mayor Knapp requested the City Recorder to proceed with the general posting of boards and commissions applications as discussed in Work Session. The general call for applications for all boards and commissions is to be posted and run through the end of January 2018.

D. Upcoming Meetings

Upcoming meetings were announced by the Mayor as well as the regional meetings he attended on behalf of the City. Mayor Knapp mentioned the next Council meeting will be held Monday, February 5, 2018.

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**COUNCILOR COMMENTS**

A. Council President Starr

Mr. Starr mentioned the following upcoming events:

- February 22, 2018 there will be another Thursday Council meeting.
- Deadline for Community Enhancement Project Nominations are January 31, 2018.
- Deadline for Community Tourism Matching Grant is February 2, 2018.
- Town Center Open House will be held February 8, 2018.

B. Councilor Stevens

Councilor Stevens shared that the entire Council attended the Citizens Academy on Wednesday, January 17, 2018. Ms. Stevens appreciated the current and past members of the Citizens Academy for their involvement in the program. Councilor Stevens reiterated the following events:

- Deadline for Community Enhancement Project Nominations is January 31, 2018.
- Town Center Open House, 5:30 - 8:00 p.m., at City Hall on February 8, 2018.

C. Councilor Lehan

Thanked the Assistant to the City Manager Angela Handran for all her hard work in putting together the Citizens Academy. Other events mentioned by Councilor Lehan included:

- The Daddy Daughter Dance, 7:00 – 9:00 p.m., at the Community Center on March 2, 2018.
- Deadline for Community Tourism Grant Program Grant Application.

D. Councilor Akervall

Councilor Akervall reminded the audience to turn in their ballots.

Ms. Akervall also shared that the Wilsonville Rotary Club Heart of Gold Dinner and Auction is 5:00 - 9:00 p.m., at the Wilsonville Holiday Inn on March 3, 2018.

City Manager Cosgrove added that if any member of Council is interested in attending the Wilsonville Rotary Club Heart of Gold Dinner and Auction to contact Angela Handran.

**CONSENT AGENDA**

Ms. Jacobson read the titles of the Consent Agenda items into the record.

A. **Resolution No. 2664**

A Resolution of the City of Wilsonville Adopting the Intergovernmental Agreement Between the City of Wilsonville and Other Governmental Agencies who are Members of the Oregon Public Works Emergency Response Cooperative Assistance Agreement. (Kerber)

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**B. Resolution No. 2666**

A Resolution of the City of Wilsonville Requesting the Board of County Commissioners, Washington County, Oregon to Transfer Jurisdiction Of Certain County Roads (Garden Acres Road, Clutter Road, and Portions of Cahalin Road) from Washington County to the City of Wilsonville. (Mende)

C. Minutes of the January 4, 2018 Council Meeting. (Veliz)

**Motion:** Councilor Lehan moved to approve the Consent Agenda. Councilor Starr Akervall seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes

**NEW BUSINESS**

**A. Resolution No. 2663**

A Resolution of the City of Wilsonville Authorizing Utilization of Eminent Domain for Acquisition of Property and Property Interests Related to the Construction of the Garden Acres Road Project. (Mende)

Ms. Jacobson read the title of Resolution No. 2663 into the record.

**Motion:** Councilor Lehan moved to approve Resolution No. 2663. Councilor Stevens seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes

**CONTINUING BUSINESS**

**A. Ordinance No. 811 – 2<sup>nd</sup> Reading**

An Ordinance Of The City Of Wilsonville Annexing SW Garden Acres Road, SW Cahalin Road And SW Clutter Street Right-Of-Way Into The City Limits Of The City Of



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Wilsonville, Oregon. The Territory Is More Particularly Described As The Right-Of-Way Of SW Garden Acres Road Extending From SW Day Road To The Clackamas County Line, The Right-Of-Way Of SW Clutter Street Extending From SW Grahams Ferry Road To SW Garden Acres Road, And The Right-Of-Way Of Unimproved SW Cahalin Road From SW Grahams Ferry Road To SW Garden Acres Road, Sections 2 And 3, T3s, R1W Willamette Meridian, Washington County, Oregon. Washington County, Oregon – Owner. City Of Wilsonville – Applicant.

Ms. Jacobson read the title of Ordinance No. 811 into the record for second reading and informed Council that there was no additional input from staff.

**Motion:** Councilor Lehan moved to approve Ordinance No. 811 on second reading. Councilor Starr seconded the motion.

**Vote:** Motion carried 5-0.

**SUMMARY OF VOTES**

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes

**CITY MANAGER’S BUSINESS**

A. Proposed Legislation for Land-Use/Public-Process “Carve-Out” for Aurora State Airport Runway Extension Letter

**Motion:** Councilor Lehan moved to authorize Mayor Knapp to sign and present the letter as it was amended. Councilor Akervall seconded the motion.

**Vote:** Motion carried 4-0-1.

**SUMMARY OF VOTES**

Mayor Knapp	Yes
Council President Starr	Abstain
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes

B. Work Plan Updates Quarter 4 2017

City Manager Cosgrove stated that the Work Plan Updates Quarter 4 2017 was given to Council. Here are a few of the highlighted projects in the plan:

- Develop a wayfinding program the RFP has been issued.

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- Install interpretive signage for Beauty and the Bridge and on Murase architectural features; inventory all public art with interpretive recognition; a consultant has been selected to perform the work.
- Update City website, including a coordinated calendar for Councilor attended events. Staff continues to work on this project. Once a version of the website has been created and modified staff will bring back the proposed website changes to Council.

C. IGA Between Metro, Washington County, and the Cities of Tualatin and Wilsonville

Council was briefed that Metro should soon be signing and executing the Intergovernmental Agreement (IGA). When staff receives further communication on the process and timelines they will pass along the information to Council.

D. New Hire

City Manager Cosgrove divulged that an offer was made and accepted by Bill Evans to be the Communications and Marketing Manager for the City of Wilsonville. Mr. Evans will begin his work with the City at the end of the month.

**LEGAL BUSINESS**

No Report.

**ADJOURN**

Mayor Knapp adjourned the meeting at 8:13 p.m.

Respectfully submitted,

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Kimberly Veliz, City Recorder

ATTEST:

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Tim Knapp, Mayor



**CITY COUNCIL MEETING  
STAFF REPORT**

<b>Meeting Date:</b> February 5, 2018		<b>Subject: Ordinance No. 812</b> – 1 <sup>st</sup> Reading Coffee Creek Industrial Form-based Code and Pattern Book	
		<b>Staff Member:</b> Jordan Vance, Economic Development Manager; Kimberly Rybold, Associate Planner	
		<b>Department:</b> Community Development	
<b>Action Required</b>		<b>Advisory Board/Commission Recommendation</b>	
<input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Public Hearing Date: February 5, 2018 <input checked="" type="checkbox"/> Ordinance 1 <sup>st</sup> Reading Date: February 5, 2018 <input type="checkbox"/> Ordinance 2 <sup>nd</sup> Reading Date: February 22, 2018 <input type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input type="checkbox"/> Not Applicable	
		<b>Comments:</b> At their January 10, 2018 meeting the Planning Commission unanimously recommended approval of the Administrative Review Option to the City Council.	
<b>Staff Recommendation:</b> Staff recommends that Council adopt Ordinance No. 812 on first reading.			
<b>Recommended Language for Motion:</b> I move to approve Ordinance No. 812 on first reading.			
<b>Project / Issue Relates To:</b>			
<input checked="" type="checkbox"/> Council Goals/Priorities Complete Form-based Code work currently underway	<input checked="" type="checkbox"/> Adopted Master Plan(s) Coffee Creek Industrial Area Master Plan	<input type="checkbox"/> Not Applicable	

**ISSUE BEFORE COUNCIL:**

The Coffee Creek Industrial Form-based Code and Pattern Book has been under development since 2013. The project goal is to create a regulatory framework for industrial development in the Coffee Creek area located along Wilsonville’s northwestern boundary. Development of the Form-based Code and Pattern Book has occurred with the feedback of a wide variety of stakeholders, including a Technical Advisory Committee (TAC), other City agencies, Development Review Board, Planning Commission, and City Council. The final phase of the Form-based Code project addressed process questions raised during Development Review Board, Planning Commission and City Council work sessions in 2015 and 2017. Feedback gathered on these process questions is incorporated into the final draft Code and Pattern Book.

**EXECUTIVE SUMMARY:**

The Coffee Creek Industrial Form-based Code and Pattern Book together establish regulations and guidelines for street design and connectivity, site design and circulation, building form and massing, and building design and architecture. The Form-based Code uses clear and objective standards that are specific, discrete requirements and numerical standards, which substantially minimize judgment about compliance. The Form-based Code provides applicants additional flexibility with adjustment criteria for a limited set of standards. Applications that require waivers to standards of the Form-based Code will utilize a Pattern Book with design guidelines that correlate with the Code’s clear and objective standards to encourage high-quality site and building design.

The project represents an opportunity to create clear and objective development standards that will simplify and provide more certainty with respect to the approval process for new projects in the Coffee Creek industrial and employment area. The project outcome will support economic development and job creation through regulations that provide the appropriate balance of certainty with a range of flexibility resulting in high-quality design from the public realm to site design and landscaping to the buildings.

The final phase of the Form-based Code project has focused on process questions, most notably, the feasibility of utilizing an administrative review process to evaluate applications using the Form-based Code. Throughout summer and fall 2017, staff conducted work sessions with the Planning Commission, Development Review Board (DRB) panels, and City Council to gather feedback on this issue and related process questions. Concerns were mixed, with some expressing a desire to keep a public hearing setting for citizen concerns to be heard and others noting that a DRB-centered review process could result in less certainty and loss of time for development applications meeting the clear and objective standards of the Form-based Code.

To accommodate the varied feedback that was received during the 2017 work sessions, the Planning Commission reviewed two implementation options at the January 10, 2018 public hearing. The first of these, the Administrative Review Option, implements the clear and objective standards of the Form-based Code using the Class II administrative review process, whereby the Planning Director reviews and approves applications meeting all of the clear and objective standards. The second implementation option, the DRB Option, is a process by which the clear and objective standards of the Form-based Code would be administered using the DRB as the

review and approval authority. In both options, DRB would review applications requesting waivers to any of the clear and objective standards on a discretionary basis. The Planning Commission is recommending Council adopt the Administrative Review Option.

As a part of the application review process in Coffee Creek, Annexation, Comprehensive Plan Map Amendment, and Zone Map Amendment applications would proceed on a parallel track for approval by City Council at the same time as other applications not requiring City Council approval (i.e. Stage I Preliminary Plan, Site Design Review, etc.) are reviewed by the Planning Director.

The Form-based Code standards and review process would be subject to a pilot period of three completed development applications or five years, whichever comes first. During the pilot period, staff would track metrics including, but not limited to, number and type of requested waivers, time to approval, and quantity of testimony at public hearings or via other means. Staff would also survey applicants upon conclusion of the review processes to gain feedback from a customer experience standpoint, and would survey nearby citizens to understand any questions or concerns about the administrative review process. The conclusion of this pilot period would allow an opportunity to adjust the Form-based Code and implementation process, if needed, to insure that applications meet the overall objectives of providing a clear development review process that fosters the creation of a connected, high-quality employment center.

**EXPECTED RESULTS:**

Adoption of the Coffee Creek Industrial Form-based Code, Pattern Book, and associated Comprehensive Plan and Development Code updates by Ordinance.

**TIMELINE:**

The public hearing and first reading is scheduled for February 5, 2018, with a second reading of the Ordinance on February 22, 2018.

**CURRENT YEAR BUDGET IMPACTS:**

A grant from ODOT's Transportation and Growth Management (TGM) Code Assistance Program funded development of the Form-based Code and Pattern Book. Funding to finalize the draft documents, incorporate feedback on Code implementation, and achieve adoption of the Code and Pattern Book was included in the FY 2016-17 budget. The supplemental budget process in September carried over approximately \$27,000 in unspent funds from FY 2016-17 to FY 2017-18.

**FINANCIAL REVIEW / COMMENTS:**

Reviewed by: SCole Date: 1/24/2018

**LEGAL REVIEW / COMMENT:**

Reviewed by: BAJ Date: 1/24/2018

Staff believes this is the first effort by a city to establish a Form-based Code for an industrial area in the region. It has been a long and complex process. The viability of this project will not be known until it is fully implemented.

**COMMUNITY INVOLVEMENT PROCESS:**

An internal Project Management Team (PMT) led the development of the draft documents. A Technical Advisory Committee (TAC) comprised of a Planning Commissioner, DRB member, Chamber of Commerce representative, industrial developer, broker, and architect provided input. To date, two public open houses were conducted, in addition to numerous work sessions with the Development Review Board, Planning Commission and City Council. As the project continues through the public hearing phase, there will be additional opportunities for community involvement.

**POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY:**

The project has the benefit of creating clear and objective standards for the industrial development community and property owners in the Coffee Creek Industrial Area.

**ALTERNATIVES:**

Of the many concepts and ideas discussed throughout the development of the Form-based Code, the Planning Commission considered two implementation options. The alternative presented is the alternative recommended by the Planning Commission for approval.

**CITY MANAGER COMMENT:**

**ATTACHMENTS:**

Ordinance No. 812 with the following exhibits:

Exhibit A – Section 4.134 Wilsonville Code, Coffee Creek Industrial Design Overlay District

Exhibit B – Coffee Creek Industrial Design Overlay District Pattern Book

Exhibit C – Additional Development Code Modifications

Exhibit D – Comprehensive Plan Modification

Exhibit E – Compliance Narrative

Exhibit F – Planning Commission Record

Exhibit G – Errata Sheet

**ORDINANCE NO. 812**

**AN ORDINANCE OF THE CITY OF WILSONVILLE ADOPTING THE COFFEE CREEK INDUSTRIAL FORM-BASED CODE, COFFEE CREEK DESIGN OVERLAY DISTRICT PATTERN BOOK AND RELATED COMPREHENSIVE PLAN AND DEVELOPMENT CODE CHANGES, AND REPEALING WC SECTION 4.134 DAY ROAD DESIGN OVERLAY DISTRICT, FOR THE COFFEE CREEK INDUSTRIAL MASTER PLAN AREA.**

WHEREAS, on October 15, 2007, the City Council adopted Ordinance No. 637, which adopted the Coffee Creek Master Plan as a sub-element of the City's Comprehensive Plan and established a framework for developing the 216-acre Coffee Creek Industrial Area; and

WHEREAS, on August 20, 2012, the City Council adopted Resolution No. 2376, adopting Wilsonville's Economic Development Strategy, affirming the Coffee Creek Industrial Area as a key development area for employment growth in the City; and

WHEREAS, on October 17, 2016, the City Council adopted Ordinance No. 796, establishing the Coffee Creek Urban Renewal Area to facilitate the development of needed infrastructure and stimulate economic development; and

WHEREAS, on February 11, 2017, the City Council included completion of the Coffee Creek Industrial Form-based Code on the list of 2017-2018 Council Goals; and

WHEREAS, administration of the Coffee Creek Industrial Form-based Code would use the City's existing fee schedule for review of individual development permit applications in the Coffee Creek Industrial Area; and

WHEREAS, the Wilsonville Planning Commission has held six work sessions to discuss and take public testimony on the Coffee Creek Industrial Form-based Code and Coffee Creek Industrial Design Overlay District Pattern Book; and

WHEREAS, the Wilsonville City Council held two work sessions to discuss the Coffee Creek Industrial Form-based Code and Coffee Creek Industrial Design Overlay District Pattern Book; and

WHEREAS, following the timely mailing and publication of the required notice, the Planning Commission conducted a public hearing on January 10, 2018, wherein the Commission received public testimony, staff reports and input, and Attachments and Exhibits, and thereafter deliberated and voted unanimously to approve Resolution No. LP17-0001 "A" recommending to the City Council approval Administrative Review Option approval; and

WHEREAS, a copy of the record of the aforementioned Planning Commission action and recommendation is marked Exhibit F, attached and incorporated herein; and

WHEREAS, following the Planning Commission public hearing, the Wilsonville Planning Director forwarded the recommended Coffee Creek Industrial Form-based Code Section 4.134, Coffee Creek Industrial Design Overlay District Pattern Book, and associated amendments to the Comprehensive Plan text and Wilsonville Development Code text to the City Council, along with a staff report and attachments, in accordance with the public hearing and notice procedures that are set forth in Sections 4.008, 4.011, 4.012, 4.197, and 4.198 of the Wilsonville Code; and

WHEREAS, the City Council, after Public Hearing Notices were provided to a list of interested parties, property owners, and affected agencies, and posted in three locations throughout the City and on the City website, held a public hearing on February 5, 2018 to review the proposed Coffee Creek Industrial Form-based Code, Coffee Creek Industrial Design Overlay District Pattern Book, and related changes to the Comprehensive Plan and Development Code, and to gather additional testimony and evidence regarding the proposal; and

WHEREAS, the City Council has afforded all interested parties an opportunity to be heard on this subject and has entered all available evidence and testimony into the public record of their proceeding; and

WHEREAS, the City Council has duly considered the subject, including the Planning Commission recommendations and all the exhibits and testimony introduced and offered by all interested parties.

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

1. FINDINGS.

The above-recited findings are adopted and incorporated by reference herein as findings and conclusions of Resolution No. LP17-0001 “A”, which includes the staff report and attachments (Exhibit F). The City Council further finds and concludes that the adoption of the proposed Coffee Creek Industrial Form-based Code and Coffee Creek Industrial Design Overlay District Pattern Book are necessary to help protect the public health, safety, and welfare of the municipality by creating standards that will support the development of employment lands within the City limits.



2. DETERMINATION.

Based on such findings, the City Council hereby adopts Development Code Updates to Section 4.134, attached hereto and marked as Exhibit A, and the Coffee Creek Industrial Design Overlay District Pattern Book, attached hereto and marked as Exhibit B, and incorporated by reference as if fully set forth herein. The City Council further adopts the amendments to the Development Code text, attached hereto and marked as Exhibit C, and Comprehensive Plan text, attached hereto and marked as Exhibit D, and incorporated by reference as if fully set forth herein. The City Recorder is hereby directed to prepare final Comprehensive Plan and Wilsonville Code formatting to make sure such style and conforming changes match the format and style of the Wilsonville Code.

3. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall be declared to be in full force and effect thirty (30) days from the date of final passage and approval.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 5<sup>th</sup> day of February, 2018, and scheduled for a second reading at a regular meeting of the Council on the 22<sup>nd</sup> day of February, 2018, commencing at the hour of 7:00 P.M. at the Wilsonville City Hall.

\_\_\_\_\_  
Kimberly Veliz, City Recorder

ENACTED by the City Council on the \_\_\_\_ day of \_\_\_\_, 2018 by the following votes:

Yes: \_\_\_\_ No: \_\_\_\_

\_\_\_\_\_  
Kimberly Veliz, City Recorder

DATED and signed by the Mayor this \_\_\_\_\_ day of \_\_\_\_, 2018.

\_\_\_\_\_  
TIM KNAPP, Mayor

**SUMMARY OF VOTES:**

Mayor Knapp

Council President Starr

Councilor Stevens

Councilor Lehan

Councilor Akervall

**Attachments:**

Exhibit A – Section 4.134 Wilsonville Code, Coffee Creek Industrial Design Overlay District

Exhibit B – Coffee Creek Industrial Design Overlay District Pattern Book

Exhibit C – Additional Development Code Modifications

Exhibit D – Comprehensive Plan Modification

Exhibit E – Compliance Findings

Exhibit F – Planning Commission Record

Exhibit G – Errata Sheet

## **Exhibit A – Section 4.134 Coffee Creek Industrial Design Overlay District**

*The Day Road Design Overlay District in Section 4.134 of the Wilsonville Code is proposed to be repealed and replaced with a new Section 4.134 as drafted below.*

### **Section 4.134 Coffee Creek Industrial Design Overlay District**

- (.01) Purpose. The Coffee Creek Industrial Design Overlay District (Coffee Creek DOD) is an overlay district within the Planned Development Industrial - Regionally Significant Industrial Area (RSIA) Zone Section 4.135.5. The purpose of this Coffee Creek DOD is to implement the Coffee Creek Industrial Area Master Plan (2007) by establishing standards for street design and connectivity, site design and circulation, building form, and building architecture and landscape for all development located within the master plan area. These standards are intended to result in:
- A. An industrial district featuring cohesive and high-quality site, landscape, and building design that is well integrated with adjacent streetscapes and other public spaces.
  - B. A multi-modal transportation network accommodating pedestrians, bicyclists, transit riders, motorists, and freight in the context of a modern light industrial district.
  - C. Preservation of trees and natural features.
  - D. Minimization of adverse impacts to adjacent properties from development that detracts from the character and appearance of the area.
  - E. Minimization of the off-site visibility of vehicular parking, circulation and loading areas.
  - F. Creation of a pleasant and functional industrial district for employees and visitors.
  - G. A predictable and timely process for reviewing light industrial development applications.
- (.02) Applicability. The Coffee Creek DOD shall apply to all properties within the Coffee Creek Industrial Area Master Plan as shown in the Regulating Plan (Figure CC-1). The provisions of this section shall apply to:
- A. All new building construction.
  - B. Any exterior modifications to existing, non-residential buildings, subject to Section 4.134 (.03).
  - C. All development of site improvements including but not limited to new paved parking lots, outdoor storage, display areas, signs, and landscaping.
  - D. All building expansions greater than 1,250 square feet.
- (.03) Exceptions. This section does not apply to the following:

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

- A. Maintenance of the exterior of an existing industrial/employment structure, such as painting to the approved color palette, reroofing, or residing with the same or similar materials.
  - B. Interior remodeling.
  - C. Essential public facilities.
  - D. Maintenance of existing dwellings and accessory buildings.
  - E. Maintenance of agricultural buildings.
- (.04) Uses that Are Typically Permitted. The uses permitted shall be governed by Section 4.135.5 (.03).
- (.05) Prohibited Uses. The uses prohibited shall be governed by Section 4.135.5 (.04).
- (.06) Overview of Coffee Creek DOD Standards.
- A. Section 4.134 (.09) Regulating Plan. The Regulating Plan organizes all existing and future streets, drives, and shared-use paths within the Coffee Creek Industrial Area into a hierarchy of Addressing Streets, Supporting Streets and Through Connections.
  - B. Section 4.134 (.10) Connectivity Standards.
    - 1. New Supporting Streets and Through Connections are required within the Coffee Creek DOD to meet Connectivity Requirements as shown on Figure CC-4.
    - 2. The Street Types specify the cross sections for each of the street and shared-use path types within the Regulating Plan. These cross section specifications apply to both existing and proposed new streets. A range of cross sections for Supporting Streets and Through Connections is permitted and detailed in Figures CC-2 and CC-3.
  - C. Section 4.134 (.11) Development Standards Table.
    - 1. The Development Standards Table provides an overview of all applicable development standards. The development standards for any given parcel are determined by the existing or future street or shared-use path type on which the parcel fronts, as detailed in Table CC-1.
    - 2. Areas bounded by new Supporting Streets and Through Connections are designated as Parcels and are required to comply with Development Standards governing site design, building orientation and frontage. The development standards for site design, building façade and landscape design are intended to work in tandem with the street types to create a cohesive and unified public realm.
    - 3. Adjustments to Development Standards may be granted by the Planning Director for quantifiable provisions, as noted in Tables CC-1 through CC-4, if the Planning Director finds that the adjusted Development Standard will perform as well as the Development Standard.

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- D. Coffee Creek DOD Pattern Book. The Coffee Creek DOD Pattern Book provides supplemental design guidelines, which are intended to allow more flexibility in design than the Development Standards while satisfying the purpose of the Coffee Creek DOD.
- (.07) Review Process. Development applications shall follow the application review process described in:
- A. Section 4.197 Zone Changes and Amendments.
  - B. Section 4.198 Comprehensive Plan Changes.
  - C. Section 4.700 Annexation and Urban Growth Boundary Amendments
  - D. Section 4.140 Planned Development Regulations.
- (.08) Waivers. The Development Review Board may waive standards as listed in Section 4.134 (.11), consistent with the provisions of Section 4.118 (.03).
- A. The following standards shall not be waived, unless there is substantial evidence in the whole record to support a finding that the intent and purpose of the standards will be met in alternative ways:
    - 1. Required minimum building height as provided in Section 4.134 (.11) Table CC-4;
    - 2. Parking location and design along addressing streets in Section 4.134 (.11) Table CC-3; and
    - 3. Parcel pedestrian access as listed in Section 4.134 (.11) Table CC-3.
  - B. In addition to meeting the purposes and objectives of Section 4.140, any waivers granted in the Coffee Creek DOD must be found to be consistent with the intent of the Coffee Creek DOD Pattern Book.
- (.09) Coffee Creek DOD Regulating Plan, Figure CC-1.
- A. Components of the Regulating Plan Map
    - 1. Addressing Streets. Existing and planned streets within the Regulating Plan Area are called Addressing Streets and include Cahalin Road, Day Road, Clutter Street, Grahams Ferry Road, Garden Acres Road, and “Future” Street.
    - 2. Overlay District. Land area identified within the Coffee Creek DOD on Figure CC-1 is subject to additional Connectivity Standards as detailed in Figure CC-4 and Table CC-1.

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

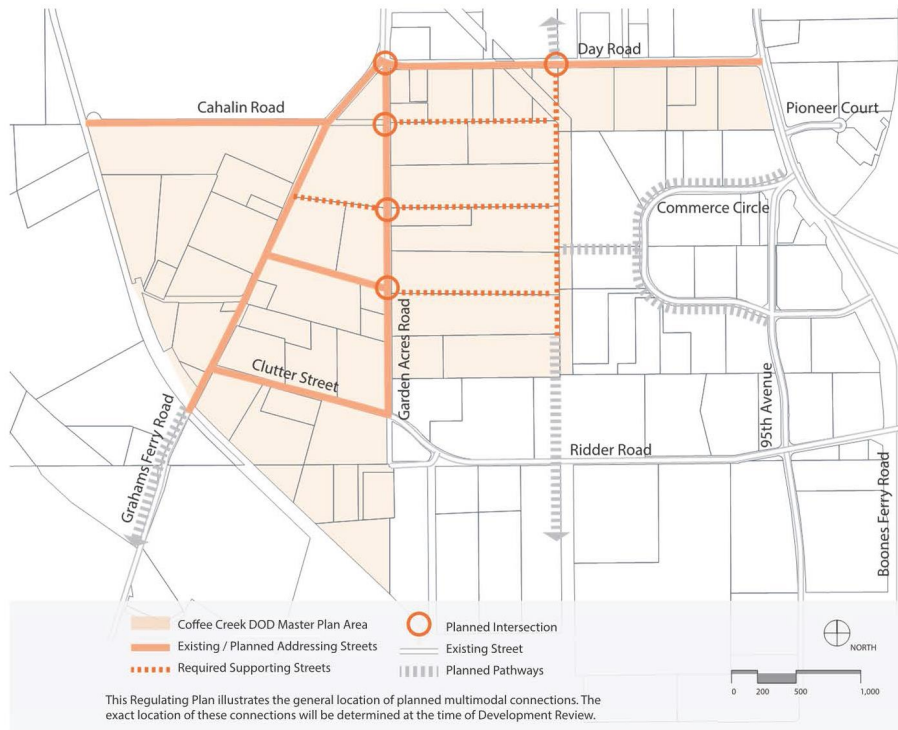


Figure CC-1 - Regulating Plan

(.10) Coffee Creek Connectivity Standards

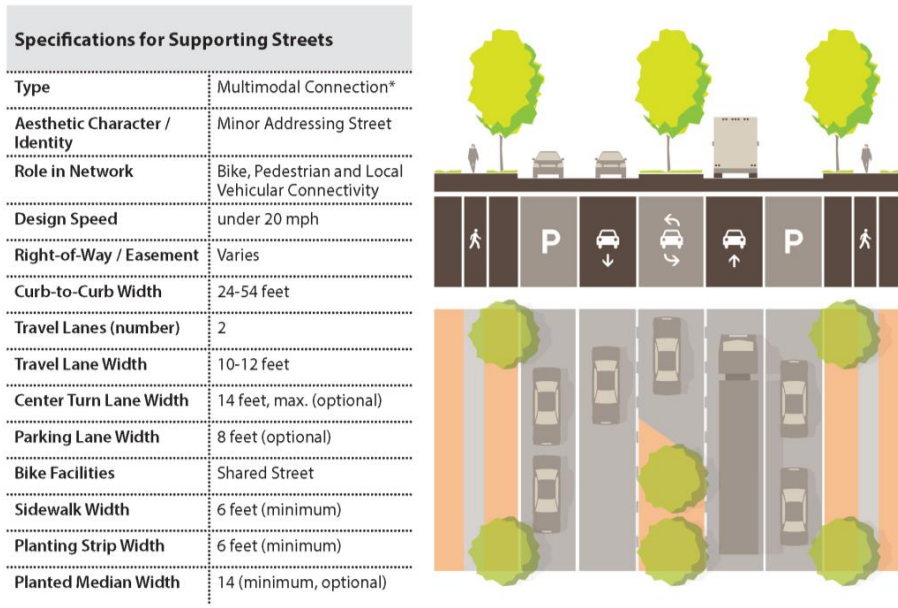
A. Street Types, Figure CC-1. Within the land area bounded by Addressing Streets, connectivity shall be provided through new streets or private drives and shared use paths. The location, alignment and cross-section of required streets or private drives and shared-use paths is flexible, as long as they comply with spacing and minimum cross section standards. New connections may be one of the following types:

1. Supporting Streets. Supporting Streets are new public streets or public easements. They shall meet the development standards set out in Figure CC-2.
  - a. A Required Supporting Street is one that intersects with an Addressing Street as shown on Figure CC-1. The exact location and design of these connections will be determined at the time of development review.
  - b. Planned Intersections are locations where Existing and Planned Addressing Streets intersect with required Supporting Streets, and Planned Pathways, as generally shown in Figure CC-1.

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2. Through Connections. Through Connections are new public streets or public easements with multi-use paths, or streets or public easements that combine characteristics of streets and multi-use paths. They shall meet the Development Standards set out in Figure CC-3.
- B. Planned Pathways are multi-use paths or pedestrian connections that are planned in the Transportation Systems Plan to occur in the location generally shown in Figure CC-1. A Planned Pathway may be employed to meet required connectivity, if it complies with Through Connection Standards for Connection Spacing and Connection Type, see Figure CC-6.
  - C. Maximum Connection Spacing.
    1. Addressing Streets. When intersecting with an Addressing Street, new Supporting Streets and Through Connections shall meet maximum spacing standards as set out in Table CC-1.
    2. Internal Supporting Streets and Through Connections. See Figure CC-4 and Table CC-1.
  - D. Required Connectivity Master Plan. Connectivity Master Plans are required for all development within the Coffee Creek DOD. Development proposals shall show conceptually how the Connectivity Requirements will be met. In addition, the Connectivity Master Plan should generally indicate how parking, driveways, walkways, waysides, etc., will relate or connect to adjacent parcels.

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\*The Regulating Plan (Figure CC-1) illustrates the general location of planned multimodal connections. These are labeled as *Required Supporting Streets*. Within 300 feet of an Addressing Street, the exact location and design of these connections will be determined at the time of development review.

Figure CC-2 - Supporting Streets Standards



Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

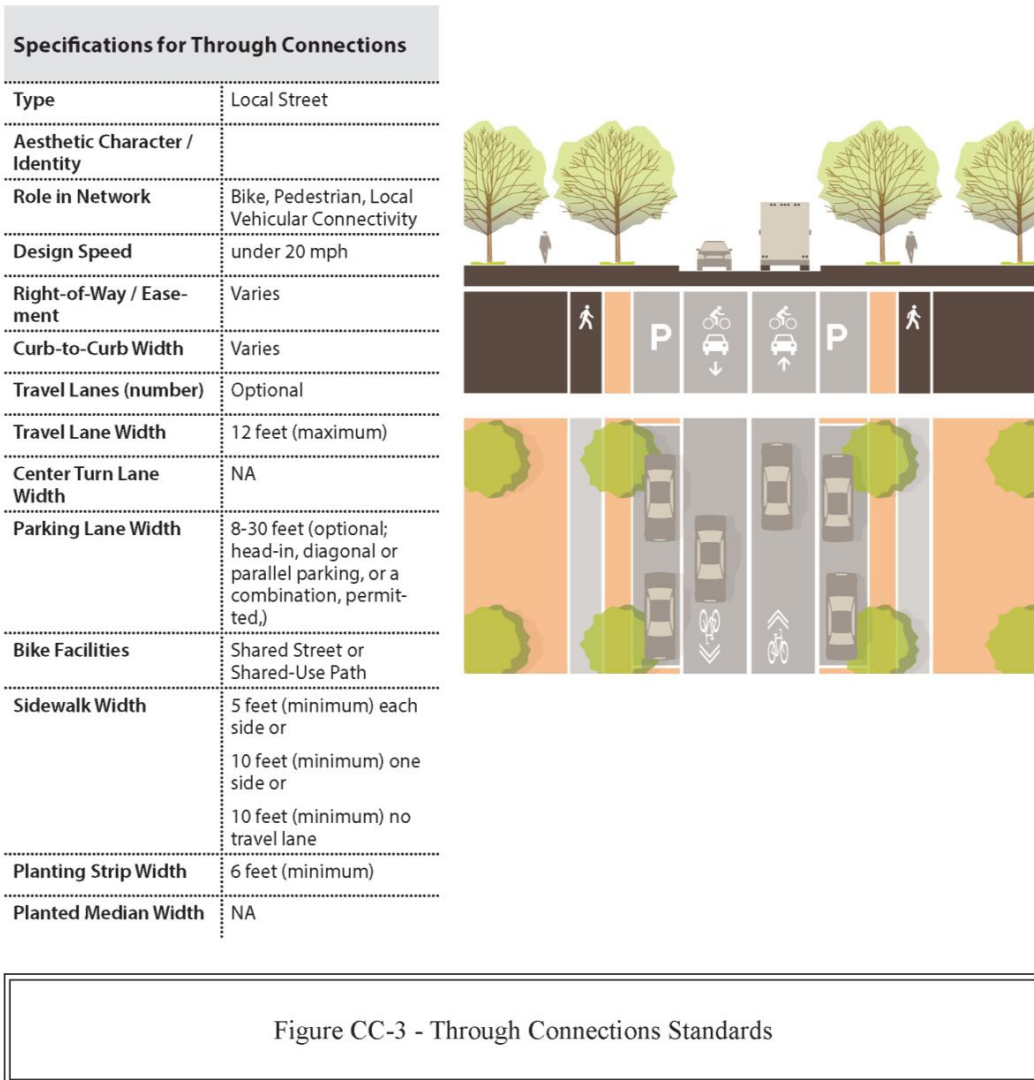


Figure CC-3 - Through Connections Standards

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

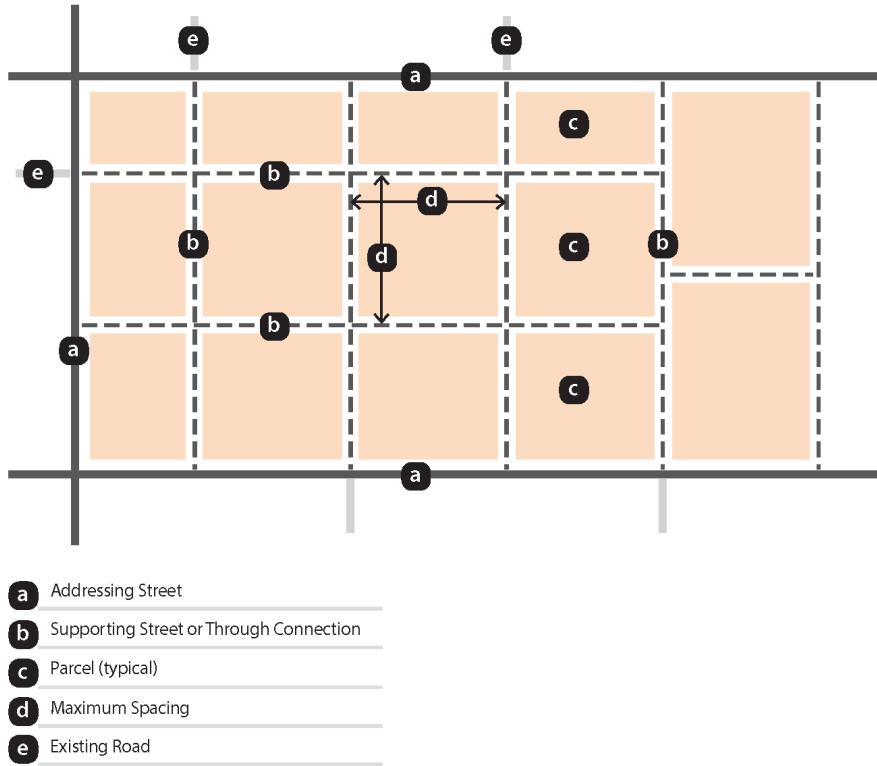


Figure CC-4 - Connectivity Standards

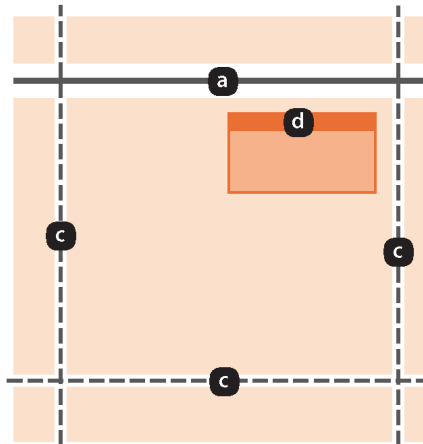
Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

- (.11) Development Standards Table. Areas bounded by Addressing Streets, Supporting Streets and Through Connections shall be designated as a Parcel and subject to the Development Standards in Tables CC-1 through CC-4.

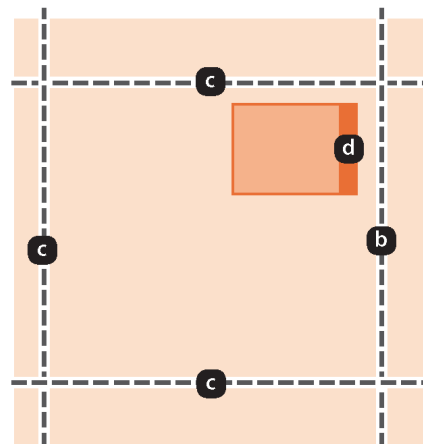
<b>Table CC-1: Street Design and Connectivity</b>			
	<b>Addressing Streets</b>	<b>Supporting Streets</b>	<b>Through Connections</b>
General	Development Standards within this table are not adjustable.		
Connection Spacing	Not applicable, Addressing Streets exist or are planned	600 feet, maximum, centerline to centerline. Supporting Streets and Through Connections shall intersect with Garden Acres Road as shown on Figure CC-1, Regulating Plan; or if the Addressing Street is Day Road, no less than 1,000 feet apart, centerline to centerline.	
Connection Type	Addressing Streets are Day Road, Grahams Ferry Road, Cahalin Road, Garden Acres Road, Clutter Street, and "Future" Street.	Supporting Streets are those meeting Specifications, Figure CC-2. A Required Supporting Street is one that intersects with an Addressing Street. The exact location and design of these connections will be determined at the time of development review.	Through Connections are those meeting Specifications, Figure CC-3. Through Connections may be multimodal or used exclusively for bicycle and pedestrian access.
Connection Hierarchy and Primary Frontage	If one of the streets or connections bounding a parcel is an Addressing Street, the Addressing Street shall be the Primary Frontage. If none of the bounding streets or connections is an Addressing Street, a Supporting Street shall be the Primary Frontage. See Figure CC-5.		

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Parcel with Addressing Street Frontage



Parcel without Addressing Street Frontage



- a** Addressing Street
- b** Supporting Street
- c** Supporting Street or Through Connection
- d** Primary Frontage / Front Façade of Building

Figure CC-5 - Connection Hierarchy and Primary Frontage

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<b>Table CC-2: District-Wide Planning and Landscaping</b>			
	<b>Addressing Streets</b>	<b>Supporting Streets</b>	<b>Through Connections</b>
General	The following provisions apply: <ul style="list-style-type: none"> <li>• Section 4.176 for landscaping standards</li> <li>• Section 4.610.10 for tree removal, relocation or replacement.</li> <li>• Section 4.610.10 (.01) C. for consideration of development alternatives to preserve wooded areas &amp; trees.</li> </ul>		

<b>Table CC-3: Site Design</b>			
	<b>Addressing Streets</b>	<b>Supporting Streets</b>	<b>Through Connections</b>
<b>1. Parcel Access</b>			
General	Unless noted otherwise below, the following provisions apply: <ul style="list-style-type: none"> <li>• Section 4.177 (.02) for street design;</li> <li>• Section 4.177 (.03) to (.10) for sidewalks, bike facilities, pathways, transit improvements, access drives &amp; intersection spacing.</li> </ul> The following Development Standards are adjustable: <ul style="list-style-type: none"> <li>• Parcel Driveway Spacing: 20%</li> <li>• Parcel Driveway Width: 10%</li> </ul>		
Parcel Driveway Access	Not applicable	Limited by connection spacing standards Parcel Driveway Access may be employed to meet required connectivity, if it complies with Supporting Street Standards for Connection Spacing and Connection Type, see Figure CC-6. Subject to approval by City Engineer	Limited by connection standards for motorized vehicle access. Parcel Driveway Access may be employed to meet required connectivity, if it complies with Through Connection Standards for Connection Spacing and Connection Type, see Figure CC-6. Subject to approval by City Engineer
Parcel Driveway Spacing	Not applicable	150 feet, minimum See Figure CC-6	150 feet, minimum See Figure CC-6
Parcel Driveway Width	Not applicable	24 feet, maximum or complies with Supporting Street Standards	24 feet, maximum or complies with Through Connection Standards

## Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

<b>Table CC-3: Site Design</b>			
	<b>Addressing Streets</b>	<b>Supporting Streets</b>	<b>Through Connections</b>
<b>2. Parcel Pedestrian Access</b>			
General	Unless noted otherwise below, the following provisions apply: <ul style="list-style-type: none"> <li>• Section 4.154 (.01) for separated &amp; direct pedestrian connections between parking, entrances, street ROW &amp; open space</li> <li>• Section 4.167 (.01) for points of access</li> </ul>		
Parcel Pedestrian Access Spacing	No restriction		
Parcel Pedestrian Access Width	8 feet wide minimum		
Parcel Pedestrian Access to Transit	Provide separated & direct pedestrian connections between transit stops and parking, entrances, street ROW & open space.		
<b>3. Parcel Frontage</b>			
Parcel Frontage, Defined	Parcel Frontage shall be defined by the linear distance between centerlines of the perpendicular Supporting Streets and Through-Parcel Connections. Where Parcel Frontage occurs on a curved segment of a street, Parcel Frontage shall be defined as the linear dimension of the Chord.		
Primary Frontage, Defined	The Primary Frontage is the Parcel Frontage on an Addressing Street. If the parcel is not bounded by Addressing Streets, it is the Parcel Frontage on a Supporting Street. See Figure CC-5.		
Parcel Frontage Occupied by a Building	A minimum of 100 feet of the Primary Frontage shall be occupied by a building. The maximum Primary Frontage occupied by a building shall be limited only by required side yard setbacks.	No minimum	
<b>4. Parking Location and Design</b>			
General	Unless noted otherwise below, the following provisions apply: <ul style="list-style-type: none"> <li>• Section 4.155 (03) Minimum and Maximum Off-Street Parking Requirements</li> <li>• Section 4.155 (04) Bicycle Parking</li> <li>• Section 4.155 (06) Carpool and Vanpool Parking Requirements</li> <li>• Section 4.176 for Parking Perimeter Screening and Landscaping - permits the parking landscaping and screening standards as multiple options</li> </ul> The following Development Standards are adjustable: <ul style="list-style-type: none"> <li>• Parking Location and Extent: up to 20 spaces permitted on an Addressing Street</li> </ul>		

## Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

<b>Table CC-3: Site Design</b>			
	<b>Addressing Streets</b>	<b>Supporting Streets</b>	<b>Through Connections</b>
Parking Location and Extent	Limited to one double-loaded bay of parking, 16 spaces, maximum, designated for short-term (1 hour or less), visitor, and disabled parking only between right-of-way of Addressing Street and building.	Parking is permitted between right-of-way of Supporting Street and building.	Parking is permitted between right-of-way of Through Connection and building.
Parking Setback	20 feet minimum from the right-of-way of an Addressing Street.	15 feet minimum from the right-of-way of a Supporting Street.	10 feet minimum from the right-of-way of a Through Connection.
Parking Lot Sidewalks	Where off-street parking areas are designed for motor vehicles to overhang beyond curbs, sidewalks adjacent to the curbs shall be increased to a minimum of seven (7) feet in depth.	Where off-street parking areas are designed for motor vehicles to overhang beyond curbs, planted areas adjacent to the curbs shall be increased to a minimum of nine (9) feet in depth.	
Parking Perimeter Screening and Landscaping	Screen parking area from view from Addressing Streets and Supporting Streets by means of one or more of the following: a. General Landscape Standard, Section 4.176 (.02) C. b. Low Berm Standard, Section 4.176 (.02) E., except within 50 feet of a perpendicular Supporting Street or Through Connection as measured from the centerline.		Screen parking area from view from Through Connections by means of a. Low Screen Landscape Standard, Section 4.176 (.02) D., or b. High Screen Landscaping Standard, Section 4.176 (.02) F., or c. High Wall Standard, Section 4.176 (.02) G., or d. Partially Sight-obscuring Fence Standard, Section 4.176 (.02) I.
Off-Street Loading Berth	One loading berth is permitted on the front façade of a building facing an Addressing Street. The maximum dimensions for a loading are 16 feet wide and 18 feet tall. A clear space 35 feet, minimum is required in front of the loading berth. The floor level of the	No limitation. Shall meet minimum standards in Section 4.155 (.05).	

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

<b>Table CC-3: Site Design</b>			
	<b>Addressing Streets</b>	<b>Supporting Streets</b>	<b>Through Connections</b>
	<p>loading berth shall match the main floor level of the primary building. No elevated loading docks or recessed truck wells are permitted.</p> <p>Access to a Loading Berth facing an Addressing Street may cross over, but shall not interrupt or alter, a required pedestrian path or sidewalk. All transitions necessary to accommodate changes in grade between access aisles and the loading berth shall be integrated into adjacent site or landscape areas.</p> <p>Architectural design of a loading berth on an Addressing Street shall be visually integrated with the scale, materials, colors, and other design elements of the building.</p>		
Carpool and Vanpool Parking	No limitation		
<b>5. Grading and Retaining Walls</b>			
General	<p>The following Development Standards are adjustable:</p> <ul style="list-style-type: none"> <li>Retaining Wall Design: 20%</li> </ul>		
Maximum height	<p>Where site topography requires adjustments to natural grades, landscape retaining walls shall be 48 inches tall maximum.</p> <p>Where the grade differential is greater than 30 inches, retaining walls may be stepped.</p>		
Required Materials	<p>Materials for retaining walls shall be unpainted cast-in-place, exposed-aggregate, or board-formed concrete; brick masonry; stone masonry; or industrial-grade, weathering steel plate.</p>		
Retaining Wall Design	<p>Retaining walls longer than 50 linear feet shall introduce a 5-foot, minimum horizontal offset to reduce their apparent mass.</p>		



Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

<b>Table CC-3: Site Design</b>			
	<b>Addressing Streets</b>	<b>Supporting Streets</b>	<b>Through Connections</b>
<b>6. Planting</b>			
General	Unless noted otherwise below, the following provisions apply: <ul style="list-style-type: none"> <li>Section 4.176 Landscaping and Screening Standards</li> </ul>		
Landscaping Standards Permitted	General Landscape Standard, Section 4.176 (.02) C. Low Berm Standard, Section 4.176 (.02) E., except within 50 feet of a perpendicular Supporting Street or Through Connection as measured from the centerline	General Landscape Standard, Section 4.176 (.02) C. Low Screen Landscape Standard, Section 4.176 (.02) D. Screen loading areas with High Screen Landscaping Standard, Section 4.176 (.02) F., and High Wall Standard, Section 4.176 (.02) G.	
<b>7. Location and Screening of Utilities and Services</b>			
General	Unless noted otherwise below, the following provisions apply: <ul style="list-style-type: none"> <li>Sections 4.179 and 4.430. Mixed Solid Waste and Recyclables Storage in New Multi-Unit Residential and Non-Residential Buildings</li> </ul>		
Location and Visibility	Site and building service, equipment, and outdoor storage of garbage, recycling, or landscape maintenance tools and equipment is not permitted	Site and building service, utility equipment, and outdoor storage of garbage, recycling, or landscape maintenance tools and equipment is not permitted within the setback	No limitation
Required Screening	Not permitted	High Screen Landscaping Standard, Section 4.176 (.02) F. and/ or High Wall Standard, Section 4.176 (.02) G.	

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

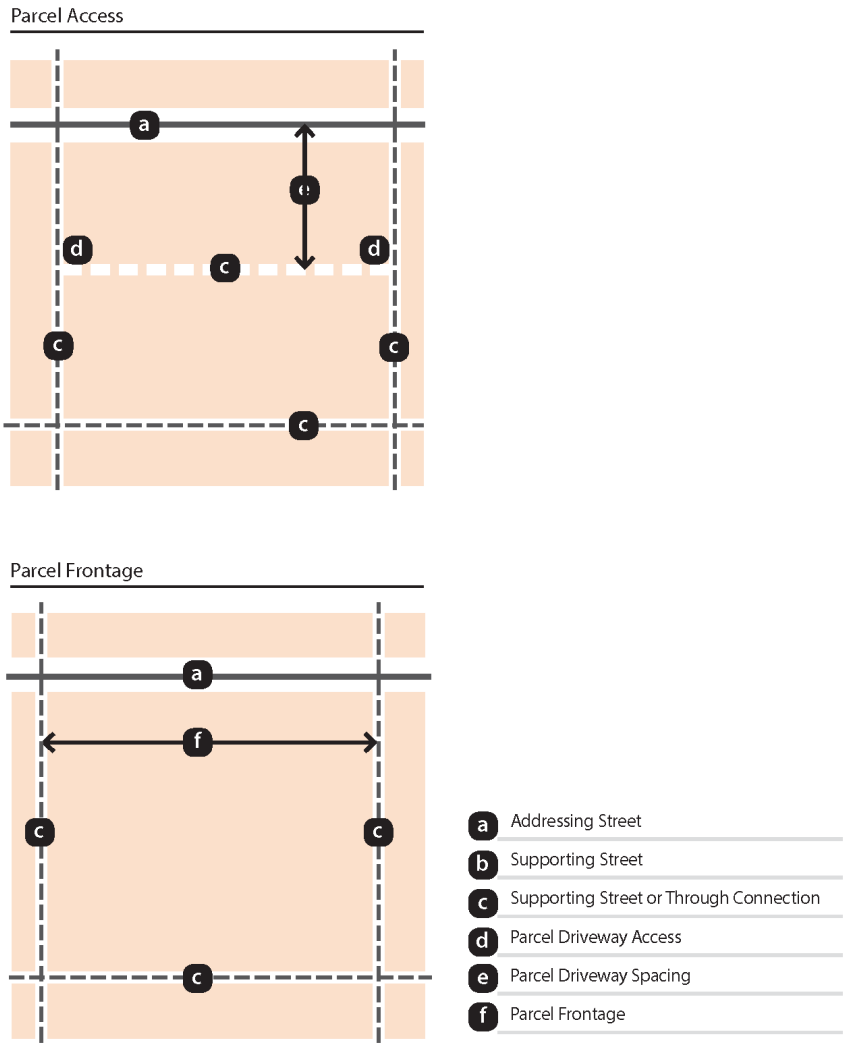


Figure CC-6 - Site Design - Parcel Access

## Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

<b>Table CC-4: Building Design</b>			
	<b>Addressing Streets</b>	<b>Supporting Streets</b>	<b>Through Connections</b>
<b>1. Building Orientation</b>			
Front Façade	<p>Buildings shall have one designated front façade and two designated side façades.</p> <p>If one of the streets or connections bounding a parcel is an Addressing Street, the front façade of the building shall face the Addressing Street.</p> <p>If two of the streets or connections bounding a parcel are Addressing Streets, the front façade of the building may face either Addressing Street, except when one of the Addressing Streets is Day Road. In that case, the front façade must face Day Road.</p> <p>If none of the bounding streets or connections is an Addressing Street, the front façade of the building shall face a Supporting Street.</p> <p>See Figure CC-5.</p>		
Length of Front Façade	<p>A minimum of 100 feet of the Primary Frontage shall be occupied by a building.</p> <p>The maximum Primary Frontage occupied by a building shall be limited only by required side yard setbacks.</p>		
Articulation of Front Façade	<p>Applies to a Front Façade longer than 175 feet that has more than 5,250 square feet of street-facing façade area:</p> <p>At least 10% of the street-facing façade of a building facing an Addressing Street must be divided into façade planes that are offset by at least 2 feet from the rest of the façade. Façade area used to meet this standard may be recessed behind, or project out from, the primary façade plane.</p>		
<b>2. Primary Building Entrance</b>			
General	<p>The following Development Standards are adjustable:</p> <ul style="list-style-type: none"> <li>• Required Canopy: 10%</li> <li>• Transparency: 20%</li> </ul>		
Accessible Entrance	<p>The Primary Building Entrance shall be visible from, and accessible to, an Addressing Street (or a Supporting Street if there is no Addressing Street frontage). A continuous pedestrian pathway shall connect from the sidewalk of an Addressing Street to the Primary Building Entrance with a safe, direct and convenient path of travel that is free from hazards and provides a reasonably smooth and consistent surface consistent with the requirements of Americans with Disabilities Act (ADA).</p> <p>The Primary Building Entrance shall be 15 feet wide, minimum and 15 feet tall, minimum.</p>		
Location	150 feet, maximum from right-of-way of an Addressing Street, see Figure CC-7.	150 feet, maximum from right-of-way of a Supporting Street, if there is no Addressing Street Frontage, see Figure CC-7.	
Visibility	Direct line of sight from an Addressing Street to the Primary Building Entrance.		
Accessibility	Safe, direct, and convenient path from adjacent public sidewalk.		

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

<b>Table CC-4: Building Design</b>			
	<b>Addressing Streets</b>	<b>Supporting Streets</b>	<b>Through Connections</b>
Required Canopy	Protect the Primary Building Entrance with a canopy with a minimum vertical clearance of 15 feet and an all-weather protection zone that is 8 feet deep, minimum and 15 feet wide, minimum.		
Transparency	Walls and doors of the Primary Building Entrance shall be a minimum of 65% transparent.		
Lighting	The interior and exterior of the Primary Building Entrance shall be illuminated to extend the visual connection between the sidewalk and the building interior from day to night. Pathway lighting connecting the Primary Building Entrance to the adjacent sidewalk on an Addressing Street shall be scaled to the needs of the pedestrian. Comply with Outdoor Lighting, Section 4.199		
<b>3. Overall Building Massing</b>			
General	The following Development Standards are adjustable: <ul style="list-style-type: none"> <li>• Required Minimum Height: 10%</li> <li>• Ground Floor Height: 10%</li> <li>• Base, Body, and Top Dimensions: 10%</li> <li>• Base Design: 10%</li> <li>• Top Design: 10%</li> </ul>		
Front Setback	30 feet, minimum, except as provided below	30 feet maximum	30 feet maximum
Allowance of Primary Building Entrance	Where the Primary Building Entrance is located on an Addressing Street it may extend into the required front yard setback by 15 feet maximum provided that: <ol style="list-style-type: none"> <li>a. It has a two-story massing with a minimum height of 24 feet;</li> <li>b. The Parcel Frontage on the Addressing Street is limited to 100 feet;</li> <li>c. The building extension is 65% transparent, minimum;</li> <li>d. The entrance is protected with a weather-protecting canopy with a minimum vertical clearance of 15 feet; and</li> <li>e. The standards for site design and accessibility are met.</li> </ol>	Not applicable	Not applicable

## Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

<b>Table CC-4: Building Design</b>			
	<b>Addressing Streets</b>	<b>Supporting Streets</b>	<b>Through Connections</b>
Required Minimum Height	30 feet minimum.		
Ground Floor Height	The Ground Floor height shall measure 15 feet, minimum from finished floor to finished ceiling (or 17.5 feet from finished floor to any exposed structural member).		
Base, Body, and Top Dimensions	<p>Buildings elevations shall be composed of a clearly demarcated base, body and top.</p> <p>a. For Buildings 30 feet in height (unless lower by adjustment):</p> <ol style="list-style-type: none"> <li>i. The base shall be 30 inches, minimum.</li> <li>ii. The body shall be equal to or greater than 75% of the overall height of the building.</li> <li>iii. The top of the building shall be 18 inches, minimum.</li> </ol> <p>b. For Buildings between 30 feet and 5 stories in height:</p> <ol style="list-style-type: none"> <li>i. The base shall be 30 inches, minimum; 2 stories, maximum.</li> <li>ii. The body shall be equal to or greater than 75% of the overall height of the building.</li> <li>iii. The top of the building shall be 18 inches, minimum.</li> </ol> <p>c. For Buildings greater than 6 stories in height:</p> <ol style="list-style-type: none"> <li>i. The base shall be 1 story, minimum, 3 stories, maximum.</li> <li>ii. The body shall be equal to or greater than 75% of the overall height of the building.</li> <li>iii. The top of the building shall be 18 inches, minimum.</li> </ol>		
Base Design	<p>The design of the building Base shall:</p> <ol style="list-style-type: none"> <li>a. Use a material with a distinctive appearance, easily distinguished from the building Body expressed by a change in material, a change in texture, a change in color or finish;</li> <li>b. Create a change in surface position where the Base projects beyond the Body of the building by 1 -1/2 inches, minimum; and/ or</li> <li>c. Low Berm Landscape Standard, Section 4.176 (.02) E.</li> </ol>		
Top Design	<p>Building Tops define the skyline.</p> <p>The design of the Building Top shall:</p> <ol style="list-style-type: none"> <li>a. Use a material with a distinctive appearance, easily distinguished from the building Body expressed by a change in material, a change in texture, a change in color or finish; and/ or</li> <li>b. Create a change in surface position where the Top projects beyond, or recesses behind, the Body of the building by 1 -1/2 inches, minimum.</li> </ol>		
Required Screening of Roof-mounted Equipment	Screen roof-mounted equipment with architectural enclosures using the materials and design of the building Body and/ or the building Top. No roof-mounted equipment shall be visible from an Addressing Street or Supporting Street.		

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

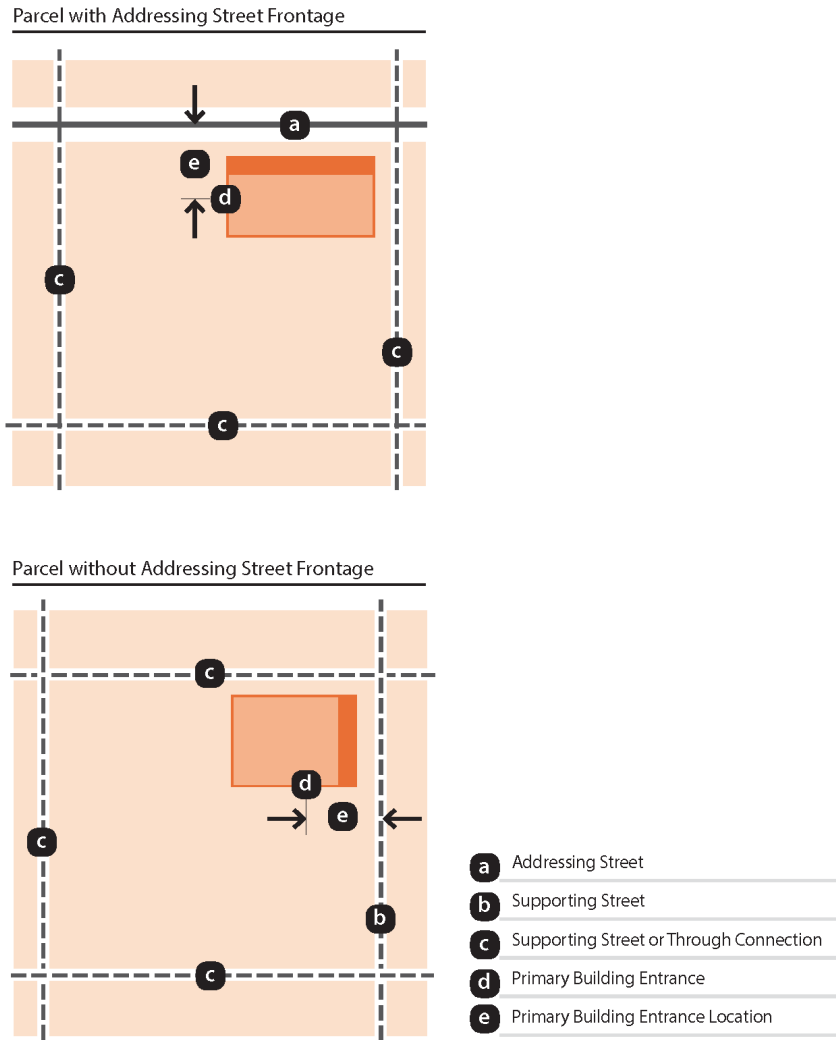


Figure CC-7 - Building Design - Primary Building Entrance

(.12) Waysides.

- A. Purpose. This section consists of standards and regulations for use throughout the Coffee Creek Design Overlay District. The regulations address materials, placement, layout, installation, and maintenance of Industrial Waysides. The City recognizes the need to:
1. Provide multiple, distributed destinations for passive and active recreation for the public and employees along a network of streets and trails;
  2. Be convenient, usable and accessible. Industrial Waysides should be physically and visually accessible from the adjacent Addressing Street, Supporting Street or Through Connection;
  3. Connect Industrial Waysides to transit;
  4. Be inviting. Inviting open spaces feature designs that encourage users to explore the Industrial Wayside and design elements that support a sense of the human scale. These elements include landscaping, benches and other seating areas, and pedestrian-scaled lighting.
  5. Provide access. Provide access to the employees and the public between the hours of 6:00am and 8:00pm;
  6. Be safe. Safe open spaces incorporate principles of natural surveillance, lighting, and prominent entrances;
  7. Provide facilities appropriate for the scale of the proposed development; and
  8. Be easy to maintain. Industrial Waysides should be constructed of commercial grade materials that will endure and are readily maintainable.
- B. Applicability. All projects in the Coffee Creek Master Plan Area shall provide waysides according to the standards in Table CC-5.
- C. General. The following development standards apply to all Waysides:
1. Required Wayside Area is exclusive of required landscape screening.
  2. Required Minimum Dimension of 20 feet (either width or depth).
- D. Criteria. Waysides shall meet the following criteria:
1. Perimeter Landscaping. In addition to the minimum size and dimensions, landscape three sides of the Industrial Wayside to a depth of 20 feet, minimum according to Section 4.176 (.02). Permitted screening includes: Section 4.176 (.02) D. Low Screen Landscaping Standard; Section 4.176 (.02) E. Low Berm Standard; or Section 4.176 (.02) F. High Screen Landscaping Standard. Perimeter landscaping shall not obscure visual access to the Industrial Wayside. Unscreened surface parking lots, chain link fencing, or service yards are prohibited adjacent to Industrial Waysides.
  2. Visibility. Industrial Waysides shall be visible from and accessible to Addressing Streets.

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

3. Accessible Pathway. A paved walking surface, width: 5 feet, minimum, meeting ADA standards is required to connect Industrial Wayside with Addressing Street.
  4. Accessible Surface. Industrial Waysides shall have an accessible surface, 100 square feet, minimum; dimensions 10 feet, minimum meeting ADA standards.
  5. Required Amenities.
    - a) Seating. Outdoor seating shall be provided. Publicly accessible plazas, courtyards, and pocket parks shall include at least one linear foot of seating per each 40 square feet of plaza, courtyard or pocket park space on site. Outdoor seating shall be in the form of:
      - 1) Free standing outdoor benches consistent with the standards; or
      - 2) Seating incorporated into low walls, berms, or raised planters.
    - b) Landscaping. The landscaping must be planted and maintained according to Section 4.176 (.02) C.
    - c) Lighting.
    - d) Recycling/ Waste Receptacle. Locate waste and recycling stations nearest to the accessible path and away from stormwater facilities.
  6. Installation and Maintenance. Industrial Waysides shall be programmed, planned, constructed, and maintained at the expense of the applicant. The landscaping must be planted and maintained according to Section 4.176 (.07). Recycling, waste receptacles, and pet waste stations shall be serviced at an acceptable professional interval to prevent being over filled or creating unsanitary or visually messy appearances.
  7. Solar Access. Exposure to sunlight. Southern exposure is encouraged. Design facilities to permit direct sunlight to enter the Industrial Wayside and strike the required accessible surface between the hours of 10:00am and 2:00pm local time.
  8. Lighting. Lighting for Industrial Waysides is required to permit reasonable use, utility, security, and nighttime safety. Lighting installed in Industrial Waysides shall conform to the requirements of Section 4.199. All outside lighting shall be so arranged and shielded so as not to shine into adjacent areas and to prevent any undue glare or reflection and any nuisance, inconvenience, and hazardous interference of any kind on adjoining streets or property.
- E. Optional Amenities include the following:
1. Picnic tables and benches. Locate picnic tables and benches on the Accessible Surface;
  2. Arbors or trellises;
  3. Drinking Fountains. Locate drinking fountains and benches on the Accessible Surface;



## Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

4. Sculpture and other works of art;
5. Bicycle repair stations;
6. Exercise stations; or
7. Pet waste stations. Locate pet waste stations nearest to the accessible path and away from stormwater facilities.

<b>Table CC-5: Waysides</b>			
<b>Parcel Area</b>	<b>Required Wayside Area</b>	<b>Number of Waysides</b>	<b>Enhanced Transit Plaza ‡</b>
Less than or equal to 5.0 acres	Not required	n/a	n/a
Greater than 5.0 acres, less than or equal to 8.0 acres	400 square feet, minimum	One	Not permitted
Greater than 8.0 acres, less than or equal to 13.0 acres	600 square feet, minimum	One	Not permitted
Greater than 13.0 acres, less than or equal to 23.0 acres	800 square feet, minimum	One, minimum	Permitted*. Up to 400 square feet.
Greater than 23.0 acres, less than or equal to 36.0 acres	1,600 square feet, minimum	One, minimum	Permitted*. Up to 400 square feet.
Greater than 36.0 acres, less than or equal to 51.0 acres	3,200 square feet, minimum	Two, minimum	Permitted*. Up to 400 square feet.
*** Greater than 51.0 acres, less than or equal to 70.0 acres	6,400 square feet, minimum	Two, minimum	Permitted**. Up to 800 square feet.
*** Greater than 70.0 acres, less than or equal to 92.0 acres	12,800 square feet, minimum	Two, minimum	Permitted**. Up to 800 square feet.

‡ In the future when SMART serves Coffee Creek, Industrial Waysides may comply with the standards for Enhanced Transit Plazas, as follows:

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

\*Up to 400 square feet of the space requirement for Industrial Waysides may be satisfied by installation of an enhanced transit stop. An enhanced transit stop must provide weather protection, paved surface, and seating, as approved by SMART Transit.

\*\*Up to 800 square feet of the space requirement for Industrial Waysides may be satisfied by installation of an enhanced transit stop, provided parcel fronts on two or more Addressing Streets. An enhanced transit stop must provide weather protection, paved surface, and seating, as approved by SMART Transit.

\*\*\*For Parcel Frontage greater than 1,500 feet, and area greater than 51.0 acres, up to fifty percent of the space requirement for Industrial Waysides may be satisfied by restoration of wetlands, riparian zones, or other habitat because of the significant passive recreation opportunities provided.

(.13) Signs.

A. Applicability. PDI Zone requirements of Section 4.156.01 through 4.156.11 apply to the Coffee Creek DOD with the following modifications and adjustments.

B. General.

1. Site Frontage as described in Section 4.156.08 is the Primary Frontage.
2. Monument-style signs are required. Pole-style freestanding signs are not permitted.
3. Maximum area for signs on buildings is based on linear length (in feet) of the façade adjacent to the Primary Frontage.
4. Directional and Wayfinding Signs shall be placed at the intersection of Supporting Streets and Through Connections.

**Section 4.134. — Day Road Design Overlay District**

~~(.01) Purpose. The Day Road Design Overlay District (DOD) is an overlay district within the larger Planned Development Industrial—Regionally Significant Industrial Area (RSIA) Zone. It is the purpose of the Day Road DOD to establish standards for site design and exterior architecture of all structures located in the Day Road DOD in order to ensure high quality design of development and redevelopment at the Day Road gateway to the City of Wilsonville. These standards are intended to create an aesthetically pleasing aspect for properties abutting Day Road by ensuring:~~

~~A. Coordinated design of building exteriors, additions and accessory structure exteriors~~

~~B. Preservation of trees and natural features~~

~~C. Minimization of adverse impacts on adjacent properties from development that detracts from the character and appearance of the area~~

~~D. Integration of the design of signage into architectural and site design, and~~

~~E. Minimization of the visibility of vehicular parking, circulation and loading areas.~~

~~It is the intent to create improved pedestrian linkages and to provide for public transit. It is also the intent of this section to encourage architectural design in relationship to the proposed land use, site characteristics and interior building layout.~~

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

~~(.02) Applicability. The Day Road DOD shall apply to all properties abutting Day Road. The provisions of this section shall apply to:~~

- ~~A. All new building construction~~
- ~~B. Any exterior modifications to existing, non-residential buildings~~
- ~~C. All new parking lots~~
- ~~D. All outdoor storage and display areas~~
- ~~E. All new signage~~
- ~~F. All building expansions greater than 1,250 square feet.~~

~~(.03) Exceptions. This section does not apply to the following activities:~~

- ~~A. Maintenance of the exterior of an existing industrial/employment structure such as painting to the approved color palette, reroofing, or residing with the same or similar materials~~
- ~~B. Industrial/employment building expansions less than 1,250 square feet~~
- ~~C. Interior remodeling~~
- ~~D. Essential public facilities~~
- ~~E. Existing dwellings and accessory buildings~~
- ~~F. Agricultural buildings~~

~~(.04) Review Process.~~

- ~~A. Compliance with the Day Road DOD shall be reviewed as part of Stage One— Preliminary Plan, Stage Two— Final Approval and Site Design Review. Such review shall be by the Development Review Board. Building expansions less than 2500 square feet and exterior building modifications less than 2500 square feet may be reviewed under Class II Administrative procedures.~~
- ~~B. Waivers. Under City Code [4.118(.03)], waivers to several development standards may be approved, including waivers to height and yard requirements, and architectural design standards, provided that the proposed development is equal to or better than that proposed under the standards to be waived. For example, a height waiver might be granted on a smaller site if the façade presentation was significantly enhanced, additional landscaping or open space is provided and site modifications are necessary to preserve significant trees. Waivers to the additional front yard setback for future improvements on Day Road may not be granted. [4.134(.05)(C)(1)]~~

~~(.05) Design Review Standards. The DRB shall use the standards in this section together with the standards in Sections 4.400— 4.421 to ensure compliance with the purpose of the Day Road DOD. These standards shall apply on all Day Road frontages, and on the frontage of corner lots abutting both Day Road and either Boones Ferry Road, Kinsman Road, Garden Acres Road or Grahams Ferry Road.~~

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

~~A. Natural Features. Buildings shall be sited in compliance with WC 4.171, Protection of Natural Features and Other Resources and with WC 4.600, Tree Preservation and Protection.~~

~~B. Building Location and Orientation: New buildings shall have at least one principal building entrance oriented towards the Day Road frontage. All building elevations fronting on Day Road or on the frontage on corner lots as described in (.05) above, shall have at least 20% glazing.~~

~~C. Setbacks:~~

~~1. Front Yard: For public health and safety reasons, the front yard setback shall be 30' plus additional setback (15' minimum) to accommodate future improvements to Day Road.~~

~~2. Side and rear setbacks shall be 30'. Side and rear yard setbacks may be reduced from the 30' minimum setback requirement where the setback is adjacent to industrial development subject to meeting other requirements of this section and Building Code requirements.~~

~~D. Building Height: A minimum building height of three stories, 48' is required, on the Day Road frontage and on frontages described in (.05) above. Sites may contain a combination of taller building space abutting the identified street frontages together with 1 or 2 story lab, R&D, and/or manufacturing building space on the remainder of the site. The 1 and 2 story portions of the buildings will be designed to be compatible with the taller structure's design, building materials and colors. Increased building height is encouraged, particularly in combination with site amenities such as under-structure parking, preservation of significant trees rated good or better in the arborist's report, and/or provision of trail segments or of open space areas open to the public.~~

~~E. Building Design:~~

~~1. Buildings shall be planned and designed to incorporate green building techniques wherever possible.~~

~~2. Exterior Building Design: Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls. Walls that can be viewed from public streets or public spaces shall be designed using architectural features for at least 60% of the wall. Other walls shall incorporate architectural features and landscaping for at least 30% of the wall. Possible techniques include:~~

~~a. Vary the planes of the exterior walls in depth and/or direction.~~

~~b. Vary the height of the building, so that it appears to be divided into distinct massing elements.~~

~~c. Articulate the different parts of a building's facade by use of color, arrangement of facade elements, or a change in materials.~~

~~d. Avoid blank walls at the ground floor levels. Utilize windows, trellises, wall articulation, arcades, change in materials—textured and/or colored~~

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

- ~~block or similar finished surface, landscape, or other features to lessen the impact of an otherwise bulky building.~~
- ~~e. Define entries within the architecture of the building.~~
  - ~~f. Incorporate, if at all possible, some of the key architectural elements used in the front of the building into rear and side elevations where seen from a main street or residential district.~~
3. ~~Building Color: All colors shall be harmonious and compatible with colors of other structures in the development and the natural surroundings. Concrete finishes must be painted. The general overall atmosphere of color must be natural tones. Stained wood, natural stone, brick, dark aluminum finishes, etc. shall be used as background colors. The use of corporate colors is permitted provided that such colors are not patterned so as to compete for visual attention. The use of corporate colors shall not create an advertisement of the building itself. Corporate colors shall not violate any other color or design limitations within the Code.~~
4. ~~Building façade articulation: Both vertical and horizontal articulation is required. If a building is at a corner, all facades must meet the requirement. Incorporation of several of the techniques is the preferred option. The purpose is not to create a standard rigid solution but rather to break up the mass in creative ways.~~
- ~~a. Horizontal articulation: Horizontal facades shall be articulated into smaller units. Appropriate methods of horizontal façade articulation include two or more of the following elements:
    - ~~i. change of façade materials~~
    - ~~ii. change of color~~
    - ~~iii. façade planes that are vertical in proportion~~
    - ~~iv. bays and recesses~~
    - ~~v. breaks in roof elevation, or other methods as approved~~Building facades shall incorporate design features such as offsets, projections, reveals, and/or similar elements to preclude large expanses of uninterrupted building surfaces. Articulation shall extend to the roof.~~
  - ~~b. Vertical Facade Articulation: The purpose is to provide articulation, interest in design and human scale to the façade of buildings through a variety of building techniques. Multi-story buildings shall express a division between base and top. Appropriate methods of vertical façade articulation for all buildings include two or more of the following elements:
    - ~~i. Change of material~~
    - ~~ii. Change of color, texture, or pattern of similar materials~~
    - ~~iii. Change of structural expression (for example, pilasters with storefronts spanning between at the base and punched openings above)~~
    - ~~iv. Belt course~~~~

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

- ~~v. The division between base and top shall occur at or near the floor level of programmatic division~~
- ~~vi. Base design shall incorporate design features such as recessed entries, shielded lighting, and/or similar elements to preclude long expanses of undistinguished ground level use~~
- ~~vii. Differentiation of a building's base shall extend to a building's corners but may vary in height~~

~~5. Building Materials:~~

- ~~a. No less than 50% of the exterior exposed walls of any new building, or any expansion over 1,250 square feet, shall be constructed of noncombustible, non-degradable and low maintenance construction materials such as face brick, architectural or decorative block, natural stone, specially designed pre-cast concrete panels, concrete masonry units, concrete tilt panels, or other similar materials. Metal roofs may be allowed if compatible with the overall architectural design of the building. Where an elevation of the building is not currently, or will not likely in the future, be exposed to public view, the above standard does not apply.~~
- ~~b. Accessory structures visible to the public shall be constructed of materials similar to or the same as the principal building(s) on the site.~~

~~6. Roof Design:~~

- ~~a. Roofs shall be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate for the architectural design of the building. Variations within an architectural style are highly encouraged. Visible rooflines and roofs that project over the exterior wall of buildings, and especially over entrances, are highly encouraged.~~
- ~~b. Mechanical Equipment and Service Areas: Mechanical equipment and service areas shall be screened from adjacent properties, from Day Road and on Day Road corner properties abutting SW Boones Ferry Road, Kinsman Road, Garden Acres Road and Grahams Ferry Road. The architectural design of the building shall incorporate design features which screen, contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards. Such screening shall blend visually with the related structure.~~

~~7. Pedestrian Walkways:~~

- ~~a. A continuous pedestrian walkway shall be provided from the primary entrance to the sidewalk along Day Road for access to building entrances and to transit facilities.~~
- ~~b. Walkways from parking areas to building entrances shall be at least six (6) feet in width, and shall be separated from moving vehicles. Walkways shall be distinguished from vehicular areas through the use of special pavers, bricks, scored concrete or similar materials providing a clear demarcation between pedestrian and vehicular traffic.~~

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

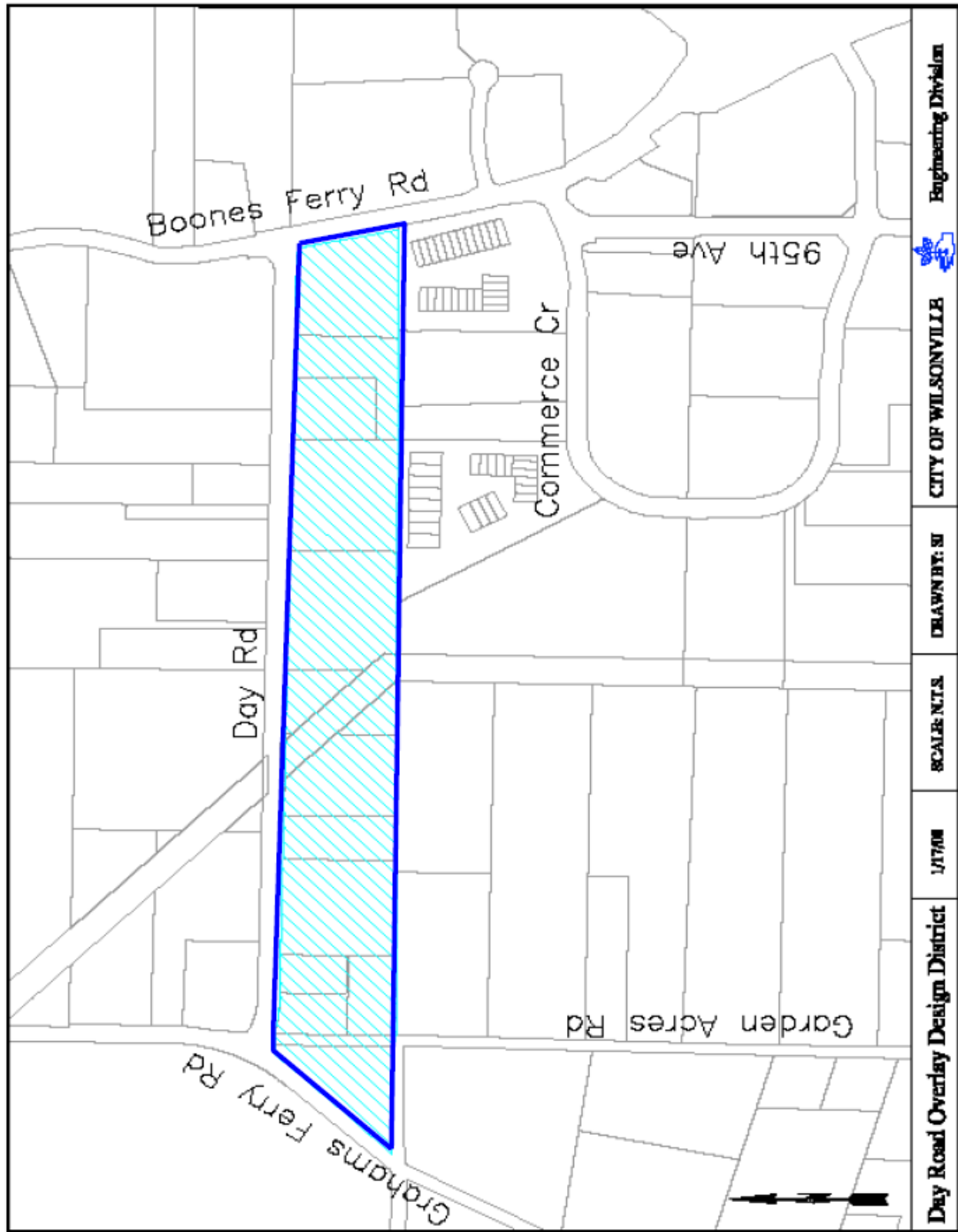
- ~~e. Buildings shall be connected with onsite walkways at least six (6) feet in width.~~
  - ~~8. Community Amenities: Community amenities such as patio seating, water features, art work or sculpture, clock towers, pedestrian plazas with park benches, connections to area trails, parks and open spaces, and similar amenities are strongly encouraged.~~
  - ~~9. Lighting and Flag Poles: All lighting shall be shielded and directed interior to the site, including parking lot lighting. Lighting shall not spill over onto adjacent properties. Light poles, light fixtures and flagpoles shall conform to the City's Outdoor Lighting Standards. Flagpoles shall not exceed 40' in height.~~
  - ~~10. Signage: Signage shall include a monument sign on the Day Road frontage identifying the industrial/business park and buildings therein. Each building may have wall signage, and such other directional and informational signage as allowed by WC 4.156.05, 4.156.08, and 4.156.09. Pole signs are prohibited. The design of signage must be integrated into the overall architectural and site design for the project. [Amended by Ord. No. 704, 6/18/12]~~
  - ~~11. Parking: Employee parking shall be located at the rear of the building, or in courtyard parking areas between buildings. If no other option is available due to site limitations, then employee parking may be located to the side of buildings. Time and number limited visitor parking is allowed at the front of the building. Within a Stage I master plan, employee parking may be combined in a shared facility or facilities with mutual use agreements. Any parking areas visible from Day Road shall be screened from view with broadleaf evergreen or coniferous shrubbery and/or architectural walls or berms.~~
- ~~(.06) Infill construction. The following general rules shall be followed when constructing a new building adjacent to existing industrial/employment buildings built under the Day Road DOD. Adjacent includes buildings north of Day Road built under the Day Road DOD.~~
- ~~A. Proportions and Façade: The average height and width of the surrounding buildings determines a general set of proportions for an infill structure or the bays of a larger structure. The infill building shall fill the entire space and reflect the characteristic rhythm of façades along Day Road. If the site is large, the mass of the façade must be broken into a number of smaller bays to maintain a rhythm similar to the surrounding buildings.~~
  - ~~B. Composition: The composition of the infill façade (i.e. the organization of its parts) shall be similar to surrounding buildings. Rhythms that carry throughout the block, such as window and door spacing, shall be similar to those on surrounding façades.~~
  - ~~C. Detailing/Textures: Infill architecture shall reflect some of the detailing of surrounding buildings in window shapes, cornice lines, brick or stone work, etc. Textures of exterior surfaces shall be reflected in the design of new buildings.~~

Wilsonville Code Section 4.134 - Coffee Creek Design Overlay District

- ~~D. Materials: An infill façade shall be composed of materials similar to adjacent facades. The new building(s) shall not stand out from existing buildings.~~
- ~~E. Color: All colors shall be harmonious and compatible with colors of other structures in the development and the natural surroundings.~~
- ~~F. Setbacks: Setbacks for new buildings shall be an average of the setbacks of the two adjacent buildings built under the Day Road DOD, or if none exist, shall meet the setback requirements of the Day Road DOD. Rear yard setbacks may be reduced from the 30' minimum setback requirement in Section 4.135(.06)(D) where the setback is adjacent to industrial development subject to meeting Building Code requirements. Front yard setbacks must include additional setback (15' minimum) to accommodate future improvements to Day Road.~~
- ~~G. Building Height: A minimum building height of three stories, 48' is required on the Day Road frontage and on frontages described in (.05) above. Sites may contain a combination of taller building space abutting the identified street frontages together with 1 or 2 story lab, R&D, and/or manufacturing building space on the remainder of the site. The 1 and 2 story portions of the buildings will be designed to be compatible with the taller structure's design, building materials and colors. Increased building height is encouraged, particularly in combination with site amenities such as under-structure parking, preservation of significant trees rated good or better in the arborist's report, and/or provision of trail segments or of open space areas open to the public.~~
- ~~H. Lighting and Flag Poles: All lighting shall be shielded and directed interior to the site, including parking lot lighting. Lighting shall not spill over onto adjacent properties. Light poles, light fixtures and flagpoles shall conform to the City's Outdoor Lighting Standards. Flagpoles shall not exceed 40' in height.~~



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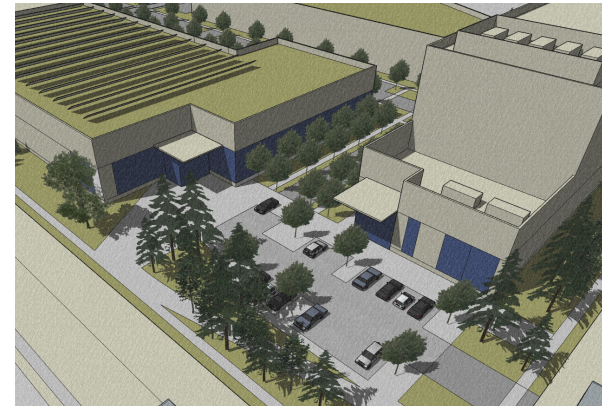
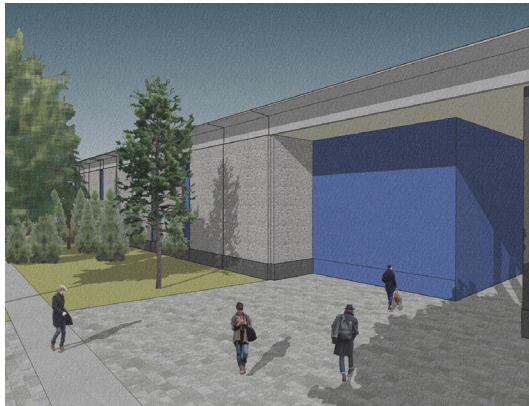
**Figure D-1: Day Road Design Overlay District Area Map**

**Exhibit B**

# **COFFEE CREEK INDUSTRIAL DESIGN OVERLAY DISTRICT**

## **PATTERN BOOK**

DECEMBER 2017



CITY OF WILSONVILLE | TRANSPORTATION GROWTH MANAGEMENT (TGM)

URBSWORKS INC | BAINBRIDGE.

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The contents of this document do not necessarily reflect views or policies of the State of Oregon.

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INTRODUCTION

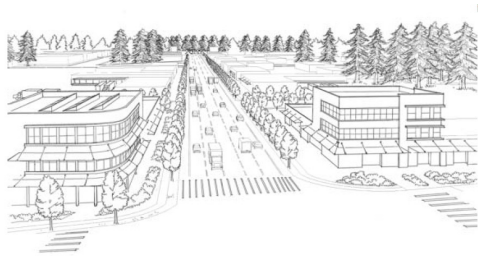




# Introduction

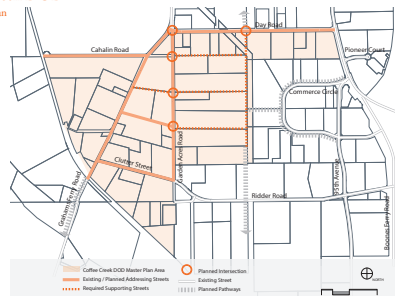
## GOALS OF THE PATTERN BOOK

The Coffee Creek Industrial Design Overlay District (Coffee Creek DOD) is an overlay district within the Planned Development Industrial - Regionally Significant Industrial Area (RSIA) Zone Section 4.135.5 of the Wilsonville Code. It is the purpose of the Coffee Creek DOD to implement the Coffee Creek Industrial Area Master Plan (2007) by establishing standards and guidelines for development. Wilsonville Code Section 4.134 (Form-based Code, or FBC) and the Pattern Book together establish regulations and guidelines for street design and connectivity, site design and circulation, building form, and building architecture and landscape of all development located within the Coffee Creek Industrial Area Master Plan area. Together, or separately, the clear and objective standards of the FBC and the Pattern Book (Design Guidelines) are intended to result in:



Rendering of the Coffee Creek Master Plan area

Coffee Creek DOD  
Regulating Plan



Regulating Plan from Section 4.134 Coffee Creek Industrial Design Overlay District

- A multi-modal transportation network that accommodates pedestrians, bicyclists, transit riders, motorists, and freight in the context of a modern light industrial district;
- A complete network of existing and new streets, paths, and trails that will support a sense of place and identity within the City of Wilsonville;
- An industrial district featuring cohesive and high-quality site, landscape, and building design through a de-emphasis on building design and more appropriate emphasis on the design of the public realm;
- Minimization of the visibility of vehicular parking, circulation, and loading areas;
- Public realm design that considers the contribution that landscape design has made to the design quality of other industrial lands in Wilsonville, where landscaping is effective at breaking down the scale of industrial development and providing a human scale to the public realm;
- Preservation of trees and natural features, which supports the creation of a special place with a distinctive image and identity;
- Minimization of adverse impacts on adjacent properties from development that detracts from the character and appearance of the area; and
- Connectivity requirements that achieve City policy objectives but are appropriate for industrial scale sites and buildings, establish connectivity between parcels, and address challenges of shared site access between landlocked parcels.

**RELATIONSHIP TO THE WILSONVILLE CODE**

The Form-based Code for industrial areas sets the standards for development and defines the essential determinants for design that are critical to development. These standards are clear, objective, and represent a baseline minimum for the sound development of employment uses in industrial areas. Because the community standards for design are high, the expectation for the design for all new development is correspondingly high. The design guidelines in this Pattern Book encourage and promote the design of buildings and landscapes that exceed the minimum functional standards established in the Wilsonville Code. The design guidelines illustrate how the provisions of the Form-based Code can be practically applied with examples from specific context zones. However, no single guideline or illustration is capable of representing the full, complete, and exhaustive range of possible design solutions. Rather than representing an ultimate design, the design guidelines and their illustrative examples are intended to promote a creative response to the development regulations and foster a collaborative discussion of design that includes City staff and members of the Development Review Board.

The City of Wilsonville expects new development in industrial areas to be successful contributors to the quality of life in the city by:

- Constructing well-designed, high-quality buildings that serve current needs and are adaptable to future uses;
- Integrating industrial land uses with all modes of transportation including active modes of transportation of walking, biking, and transit;
- Preserving existing trees and natural features and enhancing the character and qualities of a unique landscape with a distinctive image and identity;
- Preserving existing jobs and creating new ones; and
- Creating a quality workplace for employees.

## OVERVIEW OF THE DESIGN GUIDELINES

Coffee Creek Industrial Design Overlay District <b>Design Guidelines</b>		
<b>Pattern Book Chapter</b>	<b>Design Guideline Section</b>	<b>Design Guidelines</b>
A   Street Design and Connectivity	1. Network	1.1 Connection spacing 1.2 Large parcels
	2. Addressing Streets	2.1 Park-like character 2.2 Serving multiple modes 2.3 Prominent address 2.4 Enclosed public realm
	3. Supporting Streets	3.1 Role of Supporting Streets. 3.2 High-quality Supporting Streets 3.3 Extension of the public realm 3.4 Supporting Street as the primary access 3.5 Supporting Street as the secondary access
	4. Through Connections	4.1 Balancing extension of the public realm with flexible design 4.2 Serving pedestrians 4.3 Serving bicyclists 4.4 Wayfinding 4.5 Flexible alignment 4.6 Flexible width



## INTRODUCTION

Coffee Creek Industrial Design Overlay District **Design Guidelines**

Pattern Book Chapter	Design Guideline Section	Design Guidelines
B   District-Wide Planning and Landscaping	1. The Natural Landscape	1.1 Water flow to Coffee Lake Creek 1.2 Natural landscape as visual unifier 1.3 Naturalistic landscape, native planting 1.4 Access to nature 1.5 Ice Age artifacts 1.6 Tree preservation within setbacks 1.7 Informal park-like landscaping
	2. Special Landscape Features	2.1 City of Wilsonville themes 2.2 Existing tree groves at points of access 2.3 Water features 2.4 Selective use of non-native plants 2.5 Intentional aesthetic use of industrial materials
	3. Strong Gateways	3.1 Coffee Creek gateways 3.2 Buildings as gateway markers 3.3 Monument signs 3.4 Iconic elements

Coffee Creek Industrial Design Overlay District **Design Guidelines**

Pattern Book Chapter	Design Guideline Section	Design Guidelines
C   Site Design	1. Parcel Access	1.1 Distinctive identity of visitor arrival point 1.2 Converging parcel access points 1.3 Formal landscape design that contrasts 1.4 Parcel access from an Addressing Street 1.5 Parcel access from a Supporting Street 1.6 Parcel access from a Through Connection 1.7 Pedestrian and bicycle access network 1.8 Accessible paths 1.9 Adjust paths to incorporate site features 1.10 Front yards that contribute to the public realm 1.11 Signs 1.12 Outdoor rooms
	2. Parking Location and Design	2.1 Front yard surface parking on an Addressing Street 2.2 Through Connections that provide parking 2.3 Surface parking 2.4 From the parking spot to the primary entry 2.5 Stormwater run-off 2.6 Planting
	3. Location and Screening of Utilities and Services	3.1 Geometry 3.2 Screening materials 3.3 Native plant material
	4. Exterior Lighting	4.1 Nighttime safety 4.2 Highlighting 4.3 No flood lighting 4.4 Sustainable lighting 4.5 Addressing and Supporting streets at night 4.6 Through Connections at night 4.7 Fixture heights 4.8 Night sky

## INTRODUCTION

Coffee Creek Industrial Design Overlay District **Design Guidelines**

<b>Pattern Book Chapter</b>	<b>Design Guideline Section</b>	<b>Design Guidelines</b>
D   Building Design	1. Primary Building Orientation and Entries	1.1 Primary building entry relationship to Addressing Street 1.2 Primary entry as significant building feature 1.3 Primary entry characteristics 1.4 Visual interest and human scale
	2. Building Façades	2.1 Façade articulation 2.2 Office building façades 2.3 Multi-story building façades 2.4 Addressing Street façades 2.5 Addressing Street enclosure and street wall
	3. Roof Forms	3.1 Fifth elevation 3.2 Natural light 3.3 Roof edge 3.4 Roof forms 3.5 Incorporation of mechanical systems 3.6 Roof stormwater
	4. Materials and Colors	4.1 Coffee Creek colors 4.2 Emphasize base, body, and top 4.3 Muted color palette
	5. Sustainable Building Design	5.1 Solar advantage and daylight 5.2 Shading 5.3 Non-mechanical light and ventilation 5.4 Minimal site alteration

## OVERVIEW OF THE TWO TRACK SYSTEM

# The Two Tracks

### TRACK ONE

The Planning Director determines your project complies with all Development Standards, or that

Your project complies with all Development Standards and all needed Adjustment Allowances.

**Your project will be approved by the Planning Director.**

### TRACK TWO

Your project does not comply with all Development Standards.

Your project must comply with some or all Design Guidelines in the Pattern Book.

**Your project is reviewed and may be approved by the Development Review Board.**

**Track One: Reduced timeline, approval certainty**

**Track Two: Design flexibility**

### HOW THE DEVELOPMENT STANDARDS AND DESIGN GUIDELINES ARE INTENDED TO BE USED

The clear and objective standards in Section 4.134, found within Chapter 4 of the Wilsonville Planning and Land Development Code, are written to allow streamlined development approval. As long as a proposed development meets the numerical standards it will be approved.

The Design Guidelines within this Pattern Book provide the basis for an optional “waiver track.” An applicant may elect to apply for the waiver track, instead of the clear and objective track. In this case, the Design Guidelines, including the Intent Statements and other contents of this Pattern Book, will guide approval of the project.

### TRACK ONE: CLEAR AND OBJECTIVE TRACK (SECTION 4.134)

Track One is a ministerial review process, intended to result in automatic project approval if all criteria are met.

The development applicant must meet Development Standards (numerical standards) for Connectivity, District-wide Planning, Site Design, Building Design, Waysides and Signage. Limited adjustments are permitted, as noted in Section 4.134.

### TRACK TWO: WAIVER TRACK

Track Two is a discretionary review process for projects not meeting all of the clear and objective standards of Section 4.134.

When choosing this track, applicants must meet Design Guidelines within the Pattern Book for development standards to be waived. Clear and objective standards eligible for the waiver track are found in subsections 2) District-wide Planning and Landscaping, 3) Site Design, and 4) Building Design.

The clear and objective standards of subsection 1) Street Design and Connectivity, may elect to use the waiver track by providing a Connectivity Master Plan that complies with the Design Guidelines and the Pattern Book.

Projects are reviewed and may be approved by the Development Review Board.

# RELATIONSHIP OF THE DESIGN GUIDELINES TO SECTION 4.134 DEVELOPMENT STANDARDS

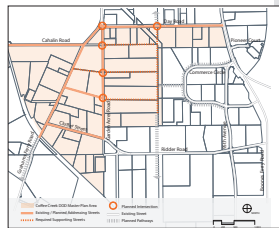
## TRACK ONE: CLEAR AND OBJECTIVE TRACK (SECTION 4.134)

Track One is a ministerial review process, intended to result in automatic project approval if all criteria are met. The development applicant must meet **Development Standards** (numerical standards) for Connectivity, District-wide Planning, Site Design, and Building Design. Projects will be approved by the **Planning Director**.

## TRACK TWO: WAIVER TRACK

Track Two is a discretionary review process for projects not meeting all of the clear and objective standards of Section 4.134. The development applicant must meet **Design Guidelines** for the applicable waiver track section. Projects are reviewed and may be approved by the **Development Review Board**.

### Section 4.134 Coffee Creek Industrial Design Overlay District



1

#### TRACK ONE: CLEAR AND OBJECTIVE TRACK Section 4.134 Development Standards

##### CC - 1 | Street Design and Connectivity

- Connection Spacing
- Connection Type
- Connection Hierarchy and Primary Frontage

##### CC - 1 | Street Design and Connectivity

Connectivity Master Plan, per Section 4.134 (.10)D.  
"Required Connectivity Master Plan".

##### CC - 2 | District-wide Planning and Landscaping

- Tree Removal
- Tree Protection



2

#### TRACK TWO: WAIVER TRACK Design Guidelines (this document)

Waiver Track only permitted using the  
Connectivity Master Plan (see below)

##### A | Street Design and Connectivity

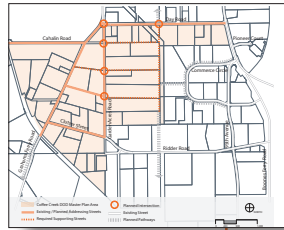
- Network
- Addressing Streets
- Supporting Streets
- Through Connections

##### B | District-wide Planning and Landscaping

- The Natural Landscape
- Special Landscape Features
- Strong Gateways



**Section 4.134 Coffee Creek Industrial Design Overlay District**



**TRACK ONE: CLEAR AND OBJECTIVE TRACK**  
**Section 4.134 Development Standards**

- CC - 3 | Site Design
- Parcel Access (Adjustable)
  - Parcel Pedestrian Access
  - Parcel Frontage
  - Parking Location and Design (Adjustable)
  - Grading and Retaining Walls (Adjustable)
  - Planting
  - Location and Screening of Utilities

- CC - 4 | Building Design
- Building Orientation
  - Primary Building Entrance
  - Overall Building Massing (Adjustable)

- (.12) | Waysides
- Size and Dimensions
  - Perimeter Landscaping
  - Required and Optional Amenities

- (.13) | Signs
- Applicability
  - General

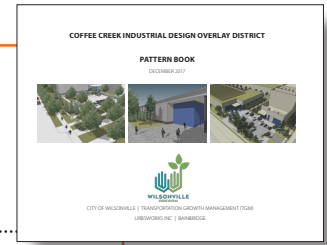
**TRACK TWO: WAIVER TRACK**  
**Design Guidelines (this document)**

- C | Site Design
- Parcel Access
  - Parking Location and Design
  - Location and Screening of Utilities and Services
  - Exterior Lighting

- D | Building Design
- Primary Building Orientation and Entries
  - Building Façades
  - Roof Forms
  - Materials and Colors
  - Sustainable Building Design

Per Section 4.134 (.08)

Per Section 4.156.02 (.08)



### EXAMPLE 1

Approval using Clear and Objective Track only.

Section 4.134 Coffee Creek Industrial Design Overlay District	
TRACK ONE: CLEAR AND OBJECTIVE TRACK Section 4.134 Development Standards	TRACK TWO: WAIVER TRACK Design Guidelines (this document)
<p><b>CC - 1   Street Design and Connectivity</b></p> <ul style="list-style-type: none"> <li>• Connection Spacing</li> <li>• Connection Type</li> <li>• Connection Hierarchy and Primary Frontage</li> </ul> <p>CC - 1   Street Design and Connectivity Connectivity Master Plan, per Section 4.134 (.10)D. "Required Connectivity Master Plan".</p>	<p>Waiver Track only permitted using the Connectivity Master Plan (see below)</p>
<p><b>CC - 2   District-wide Planning and Landscaping</b></p> <ul style="list-style-type: none"> <li>• Tree Removal</li> <li>• Tree Protection</li> </ul>	<p><b>A   Street Design and Connectivity</b></p> <ul style="list-style-type: none"> <li>• Network</li> <li>• Addressing Streets</li> <li>• Supporting Streets</li> <li>• Through Connections</li> </ul>
<p><b>CC - 3   Site Design</b></p> <ul style="list-style-type: none"> <li>• Parcel Access (Adjustable)</li> <li>• Parcel Pedestrian Access</li> <li>• Parcel Frontage</li> <li>• Parking Location and Design (Adjustable)</li> <li>• Grading and Retaining Walls (Adjustable)</li> <li>• Planting</li> <li>• Location and Screening of Utilities</li> </ul>	<p><b>C   Site Design</b></p> <ul style="list-style-type: none"> <li>• Parcel Access</li> <li>• Parking Location and Design</li> <li>• Location and Screening of Utilities and Services</li> <li>• Exterior Lighting</li> </ul>
<p><b>CC - 4   Building Design</b></p> <ul style="list-style-type: none"> <li>• Building Orientation</li> <li>• Primary Building Entrance</li> <li>• Overall Building Massing (Adjustable)</li> </ul>	<p><b>D   Building Design</b></p> <ul style="list-style-type: none"> <li>• Primary Building Orientation and Entries</li> <li>• Building Façades</li> <li>• Roof Forms</li> <li>• Materials and Colors</li> <li>• Sustainable Building Design</li> </ul>
<p><b>(.12)   Waysides</b></p> <ul style="list-style-type: none"> <li>• Size and Dimensions</li> <li>• Perimeter Landscaping</li> <li>• Required and Optional Amenities</li> </ul>	<p>Waiver Track Not Permitted</p>
<p><b>(.13)   Signage</b></p> <ul style="list-style-type: none"> <li>• Applicability</li> <li>• General</li> </ul>	<p>Per Section 4.156.02 (.08)</p>

### EXAMPLE 2

Approval using both Clear and Objective and Waiver Tracks.

Section 4.134 Coffee Creek Industrial Design Overlay District	
TRACK ONE: CLEAR AND OBJECTIVE TRACK Section 4.134 Development Standards	TRACK TWO: WAIVER TRACK Design Guidelines (this document)
<p><b>CC - 1   Street Design and Connectivity</b></p> <ul style="list-style-type: none"> <li>• Connection Spacing</li> <li>• Connection Type</li> <li>• Connection Hierarchy and Primary Frontage</li> </ul> <p>CC - 1   Street Design and Connectivity Connectivity Master Plan, per Section 4.134 (.10)D. "Required Connectivity Master Plan".</p>	<p>Waiver Track only permitted using the Connectivity Master Plan (see below)</p>
<p><b>CC - 2   District-wide Planning and Landscaping</b></p> <ul style="list-style-type: none"> <li>• Tree Removal</li> <li>• Tree Protection</li> </ul>	<p><b>A   Street Design and Connectivity</b></p> <ul style="list-style-type: none"> <li>• Network</li> <li>• Addressing Streets</li> <li>• Supporting Streets</li> <li>• Through Connections</li> </ul>
<p><b>CC - 3   Site Design</b></p> <ul style="list-style-type: none"> <li>• Parcel Access (Adjustable)</li> <li>• Parcel Pedestrian Access</li> <li>• Parcel Frontage</li> <li>• Parking Location and Design (Adjustable)</li> <li>• Grading and Retaining Walls (Adjustable)</li> <li>• Planting</li> <li>• Location and Screening of Utilities</li> </ul>	<p><b>C   Site Design</b></p> <ul style="list-style-type: none"> <li>• Parcel Access</li> <li>• Parking Location and Design</li> <li>• Location and Screening of Utilities and Services</li> <li>• Exterior Lighting</li> </ul>
<p><b>CC - 4   Building Design</b></p> <ul style="list-style-type: none"> <li>• Building Orientation</li> <li>• Primary Building Entrance</li> <li>• Overall Building Massing (Adjustable)</li> </ul>	<p><b>D   Building Design</b></p> <ul style="list-style-type: none"> <li>• Primary Building Orientation and Entries</li> <li>• Building Façades</li> <li>• Roof Forms</li> <li>• Materials and Colors</li> <li>• Sustainable Building Design</li> </ul>
<p><b>(.12)   Waysides</b></p> <ul style="list-style-type: none"> <li>• Size and Dimensions</li> <li>• Perimeter Landscaping</li> <li>• Required and Optional Amenities</li> </ul>	<p>Waiver Track Not Permitted</p>
<p><b>(.13)   Signage</b></p> <ul style="list-style-type: none"> <li>• Applicability</li> <li>• General</li> </ul>	<p>Per Section 4.156.02 (.08)</p>

# HOW TO USE THE PATTERN BOOK

The Pattern Book for Coffee Creek uses design guidelines and prototypes to illustrate the principles that inform the Coffee Creek Industrial Design Overlay District. For those projects where the clear and objective standards of the Form-based Code do not provide sufficient flexibility to address specific issues for site design, landscape design, or building design the Pattern Book provides guidance to the applicant and the Development Review Board.

**What is an Intent Statement?** Intent statements summarize the fundamental principles for the four primary patterns and their typologies that guide development in Coffee Creek.

**What is a Design Guideline?** Every design guideline is intended to promote a carefully articulated and well-crafted design response that is consistent with the principles of the Intent Statement.

**What is a Precedent Photo?** Each image is intended to provide a visual reference to the text that represents a level of quality and aesthetics appropriate to the industrial context of Coffee Creek. They are intended to inspire creativity and a thoughtful, considered design response to addressing the unique conditions of street, site, building, and landscape design.

Intent Statement

Design Guideline

Precedent photo


Design Guidelines

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**SECTION A | CONNECTIVITY AND STREET DESIGN**

**INTENT STATEMENT**  
Streets do much more than provide access to building blocks, parcels, and sites. Streets are the primary generators of urban form and their design determines the quality of the public realm and the character of our neighborhoods and cities. The Form-based Code sets standards for streets as well as standards for development of sites, parcels, and buildings. In the Form-based Code the Regulating Plan establishes an overall framework for access and mobility in the Coffee Creek industrial area by building upon those roads that already exist. Existing rural roads and new streets will become the major streets of Coffee Creek and will set the character for its development. The Regulating Plan sets forth only a rough framework for new development with standards for Connection Spacing that are appropriate to the large scale of industrial development, and to ensure that connectivity to, and through, all sites is supported. The Form-based Code sets minimum standards for connectivity, and establishes a hierarchy of Addressing Streets, Supporting Streets, and Through Connections. The nature of many of these connections, their function, and their typology is flexible so that their ultimate design can be a reflection of their unique context. Supporting Streets and Through Connections should work together to provide a complete network that serves people getting around no matter what form of transportation they use. It's not necessary for every connection to serve everyone, but the network should make it possible to get to, through and around parcels and the district.

**Addressing Streets**  
Addressing Streets are the structural framework of the street network in Coffee Creek. They link all other Supporting Streets and Through Connections to each other and to the larger community of Wilsonville. In addition to this essential network role, Addressing Streets are the front doors for all development in Coffee Creek. They define the quality of the public realm and create the first impression of Coffee Creek for new visitors. Where new development includes planning and construction of an Addressing Street, the design must reinforce the distinctive regional landscape and support the intent of high-quality urban design for the public realm with a park-like atmosphere.



Wilsonville Light Industrial Pattern Book page 15

DESIGN GUIDELINES

**1. NETWORK OF STREETS AND PATHS**


**1.1 Connection spacing**  
The intent for all streets and paths in Coffee Creek is to create an integrated district with a robust, resilient, and connected network that supports economic and environmental sustainability. There is a fixed structural framework of Addressing Streets that provide access from within Coffee Creek to the rest of the region. That framework is intended to support a well-integrated and fine-grained system of streets and paths where a multi-use path might be the connecting link between an Addressing Street and a Supporting Street or Through Connection. The design intent is to maximize connectivity – of all kinds – to the extent practicable.

**1.2 Large parcels**  
Where the building program for industrial projects requires parcel configurations that exceed the minimum connectivity standards of the Form-based Code, the site design, landscape design, and architectural design of projects shall provide additional on-site employee amenities as mitigation. Elements could include dedicated indoor or outdoor recreation facilities, such as a soccer pitch or basketball court; dedicated indoor or outdoor food service facilities, such as a landscaped outdoor plaza or indoor canteen, and/or landscaped area for passive recreation, such as a fountain or a piece of sculpture.

**2. ADDRESSING STREETS**

**2.1 Park-like character**  
Design Addressing Streets to establish and support a park-like character of the public realm. Addressing Streets shall provide continuous sidewalks on both sides of the street that protect the pedestrian with a landscaped planting strip. Addressing Streets may also include a planted central median.

**2.2 Serving multiple modes**  
Addressing Streets should support pedestrian, bicycle, automobile, freight, and transit access and mobility equally.



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INTRODUCTION

Example projects, or Prototypes—representing a range of possible building and development typologies—are modeled in dimensionally accurate illustrations. Each of the prototypes illustrates how a development may comply with the Design Guidelines and Intent Statements.

In the Patterns and Prototypes section starting on page 33, Prototypes and Design Guidelines are arrayed side-by-side to demonstrate different ways that a project may comply with the Design Guidelines.

**What is a Prototype?** Prototypes are models of possible development, designed to-scale for a particular context. Development prototypes are used in a wide variety of applications—to illustrate design objectives, to test development capacity for a specific site, to model a real estate development proforma, or to test proposed zoning designations and development standards. Prototypes provide an easy-to-understand visual representation of complex spatial information and are often drawn in three dimensions to help users visualize results. The Coffee Creek

Industrial prototypes are aimed at City staff, the Development Review Board, developers who want clear guidance about the type of development that is permitted by the Coffee Creek Industrial Design Overlay District, and neighborhood representatives trying to visualize the effect of the zoning.

Excerpts from Design Guidelines

**A. 2.1 PARK-LIKE CHARACTER**  
Design Addressing Streets to establish and support a park-like character of the public realm. Addressing Streets shall provide continuous sidewalks on both sides of the street that protect the pedestrian with a landscaped planting strip. Addressing Streets may also include a planted central median.

**A. 2.3 PROMINENT ADDRESS**  
Design Addressing Streets to serve as the "front door" or "address" for new buildings and development. New Addressing Streets shall include sidewalks on both sides that provide safe, continuous access for pedestrians to all abutting sections of the primary street network of Addressing Streets. Unless interrupted another Addressing Street or a Supporting Street, the sidewalks shall be protected by a continuous planted landscape strip.

**A. 2.4 ENCLOSE THE PUBLIC REALM**  
Orient building massing, form, architecture, and programmatic function along Addressing Streets to help define the public realm, create a distinctive frame for the streets, and support the sense of place in Coffee Creek.

**A. 3.3 EXTENSION OF PUBLIC REALM**  
Design Supporting Streets to establish and support the extension of the public realm established by the network of Addressing Streets.

Prototype illustration demonstrating compliance with Design Guidelines

**SECTION C. INTENT STATEMENT**  
Trees help to define place. Whether individually, or in groves of native species, trees enhance the public realm by giving context and scale to the Coffee Creek Industrial Area. Landscape planting in front, side, and rear yards; and as screening for parking lots, service drives, and service enclosures gives form and defines the public realm and parcels. The landscape design, installation, and maintenance help to define the Coffee Creek industrial district and to diminish the large-scale industrial buildings. It also helps to define and direct people to building entries. The native plant material are climate adaptive, have low water and maintenance requirements, and visually blend with adjacent, undisturbed landscapes. Native trees should be preserved and employed as the visual anchors of new landscapes.

**D. 1.3 VISUAL INTEREST AND HUMAN SCALE**  
Locate the office and support spaces for warehouse and industrial buildings on the Addressing Street or Supporting Street instead of burying these functions in the interior of a large monolithic structure. The smaller-scale first floor can help soften the bulk of large buildings and add visual interest and a human scale to the public realm. This guideline may be accomplished by wrapping the high-bay industrial form with lower-scaled structures on the street; extending a discrete element of the building that contains these functions and giving this element a distinctive, contrasting architectural expression; or providing a visual break in the building mass and structure that creates an impression of two separate buildings.

**a** Primary Addressing Street  
**b** Addressing Street park-like character  
**c** Front door on the Addressing Street as front door  
**d** Enclosure of the public realm  
**e** Native trees in the setback  
**f** Visual interest and human scale

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Wilsonville Light Industrial Pattern Book

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# Design Guidelines

## SECTION A | STREET DESIGN AND CONNECTIVITY

### INTENT STATEMENT

Streets do much more than provide access to buildings, blocks, parcels, and sites. Streets are the primary generators of urban form and their design determines the quality of the public realm and the character of our neighborhoods and cities. The Form-based Code sets standards for streets as well as standards for development of sites, parcels, and buildings. In the Form-based Code, the Regulating Plan establishes an overall framework for access and mobility in the Coffee Creek Industrial Area by building upon those roads that already exist. Existing rural roads and new streets will become the major streets of Coffee Creek and will set the character for its development. The Regulating Plan sets forth only a rough framework for new development with standards for Connection Spacing that are appropriate to the large scale of industrial development, and to ensure that connectivity to, and through, all sites is supported. The Form-based Code sets minimum standards for connectivity, and establishes a hierarchy of Addressing Streets, Supporting Streets, and Through Connections. The nature of many of these connections, their function, and their typology is flexible so that

their ultimate design can be a reflection of their unique context. Supporting Streets and Through Connections should work together to provide a complete network that serves people getting around no matter what form of transportation they use. It is not necessary for every connection to serve everyone, but the network should make it possible to get to, through and around parcels and the district.

### Addressing Streets

Addressing Streets are the structural framework of the street network in Coffee Creek. They link Supporting Streets and Through Connections to each other and to the larger community of Wilsonville. In addition to this essential network role, Addressing Streets are the front doors for all development in Coffee Creek. They define the quality of the public realm and create the first impression of Coffee Creek for new visitors. Where new development includes planning and construction of an Addressing Street, the design must reinforce the distinctive regional landscape and support the intent of high-quality urban design for the public realm with a park-like atmosphere.



#### Example of a Supporting Street

On the largest sites in Coffee Creek where multiple buildings are developed, Supporting Streets may share the same function of defining the public realm as Addressing Streets: they may provide the “address” and “front door” for a building located on the interior of a parcel.

### Supporting Streets

Supporting Streets are primarily intended to be the flexible links between Addressing Streets and destinations. They play a significant role in supporting freight and automobile access, but they also connect people on foot or bike to transit. They have a fundamental role in providing fine-grained connectivity within the large scale of industrial blocks. On the largest sites in Coffee Creek where multiple buildings are developed, Supporting Streets may share the same function of defining the public realm as Addressing Streets: they may provide the “address” and “front door” for a building located on the interior of a parcel. Where they do, Supporting Streets should contribute to the overall urban design quality of Coffee Creek. Design elements of Supporting Streets may share many of the same characteristics as Addressing Streets: continuous sidewalks on both sides of the street protected by landscaped park strips.

In other contexts Supporting Streets may be more utilitarian in service to the nature of their program and function. Supporting Streets can provide access to services and utilities. Their design expression may be simple and functional.



#### Example of a Through Connection

Through Connections may serve as a multi-use path for bicycles and pedestrians.

### Through Connections

Through Connections offer a broad range of design possibilities that support specific needs for access and mobility. Through Connections may look like Addressing Streets or Supporting Streets and function like any other street; they may look like a street and at the same time function as access to parking within a surface parking lot. They may serve as a multi-use path for bicycles and pedestrians; or they may look and function like a sidewalk. Regardless of their ultimate appearance or configuration, Through Connections are intended to link the Coffee Creek Industrial Area together as a network of streets, routes, and paths that support multi-modal transportation. Through Connections are also intended to link Coffee Creek to other local and regional destinations, such as the Ice Age Tonquin Trail or Coffee Lake Creek Natural Area.

The design of the landscape along Through Connections is intended primarily as a visual relief from the large-scale industrial development. A simple, natural landscape of native plant materials will result in an attractive contribution to the quality of this limited part of the public realm.



## DESIGN GUIDELINES

### 1. NETWORK OF STREETS AND PATHS

#### 1.1 Connection spacing

The intent for all streets and paths in Coffee Creek is to create an integrated district with a robust, resilient, and connected network that supports economic and environmental sustainability. There is a fixed structural framework of Addressing Streets that provide access from within Coffee Creek to the rest of the region. That framework is intended to support a well-integrated and fine-grained system of streets and paths where a multi-use path might be the connecting link between an Addressing Street and a Supporting Street or Through Connection. The design intent is to maximize connectivity of all kinds to the extent feasible.

#### 1.2 Large parcels

Where the building program for industrial projects requires parcel configurations that exceed the minimum connectivity standards of the Form-based Code, the site design, landscape design, and architectural design of projects shall provide additional on-site employee amenities as mitigation. Elements could include dedicated indoor or outdoor recreation facilities, such as a soccer field or basketball court; dedicated indoor or outdoor food service facilities, such as a landscaped outdoor plaza or indoor canteen, and/or landscaped area for passive recreation, such as a fountain or a piece of sculpture.

### 2. ADDRESSING STREETS

#### 2.1 Park-like character

Design Addressing Streets to establish and support a park-like character of the public realm. Addressing Streets shall provide continuous sidewalks on both sides of the street that protect the pedestrian with a planting strip landscaped with shade trees. Addressing Streets may also include a planted central median.

#### 2.2 Serving multiple modes

Addressing Streets should support pedestrian, bicycle, automobile, freight, and transit access and mobility equally.



#### Example of a Through Connection

Through Connections may function as access to parking within a surface parking lot.

### 2.3 Prominent address

Design Addressing Streets to serve as the “front door” or “address” for new buildings and development. New Addressing Streets shall include sidewalks on both sides that provide safe, continuous access for pedestrians to all abutting sections of the primary street network of Addressing Streets. Unless interrupted by another Addressing Street or a Supporting Street, the sidewalks shall be protected by a continuous landscape strip planted with shade trees.

### 2.4 Enclosed public realm

Orient building massing, form, architecture, and programmatic function along Addressing Streets to help define the public realm, create a distinctive enclosure of the public realm, and support the sense of place in Coffee Creek.

## 3. SUPPORTING STREETS

### 3.1 Role of Supporting Streets

Supporting Streets are the flexible links between Addressing Streets and destinations throughout the Coffee Creek area. Supporting Streets may sometimes function as the “front door” or “address for new buildings and development. In other contexts Supporting Streets may be more utilitarian in service to the nature of their program and function. Supporting Streets can provide access to services and utilities. Their design expression may be simple and functional.

### 3.2 High-quality Supporting Streets

Where appropriate to the master plan for large development sites, design Supporting Streets to the same standards as Addressing Streets. Match street design standards for Addressing Streets, including street profiles, street trees, and sidewalks.

### 3.3 Extension of the public realm

Design Supporting Streets to establish and support the extension of the public realm established by the network of Addressing Streets.

### 3.4 Supporting Street as the primary access

If the Supporting Street serves as the development’s primary access street, it should be developed to the same standards as Addressing Streets and serve as the “front door” or “address” for new buildings and development.



#### Extension of public realm

Design Supporting Streets to establish and support the extension of the public realm established by the network of Addressing Streets.

### 3.5 Supporting Street as the secondary access

If the Supporting Streets does not serve as the development's primary access street, it should be developed as a secondary service connection from the designated Addressing Streets.

## 4. THROUGH CONNECTIONS

### 4.1 Balancing extension of the public realm with flexible design

Design Through Connections to fully support the extension of the public realm while responding to a wide range of functions.

### 4.2 Serving pedestrians

Through Connections must serve pedestrians and function as an extension of the sidewalk network in Coffee Creek.

### 4.3 Serving bicyclists

Through Connections must serve as multi-use paths and support the effective use of bicycles for transportation

### 4.4 Wayfinding

Install a system of signage that serves to orient people to their location and assist them in wayfinding to their destination.

### 4.5 Flexible alignment

Adjust the alignment of Through Connections to accommodate natural features and resources.

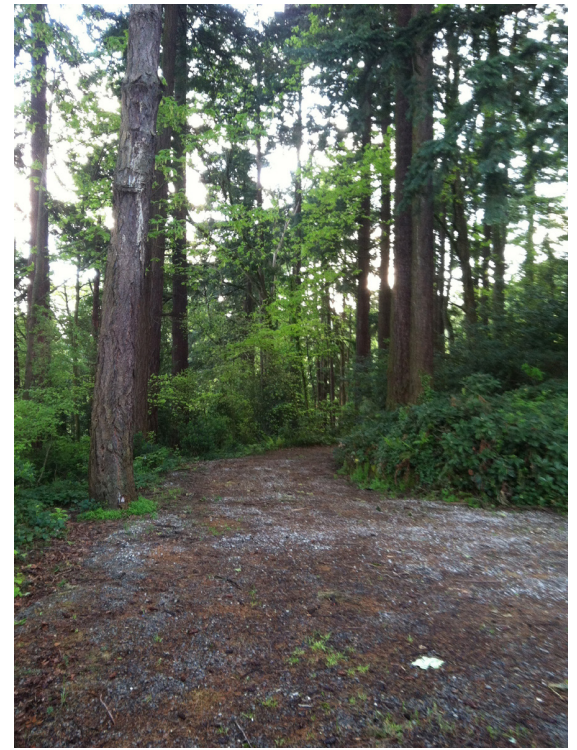
### 4.6 Flexible width

Increase the width of a Through Connection designed as a multi-use path to incorporate amenities such as benches, lighting, or trash receptacles, and to create visual interest.



#### Serving pedestrians

Through Connections must serve pedestrians and function as an extension of the sidewalk network in Coffee Creek.



**Naturalistic landscape, native planting**

Promote a landscape that supports ecological function and habitat by using native species in a naturalized manner



## SECTION B | DISTRICT-WIDE SITE PLANNING AND LANDSCAPING

### INTENT STATEMENT

The impact of the Ice Age floods on the Willamette Valley defies the imagination. The cataclysmic effects of the Missoula Floods created the modern-day landscape that includes Coffee Lake Wetlands and Coffee Lake Creek. These remnants of the geologic events of 12,000 years ago and the landscape that has emerged since that time are authentic elements that establish our sense of place and contribute to creating a distinctive image and identity that is unique to the City of Wilsonville. In Coffee Creek, the oak savanna is the most distinctive and significant landscape feature visible today that emerged as a result of the Missoula Floods. The effects of settlement have diminished the extent of this oak forest and groves of fir trees are now a distinctive part of the skyline. There may well be elements of the floods still to be discovered; the glacial erratics of the Willamette Valley were scattered here as the ice rafts that they arrived with melted.

The City's commitment to preserving and enhancing the heritage of this distinctive landscape is reflected in several of the patterns and guidelines. At the scale of the district, the City expects development to promote visual and physical connections from the industrial district to the Coffee Lake Creek Natural Area and the future Tonquin Ice Age Trail.

The themes that express the unique character, quality, and culture of Coffee Creek are still emerging as the district becomes fully integrated with the larger, more established city. Existing stands of Douglas Fir acknowledge both the city's status as a Tree City USA and its commitment to maintaining its natural beauty. The city is also home to three water features by the celebrated Pacific Northwest landscape architect Bob Murase: water features are strongly encouraged as part of the Coffee Creek Industrial Master Plan.

Within the Coffee Creek Industrial Area the design of individual buildings should be linked by unifying elements. The public realm of Addressing Streets provides unity to the district by establishing a pastoral character of place with the regular planting of street trees, sidewalks, and front yard setbacks. Trees help to define place, and enhance the public realm by giving context and scale to the Coffee Creek Industrial Area.

Improving existing and providing new pedestrian and bicycle connections to and through natural areas strengthens the sense of place by developing the character of place.

Gateways reinforce a sense of arrival or departure and mark the transition from one precinct of the city to another.



#### Trees

Trees help to define place, and enhance the public realm by giving context and scale to the Coffee Creek Industrial Area.



## GUIDELINES

### 1. THE NATURAL LANDSCAPE

#### 1.1 Water flow to Coffee Lake Creek

Design landscapes to acknowledge the Ice Age heritage of Coffee Creek by orienting patterns of new landscape plantings reflecting the natural flows of water from the industrial district to Coffee Lake Creek.

#### 1.2 Natural landscape as visual unifier

Use the unifying elements of the natural landscape to visually connect and functionally integrate the industrial district.

#### 1.3 Naturalistic landscape, native planting

Promote a landscape that supports ecological function and habitat by using native species in a naturalized manner.

#### 1.4 Access to nature

Pedestrian and bicycle connection is critical and incorporating public connections through large-scale industrial sites is encouraged. Access connections to the creek, natural areas, and greenway trails should be clearly marked and provide safe and convenient passage.

#### 1.5 Ice Age artifacts

Identify, preserve, and enhance any Ice Age elements found on site, such as erratics the foreign boulders carried to the site on ice rafts as elements that influence site design and development.

#### 1.6 Tree preservation within setbacks

Whether individually or in groves of native species, preserve trees within the setbacks of the development, particularly when they occur within the setback of an Addressing Street, or a Supporting Street that serves as the development's primary access street.

#### 1.7 Informal park-like landscaping

The park-like character of the design of the Addressing Streets should be complemented by landscaping around buildings, parking lots, and open space that reflects the informal,



#### **Tree preservation within setbacks**

Whether individually or in groves of native species, preserve trees within the setbacks of the development, particularly when they occur within the setback of an Addressing Street, or a Supporting Street that serves as the development's primary access street.

natural, and original landscape that preceded development and persists in places across the site.

## 2. SPECIAL LANDSCAPE FEATURES

### 2.1 City of Wilsonville themes

Integrate the themes related to the City of Wilsonville as unifying elements in the conceptual design for new development, and into the landscape design.

### 2.2 Existing tree groves at points of access

Incorporate elements such as existing stands of native trees to emphasize points of site access and/ or building access.

### 2.3 Water features

Integrate fountains and water features to emphasize important places, such as parcel access, building entries, and employee amenities.

### 2.4 Selective use of non-native plants

Non-native, ornamental plants, shrubs, and trees should be used sparingly and strategically as elements that accent special elements of the site or building, such as entries.

### 2.5 Intentional aesthetic use of industrial materials

Integrate the materials of industry at an industrial scale. This guideline may be accomplished by designing buildings, enclosures, and retaining walls with the simple, natural, unembellished materials common to industry. Use unfinished steel, raw aluminum, and plain concrete as the finish materials for the construction of site and building elements.

## 3. STRENGTHEN GATEWAYS

### 3.1 Coffee Creek gateways

Design gateway locations to promote a sense of place and to reinforce the distinct identity of Coffee Creek. This guideline may be accomplished by placing new buildings strategically at areas that define boundaries and edges to create gateways in conjunction with other buildings or with significant landscape features.



#### Existing tree groves at points of access

Incorporate elements such as existing stands of native trees to emphasize points of site access and/ or building access.



#### Informal park-like landscaping

The park-like character of the design of the Addressing Streets should be complemented by landscaping around buildings, parking lots, and open space that reflects the informal, natural, and original landscape that preceded development and persists in places across the site.

**3.2 Buildings as gateway markers**

Develop gateway buildings at strategic intersections.

**3.3 Monument signs**

Use freestanding monument signs to mark gateways.

**3.4 Iconic elements**

Install iconic elements within the right-of-way, such as signs, monuments, or art, that help identify a specific address as a district-wide or site-specific gateway to Coffee Creek.



**Natural landscape as visual unifier**

Use the unifying elements of the natural landscape to visually connect and functionally integrate the industrial district.



## SECTION C | SITE DESIGN

### INTENT STATEMENT

#### Access and mobility

Access and mobility are essential elements of successful industrial development. We tend to think of tractor-trailer rigs as essential to industry, and they are, but equally essential to industry is an educated work force that can get to their shifts with a full range of transportation options: options that offer employees real choices that include driving alone, but also support and encourage transit, walking, and biking.

Automobile and freight access from Addressing Streets and Supporting Streets to a parcel should be obvious, clear, simple, and safe. Parcel access provides an opportunity to create a gateway and reinforce a strong sense of place.

Bicycle and pedestrian access to a parcel from Addressing Streets and Supporting Streets can also reinforce the sense of place in Coffee Creek. Bicycle and pedestrian access from an Addressing Street to a parcel should be convenient, direct, and complete. Cyclists and walkers should be able to clearly perceive their ultimate destination from the Addressing Street.

Access and mobility are for all people. The pedestrian system is successful only when

all people can conveniently reach their destinations. Universal and equitable barrier-free design is most successful when designed and developed systematically from initial site design through final building design and construction.

#### Parking Design

Surface parking is permitted in the front yard setback for development along Addressing Streets with limitations. Surface parking lots are limited in scale and designated for short-term parking for visitors, people with disabilities, and deliveries. The design guidelines are intended to establish the character for surface parking lots in a manner that supports the City's goals for pedestrian convenience, comfort, and safety.

Ensure that the parking lot landscape is planned, installed, and maintained to promote the informal design character associated with each landscape frontage type.

#### Design that Contributes to the Site

Minimize site grading to preserve the natural character of the site. Contoured slopes are generally preferred to the installation of retaining walls. Where retaining walls are necessary to support site development, ensure that they facilitate surface drainage, limit soil erosion, and avoid increasing instability of



#### Access from an Addressing Street

Walkers should be able to clearly perceive their ultimate destination from the Addressing Street.

native soils. Integrate retaining walls with other site design features, such as stairs, ramps, and planters wherever possible.

To the extent possible, site development should maintain and enhance natural drainage patterns. Incorporate features for the storage, cleaning, transport, and re-infiltration of stormwater into site design and landscaping. Stormwater facilities such as swales should be designed to reinforce the natural quality and visual continuity of the landscape at the scale of the site and the district.

Trees help to define place. Whether individually, or in groves of native species, trees enhance the public realm by giving context and scale to the Coffee Creek Industrial Area. Landscape planting in front, side, and rear yards and as screening for parking lots, service drives, and service enclosures gives form and defines the public realm and parcels. Landscape design, installation, and maintenance helps to define the Coffee Creek Industrial District and to diminish the large scale of industrial buildings. Landscaping also helps direct people to building entries. The native plant materials are climate adaptive, have low water and maintenance requirements, and visually blend with adjacent, undisturbed landscapes. Native trees should be preserved and employed as the visual anchors of new landscapes.

Industrial building types typically need extensive, relatively flat surfaces for buildings, parking lots, service yards, access lanes, and truck maneuvering areas. It may still be possible to fit a multistory building into the terrain of Coffee Creek. Integrating buildings with their sites is strongly encouraged.

#### **Landscape that Contributes to the Building**

Building designs should acknowledge and respect the natural character of their sites. The Coffee Creek Industrial Area has a strong character that derives from context, topography, and native vegetation. New site development, landscaping, and building design can reinforce this distinctive character.

Provide a consistent and high-quality environment for the Coffee Creek Industrial Area by obscuring views of loading areas, work yards, above-grade utilities and services, and recycling and refuse areas from Addressing Streets, Supporting Streets and Through Connections. Whenever possible, group utilities and services to minimize visual clutter.

The primary building entry is a significant element of building design in Coffee Creek. The design guidelines recommend that the primary entrance for all buildings front on an Addressing Street. This is not a requirement

of the Form-based Code; an entrance on a Supporting Street or Through Connection is acceptable provided the entry is clearly visible from the Addressing Street and a clear public route to the entry is provided. Emphasize the importance of the primary building entry with glass, canopies, signage, public art, landscaping, and lighting.

## GUIDELINES

### 1. PARCEL ACCESS

#### 1.1 Distinctive identity of visitor arrival point

Where parcel access is also the primary automobile access to a building for visitors, use landscaping and signage to create a distinctive sense of arrival.

#### 1.2 Converging parcel access points

Use routes providing parcel access to build active intersections where pedestrians, bicyclists, and motorists have access to site amenities.

#### 1.3 Formal landscape design that contrasts

Design guidelines for the landscape of front yards along Addressing Streets encourage a natural, irregular pattern of native plant materials. Along parcel access routes consider breaking this informal character of the landscape frontage with design and plant materials that are more formal, regular, and ornamental.

#### 1.4 Parcel access from an Addressing Street

Where parcel access connects the primary building entrance to the Addressing Street extend the design, character, scale, and materials of the entry to the public sidewalk.

#### 1.5 Parcel access from a Supporting Street

Where parcel access from a Supporting Street is the primary automobile access to a building for visitors use landscaping and signage to create a distinctive sense of arrival.

#### 1.6 Parcel access from a Through Connection

Where parcel access connects only with a pedestrian walkway or multi-use path with the Coffee Creek pedestrian and bicycle network, design the walkway or multi-use path for safety, comfort, and convenience of pedestrians and cyclists.

#### 1.7 Pedestrian and bicycle access network

Develop an integrated system for pedestrians and bicycles that includes good connections to other parts of the Coffee Creek Industrial Area and to the larger city beyond.

#### 1.8 Accessible paths

Make paths accessible for all.



**1.9 Adjust paths to incorporate site features**

Add character and interest to the path by adjusting its direction and/ or width to incorporate unique natural features of the site, such as streams, pools, or rock outcroppings.

**1.10 Front yards that contribute to the public realm**

Design the landscape in front yards along Addressing Streets to result in an attractive contribution to the quality of the public realm.

**1.11 Signs**

Plan the size and location of signs and their structure so that they do not detract from the natural quality of the native landscape.

**1.12 Outdoor rooms**

Establish and maintain a sense of the public realm as an outdoor room where building elevations serve as walls and the streets, sidewalks, and landscape serve as the floor. Use buildings to create and maintain a sense of urban enclosure.

**2. PARKING LOCATION AND DESIGN****2.1 Front yard surface parking on an Addressing Street**

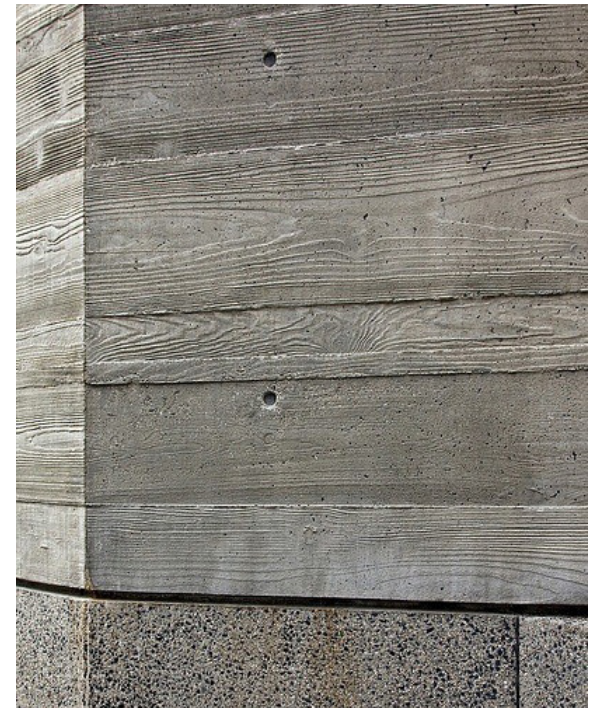
Surface parking is permitted in the front yard setback for development along Addressing Streets and Supporting Streets with limitations. Design parking lots to result in an attractive and functional experience for staff and visitors arriving by car. To enhance the design quality of parking lots in front yards along Addressing Streets, consider increasing the quality of the materials used and treating the surface of the parking lot and walkway system as a plaza that connects to, and integrates with, the primary building entrance.

**2.2 Through Connections that provide parking**

Through Connections can support a wide range of on street parking options including parallel, diagonal, or perpendicular parking. Choose the type of parking most appropriate to the context: consider natural features and resources as well as programmatic needs associated with building use. Adjust the layout of parking lots to accommodate natural features and resources.

**2.3 Surface parking**

Vary the scale of parking lots, the pattern of landscape elements and lighting to add visual

**Screening materials**

Walls used for screening may be constructed from stone, self-weathering sheet steel, or smooth-finished cast-in-place or board-formed concrete.

interest and reduce the monotonous effect of large extents of surface parking.

#### 2.4 From the parking spot to the primary entry

Design parking lots for the comfort and convenience of visitors and the disabled. The accessible route from one's parking spot to the primary building entrances should be clear, obvious, and unobstructed.

#### 2.5 Stormwater run-off

Consider the integration of permeable paving to reduce stormwater run-off.

#### 2.6 Planting

Design and install new landscapes with plantings grouped in natural, irregular masses to establish and support a continuous, integrated, and natural district-wide appearance. Landscapes and plant materials shall be maintained throughout the year.



### 3. LOCATION AND SCREENING OF UTILITIES AND SERVICES

#### 3.1 Geometry

Organize above-grade services elements, such as transformers, with the geometry of the adjacent streets or nearby site elements and buildings.

#### 3.2 Screening materials

Walls used for screening may be constructed from stone, self-weathering sheet steel, or smooth-finished cast-in-place or board-formed concrete. Long extents of fencing should be modulated with the use of reveals and other techniques. Where required, service access gates and doors should be constructed of high-quality, durable materials that complement the design of screening walls and receive regular maintenance.

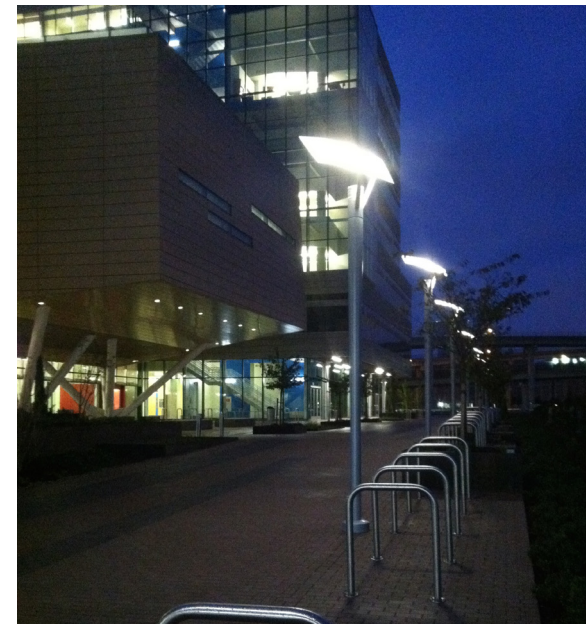
#### 3.3 Native plant material

Where appropriate, screening walls should be enhanced with native plant material to diminish the visual mass and integrate with the landscape.

### 4. EXTERIOR LIGHTING

#### 4.1 Nighttime safety

Exterior lighting should support safe access and use of sites in the evening and nighttime.



#### Nighttime safety

Exterior lighting should support safe access and use of sites in the evening and nighttime.



#### 4.2 Highlighting

The selective highlighting of significant architectural elements, such as building entries and circulation to those entries from the street and landscape elements such as sculpture or other featured elements in the landscape will contribute to the high-quality design of the Coffee Creek Industrial Area.

#### 4.3 Flood lighting

Surface parking lots, building entries and courtyards, and loading areas and service yards should be illuminated, but the use of flood lighting is discouraged.

#### 4.4 Sustainable lighting

Exterior lighting should be selected for maximum energy-efficiency, durability, and maintainability.

#### 4.5 Addressing and Supporting Streets at night

Lighting plays a significant role in supporting the design character of Addressing Streets and Supporting Streets in the evening and nighttime by encouraging the selective highlighting of significant architectural elements, such as building entries and circulation to those entries from the street and landscape elements such as sculpture or other featured elements in the landscape frontages required along Addressing Streets.

#### 4.6 Through Connections at night

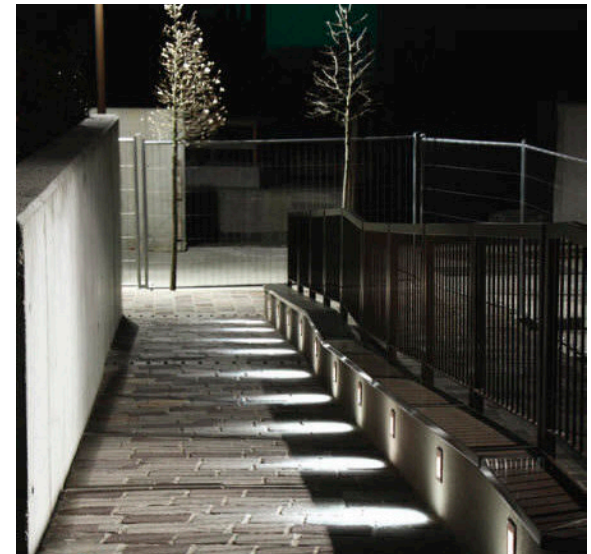
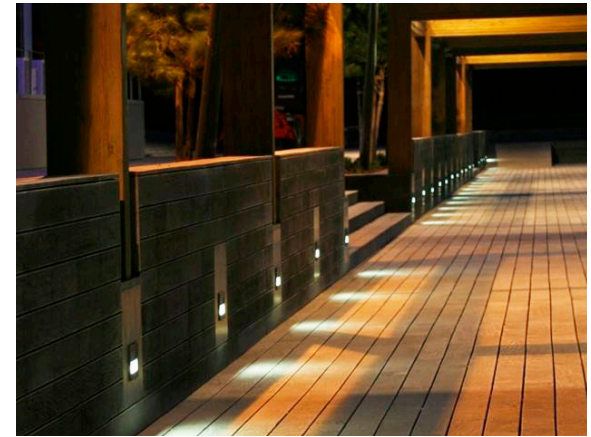
Lighting plays a supporting role in the design character of Through Connections in the evening and nighttime by promoting safety and security along routes of pedestrian access as well as the selective highlighting of significant architectural elements, such as building entries and circulation to those entries from the street and landscape elements.

#### 4.7 Fixture heights

Fixture heights of 15-20' are preferred for surface parking lots and loading areas and service yards. Through Connections, internal walks, courtyards, and paths should be illuminated with pedestrian-scaled lighting.

#### 4.8 Night sky

Lighting shall protect night skies, and not extend beyond site boundaries. Light fixtures shall be cast downward with full cut-off shades. In-ground up-lighting should be avoided.



#### Highlighting

The selective highlighting of significant architectural elements, such as building entries and circulation to those entries from the street and landscape elements such as sculpture or other featured elements in the landscape will contribute to the high-quality design of the Coffee Creek Industrial Area.

## SECTION D | BUILDING DESIGN

### INTENT STATEMENT

Building massing and the architectural expression of building design elements define the scale, quality, and character of the built environment. The design guidelines for buildings focus on the following elements:

- Prominent building entrance visible from an Addressing Street
- Overall building mass and bulk
- Composition of building elevations
- Roof forms
- Materials and colors
- Sustainable building design

The massive size, enormous bulk, and large surface areas of many industrial buildings represent design challenges and opportunities. Not all of the buildings developed in the Coffee Creek will be warehouses or factories. Some will be office buildings or industrial hybrid buildings that incorporate office, research, assembly, manufacturing, distribution or warehousing. Buildings designed to support industrial or warehouse functions should have strong, simple forms and use windows and doors to create visual interest. Office buildings may have more varied forms that emphasize windows into, and views from, the office floors. While methods for reducing building bulk, mass,

and scale will differ, the design for all buildings should consider architectural techniques that reduce their perceived scale along streets and adjacent to public spaces and help them blend into the district-wide landscape context for the aesthetic benefit of motorists, bicyclists, and pedestrians.

Interaction between the private enterprise inside of a building and the public contributes to the vitality of the streets in the Coffee Creek Industrial Area. Transparency in front façade of buildings adds a subtle message that behavior in the public realm is being observed which contributes to the overall safety of the neighborhood. When passersby can sense activity that occurs inside of a building, they get a sense of people participating in their community.

Many types of businesses incorporate programmatic functions that require and benefit from daylighting. These functions include dining areas, lobbies, lounges, fitness centers, waiting rooms, conference rooms, lunch/break rooms, as well as related outdoor seating areas. Placing these types of rooms within view of Addressing and Supporting Streets and Through Connections enhances safety of the public realm and creates a sense of connection.



#### Visual connection to the public realm

Many types of businesses incorporate programmatic functions that require and benefit from daylighting. These functions include dining areas, lobbies, lounges, fitness centers, waiting rooms, conference rooms, lunch/break rooms, as well as related outdoor seating areas. Placing these types of rooms within view of Addressing and Supporting Streets and Through Connections enhances safety of the public realm and creates a sense of connection.



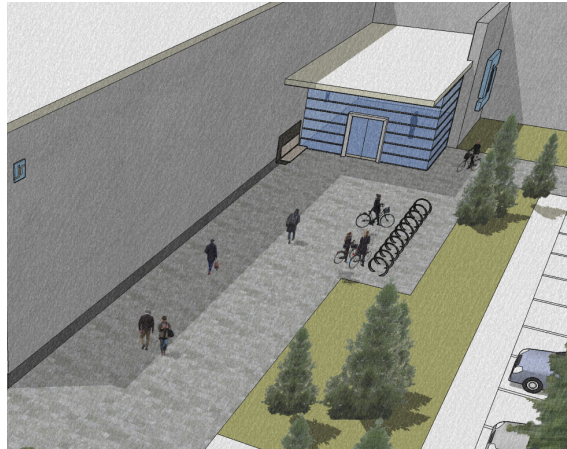
## DESIGN GUIDELINES

Every address, business, and destination in Coffee Creek deserves a good entrance. Every destination is ultimately reached on foot, so making every building entrance clearly visible and fully accessible is fundamental. The intent of the design guidelines is that every primary entrance of every building will contribute to the quality and vitality of the public realm by creating a clear sense of entry.



#### Primary entry as significant building feature

Make the primary building entry a significant element of building design in Coffee Creek. Emphasize the importance of the primary building entry with elements that could include a landscaped forecourt; a wide pedestrian path from the sidewalk with special paving; accent and pathway lighting; special plantings and landscape; a prominent roof form at the building's entrance; a generous canopy of metal or glass that offers protection from the elements; a major recess in the façade; seating elements such as benches, ledges, and movable chairs; or an open, transparent building lobby or vestibule that projects beyond the body of the building. Place these functional elements on an Addressing Street or Supporting Street and make their function visible from the streets and sidewalks.



**Primary entry as significant building feature**

Example of prominent entrance that is visible from Addressing Street, sidewalks and parking areas. Entrance is human-scaled with transparent vestibule, weather protection and a generous pedestrian walkway.



## GUIDELINES

### 1. BUILDING ORIENTATION AND ENTRIES

#### 1.1 Primary building entry relationship to Addressing Street

The primary building entrance shall be visible to and accessible from an Addressing Street.

#### 1.2 Primary entry as significant building feature

Make the primary building entry a significant element of building design in Coffee Creek. Emphasize the importance of the primary building entry with elements that could include a landscaped forecourt; a wide pedestrian path from the sidewalk with special paving; accent and pathway lighting; special plantings and landscape; a prominent roof form at the building's entrance; a generous canopy of metal or glass that offers protection from the elements; a major recess in the façade; seating elements such as benches, ledges, and movable chairs; or an open, transparent building lobby or vestibule that projects beyond the body of the building. Place these functional elements on an Addressing Street or Supporting Street and make their function visible from the streets and sidewalks.

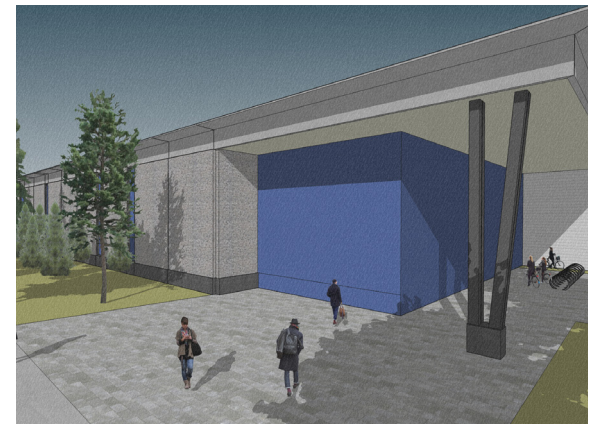
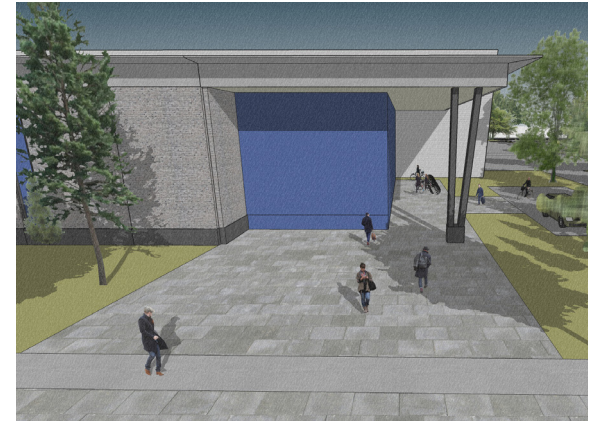
#### 1.3 Visual interest and human scale

Locate the office and support spaces for warehouse and industrial buildings on the Addressing Street or Supporting Street instead of burying these functions in the interior of a large monolithic structure. The smaller-scale first floor can help soften the bulk of large buildings and add visual interest and a human scale to the public realm. This guideline may be accomplished by wrapping the high-bay industrial form with lower-scaled structures on the street; extending a discrete element of the building that contains these functions and giving this element a distinctive, contrasting architectural expression; or providing a visual break in the building mass and structure that creates an impression of two separate buildings.

### 2. BUILDING FAÇADES

#### 2.1 Façade articulation

Articulate façades with a sense of depth by including design elements that create shadow lines, change color or materials, or incorporate other details that together with the required landscape breakdown large expanses of flat, unembellished surfaces.



#### Building entrance

Every destination is ultimately reached on foot, so making every building entrance clearly visible and fully accessible is fundamental. The intent of the design guidelines is that every primary entrance of every building will contribute to the quality and vitality of the public realm by creating a clear sense of entry.

## 2.2 Office building façades

Office building windows and doors offer opportunities to decrease apparent building mass and promote a sense of the human scale. Express the programmatic elements of office buildings including lobbies, conference rooms, lunch rooms, and fitness centers as distinct elements on the building exterior, especially the front façade.

## 2.3 Multi-story building façades

Because their building program is more flexible than industrial or warehouse projects, multi-story office buildings in Coffee Creek should incorporate elements such as jogs or offsets in street-facing building elevations, building step-backs at upper floor levels, projections that create shadow lines, deep roof overhangs, major recesses in the building elevation to mark entries, or the bold expression of the building's structural system.

## 2.4 Addressing Street façades

Building elevations fronting Addressing Streets offer an initial impression of design quality and deserve special design attention. The design for all elevations for all buildings facing an Addressing Street shall clearly delineate a distinctive three-part design of base, body, and top. The intent of this guideline is to visually ground all buildings in the Coffee Creek landscape and provide a distinctive silhouette of each building against the skyline.

## 2.5 Addressing Street enclosure and street wall

Site and building design shall support a uniform street wall of buildings along Addressing Streets that frames the public realm and supports a unified streetscape.

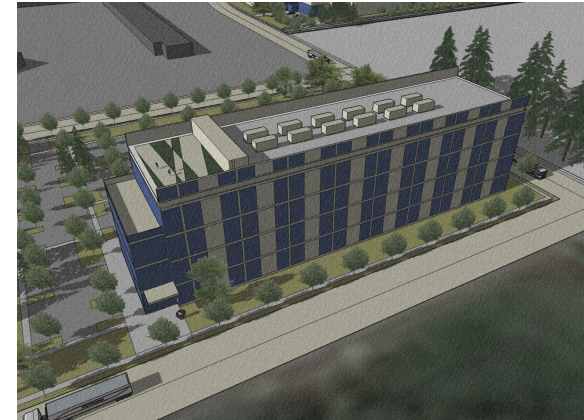
## 3. ROOF FORMS

### 3.1 Fifth elevation

The roof forms of office buildings and industrial buildings in the Coffee Creek Industrial Area should be considered as the "fifth elevation" of the building and their design should be fully considered as one element in the overall design of any building.

### 3.2 Natural light

For manufacturing or warehousing facilities, the design guidelines strongly encourage the historic "saw tooth" roof form with integrated north-facing clerestory windows.



### Roof forms

The roof forms of buildings should be considered as the "fifth elevation" and their design should be fully considered as one element in the overall design. Collection, storage, and discharge of stormwater should be expressed as architectural features.

### 3.3 Roof edge

At a minimum, the roof edge of all buildings will create a distinctive profile against the sky when seen from the public realm. In the case of warehouse or factory buildings with large floor plates, the roof may not be visible from grade and other elements of the building –the primary building entry, landscape plantings, signage, or elements of the building façade will be the prominent design features.

### 3.4 Roof forms

Buildings in the Coffee Creek Industrial Area are encouraged to include prominent roof forms. This guideline may be accomplished by accentuating the required building top with upturned eaves or projections, using sloped roofs, extending roofs beyond the building elevation to create deep overhangs, adding architectural elements like braces or brackets, and prominent vertical features such as towers or vertical circulation.

### 3.5 Incorporation of mechanical systems

Design roof forms to incorporate a building's mechanical systems and fully screen roof-mounted equipment from view from the public realm. Minimize any visual clutter of multiple, isolated roof-top equipment by grouping such elements and screening them from view with architectural elements.

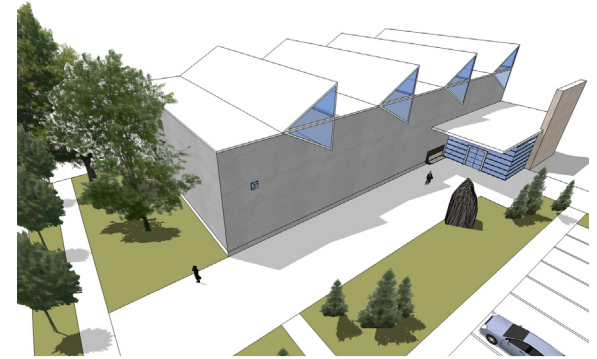
### 3.6 Roof stormwater

Collection, storage, and discharge of stormwater from building roofs should be expressed as distinct architectural features, integrated into building design using the design of sloping roofs, gutters, scuppers, downspouts, and cisterns that collect and store rain water. Green roof technologies could be appropriate in new buildings in Coffee Creek as an integrated element in stormwater management.

## 4. MATERIALS AND COLORS

### 4.1 Coffee Creek colors

Use of authentic, durable, and sustainable materials that derive their color from the natural setting of Coffee Creek support a consistent image and identity of the industrial area as a high-quality employment hub of the City of Wilsonville. Simple, basic, industrial materials, such as board-formed or cast-in-place concrete, architectural metal panels, corrugated steel, brick masonry, and architecturally-finished concrete masonry units are encouraged.



#### Natural light

For manufacturing or warehousing facilities, the design guidelines strongly encourage the historic “saw tooth” roof form with integrated north-facing clerestory windows.



#### Roof edge

At a minimum, the roof edge of all buildings will create a distinctive profile against the sky when seen from the public realm.



#### 4.2 Emphasize base, body, and top

Materials should be organized on each building elevation to emphasize the three zones of base, body, and top and to highlight important features such as entrances.

#### 4.3 Muted color palette

Site features and buildings should incorporate the subtle color palette derived from the natural landscape. Larger building forms can be made less prominent by employing a muted color palette drawn from the colors prevalent on the site.

### 5. SUSTAINABLE BUILDING DESIGN

#### 5.1 Solar advantage and daylight

Sustainable building practices help to create healthy communities and ecosystems. To the extent possible, building orientation should consider solar exposure and capture the energy of the sun in a passive manner. Entries and public spaces should be sited where they can benefit from daylight.

#### 5.2 Shading

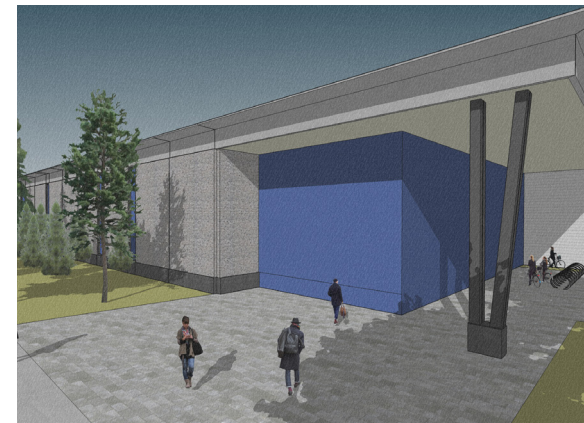
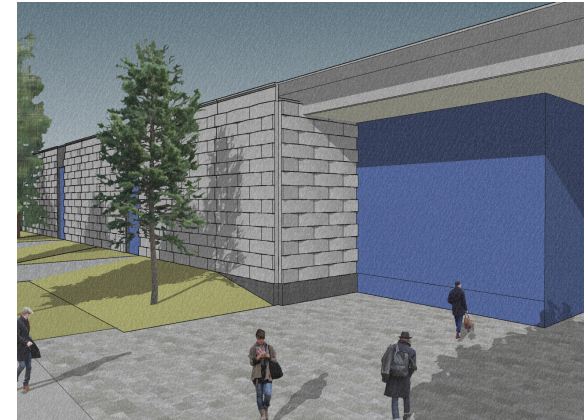
Building elevations facing south and west should incorporate deep roof overhangs, projections, or sun shading devices.

#### 5.3 Non-mechanical light and ventilation

Introduce natural light into buildings using clerestory windows and skylights. In those areas, such as offices, operable windows, and natural ventilation is encouraged.

#### 5.4 Minimal site alteration

Where possible, buildings, surface parking lots, drive aisles, service yards, and loading areas should merge with the existing grades, rather than significantly altering them.



#### Base, body, and top

Materials should be organized on each building elevation to emphasize the three zones of base, body, and top and to highlight important features such as entrances.



**page 36**

**Final** December 2017

# Coffee Creek Light Industrial Patterns and Typologies

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Prototypes

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Connectivity and Street Design Patterns

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Street and Path Typology

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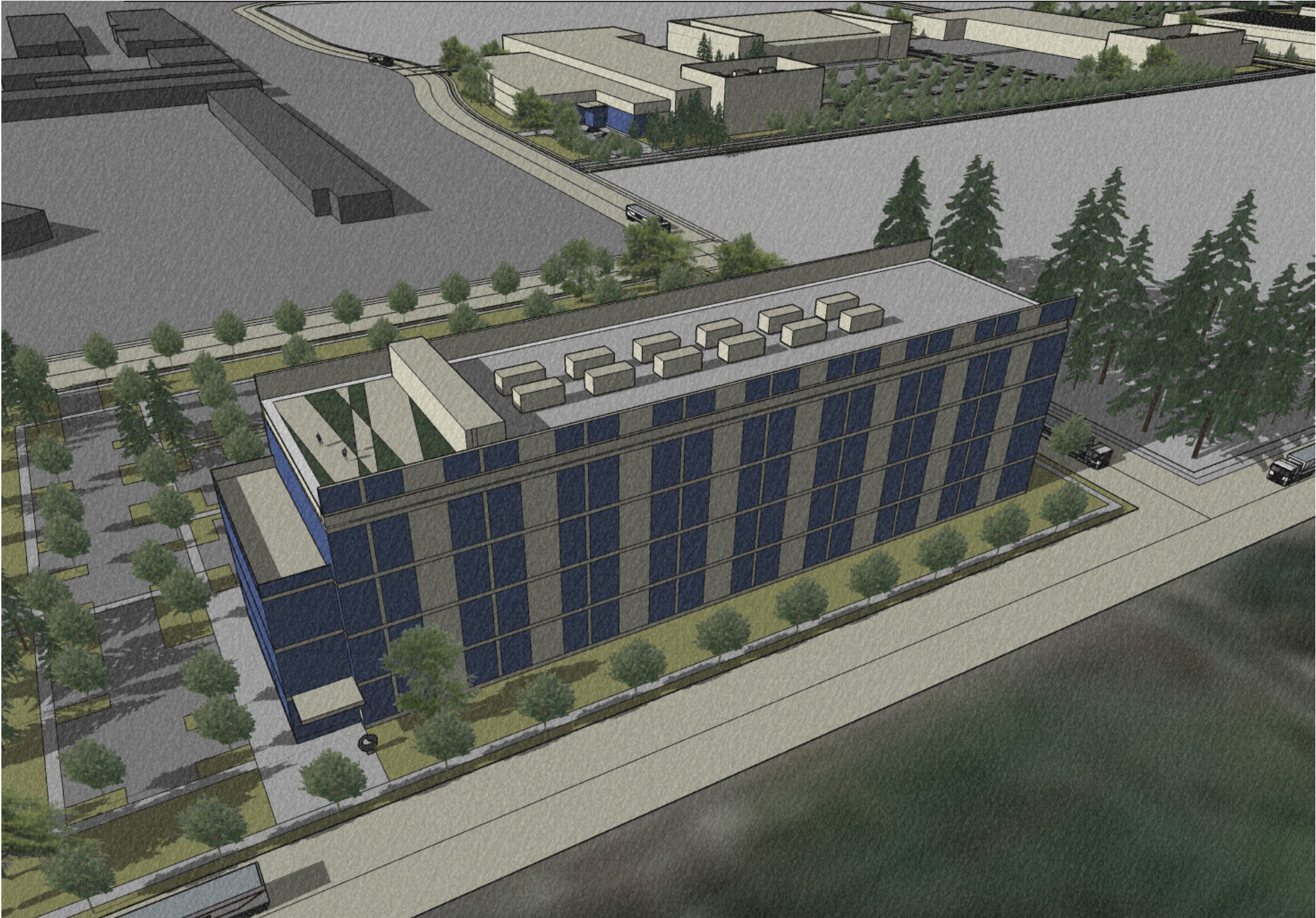
Site Design Patterns

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Building Design Patterns

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**PATTERNS AND TYPOLOGIES**



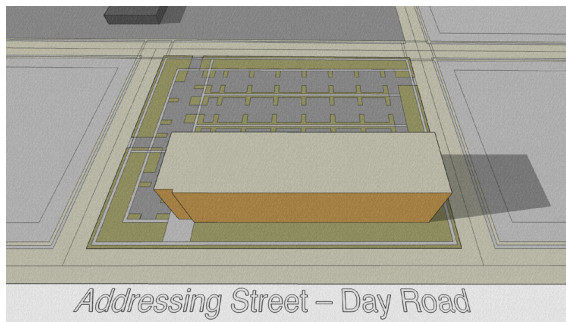


# Overview of the Prototypes

## Prototype 1

### HYPOTHETICAL SITE AND BUILDING PROGRAM

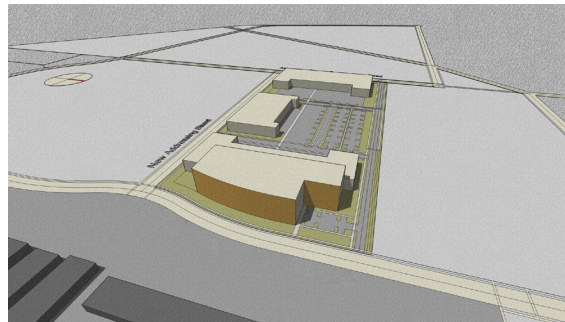
- 142,000 square feet located on Day Road
- Multi-story office building
- 40,000 square feet for office, research, lab, fabrication
- Building footprint of 20,000 square feet



## Prototype 2

### HYPOTHETICAL SITE AND BUILDING PROGRAM

- 700,000 square feet located on Garden Acres Road
- Industrial / warehouse building with loading docks and service bays
- 400,000 square feet for warehouse, office



## Prototype 3

### HYPOTHETICAL SITE AND BUILDING PROGRAM

- Existing 525,000 square foot industrial site on Grahams Ferry Road
- Combines existing structures with new development
- Hypothetical: 261,000 square feet for industrial fabrication and office

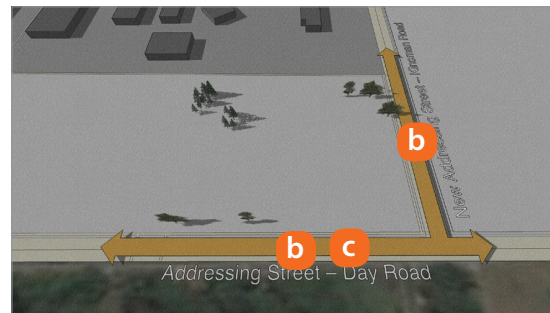


# Connectivity and Street Design Patterns

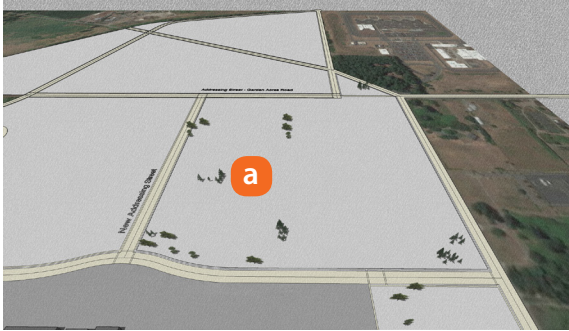
## A.1.1 CONNECTION SPACING

The intent for all streets and paths in Coffee Creek is to create an integrated district with a robust, resilient, and connected network that supports economic and environmental sustainability. There is a fixed structural framework of Addressing Streets that provides access from within Coffee Creek to the rest of the region. That framework is intended to support a well-integrated and fine-grained system of streets and paths where a multi-use path might be the connecting link between an Addressing Street and a Supporting Street or Through Connection. The design intent is to maximize connectivity –of all kinds– to the extent feasible.

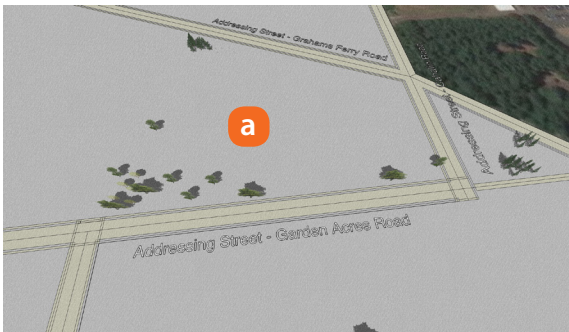
- a** Potential industrial development site
- b** Location of nearest existing or planned Addressing Street
- c** Priority Addressing Street
- d** Location of Through Connections



## Prototype 1



## Prototype 2



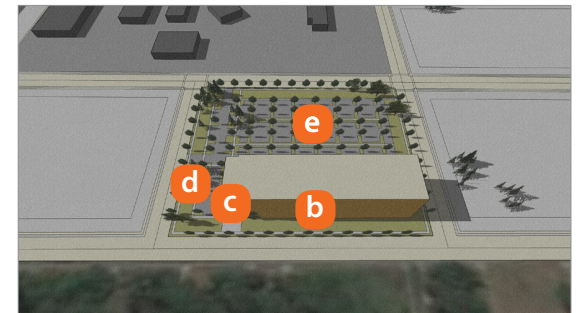
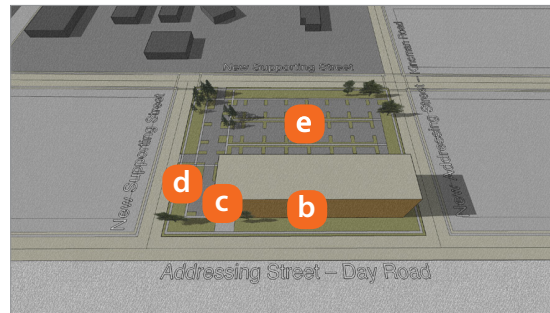
## Prototype 3

# Site Design Patterns

## SECTION C. INTENT STATEMENT

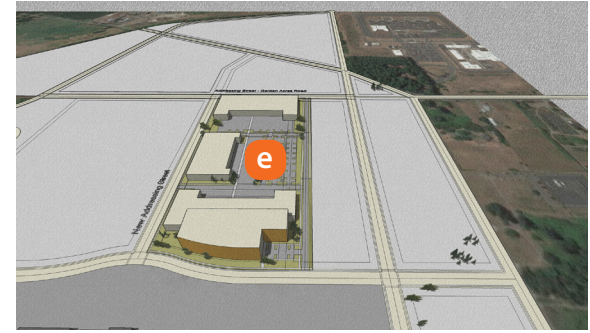
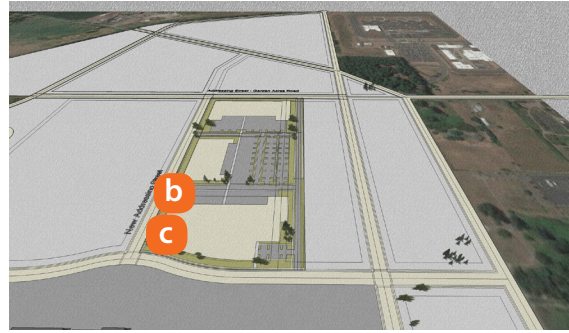
The primary building entry is a significant element of building design in Coffee Creek. The design guidelines recommend that the primary entrance for all buildings front on an Addressing Street. This is not a requirement of the Form-based Code; an entrance on a Supporting Street or Through Connection is acceptable provided the entry is clearly visible from the Addressing Street and a clear public route to the entry is provided. Emphasize the importance of the primary building entry with glass, canopies, signage, public art, landscaping, and lighting.

- a** Development parcel delineated by Addressing and Supporting Streets
- b** Primary building frontage
- c** Primary entrance
- d** Location of limited front yard surface parking
- e** Surface parking

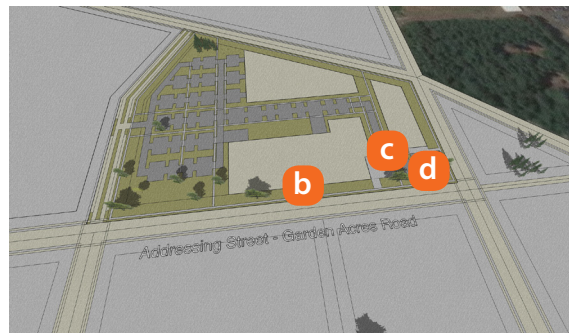
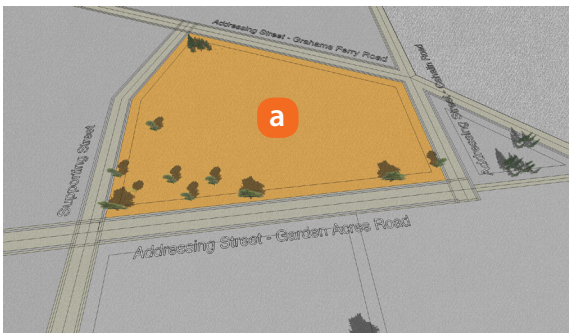


## Prototype 1





## Prototype 2

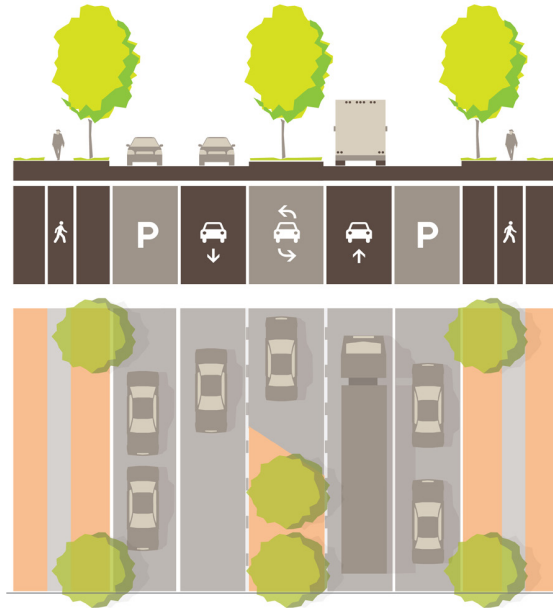


## Prototype 3

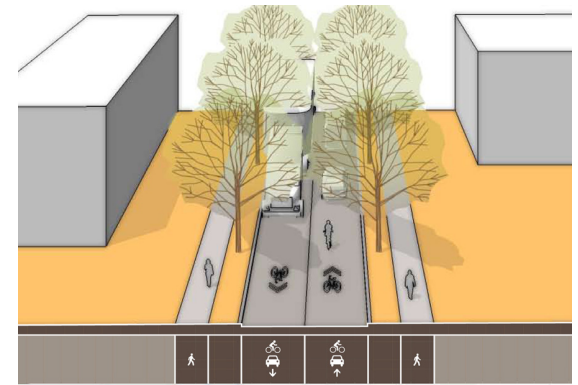


# Supporting Street Typology

Supporting Street

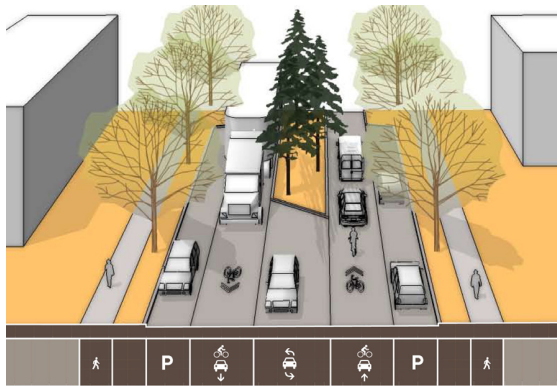


Supporting Street—Possible street section and plan



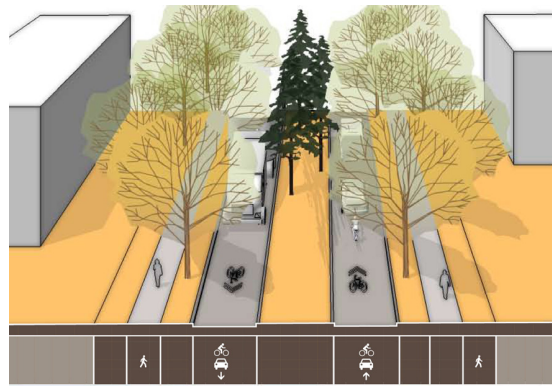
## Minimal

- Vehicular access
- Pedestrian access—in sidewalks
- Bicycle access—in shared lane
- Street trees—in continuous planted park strip
- Planted median
- Left turn lane
- On-street parking



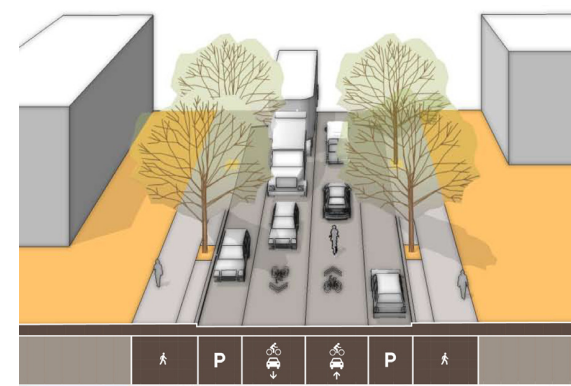
## Monumental

- Vehicular access
- Pedestrian access—in sidewalks
- Bicycle access—in shared lane
- Street trees—in continuous planted park strip
- Planted median
- Left turn lane
- On-street parking



## Park-like character

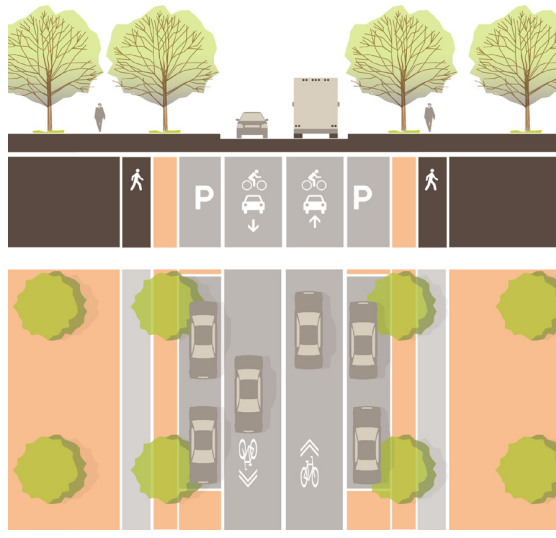
- Vehicular access
- Pedestrian access—sidewalks
- Bicycle access—shared lane
- Street trees—in continuous planted park strip
- Planted median
- Left turn lane
- On-street parking



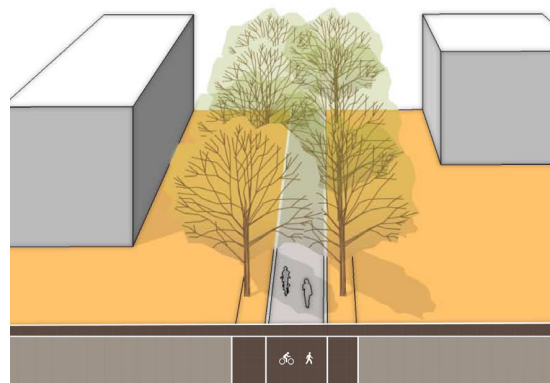
## Urban character

- Vehicular access
- Pedestrian access—in sidewalks
- Bicycle access—in shared lane
- Street trees—in tree wells
- Planted median
- Left turn lane
- On-street parking

# Through Connection Typology

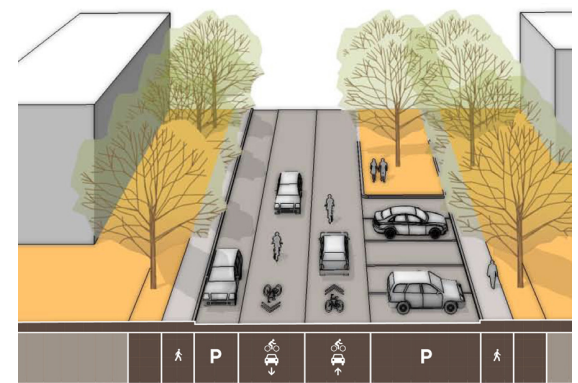


Through Connection—  
Possible street section and  
plan



## Minimal bike-ped

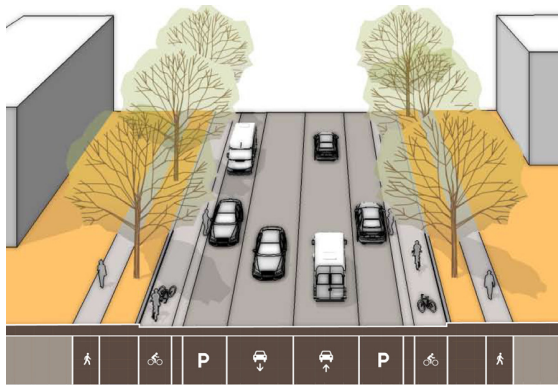
- Vehicular access
- Pedestrian access—in multi-use path
- Bicycle access—in multi-use path
- Street trees—in continuous planted park strip
- Pocket parks
- Planted median
- On-street parking



## Park-like

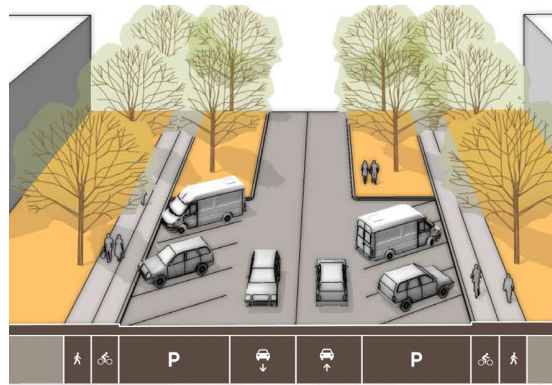
- Vehicular access
- Pedestrian access—in sidewalks
- Bicycle access—in shared lane
- Street trees—in continuous planted park strip
- Pocket parks—in parklets\*
- Planted median
- On-street parking—head-in

\*A "parklet" is a pocket park within the parking width



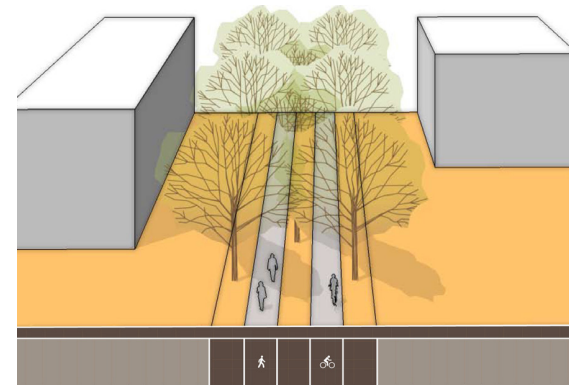
## Bike priority

- Vehicular access
- Pedestrian access—in sidewalk
- Bicycle access—in buffered bike lane
- Street trees—in continuous planted park strip
- Pocket parks
- Planted median
- On-street parking—parallel



## Maximum parking

- Vehicular access
- Pedestrian access—in sidewalks
- Bicycle access—in buffered bike lane
- Street trees—in continuous planted park strip
- Pocket parks—in parklets\*
- Planted median
- On-street parking—diagonal

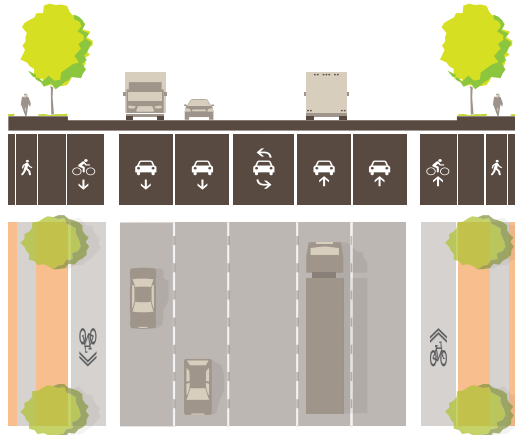


## Bike-ped

- Vehicular access
- Pedestrian access—multi-use path
- Bicycle access—multi-use path
- Street trees—in continuous planted park strip
- Pocket parks—in parklets\*
- Planted median
- On-street parking

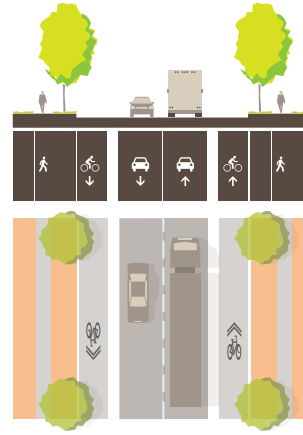
\*A "parklet" is a pocket park within the parking width

# Addressing Street Typology



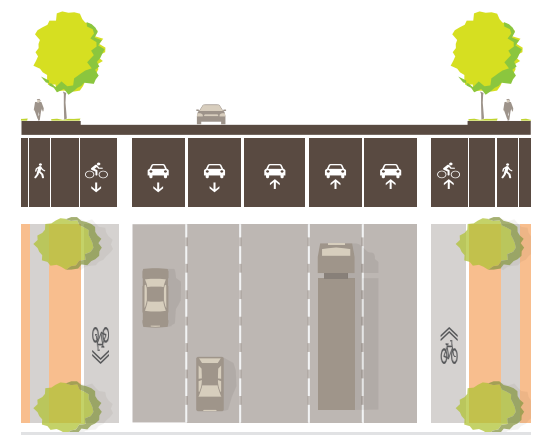
## Day Road

<b>Type</b>	Major Arterial
<b>Role in Network</b>	Freight and Bike Route
<b>Design Speed</b>	Under 35 mph
<b>Right-of-Way Easement</b>	110 feet
<b>Curb-to-Curb Width</b>	82 feet
<b>Travel Lanes (number)</b>	4
<b>Travel Lane Width</b>	10-12 feet
<b>Center Turn Lane Width</b>	14 feet
<b>Parking Lane Width</b>	0
<b>Bike Facilities Width</b>	10 feet Buffered Bike Lane
<b>Sidewalk Width</b>	6 feet each side
<b>Planting Strip Width</b>	8 feet



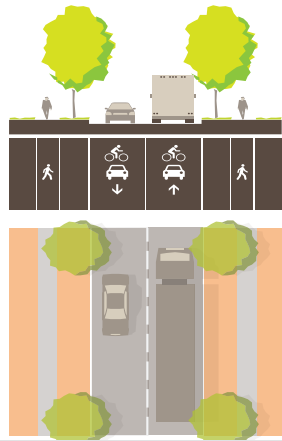
## Cahalin Road

<b>Type</b>	Local Street
<b>Role in Network</b>	Bike Route
<b>Design Speed</b>	Under 20 mph
<b>Right-of-Way Easement</b>	72 feet
<b>Curb-to-Curb Width</b>	44 feet
<b>Travel Lanes (number)</b>	2
<b>Travel Lane Width</b>	10-11 feet
<b>Center Turn Lane Width</b>	NA
<b>Parking Lane Width</b>	0
<b>Bike Facilities Width</b>	10 feet Buffered Bike Lane
<b>Sidewalk Width</b>	6 feet each side
<b>Planting Strip Width</b>	8 feet



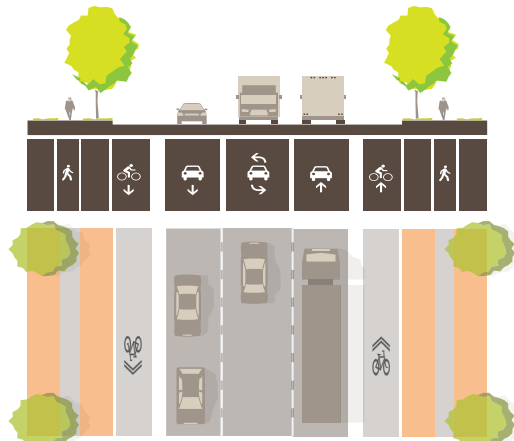
## Grahams Ferry Rd

<b>Type</b>	Minor Arterial
<b>Role in Network</b>	Freight and Bike Route
<b>Design Speed</b>	Under 30 mph
<b>Right-of-Way Easement</b>	110 feet
<b>Curb-to-Curb Width</b>	82 feet
<b>Travel Lanes (number)</b>	4
<b>Travel Lane Width</b>	10-12 feet
<b>Center Turn Lane Width</b>	14 feet
<b>Parking Lane Width</b>	0
<b>Bike Facilities Width</b>	10 feet Buffered Bike Lane
<b>Sidewalk Width</b>	6 feet each side
<b>Planting Strip Width</b>	8 feet



## Garden Acres Rd

Type	Minor Arterial
Role in Network	
Design Speed	Under 25 mph
Right-of-Way Easement	52 feet
Curb-to-Curb Width	24 feet
Travel Lanes (number)	2
Travel Lane Width	10-11 feet
Center Turn Lane Width	NA
Parking Lane Width	0
Bike Facilities Width	Cycle track
Sidewalk Width	6 feet each side
Planting Strip Width	8 feet



## Clutter Road

Type	Collector
Role in Network	Freight Route
Design Speed	Under 25 mph
Right-of-Way Easement	86 feet
Curb-to-Curb Width	58 feet
Travel Lanes (number)	2
Travel Lane Width	10-12 feet
Center Turn Lane Width	14 feet
Parking Lane Width	0
Bike Facilities Width	10 feet Buffered Bike Lane
Sidewalk Width	6 feet each side
Planting Strip Width	8 feet

# Prototype 1

## **B. 2.2 EXISTING TREE GROVES AT POINTS OF ACCESS**

Incorporate elements such as existing stands of native trees to emphasize points of site access and building access.

## **C. 1.4 PARCEL ACCESS FROM AN ADDRESSING STREET**

Where parcel access connects the primary building entrance to the Addressing Street extend the design, character, scale, and materials of the entry to the public sidewalk.

## **C. 1.10 FRONT YARDS THAT CONTRIBUTE TO THE PUBLIC REALM**

Design the landscape in front yards along Addressing Streets to result in an attractive contribution to the quality of the public realm.

## **SECTION D. INTENT STATEMENT**

Interaction between the private enterprise inside of a building and the public contributes to the vitality of the streets in the Coffee Creek Industrial Area. Transparency in front façade of buildings adds a subtle message that behavior in the public realm is being observed which contributes to the overall safety of the neighborhood. When passersby can sense activity that occurs inside of a building, they get a sense of people participating in their community.

## **D. 1.2 PRIMARY ENTRY AS SIGNIFICANT BUILDING FEATURE**

Make the primary building entry a significant element of building design in Coffee Creek. Emphasize the importance of the primary building entry with elements that could include a landscaped forecourt; a wide pedestrian path from the sidewalk with special paving; accent and pathway lighting; special plantings and landscape; a prominent roof form at the building's entrance; a generous canopy of metal or glass that offers protection from the elements; a major recess in the façade; seating elements such as benches, ledges, and movable chairs; or an open, transparent building lobby or vestibule that projects beyond the body of the building. Place these functional elements on an Addressing Street or Supporting Street and make their function visible from the streets and sidewalks.

## **D. 2.5 ADDRESSING STREET ENCLOSURE AND STREET WALL**

Site and building design shall support a uniform street wall of buildings along Addressing Streets that frames the public realm and supports a unified streetscape.





- a** Primary Addressing Street
- b** Existing tree groves at points of access
- c** Front yards that contribute to the public realm
- d** Enhanced public realm safety through interaction of public and private spaces
- e** Primary building entry relationship to Addressing Street
- f** Primary entrance

# Prototype 2

## A. 2.1 PARK-LIKE CHARACTER

Design Addressing Streets to establish and support a park-like character of the public realm. Addressing Streets shall provide continuous sidewalks on both sides of the street that protect the pedestrian with a planting strip landscaped with shade trees. Addressing Streets may also include a planted central median.

## A. 2.3 PROMINENT ADDRESS

Design Addressing Streets to serve as the “front door” or “address” for new buildings and development. New Addressing Streets shall include sidewalks on both sides that provide safe, continuous access for pedestrians to all abutting sections of the primary street network of Addressing Streets. Unless interrupted by another Addressing Street or a Supporting Street, the sidewalks shall be protected by a continuous landscape strip planted with shade trees.

## A. 2.4 ENCLOSED PUBLIC REALM

Orient building massing, form, architecture, and programmatic function along Addressing Streets to help define the public realm, create a distinctive enclosure of the public realm, and support the sense of place in Coffee Creek.

## A. 3.3 EXTENSION OF PUBLIC REALM

Design Supporting Streets to establish and support the extension of the public realm established by the network of Addressing Streets.

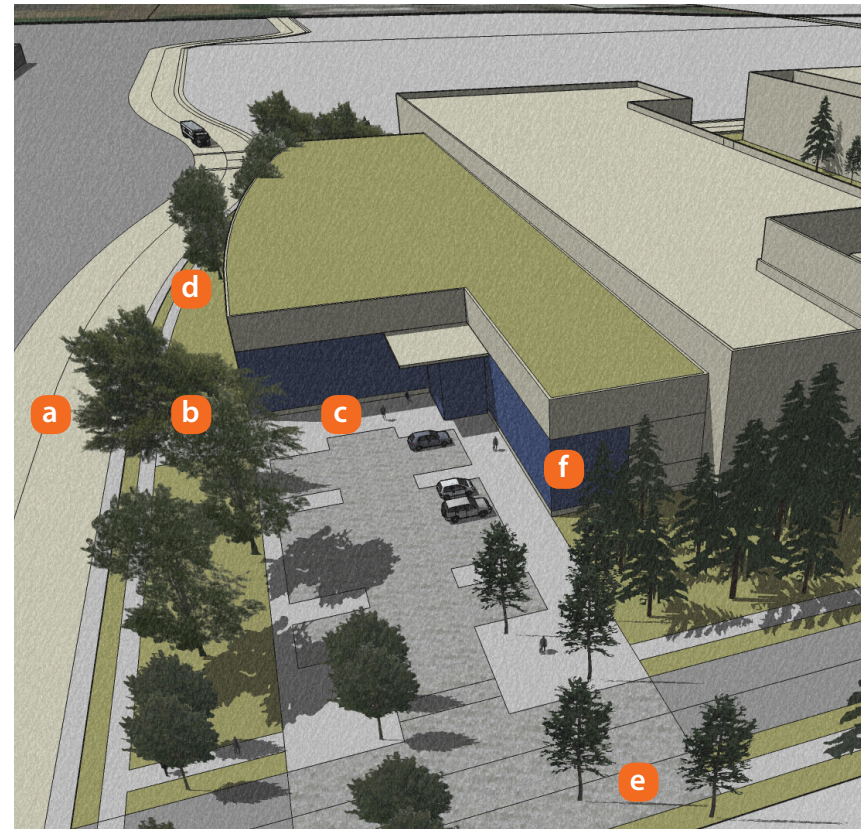
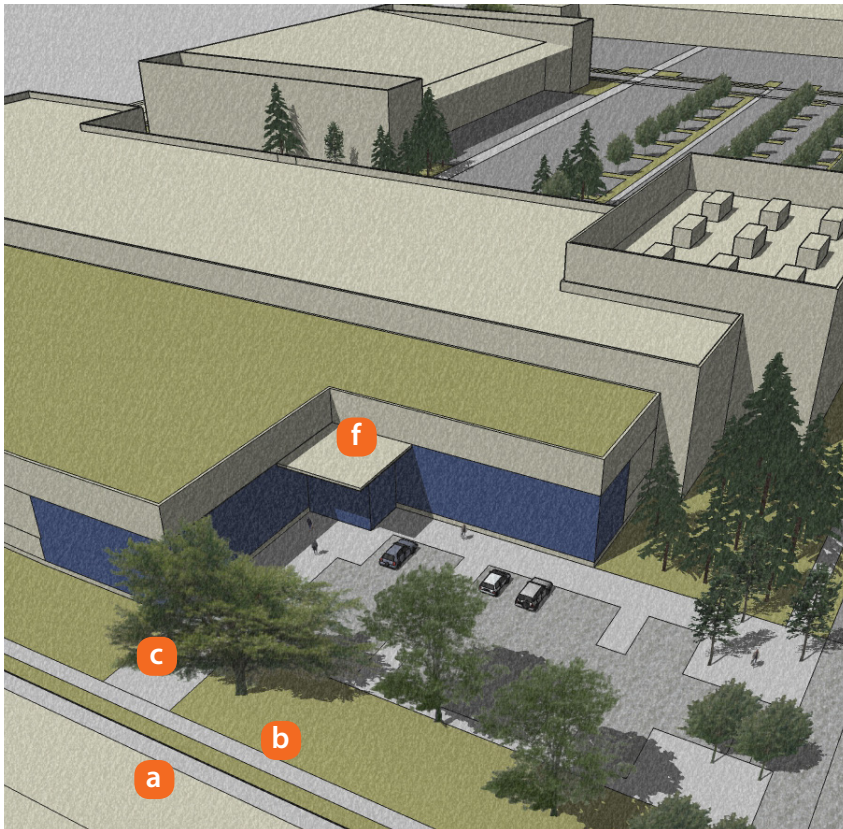
## SECTION C. INTENT STATEMENT

Trees help to define place. Whether individually, or in groves of native species, trees enhance the public realm by giving context and scale to the Coffee Creek Industrial Area. Landscape planting in front, side, and rear yards and as screening for parking lots, service drives, and service enclosures gives form and defines the public realm and parcels. Landscape design, installation, and maintenance helps to define the Coffee Creek Industrial Area and to diminish the large scale of industrial buildings. Landscaping also helps direct people to building entries. The native plant materials are climate adaptive, have low water and maintenance requirements, and visually blend with adjacent, undisturbed landscapes. Native trees should be preserved and employed as the visual anchors of new landscapes.

## D. 1.3 VISUAL INTEREST AND HUMAN SCALE

Locate the office and support spaces for warehouse and industrial buildings on the Addressing Street or Supporting Street instead of burying these functions in the interior of a large monolithic structure. Expressing the smaller-scale of these programmatic functions on the ground floor can help soften the bulk of large buildings and add visual interest and a human scale to the public realm. This guideline may be accomplished by wrapping the high-bay industrial form with lower-scaled structures on the street; extending a discrete element of the building that contains these functions and giving this element a distinctive, contrasting architectural expression; or providing a visual break in the building mass and structure that creates an impression of two separate buildings.





- a** Primary Addressing Street
- b** Addressing Street park-like character
- c** Addressing Street as front door
- d** Enclosed public realm
- e** Native trees in the setback
- f** Visual interest and human scale

# Prototype 3

## B. 1.6 TREE PRESERVATION WITHIN SETBACKS

Whether individually or in groves of native species, preserve trees within the setbacks of the development, particularly when they occur within the setback of an Addressing Street, or a Supporting Street that serves as the development's primary access street.

## B. 1.7 INFORMAL PARK-LIKE LANDSCAPING

The park-like character of the design of the Addressing Streets should be complemented by landscaping around buildings, parking lots, and open space that reflects the informal, natural, and original landscape that preceded development and persists in places across the site.

## SECTION C. INTENT STATEMENT

Surface parking is permitted in the front yard setback for development along Addressing Streets with limitations. Surface parking lots are limited in scale and designated for short-term parking for visitors, people with disabilities, and deliveries only. The design guidelines are intended to establish the character for surface parking lots in a manner that supports the City's goals for pedestrian convenience, comfort, and safety.

## C. 1.1 DISTINCTIVE IDENTITY OF VISITOR ARRIVAL POINT

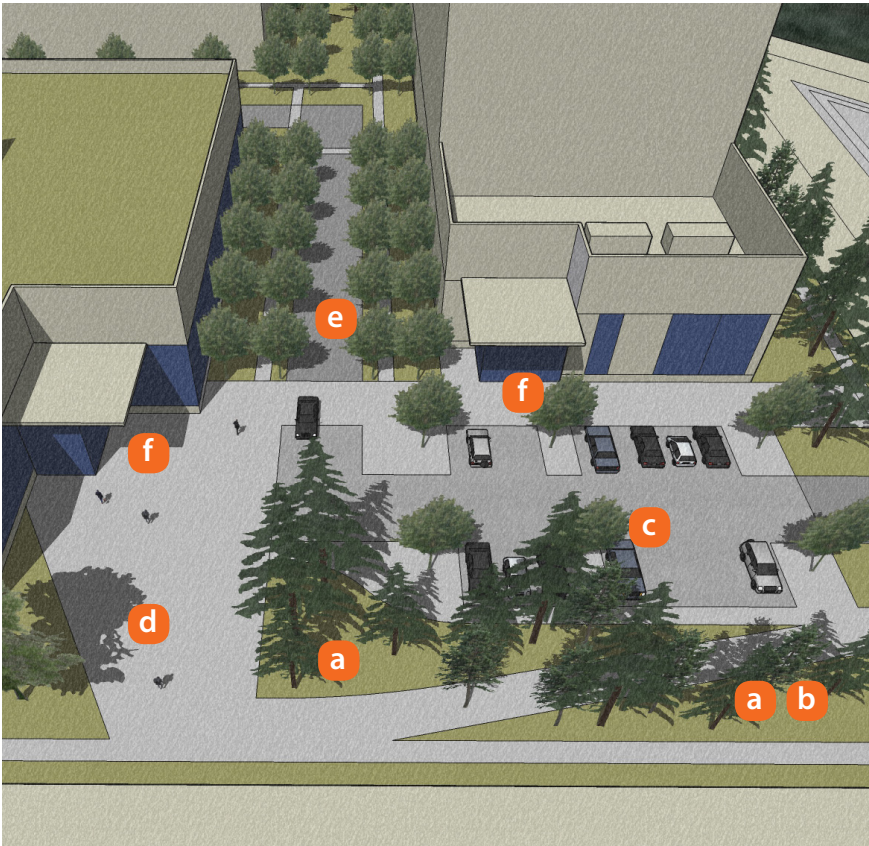
Where parcel access is also the primary automobile access to a building for visitors, use landscaping and signage to create a distinctive sense of arrival.



## C. 1.3 FORMAL LANDSCAPE DESIGN THAT CONTRASTS

Design guidelines for the landscape of front yards along Addressing Streets encourage a natural, irregular pattern of native plant materials. Along parcel access routes consider breaking this informal character of the landscape frontage with design and plant materials that are more formal, regular, and ornamental.





### D. 1.1 PRIMARY BUILDING ENTRY RELATIONSHIP TO ADDRESSING STREET

The primary building entrance shall be visible to and accessible from an Addressing Street.

- a** Tree preservation within setbacks
- b** Informal park-like landscaping
- c** Limited surface parking in the front setback
- d** Distinctive identity of visitor arrival point
- e** Formal landscaping that contrasts
- f** Primary entrance



## **Exhibit C - Additional Development Code Modifications**

### **Administration**

Sections 4.000 – 4.035



**Section 4.001 Definitions.**

*The following definitions, related to the Coffee Creek Industrial Design Overlay District, are proposed to be added to this section in alphabetical order.*

Addressing street: A major existing or planned street within the Coffee Creek Industrial Design Overlay District as defined in Section 4.134.

Master Plan: A plan with a series of detailed components covering one or more distinct areas.

- See Villebois Village Master Plan.
- See Coffee Creek Design Overlay District.

Pattern Book: An illustrative document that depicts the site development, landscaped design, and/ or architectural character of a proposed development.

- See Section 4.125.15, Pattern Book for projects in Villebois.
- See Section 4.134 (.06) F, Pattern Book for projects in the Coffee Creek Design Overlay District.

Parcel: Within the Coffee Creek Industrial Design Overlay District, areas bounded by addressing streets, supporting streets and/or through connections are defined as a parcel.

Regulating Plan: A plan that organizes the system of existing and future streets and multi-use paths within the Coffee Creek Industrial Design Overlay District.

Supporting streets: New streets within the Coffee Creek Industrial Design Overlay District, which may be located within public rights-of-way or public easements.

Through connections: New streets, multi-use paths, or streets that combine characteristics of local streets and multi-use paths. They are located within the Coffee Creek Industrial Design Overlay District and may be located within public rights-of-way or public easements.

**Section 4.030. Jurisdiction and Powers of Planning Director and Community Development Director.**

(.01) Authority of Planning Director. The Planning Director shall have authority over the daily administration and enforcement of the provisions of this Chapter, including dealing with non-discretionary matters, and shall have specific authority as follows:

A. A Class I application shall be processed as a ministerial action without public hearing, shall not require public notice, and shall not be subject to appeal or call-up, except as noted below. Pursuant to Class I procedures set forth in Section 4.035, and upon finding that a proposal is consistent with the provisions of this Code and any applicable Conditions of Approval, shall approve the following, with or without conditions:

1. Minor site clearing and grading, prior to the approval of a Site Development Plan, provided that:
  - a. no clearing or grading occurs within the Significant Resource Overlay Zone. Clearing or grading in the Significant Resource Overlay Zone shall require, at a minimum, approval of a Class II permit through the procedures specified below;

- b. no clearing or grading occurs within twenty-five (25) feet of an area that has been identified by the City as a wetland;
  - c. not more than three (3) trees are proposed to be removed;
  - d. no fill or removal is proposed;
  - e. adequate measures are utilized to control erosion and runoff from the site and that the applicant will submit a final Site Development application within seven (7) days of submitting the minor site grading application. All grading activities require compliance with the requirements of the applicable building code and City Public Works standards.
2. Class I Sign Permits, and Temporary Sign Permits for thirty (30) days or less. [Amended by Ord. No. 704, 6/18/12.]
  3. Architectural, landscape, tree removal, grading and building plans that substantially conform to the plans approved by the Development Review Board and/or City Council. The Planning Director's approval of such plans shall apply only to Development Code requirements and shall not alter the authority of the Building Official or City Engineer on these matters.
  4. Building permits for single family or two-family dwellings, and in the Village zone, row houses or apartments, meeting zoning requirements and located on lots that have been legally created. The Planning Director's approval of such plans shall apply only to Development Code requirements and shall not alter the authority of the Building Official or City Engineer on these matters. [Amended by Ord 557 adopted 9/5/03].
  5. Lot line adjustments, where none of the lots increase in area by fifty percent (50%) or more, subject to the standards specified in Section 4.233.
  6. A temporary use permit for not more than thirty (30) days, subject to the following standards:
    - a. the applicant has the written permission of the property owner to use the site;
    - b. the proposed use will not create an obstruction within a sight vision clearance area that would impair the vision of motorists entering onto or passing by the property;
    - c. adequate parking is provided;
    - d. signs shall meet the standards of Section 4.156.09. A maximum of two signs, not exceeding a combined total of 24 square feet, are allowed; and
    - e. the proposed use has the approval of the Fire Marshal.
  7. Determination that an existing use or structure is a non-conforming use or non-conforming structure, as defined in this Code. Except, however, that the Planning Director may, in cases where there is any uncertainty as to the history of the property, choose to process such determinations through the Class II procedures below.
  8. Actions taken subject to Site Development Permits which have been approved by the appropriate decision-making body of the City.

9. Final plats for condominiums, subdivisions, or partitions that are substantially the same as tentative plats approved by the City and which are submitted for review and signature prior to recordation with the appropriate county.
  10. Type A tree removal permits as provided in Section 4.600.
  11. Determination, based upon consultation with the City Attorney, whether a given development application is quasi-judicial or legislative. Except, however, that the Planning Director may, in cases where there is any uncertainty as to the nature of the application, choose to process such determinations through the Class II procedures below.
  12. Expedited land divisions. Applications for expedited land divisions, as provided for in Section 4.232 of this Code and ORS Chapter 197 shall be processed without public hearing, and shall be subject to appeal through the special appeal procedures specified in Section 4.232.
    - a. Authority of Planning Director. The Planning Director shall have authority to review applications for expedited land divisions and to take action approving, approving with conditions, or denying such applications, based on findings of fact.
    - b. Tentative Plat Requirements for Expedited Land Divisions. Tentative plats and all other application requirements for expedited land divisions shall be the same as for other forms of land divisions, except as those requirements are specifically altered by the Oregon Revised Statutes.
    - c. Administrative Relief Not Available. In taking action on an application for an expedited land division, the Planning Director is not authorized to grant Variances or waivers from the requirements of the Code.
    - d. Residential Areas Only. As specified in ORS 197, expedited land divisions shall only be approved in areas zoned for residential use.
- B. A Class II application shall be processed as an administrative action, with or without a public hearing, shall require public notice, and shall be subject to appeal or call-up, as noted below. Pursuant to Class II procedures set forth in Section 4.035, the Director shall approve, approve with conditions, deny, or refer the application to the Development Review Board for a hearing:
1. Minor alterations to existing buildings or site improvements of less than twenty-five percent (25%) of the previous floor area of a building, but not to exceed 1,250 square feet, or including the addition or removal of not more than ten (10) parking spaces. Minor modifications to approved Architectural and Site Development Plans may also be approved, subject to the same standards.
  2. Residential accessory buildings or structures with less than one hundred and twenty (120) square feet of floor area located within the Willamette River Greenway Boundary pursuant to Section 4.500 and subject to the flood plain development standards of Section 4.172. Approval of such accessory structures in the Greenway shall be based on all of the following findings of fact:

- a. The building or structure is located so that the maximum amount of landscape area, open space and/or vegetation is provided between the river and the building;
  - b. Public access to the river is preserved or is provided in accordance with an approved and adopted plan; and
  - c. That the change of use, intensification of use, or development will be directed away from the river to the greatest possible degree while allowing a reasonable use of the property.
3. Written interpretations of the text or maps of this Code, the Comprehensive Plan or sub-elements of the Comprehensive Plan, subject to appeal as provided in Section 4.022. The Planning Director may review and interpret the provisions and standards of Chapter 4 (Planning) of the Wilsonville Code upon receiving the required filing fee along with a specific written request. The Director shall publish and mail notice to affected parties and shall inform the Planning Commission and City Attorney prior to making a final written decision. The Director's letter and notice of decision shall be provided to the applicant, the Planning Commission, the City Council, and City Attorney and the notice shall clearly state that the decision may be appealed in accordance with Section 4.022 (Appeal Procedures). A log of such interpretations shall be kept in the office of the Planning Department for public review.
4. A permit to locate an accessory use on a lot adjacent to the site of the principal use.
5. Subdivisions located within the Coffee Creek Industrial Design Overlay District and land partitions, other than expedited land divisions, pursuant to Section 4.210. Approval ~~of land partitions~~ shall be based on all of the following findings of fact:
- a. The applicant has made a complete submittal of materials for the Director to review, as required in Section 4.210;
  - b. The proposed plan meets the requirements of the Code regarding minimum lot size and yard setbacks;
  - c. The approval will not impede or adversely affect the orderly development of any adjoining property or access thereto;
  - d. The public right-of-way bordering the lots or parcels will meet City standards;
  - e. Any required public dedications of land have been approved for acceptance by the City and will be recorded with the County prior to final plat approval;
  - f. Adequate easements are proposed where an existing utility line crosses or encroaches upon any other parcel to be created by the partition;
  - g. All public utilities and facilities are available or can be provided prior to the issuance of any development permit for any lot or parcel; and
  - h. Roads extended or created as a result of the land division will meet City standards.
6. Decisions on the following:

- a. Lot line adjustments, where any of the lots increase by more than fifty percent (50%) in area, subject to the provisions of Section 4.233.
- b. Temporary use permits for periods exceeding thirty (30) days. Temporary use permits may allow specific activities associated with the primary use or business located on the property for up to 120 days provided that:
  - i. the property owners have given written permission;
  - ii. no structure, sign or any other object shall exceed 20 feet in height;
  - iii. adequate parking is provided in designated spaces;
  - iv. signs are limited to a maximum of two and shall not exceed a total combined area of 24 square feet;
  - v. electrical and building permits are obtained as required;
  - vi. undue traffic congestion will not result and, if traffic congestion is expected, a traffic control plan is submitted along with the application that identifies the traffic control procedures that will be used;
  - vii. the activity and/or use shall not unduly interfere with motorists driving on adjacent roads and streets, including I-5; and
  - viii. public notice has been provided and the comments of interested parties have been considered in the action that has been taken.

7. Solar access permits, as specified in Section 4.137.3.

[Correction of numbering order for Section 4.030(.01)(B.) by Ordinance No. 538, 2/21/02.]

8. Class II Sign Permits. [Added by Ord. No. 704, 6/18/12.]

9. Site design review, as authorized in Section 4.400 for properties located within the Coffee Creek Industrial Design Overlay District, which satisfy all applicable standards and adjustment criteria in Section 4.134.

10. Review of Stage I and Stage II Planned Development applications for properties located within the Coffee Creek Industrial Design Overlay District, which satisfy all applicable standards and adjustment criteria in Section 4.134.

11. Type C tree removal permits as provided in Section 4.600 for properties located within the Coffee Creek Industrial Design Overlay District.

- C. Other specific actions or duties delegated by Planning Commission or Development Review Board Resolution, or by order of the Council, setting forth the review procedure guided by clear and objective standards for administration.
- D. Administrative Relief: In issuing the permits in subsection “B,” above, the Planning Director may grant limited relief in cases of hardship. The Director shall follow the Class II - Administrative Approval procedures to determine whether administrative relief shall be granted. If the Director receives a complete application, along with the required filing fee, and the request involves only the expansion or reduction by not more than 20 percent of one or more quantifiable provisions of yard, area, lot dimension, or parking requirements of the zone, the Director may approve the application, based upon findings of fact supported by evidence in the record. The Variance procedures and standards specified in Section 4.196 shall be used in determining whether administrative relief shall be granted.

E. Emergency Situations: The Planning Director may review and approve any reasonable and necessary emergency measure, including the removal of trees and vegetation from the Willamette River Greenway, Significant Resource Overlay Zone and wetlands, necessary for the safety and/or protection of persons or property. The standard shall be that the least amount of activity or disruption is used to provide the necessary protection to the property or to avert damage to the property. The Director may require restoration of landscaping, vegetation or soil to repair any damage resulting from enacting emergency protection measures.

(.02) Authority of Community Development Director. The Community Development Director shall serve as the City's Flood Plain Administrator and shall have specific additional authority as follows:

- A. Reviewing proposed site development applications to assure compliance with the requirements of Section 4.172 (Flood Plain Regulations);
- B. Reviewing proposed site development applications to determine whether sufficient information exists to waive the requirement of a traffic study.
- C. Reviewing and determining the adequacy of security provided in lieu of improvements for a development.
- D. Reviewing final plats for compliance with conditions of approval and City engineering standards.



## **Zoning**

Sections 4.100 – 4.141

**Section 4.110. Zoning - Zones.**

- (.01) The following Base Zones are established by this Code:
- A. Residential Agricultural H Holding, which shall be designated "RA-H".
  - B. Residential, which shall be designated "R".
  - C. Planned Development Residential, which shall be designated "PDR," and further divided into:
    - PDR-1
    - PDR-2
    - PDR-3
    - PDR-4
    - PDR-5
    - PDR-6
    - PDR-7.
  - D. Planned Development Commercial, which shall be designated "PDC," including PDC-TC (Town Center).
  - E. Planned Development Industrial, which shall be designated "PDI."
  - F. Public Facility, which shall be designated "PF."
  - G. Public Facility - Corrections, which shall be designated "PF-C."
  - H. Village, which shall be designated "V". (Added by Ord 557, adopted 9/5/03)
  - I. Residential Neighborhood, which shall be designated "RN". The RN zone is a Planned Development Residential zone. (Added by Ord. 806 adopted 07/17)
- (.02) The following Overlay Zones, to be used in combination with the underlying base zones, are established by this Code.
- A. Solar-Friendly (S) overlay zone;
  - B. Screening and Buffering (SB) overlay zone;
  - C. Old Town (O) overlay zone; and
  - D. Coffee Creek Industrial Design Overlay District (CCDOD).
- (.03) The use of any building or premises or the construction of any development shall be in conformity with the regulations set forth in this Code for each Zoning District in which it is located, except as provided in Sections 4.189 through 4.192.
- (.04) The General Regulations listed in Sections 4.150 through 4.199 shall apply to all zones unless the text indicates otherwise.

**Section 4.135.5: Planned Development Industrial – Regionally Significant Industrial Area**

- (.01) Purpose. The purpose of the PDI-RSIA Zone is to provide opportunities for regionally significant industrial operations along with a limited and appropriate range of related and compatible uses; to provide the flexibility to accommodate the

changing nature of industrial employment centers, to protect industrially zoned lands for industrial uses, primarily in those areas near significant transportation facilities for the movement of freight and to facilitate the redevelopment of under-utilized industrial sites.

- (.02) The PDI-RSIA Zone shall be governed by Section 4.140, Planned Development Regulations, and as otherwise set forth in this Code.
- (.03) Uses that are typically permitted:
  - A. Wholesale houses, storage units, and warehouses.
  - B. Laboratories, storage buildings, warehouses, and cold storage plants.
  - C. Assembly of electrical equipment, including the manufacture of small parts.
  - D. The light manufacturing, simple compounding or processing packaging, assembling and/or treatment of products, cosmetics, drugs, and food products, unless such use is inconsistent with air pollution, excess noise, or water pollution standards.
  - E. Office Complexes-Technology (as defined in Section 4.001).
  - F. Experimental, film or testing laboratories.
  - G. Storage and distribution of grain, livestock feed, provided dust and smell is effectively controlled.
  - H. Motor vehicle service facilities complementary or incidental to permitted uses.
  - I. Any use allowed in a PDC Zone or any other light industrial uses provided that any such use is compatible with industrial use and is planned and developed in a manner consistent with the purposes and objectives of Sections 4.130 to 4.140 and is subject to the following criteria:
    - 1. Service Commercial (defined as professional services that cater to daily customers such as financial, insurance, real estate, legal, medical or dental offices) shall not exceed 3000 square feet of floor space in a single building or 20,000 square feet of combined floor area within a multiple building development.
    - 2. Office Use (as defined in Section 4.001) shall not exceed 20% of total floor area within a project site.
    - 3. Retail uses not to exceed 3000 square feet of indoor and outdoor sales, service, or inventory storage area for a single building or 20,000 square feet of indoor and outdoor sales, service or inventory storage area for multiple buildings.
    - 4. Combined uses under I.1 and 3. above shall not exceed a total of 3000 square feet of floor area in a single building or 20,000 square feet of combined floor area within a multi-building development.
  - J. Residential uses shall not exceed 10% of total floor area.

- K. Accessory uses, buildings and structures customarily incidental to any of the aforesaid principal permitted uses.
- L. Temporary buildings or structures for uses incidental to construction work, which buildings or structures shall be removed upon completion or abandonment of the construction work.
- M. Expansion of a building, structure or use approved prior to October 25, 2004 of up to 20% additional floor area and/or 10% additional land area.
- N. Other similar uses which in the judgment of the Planning Director are consistent with the purpose of the PDI-RSIA Zone.

(.04) Prohibited uses.

- A. Retail operations exceeding 3,000 square feet of area for sales, service area or storage area for retail inventory in a single building, or 20,000 square feet of sales, service or storage area for multiple buildings, except training facilities whose primary purpose is to provide training to meet industrial needs.
- B. Any use or activity that violates the performance standards specified in Subsection 4.135.5(.06), below.

(.05) Block and Access Standards. The PDI-RSIA Zone shall be subject to:

- A. The same block and access standards as the PDC Zone [Section 4.131(.02) and (.03)] for properties located outside of the Coffee Creek Industrial Design Overlay District; or
- B. The access and block size standards in Section 4.134 for those properties located within the Coffee Creek Industrial Design Overlay District. ~~the same block and access standards as the PDC Zone [Section 4.131(.02) and (.03)].~~

(.06) Performance Standards. The following performance standards apply to all industrial properties and sites within the PDI-RSIA Zone, and are intended to minimize the potential adverse impacts of industrial activities on the general public and on other land uses or activities. They are not intended to prevent conflicts between different uses or activities that may occur on the same property or site.

- A. All uses and operations except storage, off-street parking, loading and unloading shall be confined, contained and conducted wholly within completely enclosed buildings, unless outdoor activities have been approved as part of Stage II, Site Design or Administrative Review.
- B. Vibration: Every use shall be so operated that the ground vibration inherently and recurrently generated from equipment other than vehicles is not perceptible without instruments at any boundary line of the property or site on which the use is located.
- C. Emission of odorous gases or other odorous matter in quantities detectable at any time and at any point on any boundary line of the property or site on which the use is located are prohibited.

- D. Any open storage shall comply with the provisions of Section 4.176 and this Section.
- E. No building customarily used for night operation, such as a bakery, bottling and distribution plant or other similar use, shall have any opening, other than stationary windows or required fire exits, within one hundred (100) feet of any residential district and any space used for loading or unloading commercial vehicles in connection with such an operation shall not be within one hundred (100) feet of any residential district.
- F. Heat and Glare.
  - 1. Operations producing heat or glare shall be conducted entirely within an enclosed building.
  - 2. Exterior lighting on private property shall be screened, baffled, or otherwise directed away from adjacent residential properties. This is not intended to apply to street lighting.
- G. Dangerous Substances: Any use which involves the presence, storage or handling of any explosive, nuclear waste product or any other substance in a manner which would cause a health or safety hazard on any adjacent land use or site shall be prohibited.
- H. Liquid and Solid Wastes:
  - 1. Any storage of wastes which would attract rodents or insects or otherwise create a health hazard shall be prohibited.
  - 2. Waste products which are stored outside shall be concealed from view from any property line by a sight-obscuring fence or planting as required by Section 4.176.
  - 3. No connection with any public sewer shall be made or maintained in violation of applicable City or State standards.
  - 4. No wastes conveyed shall be allowed to or permitted, caused to enter, or allowed to flow into any public sewer in violation of applicable City or State standards.
  - 5. All drainage permitted to discharge into a street gutter, caused to enter or allowed to flow into any pond, lake, stream or other natural water course shall be limited to surface waters or waters having similar characteristics as determined by the City, County, and State Department of Environmental Quality.
  - 6. All operations shall be conducted in conformance with the city's standards and ordinances applying to sanitary and storm sewer discharges.
- I. Noise: Noise generated by the use, with the exception of traffic uses from automobiles, trucks and trains, shall not violate any applicable standards adopted by the Oregon Department of Environmental Quality and W.C. 6.204 governing noise control in the same or similar locations. [Amended by Ord. 631, 7/16/07]
- J. Electrical Disturbances. Except for electrical facilities wherein the City is preempted by other governmental entities, electrical disturbances generated by uses

within the PDI-RSIA Zone which interfere with the normal operation of equipment or instruments within the PDI-RSIA Zone are prohibited. Electrical disturbances which routinely cause interference with normal activity in abutting residential uses are also prohibited.

- K. Discharge Standards: There shall be no emission of smoke, fallout, fly ash, dust, vapors, gases or other forms of air pollution that may cause a nuisance or injury to human, plant or animal life or to property. Plans for construction and operation shall be subject to the recommendations and regulations of the State Department of Environmental Quality. All measurements of air pollution shall be by the procedures and with equipment approved by the State Department of Environmental Quality or equivalent and acceptable methods of measurement approved by the City. Persons responsible for a suspected source of air pollution upon request of the City shall provide quantitative and qualitative information regarding the discharge that will adequately and accurately describe operation conditions.
- L. Open burning is prohibited.
- M. Storage.
  - 1. Outdoor storage must be maintained in an orderly manner at all times.
  - 2. Outdoor storage areas shall be gravel surfaced or better and shall be sufficient for the materials being handled and stored. If a gravel surface is not sufficient to meet the performance standards for the use, the area shall be suitably paved.
  - 3. Any open storage that would otherwise be visible at the property line shall be concealed from view at the abutting property line by a sight obscuring fence or planting not less than 6' in height.
- N. Landscaping.
  - 1. Unused property, or property designated for expansion or other future use shall be landscaped and maintained as approved by the Development Review Board. Landscaping for unused property disturbed during construction shall include such materials as plantings of ornamental shrubs, lawns, native plants, and mowed, seeded fieldgrass.
  - 2. Contiguous unused areas of undisturbed fieldgrass may be maintained in their existing state. Large stands of invasive weeds such as Himalayan blackberry, English ivy, cherry laurel, reed canary grass or other identified invasive species shall be removed and/or mowed at least annually to reduce fire hazard. These unused areas, located with a phased development project or a future expansion cannot be included in the area calculated to meet the landscape requirements for the initial phase(s) of the development.
  - 3. Unused property shall not be left with disturbed soils that are subject to siltation and erosion. Any disturbed soil shall be seeded for complete erosion cover germination and shall be subject to applicable erosion control standards.



(.07) Other Standards.

## A. Lot Size:

1. Parcels less than 50 acres in size at the time of adoption of this amended Section: Land divisions may occur in conformance with an approved Master Plan consistent with the requirements of this section. No lot size limit, save and except as shall be consistent with the other provisions of this code.
2. Parcels 50 acres or greater in size existing on October 25, 2004 may be divided into any number of parcels or lots pursuant to an approved Master Plan provided that at least one lot or parcel of at least 50 acres in size remains. Provided further however, at least forty percent (40%) of the lot or parcel so created has been developed or planned for industrial uses and associated accessory uses and no portion has been developed or planned for the uses listed in Section 4.135.5(03)(I.) (1.) through (3).
3. Uses not subject to the foregoing lot size provisions:
  - a. Public facilities and services
  - b. Separation of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by DEQ pursuant to ORS 465.225.
  - c. Separation of a lot or parcel containing a nonconforming use from the remainder of the site in order to improve the utility of the remainder site for the intended industrial uses
  - d. Separation for the purposes of financing when the new lot or parcel is consistent with the approved Master Plan.
  - e. Division of lots or parcels consistent with a Master Plan approved by the City prior to July 1, 2004.

B. Maximum Lot Coverage. No limit save and except as shall be consistent with the other provisions of this code.

C. Front Yard Setback. Thirty (30) feet. Except as otherwise provided for properties within the Coffee Creek Industrial Design Overlay District, sStructures on corner or through lots shall observe the minimum front yard setback on both streets. Setbacks shall also be maintained from the planned rights-of-way shown on any adopted City street plan.

D. Rear and Side Yard Setback. Thirty (30) feet. Except as otherwise provided for properties within the Coffee Creek Industrial Design Overlay District, sStructures on corner or through lots shall observe the minimum rear and side yard setback on both streets. Setbacks shall also be maintained from the planned rights-of-way shown on any adopted City street plan.

E. No setback is required when rear or side yards abut a railroad siding.

F. Corner Vision. Corner lots shall have no lot obstruction to exceed the vision clearance standards of Section 4.177.

G. Off-street Parking and Loading. As required in Section 4.155.

H. Signs. As required in Sections 4.156.01 through 4.156.11. [Amended by Ord. No. 704, 6/18/12]

[Section 4.135.5 added by Ordinance No. 574, 11/1/04.]

**Section 4.140. Planned Development Regulations.**

(.01) Purpose.

- A. The provisions of Section 4.140 shall be known as the Planned Development Regulations. The purposes of these regulations are to encourage the development of tracts of land sufficiently large to allow for comprehensive master planning, and to provide flexibility in the application of certain regulations in a manner consistent with the intent of the Comprehensive Plan and general provisions of the zoning regulations and to encourage a harmonious variety of uses through mixed use design within specific developments thereby promoting the economy of shared public services and facilities and a variety of complimentary activities consistent with the land use designation on the Comprehensive Plan and the creation of an attractive, healthful, efficient and stable environment for living, shopping or working.
- B. It is the further purpose of the following Section:
1. To take advantage of advances in technology, architectural design, and functional land use design:
  2. To recognize the problems of population density, distribution and circulation and to allow a deviation from rigid established patterns of land uses, but controlled by defined policies and objectives detailed in the comprehensive plan;
  3. To produce a comprehensive development equal to or better than that resulting from traditional lot land use development.
  4. To permit flexibility of design in the placement and uses of buildings and open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potentials of sites characterized by special features of geography, topography, size or shape or characterized by problems of flood hazard, severe soil limitations, or other hazards;
  5. To permit flexibility in the height of buildings while maintaining a ratio of site area to dwelling units that is consistent with the densities established by the Comprehensive Plan and the intent of the Plan to provide open space, outdoor living area and buffering of low-density development.
  6. To allow development only where necessary and adequate services and facilities are available or provisions have been made to provide these services and facilities.
  7. To permit mixed uses where it can clearly be demonstrated to be of benefit to the users and can be shown to be consistent with the intent of the Comprehensive Plan.

8. To allow flexibility and innovation in adapting to changes in the economic and technological climate.

(.02) Lot Qualification.

- A. Planned Development may be established on lots which are suitable for and of a size to be planned and developed in a manner consistent with the purposes and objectives of Section 4.140.
- B. Any site designated for development in the Comprehensive Plan may be developed as a Planned Development, provided that it is zoned “PD” or specifically defined as a PD zone by this code. All sites which are greater than two (2) acres in size, and designated in the Comprehensive Plan for commercial, residential, or industrial use shall be developed as Planned Developments, unless approved for other uses permitted by the Development Code. Smaller sites may also be developed through the City’s PD procedures, provided that the location, size, lot configuration, topography, open space and natural vegetation of the site warrant such development.

(.03) Ownership.

- A. The tract or tracts of land included in a proposed Planned Development must be in one (1) ownership or control or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase, with written authorization by the owner to make applications, shall be deemed the owner of such land for the purposes of Section 4.140.
- B. Unless otherwise provided as a condition for approval of a Planned Development permit, the permittee may divide and transfer units or parcels of any development. The transferee shall use and maintain each such unit or parcel in strict conformance with the approval permit and development plan.

(.04) Professional Design.

- A. The applicant for all proposed Planned Developments shall certify that the professional services of the appropriate professionals have been utilized in the planning process for development.
- B. Appropriate professionals shall include, but not be limited to the following to provide the elements of the planning process set out in Section 4.139:
  1. An architect licensed by the State of Oregon;
  2. A landscape architect registered by the State of Oregon;
  3. An urban planner holding full membership in the American Institute of Certified Planners, or a professional planner with prior experience representing clients before the Development Review Board, Planning Commission, or City Council; or
  4. A registered engineer or a land surveyor licensed by the State of Oregon.
- C. One of the professional consultants chosen by the applicant from either 1, 2, or 3, above, shall be designated to be responsible for conferring with the planning staff with respect to the concept and details of the plan.

- D. The selection of the professional coordinator of the design team will not limit the owner or the developer in consulting with the planning staff.

(.05) Planned Development Permit Process.

- A. All parcels of land exceeding two (2) acres in size that are to be used for residential, commercial or industrial development, shall, prior to the issuance of any building permit:
  - 1. Be zoned for planned development;
  - 2. Obtain a planned development permit; and
  - 3. Obtain Planning Director, Development Review Board, or, on appeal, City Council approval.
- B. Zone change and amendment to the zoning map are governed by the applicable provisions of the Zoning Sections, inclusive of Section 4.197
- C. Development Review Board and Planning Director approval is governed by Sections 4.400 to 4.450
- D. All planned developments require a planned development permit. The planned development permit review and approval process consists of the following multiple stages, the last two or three of which can be combined at the request of the applicant:
  - 1. Pre-application conference with Planning Department;
  - 2. Preliminary (Stage I) review by the Development Review Board or the Planning Director for properties within the Coffee Creek Industrial Design Overlay District. When a zone change is necessary, application for such change shall be made simultaneously with an application for preliminary approval ~~to the Board~~; and
  - 3. Final (Stage II) review by the Development Review Board or the Planning Director for properties within the Coffee Creek Industrial Design Overlay District.
  - 4. In the case of a zone change and zone boundary amendment, City Council approval is required to authorize a Stage I preliminary plan except for properties within the Coffee Creek Industrial Design Overlay District, which may receive separate zone map amendment approvals.

(.06) Staff Report:

- A. The planning staff shall prepare a report of its findings and conclusions as to whether the use contemplated is consistent with the land use designated on the Comprehensive Plan. If there is a disagreement as to whether the use contemplated is consistent, the applicant, by request, or the staff, may take the preliminary information provided to the Development Review Board for a use interpretation.
- B. The applicant may proceed to apply for Stage I - Preliminary Approval - upon determination by either staff or the Development Review Board that the use contemplated is consistent with the Comprehensive Plan.

(.07) Preliminary Approval (Stage One):

- A. Applications for preliminary approval for planned developments shall:
  - 1. Be made by the owner of all affected property or the owner's authorized agent; and
  - 2. Be filed on a form prescribed by the City Planning Department and filed with said Department.
  - 3. Set forth the professional coordinator and professional design team as provided in subsection (.04), above.
  - 4. State whether the development will include mixed land uses, and if so, what uses and in what proportions and locations.
  
- B. The application shall include conceptual and quantitatively accurate representations of the entire development sufficient to judge the scope, size, and impact of the development on the community; and, in addition to the requirements set forth in Section 4.035, shall be accompanied by the following information:
  - 1. A boundary survey or a certified boundary description by a registered engineer or licensed surveyor.
  - 2. Topographic information as set forth in Section 4.035
  - 3. A tabulation of the land area to be devoted to various uses, and a calculation of the average residential density per net acre. Developments within the RN zone shall show how the proposed number of units complies with the applicable maximum and minimum provisions of the RN zone.
  - 4. A stage development schedule demonstrating that the developer intends receive Stage II approval within two (2) years of receiving Stage I approval, and to commence construction within two (2) years after the approval of the final development plan, and will proceed diligently to completion; unless a phased development schedule has been approved; in which case adherence to that schedule shall be considered to constitute diligent pursuit of project completion.
  - 5. A commitment by the applicant to provide in the Final Approval (Stage II) a performance bond or other acceptable security for the capital improvements required by the project.
  - 6. If it is proposed that the final development plan will be executed in stages, a schedule thereof shall be provided.
  - 7. Statement of anticipated waivers from any of the applicable site development standards.
  
- C. An application for a Stage I approval shall be considered by the Development Review Board as follows:
  - 1. A public hearing as provided in Section 4.013.
  - 2. After such hearing, the Board shall determine whether the proposal conforms to the permit criteria set forth in this Code, and may approve or disapprove the application and the accompanying preliminary development plan or require

such changes therein or impose such conditions of approval as are in its judgment, necessary to ensure conformity to said criteria and regulations. In so doing, the Board may, in its discretion, authorize submission of the final development plan in stages, corresponding to different units or elements of the development. It shall do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule.

3. A final decision on a complete application and preliminary plan shall be rendered within one hundred and twenty (120) days after the application is deemed complete unless a continuance is agreed upon by the applicant and the appropriate City decision-making body.
4. The determination of the Development Review Board shall become final at the end of the appeal period for the decision, unless appealed to the City Council in accordance with Section 4.022 of this Code.

D. As provided in Section 4.134, an application for a Stage I approval within the Coffee Creek Industrial Design Overlay District may be considered by the Planning Director as follows:

1. A Class II – Administrative Review as provided in Section 4.035(.03).
2. After considering available information, the Planning Director shall determine whether the proposal conforms to the permit criteria set forth in this Code and may approve or disapprove the application and the accompanying preliminary development plan or require such changes therein or impose such conditions of approval as are in his or her judgment, necessary to ensure conformity to said criteria and regulations. In so doing, the Planning Director may, in his or her discretion, authorize submission of the final development plan in stages, corresponding to different units or elements of the development. The Planning Director shall do so only upon receiving evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule.
3. A final decision on a complete application and preliminary plan shall be rendered within one hundred and twenty (120) days after the application is deemed complete unless a continuance is agreed upon by the applicant and the Planning Director.
4. The determination of the Planning Director shall become final at the end of the appeal period for the decision, unless appealed to the Development Review Board in accordance with Section 4.022 of this Code.

(.09) Final Approval (Stage Two):

[Note: Outline Number is incorrect.]

- A. Unless an extension has been granted by the Development Review Board or Planning Director, as applicable, within two (2) years after the approval or modified approval of a preliminary development plan (Stage I), the applicant shall file with the City Planning Department a final plan for the entire development or when submission in stages has been authorized pursuant to Section 4.035 for the first unit of the development, a public hearing shall be held on each such



application as provided in Section 4.013. As provided in Section 4.134, an application for a Stage II approval within the Coffee Creek Industrial Design Overlay District may be considered by the Planning Director without a public hearing as a Class II Administrative Review as provided in Section 4.035(.03).

- B. ~~After such hearing, †~~The Development Review Board or Planning Director, as applicable, shall determine whether the proposal conforms to the permit criteria set forth in this Code, and shall approve, conditionally approve, or disapprove the application.
- C. The final plan shall conform in all major respects with the approved preliminary development plan, and shall include all information included in the preliminary plan plus the following:
1. The location of water, sewerage and drainage facilities;
  2. Preliminary building and landscaping plans and elevations, sufficient to indicate the general character of the development;
  3. The general type and location of signs;
  4. Topographic information as set forth in Section 4.035;
  5. A map indicating the types and locations of all proposed uses; and
  6. A grading plan.
- D. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development or phase of development. However, Site Design Review is a separate and more detailed review of proposed design features, subject to the standards of Section 4.400.
- E. Copies of legal documents required by the Development Review Board or Planning Director, as applicable, for dedication or reservation of public facilities, or for the creation of a non-profit homeowner's association, shall also be submitted.
- F. Within thirty (30) days after the filing of the final development plan, the Planning staff shall forward such development plan and the original application to the Tualatin Valley Fire and Rescue District, if applicable, and other agencies involved for review of public improvements, including streets, sewers and drainage. The Development Review Board or Planning Director, as applicable, shall not act on a final development plan until it has first received a report from the agencies or until more than thirty (30) days have elapsed since the plan and application were sent to the agencies, whichever is the shorter period.
- G. Upon receipt of the final development plan, the Development Review Board or Planning Director, as applicable shall ~~conduct a public hearing and~~ examine such plan and determine:
1. Whether it conforms to all applicable criteria and standards; and
  2. Whether it conforms in all substantial respects to the preliminary approval; or

3. Require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards.
- H. If the Development Review Board or Planning Director, as applicable, permits the applicant to revise the plan, it shall be resubmitted as a final development plan within sixty (60) days. If the Board or Planning Director approves, disapproves or grants such permission to resubmit, the decision of the Board shall become final at the end of the appeal period for the decision, unless appealed to the City Council, in accordance with Sections 4.022 of this Code.
  - I. All Stage II Site Development plan approvals shall expire two years after their approval date, if substantial development has not occurred on the property prior to that time. Provided, however, that the Development Review Board or Planning Director, as applicable, may extend these expiration times for up to three (3) additional periods of not more than one (1) year each. Applicants seeking time extensions shall make their requests in writing at least thirty (30) days in advance of the expiration date. Requests for time extensions shall only be granted upon (1) a showing that the applicant has in good faith attempted to develop or market the property in the preceding year or that development can be expected to occur within the next year, and (2) payment of any and all Supplemental Street SDCs applicable to the development. Upon such payment, the development shall have vested traffic generation rights under 4.140 (.10), provided however, that if the Stage II approval should expire, the vested right to use trips is terminated upon City repayment, without interest, of Supplemental Street SDCs. For purposes of this Ordinance, “substantial development” is deemed to have occurred if the required building permits or public works permits have been issued for the development, and the development has been diligently pursued, including the completion of all conditions of approval established for the permit. [Amended by Ord 561, adopted 12/15/03.]
  - J. A planned development permit may be granted by the Development Review Board or Planning Director, as applicable, only if it is found that the development conforms to all the following criteria, as well as to the Planned Development Regulations in Section 4.140:
    1. The location, design, size and uses, both separately and as a whole, are consistent with the Comprehensive Plan, and with any other applicable plan, development map or Ordinance adopted by the City Council.
    2. That the location, design, size and uses are such that traffic generated by the development at the most probable used intersection(s) can be accommodated safely and without congestion in excess of Level of Service D, as defined in the Highway Capacity Manual published by the National Highway Research Board, on existing or immediately planned arterial or collector streets and will, in the case of commercial or industrial developments, avoid traversing local streets. Immediately planned arterial and collector streets are those listed in the City’s adopted Capital Improvement Program, for which funding has been approved or committed, and that are scheduled for completion within two years of occupancy of the development or four year if they are an

associated crossing, interchange, or approach street improvement to Interstate 5.

- a. In determining levels of Service D, the City shall hire a traffic engineer at the applicant's expense who shall prepare a written report containing the following minimum information for consideration by the Development Review Board:
    - i. An estimate of the amount of traffic generated by the proposed development, the likely routes of travel of the estimated generated traffic, and the source(s) of information of the estimate of the traffic generated and the likely routes of travel; [Added by Ord. 561, adopted 12/15/03.]
    - ii. What impact the estimate generated traffic will have on existing level of service including traffic generated by (1) the development itself, (2) all existing developments, (3) Stage II developments approved but not yet built, and (4) all developments that have vested traffic generation rights under section 4.140(.10), through the most probable used intersection(s), including state and county intersections, at the time of peak level of traffic. This analysis shall be conducted for each direction of travel if backup from other intersections will interfere with intersection operations. [Amended by Ord 561, adopted 12/15/03.]
  - b. The following are exempt from meeting the Level of Service D criteria standard:
    - i. A planned development or expansion thereof which generates three (3) new p.m. peak hour traffic trips or less;
    - ii. A planned development or expansion thereof which provides an essential governmental service.
  - c. Traffic generated by development exempted under this subsection on or after Ordinance No. 463 was enacted shall not be counted in determining levels of service for any future applicant. [Added by Ord 561, adopted 12/15/03.]
  - d. Exemptions under 'b' of this subsection shall not exempt the development or expansion from payment of system development charges or other applicable regulations. [Added by Ord 561, adopted 12/15/03.]
  - e. In no case will development be permitted that creates an aggregate level of traffic at LOS "F". ([Added by Ord 561, adopted 12/15/03.]
3. That the location, design, size and uses are such that the residents or establishments to be accommodated will be adequately served by existing or immediately planned facilities and services.
- K. Mapping: Whenever a Planned Development permit has been granted, and so long as the permit is in effect, the boundary of the Planned Development shall be indicated on the Zoning Map of the City of Wilsonville as the appropriate "PD" Zone.
- L. Adherence to Approved Plan and Modification Thereof: The applicant shall agree in writing to be bound, for her/himself and her/his successors in interest, by

the conditions prescribed for approval of a development. The approved final plan and stage development schedule shall control the issuance of all building permits and shall restrict the nature, location and design of all uses. Minor changes in an approved preliminary or final development plan may be approved by the Director of Planning if such changes are consistent with the purposes and general character of the development plan. All other modifications, including extension or revision of the stage development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.

M. In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the stage development schedule, the Development Review Board may, after notice and hearing, revoke a Planned Development permit. General economic conditions that affect all in a similar manner may be considered as a basis for an extension of a development schedule. The determination of the Board shall become final thirty (30) days after the date of decision unless appealed to the City Council.

- (.10) Early Vesting of Traffic Generation. Applicants with Stage I or Master Plan approvals occurring after June 2, 2003 may apply to vest the right to use available transportation capacity at the intersections of Wilsonville Road with Boone's Ferry Road and with Town Center Loop West, and/or the I-5 interchange. Vesting for properties with such approvals shall occur upon execution of a vesting agreement satisfactory to the city, which agreement shall include a proposed development schedule or phasing plan and either provide for the payment of any and all Supplemental Street SDCs or provide other means of financing public improvements. Vesting for properties pending such approvals shall occur upon such agreement and the date the approvals are final.

The number of trips vested is subject to modification based upon updated traffic analysis associated with subsequent development approvals for the property. A reduction in vested trips shall attend repayment of vesting fees by the City. An increase in available vested trips shall occur upon payment of necessary vesting fees.

Vesting shall remain valid and run with the property, unless an approval that is necessary for vesting to occur is terminated or a vesting agreement is terminated. If the vested right to use certain trips is lost or terminated, as determined by the Community Development Director with the concurrence of City Council, such trips shall be made available to other development upon City repayment, without interest, of associated vesting fees. [Added by Ord. 561, adopted 12/15/03.]

## **General Development Regulations**

Sections 4.154 – 4.199

## **Section 4.156.02. Sign Review Process and General Requirements.**

- (.01) Permit Required. Unless exempt under Section 4.156.05, no sign, permanent or temporary, shall be displayed or installed in the City without first obtaining a sign permit.
- (.02) Sign Permits and Master Sign Plans. Many properties in the City have signs pre-approved through a Master Sign Plan. For the majority of applications where a Master Sign Plan has been approved the applicant need not consult the sign requirements for the zone, but rather the Master Sign Plan, copies of which are available from the Planning Division. Signs conforming to a Master Sign Plan require only a Class I Sign Permit.
- (.03) Classes of Sign Permits, Master Sign Plans, and Review Process. The City has three classes of sign permits for permanent signs: Class I, Class II, and Class III. In addition, non-residential developments with three or more tenants require a Master Sign Plan. Class I sign permits are reviewed through the Class I Administrative Review Process as outlined in Subsection 4.030(.01)(A.). Class II sign permits are reviewed through the Class II Administrative Review Process as outlined in Subsection 4.030 (.01)(B.). Class III Sign Permits and Master Sign Plans are reviewed by the Development Review Board (DRB) as outlined in Section 4.031.
- (.04) Class I Sign Permit. Sign permit requests shall be processed as a Class I Sign Permit when the requested sign or signs conform to a Master Sign Plan or other previous sign approval. In addition, a Minor Adjustment to a Master Sign Plan or other previous sign approval may be approved in connection with a Class I Sign Permit.
- A. Class I Sign Permit Submission Requirements: Application for a Class I Sign Permit shall include two (2) copies of the following along with all required application fees:
1. Completed application form prescribed by the City and signed by the property owner or the property owner's representative,
  2. Sign drawings showing all materials, the sign area and dimensions used to calculate sign areas, and other details sufficient to judge the full scale of the associated sign or signs and related improvements,
  3. Information showing how the proposed sign or signs conform with all applicable code requirements, Master Sign Plans, or other previous sign approvals for the property, and
  4. Information supporting any minor adjustment requests.
- B. Class I Sign Permit Review Criteria: The sign or signs conform with the applicable master sign plan or other previous sign approvals, and applicable code requirements.
- C. Minor Adjustments: Notwithstanding approved Master Sign Plans or other previous sign approvals, as part of a Class I Sign Permit Minor Adjustments may be approved as described in 1. and 2. below. Minor Adjustments are valid only for



the Sign Permit with which they are associated and do not carry over to future sign permits or copy changes.

1. Adjustment to Sign Height or Length: Adjustment of not more than ten (10) percent from the sign height (not height from ground) and/or length may be approved for the reasons listed in a. through d. below, unless otherwise specifically prohibited in the Master Sign Plan. Minor adjustments to sign height and length shall not cause the sign to cross the edge of any fascia, architectural element or area of a building facade identified as a sign band. The area of the sign exceeding the height or length as part of a minor adjustment shall not count against the sign area indicated in a Master Sign Plan or other previous sign approval.
  - a. To accommodate the descender on the lower case letters “q, y, p g, or j”, not otherwise accommodated by the measurement method used, where the letter matches the font of other letters in the sign, the descender is no more than 1/2 the cap height of the font, and the descender is no wider than the main body of the letter;
  - b. To accommodate stylized fonts where bowls, shoulders, or serifs of the stylized letters extend beyond the cap height;
  - c. To accommodate an arching or other non-straight baseline; or
  - d. To accommodate a federally registered trademark logo where compliance with the defined maximum sign height would result in the cap height of the text in the logo being ninety (90) percent or less of the cap height for letters otherwise allowed. (i.e. if a Master Sign Plan allowed 24” letters and 24” total sign height, and a 24” logo would result in the cap height of the text within the logo being less than 21.6”, the total height of the logo could be increased to 26.4”)
2. Lateral Adjustment of Building Sign Location: Lateral adjustment of a building sign location identified in drawings or plans for a Master Sign Plan or other sign approval when all of the following are met:
  - a. The lateral distance being moved does not exceed fifty (50) percent of the sign length or ten (10) feet, whichever is greater;
  - b. The exact location is not specifically supported or required by written findings or a condition of approval;
  - c. The sign remains within the same architectural feature and sign band, except if the location is on a pillar, column, or similar narrow architectural support feature, the sign may be moved to a sign band on the architecture feature which it supports if no other sign is already placed in that sign band for the tenant space; and
  - d. The placement maintains any spacing from the edge of an architectural feature, building, or tenant space specifically identified in the Master Sign plan or other sign approval or if no spacing is identified, maintains a definable space between the sign and the edge of architectural features, the tenant space, and building.

(.05) Class II Sign Permit. Sign permit requests for meeting one or more of the descriptions listed in A. through C. below shall be processed as a Class II Sign Permit when the request does not conform with a Master Sign Plan or other previous sign approval but meets the requirements of the applicable sign regulations, unless the request would modify a condition of approval specifically imposed by the DRB or City Council:

- A. Existing residential development;
- B. Existing non-residential development with less than three (3) tenants unless the request involves a freestanding or ground mounted sign greater than eight (8) feet in height in a new location;

C. New development or redevelopment in the Coffee Creek Industrial Design Overlay District subject to a Class II administrative review process;

CD. Major Adjustments to a Master Sign Plan when all of the following criteria are met:

- 1. The request is compatible with the pattern of signage established in the sign plan in terms of locations, placement on buildings, proportionality to fascia and building facade, architectural design, and materials used;
- 2. The request is due to special conditions or circumstances that make it difficult to comply with the established Master Sign Plan;
- 3. The request involves signs for a single tenant, a single multi-tenant freestanding or ground mounted sign, or a series of similar related multi-tenant freestanding or ground mounted signs in the same development; and
- 4. The request does not involve a freestanding or ground mounted sign greater than eight (8) feet in height at a new location.

DE. Class II Sign Permit Submission Requirements: Application for a Class II Sign Permit shall include two (2) paper copies and one (1) electronic copy of the following in addition to all required fees:

- 1. Completed application form prescribed by the City and signed by the property owner or their authorized representative;
- 2. Sign drawings or descriptions of all materials, sign area and dimensions used to calculate areas, lighting methods, and other details sufficient to judge the full scale of the signs and related improvements;
- 3. Documentation of the lengths of building or tenant space facades used in calculating maximum allowed sign area;
- 4. Drawings of all building facades on which signs are proposed indicating the areas of the facades on which signs will be allowed;
- 5. Narrative describing the scope of the project, including written findings addressing all applicable review criteria, along with any other information showing how the proposed signage conforms with requirements for the applicable zone;

EF. Class II Sign Permit Review Criteria: Class II Sign Permits shall satisfy the sign regulations for the applicable zoning district and the Site Design Review Criteria in Sections 4.400 through 4.421, as well as the following criteria:

1. The proposed signage is compatible with developments or uses permitted in the zone in terms of design, materials used, color schemes, proportionality, and location, so that it does not interfere with or detract from the visual appearance of surrounding development;
2. The proposed signage will not create a nuisance or result in a significant reduction in the value or usefulness of surrounding development; and
3. Special attention is paid to the interface between signs and other site elements including building architecture and landscaping, including trees.

(.06) Class III Sign Permit. Sign permit requests shall be processed as a Class III Sign Permit when associated with new development, except as noted in Subsection 4.156.02 (.05) C., or redevelopment requiring DRB review, and not requiring a Master Sign Plan; when a sign permit request is associated with a waiver or non-administrative variance; or when the sign permit request involves one or more freestanding or ground mounted signs greater than eight (8) feet in height in a new location.

A. Class III Sign Permit Submission Requirements: Ten (10) paper and electronic copies of the submission requirements for Class II Sign Permits plus information on any requested waivers or variances in addition to all required fees.

B. Class III Sign Permit Review Criteria: The review criteria for Class II Sign Permits plus waiver or variance criteria when applicable.

(.07) Master Sign Plans. A Master Sign Plan is required for non-residential developments with three (3) or more tenants. In creating a Master Sign Plan thought should be given to needs of initial tenants as well as the potential needs of future tenants.

A. Master Sign Plan Submission Requirements: Applications for Master Sign Plans shall include ten (10) paper and electronic copies of all the submission requirements for Class II and III Sign Permits and the following in addition to all required fees:

1. A written explanation of the flexibility of the Master Sign Plan for different potential tenant space configurations over time;
2. A written explanation of the extent to which different sign designs, including those incorporating logos, stylized letters, multiple lines of text, non-straight baselines, or different materials and illumination will be allowed and if allowed how the flexibility of the master sign plan will allow these different sign designs over time;
3. A written explanation of how the sign plan provides for a consistent and compatible sign design throughout the subject development.

B. Master Sign Plan Review Criteria: In addition to the review criteria for Class II and Class III Sign Permits, Master Sign Plans shall meet the following criteria:

1. The Master Sign Plan provides for consistent and compatible design of signs throughout the development; and
  2. The Master Sign Plan considers future needs, including potential different configurations of tenant spaces and different sign designs, if allowed.
- C. **Modifications of a Master Sign Plan:** Modifications of a Master Sign Plan, other than Minor and Major Adjustments, shall be reviewed the same as a new Master Sign Plan.
- (.08) **Waivers and Variances.** Waivers and variances are similar in that they allow deviation from requirements such as area, and height from ground. They differ in that waivers are granted by the DRB as part of a comprehensive review of the design and function of an entire site to bring about an improved design and variances are granted by either the Planning Director or DRB to relieve a specific hardship caused by the regulations.
- A. **Waivers.** The DRB may grant waivers for sign area, sign height from ground (no waiver shall be granted to allow signs to exceed thirty-five (35) feet in height), number of signs, or use of electronic changeable copy signs in order to better implement the purpose and objectives of the sign regulations as determined by making findings that all of the following criteria are met:
1. The waiver will result in improved sign design, in regards to both aesthetics and functionality.
  2. The waiver will result in a sign or signs more compatible with and complementary to the overall design and architecture of a site, along with adjoining properties, surrounding areas, and the zoning district than signs allowed without the waiver.
  3. The waiver will result in a sign or signs that improve, or at least do not negatively impact, public safety, especially traffic safety.
  4. Sign content is not being considered when determining whether or not to grant a waiver.
- B. **Variances.**
1. **Administrative Variance:** In reviewing a Sign Permit the Planning Director may grant or deny a variance to relieve a hardship through the Class II Administrative Review process. Such a variance shall only be approved where the variance does not exceed twenty percent (20%) of area, height, or setback requirements. The Planning Director shall approve such a variance only upon finding that the application complies with all of the required variance criteria listed in Section 4.196.
  2. **Other Variances:** In addition to the authority of the Planning Director to issue administrative variances as noted above, the Development Review Board may authorize variances from sign requirements of the Code, subject to the standards and criteria listed in Section 4.196.
- (.09) **Temporary Sign Permits.** Temporary sign permits shall be reviewed as follows:
- A. 30 days and less- Class I Administrative Review

- B. 31 days up to 120 days- Class II Administrative Review
  - C. **Submission Requirements:** Applications for a temporary sign permit shall include the following in addition to the required application fee:
    - 1. Completed application form prescribed by the City and signed by the property owner or their authorized representative,
    - 2. Two (2) copies of sign drawings or descriptions showing all materials, sign area and dimensions used to calculate areas, number of signs, location and placement of signs, and other details sufficient to judge the full scale of the sign or signs,
    - 3. Information showing the proposed sign or signs conform with all applicable code requirements.
  - D. **Review Criteria:** Temporary Sign Regulations in Section 4.156.09
  - E. When a temporary sign permit request is submitted as part of the broader temporary use permit request of the same duration, the sign request shall not require an additional fee.
- (.10) **Waiver of Documentation.** The Planning Director may, in his or her discretion, waive an application document for Class I, Class II, and temporary sign permits where the required information has already been made available to the City, or where the Planning Director determines the information contained in an otherwise required document is not necessary to review the application.

**Section 4.176. Landscaping, Screening, and Buffering.**

*Note: the reader is encouraged to see Section 4.179, applying to screening and buffering of storage areas for solid waste and recyclables.*

- (.01) Purpose. This Section consists of landscaping and screening standards and regulations for use throughout the City. The regulations address materials, placement, layout, and timing of installation. The City recognizes the ecological and economic value of landscaping and requires the use of landscaping and other screening or buffering to:
- A. Promote the re-establishment of vegetation for aesthetic, health, erosion control, flood control and wildlife habitat reasons;
  - B. Restore native plant communities and conserve irrigation water through establishment, or re-establishment, of native, drought-tolerant plants;
  - C. Mitigate for loss of native vegetation;
  - D. Establish and enhance a pleasant visual character which recognizes aesthetics and safety issues;
  - E. Promote compatibility between land uses by reducing the visual, noise, and lighting impacts of specific development on users of the site and abutting sites or uses;
  - F. Unify development and enhance and define public and private spaces;

- G. Promote the retention and use of existing topsoil and vegetation. Amended soils benefit stormwater retention and promote infiltration;
- H. Aid in energy conservation by providing shade from the sun and shelter from the wind; and
- I. Screen from public view the storage of materials that would otherwise be considered unsightly.
- J. Support crime prevention, create proper sight distance clearance, and establish other safety factors by effective landscaping and screening.
- K. Provide landscaping materials that minimize the need for excessive use of fertilizers, herbicides and pesticides, irrigation, pruning, and mowing to conserve and protect natural resources, wildlife habitats, and watersheds.

(.02) Landscaping and Screening Standards.

- A. Subsections “C” through “I,” below, state the different landscaping and screening standards to be applied throughout the City. The locations where the landscaping and screening are required and the depth of the landscaping and screening is stated in various places in the Code.
- B. All landscaping and screening required by this Code must comply with all of the provisions of this Section, unless specifically waived or granted a Variance as otherwise provided in the Code. The landscaping standards are minimum requirements; higher standards can be substituted as long as fence and vegetation-height limitations are met. Where the standards set a minimum based on square footage or linear footage, they shall be interpreted as applying to each complete or partial increment of area or length (e.g., a landscaped area of between 800 and 1600 square feet shall have two trees if the standard calls for one tree per 800 square feet.
- C. General Landscaping Standard.
  - 1. Intent. The General Landscaping Standard is a landscape treatment for areas that are generally open. It is intended to be applied in situations where distance is used as the principal means of separating uses or developments and landscaping is required to enhance the intervening space. Landscaping may include a mixture of ground cover, evergreen and deciduous shrubs, and coniferous and deciduous trees.
  - 2. Required materials. Shrubs and trees, other than street trees, may be grouped. Ground cover plants must fully cover the remainder of the landscaped area (see Figure 21: General Landscaping). The General Landscaping Standard has two different requirements for trees and shrubs:
    - a. Where the landscaped area is less than 30 feet deep, one tree is required for every 30 linear feet.
    - b. Where the landscaped area is 30 feet deep or greater, one tree is required for every 800 square feet and two high shrubs or three low shrubs are required for every 400 square feet.



#### D. Low Screen Landscaping Standard.

1. Intent. The Low Screen Landscaping Standard is a landscape treatment that uses a combination of distance and low screening to separate uses or developments. It is intended to be applied in situations where low screening is adequate to soften the impact of one use or development on another, or where visibility between areas is more important than a total visual screen. The Low Screen Landscaping Standard is usually applied along street lot lines or in the area separating parking lots from street rights-of-way.
2. Required materials. The Low Screen Landscaping Standard requires sufficient low shrubs to form a continuous screen three (3) feet high and 95% opaque, year-round. In addition, one tree is required for every 30 linear feet of landscaped area, or as otherwise required to provide a tree canopy over the landscaped area. Ground cover plants must fully cover the remainder of the landscaped area. A three (3) foot high masonry wall or a berm may be substituted for the shrubs, but the trees and ground cover plants are still required. When applied along street lot lines, the screen or wall is to be placed along the interior side of the landscaped area. (See Figure 22: Low Screen Landscaping).

#### E. Low Berm Landscaping Standard.

1. Intent. The Low Berm Standard is intended to be applied in situations where moderate screening to reduce both visual and noise impacts is needed to protect abutting uses or developments from one-another, and where it is desirable and practical to provide separation by both distance and sight-obscuring materials. This screening is most important where either, or both, of the abutting uses or developments can be expected to be particularly sensitive to noise or visual impacts.
2. Required materials. The Low Berm Standard requires a berm at least two feet six inches (2' 6") high along the interior side of the landscaped area (see Figure 23: Low Berm Landscaping). If the berm is less than three (3) feet high, low shrubs meeting the Low Screen Landscaping Standard, above, are to be planted along the top of the berm, assuring that the screen is at least three (3) feet in height. In addition, one tree is required for every 30 linear feet of berm, or as otherwise required to provide a tree canopy over the landscaped area. Ground cover plants must fully cover the remainder of the landscaped area.

#### EF. High Screen Landscaping Standard.

1. Intent. The High Screen Landscaping Standard is a landscape treatment that relies primarily on screening to separate uses or developments. It is intended to be applied in situations where visual separation is required.
2. Required materials. The High Screen Landscaping Standard requires sufficient high shrubs to form a continuous screen at least six (6) feet high and 95% opaque, year-round. In addition, one tree is required for every 30 linear feet of landscaped area, or as otherwise required to provide a tree canopy over the landscaped area. Ground cover plants must fully cover the remainder of the landscaped area. A six (6) foot high masonry wall or a berm may be

substituted for the shrubs, but the trees and ground cover plants are still required. When applied along street lot lines, the screen or wall is to be placed along the interior side of the landscaped area. (See Figure 243: High Screen Landscaping).

**FG.** High Wall Standard.

1. Intent. The High Wall Standard is intended to be applied in situations where extensive screening to reduce both visual and noise impacts is needed to protect abutting uses or developments from one-another. This screening is most important where either, or both, of the abutting uses or developments can be expected to be particularly sensitive to noise or visual impacts, or where there is little space for physical separation.
2. Required materials. The High Wall Standard requires a masonry wall at least six (6) feet high along the interior side of the landscaped area (see Figure 254: High Wall Landscaping). In addition, one tree is required for every 30 linear feet of wall, or as otherwise required to provide a tree canopy over the landscaped area. Ground cover plants must fully cover the remainder of the landscaped area.

**GH.** High Berm Standard.

1. Intent. The High Berm Standard is intended to be applied in situations where extensive screening to reduce both visual and noise impacts is needed to protect abutting uses or developments from one-another, and where it is desirable and practical to provide separation by both distance and sight-obscuring materials. This screening is most important where either, or both, of the abutting uses or developments can be expected to be particularly sensitive to noise or visual impacts.
2. Required materials. The High Berm Standard requires a berm at least four (4) feet high along the interior side of the landscaped area (see Figure 265: High Berm Landscaping). If the berm is less than six (6) feet high, low shrubs meeting the Low Screen Landscaping Standard, above, are to be planted along the top of the berm, assuring that the screen is at least six (6) feet in height. In addition, one tree is required for every 30 linear feet of berm, or as otherwise required to provide a tree canopy over the landscaped area. Ground cover plants must fully cover the remainder of the landscaped area.

**HI.** Partially Sight-Obscuring Fence Standard.

1. Intent. The Partially Sight-Obscuring Fence Standard is intended to provide a tall, but not totally blocked, visual separation. The standard is applied where a low level of screening is adequate to soften the impact of one use or development on another, and where some visibility between abutting areas is preferred over a total visual screen. It can be applied in conjunction with landscape plantings or applied in areas where landscape plantings are not necessary and where nonresidential uses are involved.
2. Required materials. Partially Sight-Obscuring Fence Standard are to be at least six (6) feet high and at least 50% sight-obscuring. Fences may be made of

wood (other than plywood or particle-board), metal, bricks, masonry or other permanent materials (see Figure 276: Partially Sight-Obscuring Fence).

**IJ. Fully Sight-Obscuring Fence Standard.**

1. Intent. The Fully Sight-Obscuring Fence Standard is intended to provide a totally blocked visual separation. The standard is applied where full visual screening is needed to reduce the impact of one use or development on another. It can be applied in conjunction with landscape plantings or applied in areas where landscape plantings are not necessary.
2. Required materials. Fully sight-obscuring fences are to be at least six (6) feet high and 100% sight-obscuring. Fences may be made of wood (other than plywood or particle-board), metal, bricks, masonry or other permanent materials (see Figure 287: Totally Sight-Obscuring Fence).

(.03) Landscape Area. Not less than fifteen percent (15%) of the total lot area, shall be landscaped with vegetative plant materials. The ten percent (10%) parking area landscaping required by section 4.155.03(B)(1) is included in the fifteen percent (15%) total lot landscaping requirement. Landscaping shall be located in at least three separate and distinct areas of the lot, one of which must be in the contiguous frontage area. Planting areas shall be encouraged adjacent to structures. Landscaping shall be used to define, soften or screen the appearance of buildings and off-street parking areas. Materials to be installed shall achieve a balance between various plant forms, textures, and heights. The installation of native plant materials shall be used whenever practicable. (For recommendations refer to the Native Plant List maintained by the City of Wilsonville). [Amended by Ord. # 674 11/16/09]

(.04) Buffering and Screening. Additional to the standards of this subsection, the requirements of the Section 4.137.5 (Screening and Buffering Overlay Zone) shall also be applied, where applicable.

- A. All intensive or higher density developments shall be screened and buffered from less intense or lower density developments.
- B. Activity areas on commercial and industrial sites shall be buffered and screened from adjacent residential areas. Multi-family developments shall be screened and buffered from single-family areas.
- C. All exterior, roof and ground mounted, mechanical and utility equipment shall be screened from ground level off-site view from adjacent streets or properties.
- D. All outdoor storage areas shall be screened from public view, unless visible storage has been approved for the site by the Development Review Board or Planning Director acting on a development permit.
- E. In all cases other than for industrial uses in industrial zones, landscaping shall be designed to screen loading areas and docks, and truck parking.
- F. In any zone any fence over six (6) feet high measured from soil surface at the outside of fenceline shall require Development Review Board approval.

- (.05) Sight-Obscuring Fence or Planting. The use for which a sight-obscuring fence or planting is required shall not begin operation until the fence or planting is erected or in place and approved by the City. A temporary occupancy permit may be issued upon a posting of a bond or other security equal to one hundred ten percent (110%) of the cost of such fence or planting and its installation. (See Sections 4.400 to 4.470 for additional requirements.)
- (.06) Plant Materials.
- A. Shrubs and Ground Cover. All required ground cover plants and shrubs must be of sufficient size and number to meet these standards within three (3) years of planting. Non-horticultural plastic sheeting or other impermeable surface shall not be placed under mulch. Native topsoil shall be preserved and reused to the extent feasible. Surface mulch or bark dust are to be fully raked into soil of appropriate depth, sufficient to control erosion, and are confined to areas around plantings. Areas exhibiting only surface mulch, compost or barkdust are not to be used as substitutes for plant areas. [Amended by Ord. # 674 11/16/09]
1. Shrubs. All shrubs shall be well branched and typical of their type as described in current AAN Standards and shall be equal to or better than 2-gallon containers and 10" to 12" spread.
  2. Ground cover. Shall be equal to or better than the following depending on the type of plant materials used: gallon containers spaced at 4 feet on center minimum, 4" pot spaced 2 feet on center minimum, 2-1/4" pots spaced at 18 inch on center minimum. No bare root planting shall be permitted. Ground cover shall be sufficient to cover at least 80% of the bare soil in required landscape areas within three (3) years of planting. Where wildflower seeds are designated for use as a ground cover, the City may require annual re-seeding as necessary.
  3. Turf or lawn in non-residential developments. Shall not be used to cover more than ten percent (10%) of the landscaped area, unless specifically approved based on a finding that, due to site conditions and availability of water, a larger percentage of turf or lawn area is appropriate. Use of lawn fertilizer shall be discouraged. Irrigation drainage runoff from lawns shall be retained within lawn areas.
  4. Plant materials under trees or large shrubs. Appropriate plant materials shall be installed beneath the canopies of trees and large shrubs to avoid the appearance of bare ground in those locations.
  5. Integrate compost-amended topsoil in all areas to be landscaped, including lawns, to help detain runoff, reduce irrigation and fertilizer needs, and create a sustainable, low-maintenance landscape. [Added by Ord. # 674 11/16/09]
- B. Trees. All trees shall be well-branched and typical of their type as described in current American Association of Nurserymen (AAN) Standards and shall be balled and burlapped. The trees shall be grouped as follows:
1. Primary trees which define, outline or enclose major spaces, such as Oak, Maple, Linden, and Seedless Ash, shall be a minimum of 2" caliper.

2. Secondary trees which define, outline or enclose interior areas, such as Columnar Red Maple, Flowering Pear, Flame Ash, and Honeylocust, shall be a minimum of 1-3/4" to 2" caliper.
  3. Accent trees which, are used to add color, variation and accent to architectural features, such as Flowering- Pear and Kousa Dogwood, shall be 1-3/4" minimum caliper.
  4. Large conifer trees such as Douglas-Fir or Deodar Cedar shall be installed at a minimum height of eight (8) feet.
  5. Medium-sized conifers such as Shore Pine, Western Red Cedar or Mountain Hemlock shall be installed at a minimum height of five to six (5 to 6) feet.
- C. Where a proposed development includes buildings larger than twenty-four (24) feet in height or greater than 50,000 square feet in footprint area, the [Planning Director or the Development Review Board, as applicable](#), may require larger or more mature plant materials:
1. At maturity, proposed trees shall be at least one-half the height of the building to which they are closest, and building walls longer than 50 feet shall require tree groups located no more than fifty (50) feet on center, to break up the length and height of the façade.
  2. Either fully branched deciduous or evergreen trees may be specified depending upon the desired results. Where solar access is to be preserved, only solar-friendly deciduous trees are to be used. Where year-round sight obscuring is the highest priority, evergreen trees are to be used.
  3. The following standards are to be applied:
    - a. Deciduous trees:
      - i. Minimum height of ten (10) feet; and
      - ii. Minimum trunk diameter (caliper) of 2 inches (measured at four and one-half [4 1/2] feet above grade).
    - b. Evergreen trees: Minimum height of twelve (12) feet.
- D. Street Trees. In order to provide a diversity of species, the Development Review Board may require a mix of street trees throughout a development. Unless the Board waives the requirement for reasons supported by a finding in the record, different types of street trees shall be required for adjoining blocks in a development.
1. All trees shall be standard base grafted, well branched and typical of their type as described in current AAN Standards and shall be balled and burlapped (b&b). Street trees shall be planted at sizes in accordance with the following standards:
    - a. Arterial streets - 3" minimum caliper
    - b. Collector streets - 2" minimum caliper.
    - c. Local streets or residential private access drives - 1-3/4" minimum caliper. [Amended by Ord. 682, 9/9/10]
    - d. Accent or median tree -1-3/4" minimum caliper.

2. The following trees and varieties thereof are considered satisfactory street trees in most circumstances; however, other varieties and species are encouraged and will be considered:
  - a. Trees over 50 feet mature height: *Quercus garryana* (Native Oregon White Oak), *Quercus rubra borealis* (Red Oak), *Acer Macrophyllum* (Native Big Leaf Maple), *Acer nigrum* (Green Column Black Maple), *Fraxinus americanus* (White Ash), *Fraxinus pennsylvannica* 'Marshall' (Marshall Seedless Green Ash), *Quercus coccinea* (Scarlet Oak), *Quercus pulustris* (Pin-Oak), *Tilia americana* (American Linden).
  - b. Trees under 50 feet mature height: *Acer rubrum* (Red Sunset Maple), *Cornus nuttallii* (Native Pacific Dogwood), *Gleditsia triacanthos* (Honey Locust), *Pyrus calleryana* 'Bradford' (Bradford Pear), *Tilia cordata* (Little Leaf Linden), *Fraxinus oxycarpa* (Flame Ash).
  - c. Other street tree species. Other species may be specified for use in certain situations. For instance, evergreen species may be specified where year-round color is desirable and no adverse effect on solar access is anticipated. Water-loving species may be specified in low locations where wet soil conditions are anticipated.

[Section 4.176(.06)(D.) amended by Ordinance No. 538, 2/21/02.]

E. Types of Plant Species.

1. Existing landscaping or native vegetation may be used to meet these standards, if protected and maintained during the construction phase of the development and if the plant species do not include any that have been listed by the City as prohibited. The existing native and non-native vegetation to be incorporated into the landscaping shall be identified.
2. Selection of plant materials. Landscape materials shall be selected and sited to produce hardy and drought-tolerant landscaping. Selection shall be based on soil characteristics, maintenance requirements, exposure to sun and wind, slope and contours of the site, and compatibility with other vegetation that will remain on the site. Suggested species lists for street trees, shrubs and groundcovers shall be provided by the City of Wilsonville.
3. Prohibited plant materials. The City may establish a list of plants that are prohibited in landscaped areas. Plants may be prohibited because they are potentially damaging to sidewalks, roads, underground utilities, drainage improvements, or foundations, or because they are known to be invasive to native vegetation.

[Section 4.176(.06)(E.) amended by Ordinance No. 538, 2/21/02.]

F. Tree Credit.

Existing trees that are in good health as certified by an arborist and are not disturbed during construction may count for landscaping tree credit as follows (measured at four and one-half feet above grade and rounded to the nearest inch):

Existing trunk diameter	Number of Tree Credits
-------------------------	------------------------



18 to 24 inches in diameter	3 tree credits
25 to 31 inches in diameter	4 tree credits
32 inches or greater	5 tree credits

[Amended by Ord. # 674 11/16/09]

1. It shall be the responsibility of the owner to use reasonable care to maintain preserved trees. Trees preserved under this section may only be removed if an application for removal permit under Section 4.610.10(01)(H) has been approved. Required mitigation for removal shall be replacement with the number of trees credited to the preserved and removed tree.
2. Within five years of occupancy and upon notice from the City, the property owner shall replace any preserved tree that cannot be maintained due to disease or damage, or hazard or nuisance as defined in Chapter 6 of this code. The notice shall be based on complete information provided by an arborist. Replacement with the number of trees credited shall occur within one (1) growing season of notice.

G. Exceeding Standards. Landscape materials that exceed the minimum standards of this Section are encouraged, provided that height and vision clearance requirements are met. [Amended by Ordinance No. 538, 2/21/02.]

H. Compliance with Standards. The burden of proof is on the applicant to show that proposed landscaping materials will comply with the purposes and standards of this Section. [Amended by Ordinance No. 538, 2/21/02.]

(.07) Installation and Maintenance.

A. Installation. Plant materials shall be installed to current industry standards and shall be properly staked to assure survival. Support devices (guy wires, etc.) shall not be allowed to interfere with normal pedestrian or vehicular movement.

B. Maintenance. Maintenance of landscaped areas is the on-going responsibility of the property owner. Any landscaping installed to meet the requirements of this Code, or any condition of approval established by a City decision-making body acting on an application, shall be continuously maintained in a healthy, vital and acceptable manner. Plants that die are to be replaced in kind, within one growing season, unless appropriate substitute species are approved by the City. Failure to maintain landscaping as required in this Section shall constitute a violation of this Code for which appropriate legal remedies, including the revocation of any applicable land development permits, may result.

C. Irrigation. The intent of this standard is to assure that plants will survive the critical establishment period when they are most vulnerable due to a lack of watering and also to assure that water is not wasted through unnecessary or inefficient irrigation. Approved irrigation system plans shall specify one of the following:

1. A permanent, built-in, irrigation system with an automatic controller. Either a spray or drip irrigation system, or a combination of the two, may be specified.

2. A permanent or temporary system designed by a landscape architect licensed to practice in the State of Oregon, sufficient to assure that the plants will become established and drought-tolerant.
  3. Other irrigation system specified by a licensed professional in the field of landscape architecture or irrigation system design.
  4. A temporary permit issued for a period of one year, after which an inspection shall be conducted to assure that the plants have become established. Any plants that have died, or that appear to the Planning Director to not be thriving, shall be appropriately replaced within one growing season. An inspection fee and a maintenance bond or other security sufficient to cover all costs of replacing the plant materials shall be provided, to the satisfaction of the Community Development Director. Additionally, the applicant shall provide the City with a written license or easement to enter the property and cause any failing plant materials to be replaced.
- D. Protection. All required landscape areas, including all trees and shrubs, shall be protected from potential damage by conflicting uses or activities including vehicle parking and the storage of materials.
- (.08) Landscaping on Corner Lots. All landscaping on corner lots shall meet the vision clearance standards of Section 4.177. If high screening would ordinarily be required by this Code, low screening shall be substituted within vision clearance areas. Taller screening may be required outside of the vision clearance area to mitigate for the reduced height within it.
- (.09) Landscape Plans. Landscape plans shall be submitted showing all existing and proposed landscape areas. Plans must be drawn to scale and show the type, installation size, number and placement of materials. Plans shall include a plant material list. Plants are to be identified by both their scientific and common names. The condition of any existing plants and the proposed method of irrigation are also to be indicated. Landscape plans shall divide all landscape areas into the following categories based on projected water consumption for irrigation:
- A. High water usage areas (+/- two (2) inches per week): small convoluted lawns, lawns under existing trees, annual and perennial flower beds, and temperamental shrubs;
  - B. Moderate water usage areas (+/- one (1) inch per week): large lawn areas, average water-using shrubs, and trees;
  - C. Low water usage areas (Less than one (1) inch per week, or gallons per hour): seeded fieldgrass, swales, native plantings, drought-tolerant shrubs, and ornamental grasses or drip irrigated areas.
  - D. Interim or unique water usage areas: areas with temporary seeding, aquatic plants, erosion control areas, areas with temporary irrigation systems, and areas with special water-saving features or water harvesting irrigation capabilities.

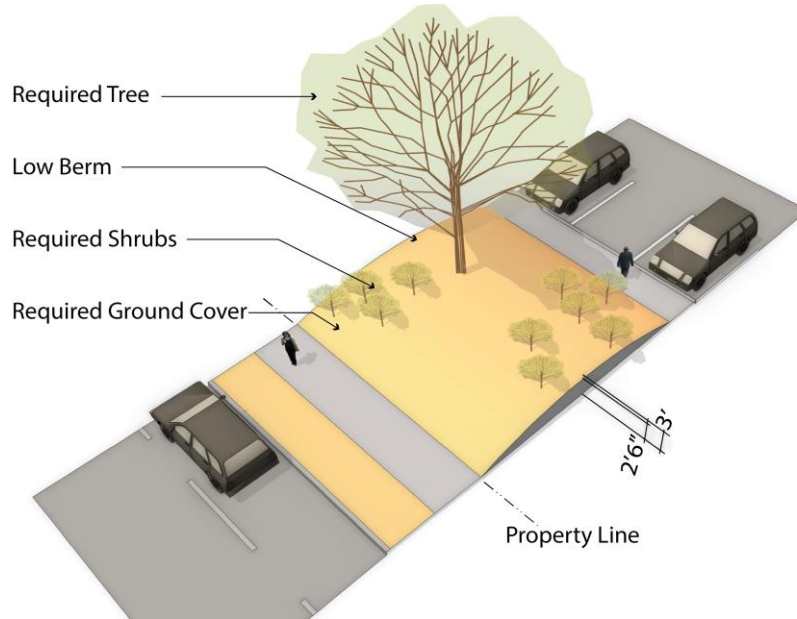
These categories shall be noted in general on the plan and on the plant material list.

- (.10) **Completion of Landscaping.** The installation of plant materials may be deferred for a period of time specified by the Board or Planning Director acting on an application, in order to avoid hot summer or cold winter periods, or in response to water shortages. In these cases, a temporary permit shall be issued, following the same procedures specified in subsection (.07)(C)(3), above, regarding temporary irrigation systems. No final Certificate of Occupancy shall be granted until an adequate bond or other security is posted for the completion of the landscaping, and the City is given written authorization to enter the property and install the required landscaping, in the event that the required landscaping has not been installed. The form of such written authorization shall be submitted to the City Attorney for review.
- (.11) **Street Trees Not Typically Part of Site Landscaping.** Street trees are not subject to the requirements of this Section and are not counted toward the required standards of this Section. Except, however, that the Development Review Board may, by granting a waiver or variance, allow for special landscaping within the right-of-way to compensate for a lack of appropriate on-site locations for landscaping. See subsection (.06), above, regarding street trees.
- (.12) **Mitigation and Restoration Plantings.** A mitigation plan is to be approved by the City's Development Review Board before the destruction, damage, or removal of any existing native plants. Plantings intended to mitigate the loss of native vegetation are subject to the following standards. Where these standards conflict with other requirements of this Code, the standards of this Section shall take precedence. The desired effect of this section is to preserve existing native vegetation.
- A. **Plant Sources.** Plant materials are to be native and are subject to approval by the City. They are to be non-clonal in origin; seed source is to be as local as possible, and plants must be nursery propagated or taken from a pre-approved transplantation area. All of these requirements are to be addressed in any proposed mitigation plan.
- B. **Plant Materials.** The mitigation plan shall specify the types and installation sizes of plant materials to be used for restoration. Practices such as the use of pesticides, fungicides, and fertilizers shall not be employed in mitigation areas unless specifically authorized and approved.
- C. **Installation.** Install native plants in-suitable soil conditions. Plant materials are to be supported only when necessary because of extreme winds at the site. Where support is necessary, all stakes, guy wires or other measures are to be removed as soon as the plants can support themselves. Protect from animal and fowl predation and foraging until establishment.
- D. **Irrigation.** Permanent irrigation systems are generally not appropriate in restoration situations, and manual or temporary watering of new plantings is often necessary. The mitigation plan shall specify the method and frequency of manual watering, including any that may be necessary after the first growing season.
- E. **Monitoring and Reporting.** Monitoring of native landscape areas is the on-going responsibility of the property owner. Plants that die are to be replaced in kind and quantity within one year. Written proof of the survival of all plants shall be

required to be submitted to the City’s Planning Department one year after the planting is completed.

[Section 4.176 amended by Ordinance No. 536, 1/7/02]

**Add new Figure 23: Low Berm Landscaping - subsequent figures to be renumbered**



**Section 4.180. Exceptions and Modifications - Projections into Required Yards.**

(.01) Certain non-structural architectural features are permitted to project into required yards or courts, without requiring the approval of a Variance or Reduced Setback Agreement, as follows:

A. Into any required yard:

1. Architectural features may project into the required yard not more than two (2) inches for each foot of required setback.
2. Architectural features on buildings within the Coffee Creek Industrial Design Overlay District shall be subject to the applicable requirements in Section 4.134.
3. Open, unenclosed fire escapes may project a distance not exceeding forty-eight (48) inches.

B. Into any required yard, adjoining a street or tract with a private drive: [Amended by Ord. 682, 9/9/10]

1. Architectural features may project a distance not exceeding forty (40) inches.
2. An uncovered porch, terrace, or patio extending no more than two and one-half (2 1/2) feet above the finished elevation may extend within three (3) feet of an interior side lot line, or within ten (10) feet of a front lot line or of an exterior side lot line.

**Section 4.197. Zone Changes and Amendments To This Code – Procedures.**

(.01) The following procedure shall be followed in applying for an amendment to the text of this Chapter:

- A. The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is proposed and shall, within forty (40) days after concluding the hearing, provide a report and recommendation to the City Council regarding the proposed amendment. The findings and recommendations of the Commission shall be adopted by resolution and shall be signed by the Chair-of the Commission.
- B. In recommending approval of a proposed text amendment, the Planning Commission shall, at a minimum, adopt findings relative to the following:
  1. That the application was submitted in compliance with the procedures set forth in Section 4.008; and
  2. The amendment substantially complies with all applicable goals, policies and objectives set forth in the Comprehensive Plan; and
  3. The amendment does not materially conflict with, nor endanger, other provisions of the - text of the Code; and
  4. If applicable, the amendment is in compliance with Statewide Land Use Planning Goals and related administrative rules; and
  5. If applicable, the amendment is necessary to ensure that the City's Land Use and Development Ordinance complies with mandated requirements of State or Federal laws and/or statutes.

(.02) ~~In recommending approval or denial of a proposed zone map amendment, the Planning Commission or Development Review Board shall at a minimum, adopt findings addressing the following criteria~~The following procedures shall be followed for zone map amendments.

- A. When a requested quasi-judicial zone map amendment within the Coffee Creek Industrial Design Overlay District is consistent with the adopted or concurrently proposed Comprehensive Plan Map designation and only one option exists for a zone map amendment consistent with the Comprehensive Plan Map the amendment shall be reviewed by the City Council without prior review or recommendation by the Development Review Board or Planning Commission.
  1. The Zoning Order adopting such zone map amendments shall state the zone map amendment expires 120 days from Council adoption unless a Stage II Final Plan receives final local approval for the area subject to the zone map amendment. In the event of a LUBA appeal of the final local approval, the 120-day expiration period will be tolled pending completion of the appeal process.
  2. Notwithstanding the process described above an applicant may elect to have the zone map amendment reviewed by the Development Review Board for a recommendation to City Council concurrently with other land use applications for the subject property.

3. If the Planning Director anticipates that individuals other than the applicant can be expected to question the requested zone map amendment's compliance with the Comprehensive Plan the Planning Director may require the zone map amendment be first reviewed by the Development Review Board to make a recommendation to City Council.
- B. All other quasi-judicial zone map amendments shall be reviewed by the Development Review Board to make a recommendation to City Council and all legislative zone map amendments shall be reviewed by the Planning Commission to make a recommendation to City Council.
- C. In recommending approval or denial of a proposed zone map amendment, the Planning Commission or Development Review Board shall at a minimum, adopt findings addressing the following criteria:
- 1A. That the application before the Commission or Board was submitted in accordance with the procedures set forth in Section 4.008, Section 4.125 (.18)(B)(2) or, in the case of a Planned Development, Section 4.140; and [Amended by Ord 557, adopted 9/5/03]
- 2B. That the proposed amendment is consistent with the Comprehensive Plan map designation and substantially complies with the applicable goals, policies and objectives, set forth in the Comprehensive Plan text; and
- 3C. In the event that the subject property, or any portion thereof, is designated as "Residential" on the City's Comprehensive Plan Map; specific findings shall be made addressing substantial compliance with Implementation Measures 4.1.4.b, d, e, q, and x of Wilsonville's Comprehensive Plan text; and [Amended by Ordinance No. 538, 2/21/02.]
- 4D. That the existing primary public facilities, i.e., roads and sidewalks, water, sewer and storm sewer are available and are of adequate size to serve the proposed development; or, that adequate facilities can be provided in conjunction with project development. The Planning Commission and Development Review Board shall utilize any and all means to insure that all primary facilities are available and are adequately sized; and
- 5E. That the proposed development does not have a significant adverse effect upon Significant Resource Overlay Zone areas, an identified natural hazard, or an identified geologic hazard. When Significant Resource Overlay Zone areas or natural hazard, and/or geologic hazard are located on or abut the proposed development, the Planning Commission or Development Review Board shall use appropriate measures to mitigate and significantly reduce conflicts between the development and identified hazard or Significant Resource Overlay Zone and
- 6F. That the applicant is committed to a development schedule demonstrating that development of the property is reasonably expected to commence within two (2) years of the initial approval of the zone change; and
- 7G. That the proposed development and use(s) can be developed in compliance with the applicable development standards or appropriate conditions are



attached that insure that the project development substantially conforms to the applicable development standards.

8H. Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property. The applicant shall demonstrate compliance with the Transportation Planning Rule, specifically by addressing whether the proposed amendment has a significant effect on the transportation system pursuant to OAR 660-012-0060. A Traffic Impact Analysis (TIA) shall be prepared pursuant to the requirements in Section 4.133.05.(01).

- (.03) If affirmative findings cannot be made for all applicable criteria listed above ~~the Planning Commission or Development Review Board shall recommend that~~ the proposed text or map amendment, as the case may be, shall be denied.
- (.04) City Council action approving a change in zoning shall be in the form of a Zoning Order.
- (.05) In cases where a property owner or other applicant has requested a change in zoning and the City Council has approved the change subject to conditions, the owner or applicant shall sign a statement accepting, and agreeing to complete the conditions of approval before the zoning shall be changed.

In the Matter of the Application of )  
 )  
 ) ZONING ORDER NO.  
 )  
 for a rezoning of land and amendment )  
 of the City of Wilsonville Zoning Map )  
 as incorporated in Section 4.102 )  
 of the Wilsonville Code )

The above-entitled matter is before the Council to consider the application of for a zone change and an order amending the official Zoning Map as incorporated in Section 4.102 of the Wilsonville Code, and

It appearing to the Council that the property which is the subject of this application is described as follows:

(Legal Description)

and such property has heretofore appeared on the official Zoning Map zoned as follows:

and the Council having heard and considered all matters relevant to the application, including the Planning Commission and/or Development Review Board resolution and minutes, finds that the application should be (approved/denied), and it is therefore,

(Incorporated Conditions)

ORDERED that the property above-described is hereby rezoned as follows:

and such rezoning be and the same is hereby declared an amendment to the Wilsonville Zoning Map (Section 4.102 WC) and shall appear as such from and after entry of this Order.

The property subject to this Zoning Order is also subject to the Order of the City Council in respect thereto made.

DATED: This \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Mayor

Approved as to form:

ATTEST:

City Recorder

City of Wilsonville, Oregon

by:

City Recorder

**Section 4.198. Comprehensive Plan Changes - Adoption by the City Council.**

- (.01) Proposals to amend the Comprehensive Plan, or to adopt new elements or sub-elements of the Plan, shall be subject to the procedures and criteria contained in the Comprehensive Plan. Each such amendment shall include findings in support of the following:
- A. That the proposed amendment meets a public need that has been identified;
  - B. That the proposed amendment meets the identified public need at least as well as any other amendment or change that could reasonably be made;
  - C. That the proposed amendment supports applicable Statewide Planning Goals, or a Goal exception has been found to be appropriate; and
  - D. That the proposed change will not result in conflicts with any portion of the Comprehensive Plan that is not being amended.
- (.02) When a requested quasi-judicial Comprehensive Plan Map amendment within the Coffee Creek Industrial Design Overlay District is consistent with an adopted master plan that is a sub-element of the Comprehensive Plan and only one option exists for a Comprehensive Plan Map amendment consistent with the adopted area plan the amendment shall be reviewed by the City Council without prior review or recommendation by the Development Review Board or Planning Commission.
- A. The ordinance adopting such Comprehensive Plan Map amendments shall state the Comprehensive Plan Map amendment expires 120 days from Council adoption unless a Stage II Final Plan receives final local approval for the area subject to the Comprehensive Plan Map amendment. In the event of a LUBA appeal of the final local approval, the 120-day expiration period will be tolled pending completion of the appeal process.
  - B. Notwithstanding the process described above an applicant may elect to have the Comprehensive Plan Map amendment reviewed by the Development Review Board for a recommendation to City Council concurrently with other land use applications for the subject property.
  - C. If the Planning Director anticipates that individuals other than the applicant can be expected to question the requested Comprehensive Plan Map amendment's compliance with the adopted master plan the Planning Director may require the Comprehensive Plan Map amendment be first reviewed by the Development Review Board to make a recommendation to City Council.
- (.03) All other quasi-judicial Comprehensive Plan Map Amendments shall be reviewed by the Development Review Board to make a recommendation to City Council and all legislative Comprehensive Plan Map Amendments shall be reviewed by the Planning Commission to make a recommendation to City Council.

- (.042) As applicable Following the adoption and signature of the - Resolution by the Development Review Board or Planning Commission, together with minutes of public hearings on the proposed Amendment, the matter shall be shall be scheduled for public hearing before the City Council.
- (.053) Notice of the Council's consideration of the matter shall be provided as set forth in Section 4.012.
- (.064) Upon conclusion of its public hearing on the matter, the Council shall adopt its decision by ordinance, authorizing the Planning Director to amend the official zoning map, Comprehensive Plan Map or the text of Chapter 4 as set forth in Section 4.102.
- (.075) In cases where a property owner or other applicant has requested an amendment to the Comprehensive Plan map and the City Council has approved the change subject to conditions, the owner or applicant shall sign a statement accepting, and agreeing to complete the conditions of approval before the Comprehensive Plan map shall be changed.

**Site Design Review**  
Sections 4.400 – 4.450

**Section 4.420. Jurisdiction and Powers of the Board.**

- (.01) Application of Section. Except for single-family or two-family dwellings in any residential zoning district, and in the Village zone-, row houses or apartments, and Class II applications in the Coffee Creek Industrial Design Overlay District, no Building Permit shall be issued for a new building or major exterior remodeling of an existing building, and no Sign Permit, except as permitted in Sections 4.156.02 and 4.156.05, shall be issued for the erection or construction of a sign relating to such new building or major remodeling, until the plans, drawings, sketches and other documents required for a Sign Permit application have been reviewed and approved by the Board. [Amended by Ord. No. 538, 2/21/02.] [Amended by Ord. No. 557, 9/5/03.] [Amended by Ord. No. 704, 6/18/12]
- (.02) Development in Accord with Plans. Construction, site development and landscaping shall be carried out in substantial accord with the plans, drawings, sketches and other documents approved by the Board, unless altered with Board approval. Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and replacement of any part of the building or landscaping which does not involve a substantial change from the purpose of Section 4.400. If the Board objects to such proposed changes, they shall be subject to the procedures and requirements of the site design review process applicable to new proposals.
- (.03) Variances. The Board may authorize variances from the site development requirements, based upon the procedures, standards and criteria listed in Section 4.196. Variances shall be considered in conjunction with the site design review process.



## **Tree Preservation and Protection**

Sections 4.600 – 4.640.20

## **Section 4.610.00. Application Review Procedure**

- (.01) The permit applicant shall provide complete information as required by this subchapter in order for the City to review the application.
- (.02) Departmental Review. All applications for Tree Removal Permits must be deemed complete by the City Planning Department before being accepted for review. When all required information has been supplied, the Planning Department will verify whether - the application is complete. Upon request of either the applicant or the City, the City may conduct a field inspection or review meeting. City departments involved in the review shall submit their report and recommendations to the Planning Director who shall forward them to the appropriate reviewing authority.
- (.03) Reviewing Authority.
- A. Type A or B. Where site plan review or plat approval by the Development Review Board is not required by City ordinance, the grant or denial of the Tree Removal Permit application shall be the responsibility of the Planning Director. The Planning Director has the authority to refer a Type B permit application to the DRB under the Class II administrative review procedures of this Chapter. The decision to grant or deny a permit shall be governed by the applicable review standards enumerated in WC 4.610.10
- B. Type C. Where the site is proposed for development necessitating site plan review or plat approval by the Development Review Board, the Development Review Board shall be responsible for granting or denying the application for a Tree Removal Permit, and that decision may be subject to affirmance, reversal or modification by the City Council, if subsequently reviewed by the Council. For site development applications subject to a Class II administrative review process in the Coffee Creek Industrial Design Overlay District, the Planning Director shall be responsible for the granting or denial of the Tree Removal Permit application.
- C. Type D. Type D permit applications shall be subject to the standards and procedures of Class I administrative review and shall be reviewed for compliance with the Oregon Forest Practice Rules and Statutes. The Planning Director shall make the decision to grant or deny an application for a Type D permit.
- D. Review period for complete applications. Type A permit applications shall be reviewed within 10 (ten) working days. Type B permit applications shall be reviewed by the Planning Director within thirty (30) calendar days, except that the DRB shall review any referred application within sixty (60) calendar days. Type C permit applications shall be reviewed within the time frame established by this Chapter. Type D permit applications shall be reviewed within 15 calendar days.
- (.04) Notice. Before the granting of a Type C Tree Removal Permit, notice of the application shall be sent by regular mail to all owners within two hundred fifty feet (250') of the property where the trees are located as provided for in WC 4.010. The notice shall indicate where the application may be inspected and when a public hearing on the application will be held.

- (.05) Denial of Tree Removal Permit. Whenever an application for a Tree Removal Permit is denied, the permit applicant shall be notified, in writing, of the reasons for denial.
- (.06) Grant of a Tree Removal Permit. Whenever an application for a Type B, C or D Tree Removal Permit is granted, the reviewing authority shall:
- A. Conditions. Attach to the granting of the permit any reasonable conditions considered necessary by the reviewing authority including, but not limited to, the recording of any plan or agreement approved under this subchapter, to ensure that the intent of this Chapter will be fulfilled and to minimize damage to, encroachment on or interference with natural resources and processes within wooded areas;
  - B. Completion of Operations. Fix a reasonable time to complete tree removal operations; and
  - C. Security. Require the Type C permit grantee to file with the City a cash or corporate surety bond or irrevocable bank letter of credit in an amount determined necessary by the City to ensure compliance with Tree Removal Permit conditions and this Chapter.
    1. This requirement may be waived by the Planning Director if the tree removal must be completed before a plat is recorded, and the applicant has complied with WC 4.264(1) of this Code.

#### **Section 4.610.40. Type C Permit**

- (.01) Approval to remove any trees on property as part of a site development application may be granted in a Type C permit. A Type C permit application shall be reviewed by the standards of this subchapter and all applicable review criteria of Chapter 4. Application of the standards of this section shall not result in a reduction of square footage or loss of density, but may require an applicant to modify plans to allow for buildings of greater height. If an applicant proposes to remove trees and submits a landscaping plan as part of a site development application, an application for a Tree Removal Permit shall be included. The Tree Removal Permit application will be reviewed in the Stage II development review process; The DRB shall review all Type C permits, with the exception of Class II development review applications located within the Coffee Creek Industrial Design Overlay District, where the Planning Director shall have review authority. ~~and a~~ Any plan changes made that affect trees after Stage II review of a development application shall be subject to review by ~~DRB~~ the original approval authority. Where mitigation is required for tree removal, such mitigation may be considered as part of the landscaping requirements as set forth in this Chapter. Tree removal shall not commence until approval of the required Stage II application and the expiration of the appeal period following that decision. If a decision approving a Type C permit is appealed, no trees shall be removed until the appeal has been settled.
- (.02) The applicant must provide ten copies of a Tree Maintenance and Protection Plan completed by an arborist that contains the following information:

- A. A plan, including a topographical survey bearing the stamp and signature of a qualified, registered professional containing all the following information:
1. Property Dimensions. The shape and dimensions of the property, and the location of any existing and proposed structure or improvement.
  2. Tree survey. The survey must include:
    - a. An accurate drawing of the site based on accurate survey techniques at a minimum scale of one inch (1") equals one hundred feet (100') and which provides a) the location of all trees having six inches (6") or greater d.b.h. likely to be impacted, b) the spread of canopy of those trees, (c) the common and botanical name of those trees, and d) the approximate location and name of any other trees on the property.
    - b. A description of the health and condition of all trees likely to be impacted on the site property. In addition, for trees in a present or proposed public street or road right-of-way that are described as unhealthy, the description shall include recommended actions to restore such trees to full health. Trees proposed to remain, to be transplanted or to be removed shall be so designated. All trees to remain on the site are to be designated with metal tags that are to remain in place throughout the development. Those tags shall be numbered, with the numbers keyed to the tree survey map that is provided with the application.
    - c. Where a stand of twenty (20) or more contiguous trees exist on a site and the applicant does not propose to remove any of those trees, the required tree survey may be simplified to accurately show only the perimeter area of that stand of trees, including its drip line. Only those trees on the perimeter of the stand shall be tagged, as provided in "b," above.
    - d. All Oregon white oaks, native yews, and any species listed by either the state or federal government as rare or endangered shall be shown in the tree survey.
  3. Tree Protection. A statement describing how trees intended to remain will be protected during development, and where protective barriers are necessary, that they will be erected before work starts. Barriers shall be sufficiently substantial to withstand nearby construction activities. Plastic tape or similar forms of markers do not constitute "barriers."
  4. Easements and Setbacks. Location and dimension of existing and proposed easements, as well as all setbacks required by existing zoning requirements.
  5. Grade Changes. Designation of grade changes proposed for the property that may impact trees.
  6. Cost of Replacement. A cost estimate for the proposed tree replacement program with a detailed explanation including the number, size and species.
  7. Tree Identification. A statement that all trees being retained will be identified by numbered metal tags, as specified in subsection "A," above in addition to clear identification on construction documents.

# **Annexations and Urban Growth Boundary Amendments**

## **Section 4.700**

## ANNEXATIONS AND URBAN GROWTH BOUNDARY AMENDMENTS

### **Section 4.700. Procedures Relating To The Processing Of Requests For Annexation And Urban Growth Boundary Amendments.**

- (.01) The City of Wilsonville is located within the Portland Metropolitan Area, and is therefore subject to regional government requirements affecting changes to the city limits and changes to the Urban Growth Boundary (UGB) around Wilsonville. The City has the authority to annex properties as prescribed in State law, but the City's role in determining the UGB is primarily advisory to Metro, as provided in Oregon Revised Statutes. The following procedures will be used to aid the City Council in formulating recommendations to those regional entities. [Amended by Ordinance No. 538, 2/21/02.]
- A. Proponents of such changes shall provide the Planning Director with all necessary maps and written information to allow for review by city decision-makers. The Planning Director, after consultation with the City Attorney, will determine whether each given request is quasi-judicial or legislative in nature and will make the necessary arrangements for review based upon that determination.
  - B. Written information submitted with each request shall include an analysis of the relationship between the proposal and the City's Comprehensive Plan, applicable statutes, as well as the Statewide Planning Goals and any officially adopted regional plan that may be applicable.
  - C. The Planning Director shall review the information submitted by the proponents and will prepare a written report for the review of the City Council and the Planning Commission or Development Review Board. If the Director determines that the information submitted by the proponents does not adequately support the request, this shall be stated in the Director's staff report.
  - D. If the Development Review Board, Planning Commission, or City Council determine that the information submitted by the proponents does not adequately support the request, the City Council may oppose the request to the regional entity having the final decision making authority.
- (.02) Each quasi-judicial request shall be reviewed by the Development Review Board, which shall make a recommendation to the City Council after concluding a public hearing on the proposal, except in the following circumstance:
- A. When an annexation in the Coffee Creek Industrial Design Overlay District is requested concurrent with a quasi-judicial Comprehensive Plan Map amendment and/or zone map amendment as specified in Section 4.197 (.02) A. and Section 4.198 (.02), the annexation shall be reviewed by the City Council without prior review or recommendation by the Development Review Board.
    - a. The ordinance adopting such annexation request shall state the annexation expires 120 days from Council adoption unless a Stage II Final Plan receives final local approval for the area subject to the annexation. In the event of a



LUBA appeal of the final local approval, the 120-day expiration period will be tolled pending completion of the appeal process.

- b. Notwithstanding the process described above an applicant may elect to have the annexation reviewed by the Development Review Board for a recommendation to City Council concurrently with other land use applications for the subject property.
- c. If the Planning Director anticipates that individuals other than the applicant can be expected to question the requested annexation's compliance with the applicable criteria the Planning Director may require the annexation be first reviewed by the Development Review Board to make a recommendation to City Council.

- (.03) Each legislative request shall be reviewed by the Planning Commission, which shall make a recommendation to the City Council after concluding a public hearing on the proposal.
- (.04) As applicable, ~~T~~the City Council shall consider the information in the record of the Development Review Board or Planning Commission and shall, after concluding a public hearing on the request, determine the appropriate course of action. That course of action may be:
  - A. In the case of a proposed amendment to the Regional Urban Growth Boundary: forward its recommendation in the form of a Resolution to the Metro Council.
  - B. In the case of a proposed annexation to the City, select from the following as allowed by State law (ORS 222):
    - 1. Take no action;
    - 2. Declare the subject property, or some portion thereof, to be annexed;
    - 3. Set the matter for election of the voters residing within the affected territory;  
or
    - 4. Set the matter for election of City voters.
- (.05) The City Council may adopt a development agreement with the owners of property that is proposed for annexation to the City, and such agreement may include an agreement to annex at a future date. A development agreement with an agreement to annex shall be subject to the same procedural requirement as other annexations in terms of staff report preparation, public review, and public hearings.

## **Exhibit D – Comprehensive Plan Modification**

To accommodate a parallel review of Comprehensive Plan Map amendments at the same time as other applications not requiring City Council approval, the following modification is proposed:

Introduction Section, Procedures, Plan Amendments (pages 7-8, July 2013 edition):

3. The Consideration of Plan Amendments:
  - a. Amendments to the maps or text of the Comprehensive Plan shall only be considered by the City Council after receiving findings and recommendations from the Planning Commission (legislative) or Development Review Board (quasi-judicial) at their regular or special meetings, except as specifically noted in Section 4.198 of the Development Code.
  - b. Amendments must be initiated as provided in this section, sufficiently in advance of the first evidentiary hearing on the proposal to allow adequate time for providing public notice and preparing a staff report on the proposal. The first evidentiary hearing is usually the first public hearing held by the Planning Commission or Development Review Board on the proposal.
  - c. This Plan, and each of its elements, is always open for amendments that consider compliance with the Statewide Planning Goals and Plans of Metro. Amendment and revision for compliance with the above regional Goals, Objectives, and Plans shall be consistent with any re-opening of local Plans as approved by the Land Conservation and Development Commission (LCDC). This provision is not to be construed as waiving any legal rights which the City may have to challenge the legality of a regional Goal, Objective or Plan provision.
  - d. The Planning Commission or City Council may conduct a public hearing at any time to consider an amendment to the Plan text or Plan map when the Commission or Council finds that the consideration of such amendments are necessary to comply with the rules, regulations, goals, guidelines or other legal actions of any governmental agency having jurisdiction over matters contained in said text or Plan map.

**Exhibit E**  
Ordinance No. 812  
Compliance Findings

Coffee Creek Industrial Form-based Code and Pattern Book and  
Related Development Code and Comprehensive Plan Changes

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**Date of Findings:** January 24, 2018

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**Request:** Amend Section 4.134 and related sections of the Wilsonville Code to establish a new Coffee Creek Industrial Design Overlay District (repealing and replacing the current Day Road Design Overlay District) using clear and objective standards established in Section 4.134 and related sections of the code along with discretionary criteria in the Coffee Creek Industrial Form-based Code and Pattern Book.

**Affected Properties:** Properties within the Coffee Creek Industrial Design Overlay District area as shown in the vicinity map on page 2.

**Staff Reviewer:** Kimberly Rybold AICP, Associate Planner

**Staff Recommendation:** **Adoption** of the requested Development Code text changes and design standards to the Wilsonville City Council.

**Applicable Review Criteria:**

<b><u>Oregon Revised Statutes:</u></b>	
197.723 (4)	Regionally significant industrial areas
<b><u>Statewide Planning Goals:</u></b>	
Goal 1	Citizen Involvement
Goal 2	Land Use Planning
Goal 5	Natural Resources, Scenic and Historic Area, and Open Space
Goal 9	Economic Development
Goal 11	Public Facilities and Services
Goal 12	Transportation
Goal 14	Urbanization
<b><u>Wilsonville Comprehensive Plan:</u></b>	
Goal 1.1 and applicable Policy and Implementation Measures	Encourage public involvement
Goal 1.2 and applicable Policy and Implementation Measures	Interested, informed, and involved citizenry
Goal 2.1 and applicable Policy and Implementation Measures	Supporting appropriate development of land

Goal 3.2 and applicable Policy and Implementation Measures	Plan for increased access for alternative modes of transportation, such as bicycling, transit and walking
Goal 3.3 and applicable Policy and Implementation Measures	Create land use patterns that make walking, cycling, and transit use highly convenient
Goal 3.4 and applicable Policy and Implementation Measures	Facilitate the safe, efficient and economic flow of freight and other goods and services
Goal 4.1 and applicable Policy and Implementation Measures	Develop an attractive and economically sound community
Area of Special Concern H	Day Road Area
<b>Development Code:</b>	
Section 4.197	Amendments to the Development Code

### Vicinity Map

## Coffee Creek DOD

### Regulating Plan



## Compliance Findings

As described in the Findings below, the applicable criteria for this request are met.

### **Oregon Revised Statutes - Regionally Significant Industrial Areas**

#### Protection from Conflicting Development

ORS 197.723 (4)

1. The proposed amendments are consistent with this section of the ORS because the same mix of industrial and employment uses will continue to be permitted within this industrial area of regional significance. The amount of land available for industrial development will not be reduced by these amendments. In addition, the new standards and guidelines are expected to enhance the overall quality and functionality of the Coffee Creek Industrial Design Overlay District and its attractiveness for new businesses to locate here.

### **Statewide Planning Goals**

#### Citizen Involvement

Goal 1

2. As discussed in Findings 9 through 14 below, the citizen involvement processes and requirements established in Wilsonville's Comprehensive Plan consistent with Goal 1 are being followed.

#### Land Use Planning

Goal 2

3. The proposed code changes and design standards support the goal of establishing processes and policy as a basis for making decisions on land use consistent with a Comprehensive Plan.

#### Natural Resources, Scenic and Historic Areas, Open Spaces

Goal 5

4. No natural resources, scenic areas, or open spaces will be adversely impacted by the proposed code changes and design standards. The proposed amendments will leave the City's current environmental protections in place.

#### Economic Development

Goal 9

5. The proposed code changes and design standards will continue to allow the City to meet its economic development goals in the Comprehensive Plan that pertain to industrial uses and employment opportunities. See Findings 22 and 23.

## Public Facilities and Services

### Goal 11

6. The proposed amendments are consistent with, and supportive of, the Comprehensive Plan goals regarding the timely provision of public facilities and services. The amendments will not change the City's goals and policies regarding the planning and provision of public facilities and services. The amendments will influence the design and location of streets and pathway connections in a manner that is consistent with Comprehensive Plan goals and Statewide Planning Goal 12 Transportation. See Findings 19 and 21.

## Transportation

### Goal 12

7. The proposed amendments are specifically designed to create a multi-modal transportation system for the Coffee Creek Industrial Area. The combination of creating a pedestrian-oriented transportation network along with complementary urban design elements are expected to promote non-motorized modes of travel. See Findings 19 through 21.

## Urbanization

### Goal 14

8. The proposed amendments will continue to allow the City to meet its planning obligations to provide for orderly and efficient transitions from rural to urban land use. The City's requirements for orderly provision of necessary urban services along with, or in advance of, urbanization (industrial and employment uses in this case) will not be altered by the proposed amendments.

## **Wilsonville Comprehensive Plan - Public Involvement**

### Public Involvement-In General

#### Goal 1.1, Policy 1.1.1.

9. By following the applicable implementation measures, as noted in Findings 10 through 14 below, opportunities were provided for a wide range of public involvement throughout the process encouraging, and providing means for, interested parties to be involved.

### Early Involvement

#### Implementation Measure 1.1.1.a.

10. The public involvement included early interaction with area property owners and industrial realtors and developers, along with open houses and work sessions before the Wilsonville Development Review Boards, Planning Commission, and City Council. All affected properties were mailed notices in advance of these open houses. Input was incorporated, where appropriate, into subsequent drafts. Notices have been sent to all impacted parties to attend the public hearings before the Planning Commission and City Council.

### Encourage Participation of Certain Individuals, Including Residents and Property Owners

Implementation Measure 1.1.1.e.

11. Residents and property owners affected by the proposed code changes and design standards were encouraged to participate through the mailings and outreach described in Finding 10 above.

### Procedures to Allow Interested Parties to Supply Information

Implementation Measure 1.1.1.f.

12. Interested parties have been afforded the opportunity to provide oral input at work sessions and will be allowed testimony during the public hearings. In addition, they have been afforded the opportunity to provide written input and testimony.

### Types of Planning Commission Meetings, Gathering Input Prior to Public Hearings

Implementation Measure 1.1.1.g.

13. Prior to the scheduled public hearing on the proposed amendments, work sessions were held with the Development Review Boards, Planning Commission, and City Council during which public suggestions related to the matter were considered and incorporated as appropriate into the current draft.

### Public Notices for Planning Commission Meetings

Implementation Measure 1.1.1.h.

14. All notices regarding the work sessions and the public hearing clearly indicated the type of meeting.

## **Wilsonville Comprehensive Plan - Interested, Informed, and Involved Citizenry**

### User Friendly Information for Public

Goal 1.2, Policy 1.2.1, Implementation Measures 1.2.1.a., b., and c.

15. The published notecard mailings and notices provided user-friendly information about the purpose, location, and nature of the meetings. Different ways for affected parties to participate have been widely publicized. The information given to impacted parties gave access to the information upon which the Planning Commission recommendation and City Council decision will be based.



## Coordinate Planning Activities with Affected Agencies

Policy 1.3, Implementation Measure 1.3.1.b.

16. The City has worked extensively with DLCD, the state agency which oversees City compliance with state land use regulations. This state involvement included a Transportation and Growth Management (TGM) grant and direct involvement of a DLCD grant manager in the early stages of this code amendment project. Because this is a Development Code amendment, notice of the proposed amendments was provided to DLCD prior to the Planning Commission hearing.

## **Wilsonville Comprehensive Plan - Supporting Appropriate Development of Land**

Allowing Development Where Zoning and Comprehensive Plan Requirements Are Met

Goal 2.1, Policy 2.1.1, Implementation Measure 2.1.1.a.

17. The proposed code changes and development standards support allowing industrial development and other employment uses as they are allowed by Comprehensive Plan and Zoning designations by modifying the approval process approval criteria and guidelines for allowed development within the proposed Coffee Creek Industrial Design District.

Planning for eventual urbanization of land within the local planning areas and the UGB

Policy 2.2.1, Implementation Measure 2.2.1.e.

18. The proposed amendments will continue to promote the orderly provision of public facilities and services, including a transportation network that encourages active transportation modes.

## **Transportation – Encourage a Variety of Transportation Choices**

Plan for increased access for alternative modes of transportation, such as bicycling, transit and walking

Goal 3.2, Policies 3.2.1, 3.2.2, Implementation Measure 3.2.1.a.

19. The proposed amendments are designed to provide a pedestrian-scaled transportation system within the Coffee Creek Industrial Area by providing street and pathway connections to make walking, bicycling, and taking transit more pleasant and practical.

Create land use patterns that make walking, cycling, and transit use highly convenient

Goal 3.3, Policies 3.3.1, 3.3.2, Implementation Measures 3.3.1.c. and d.

20. The mix of allowable land uses will not be changed by these amendments. They are intended to create greater accessibility for pedestrians, cyclists, and transit riders by providing more

guidance regarding the location and design of pedestrian- and bicycling-friendly streets and local connections.

Facilitate the safe, efficient and economic flow of freight and other goods and services

Goal 3.4, Policy 3.4.1, Implementation Measure 3.4.1.a.

21. The proposed amendments continue to support current street designations in the Transportation System Plan, and therefore, the City's overall goal of facilitating efficient freight movement will be maintained.

## **Industrial Development**

Develop an attractive and economically sound community

Goal 4.1, Implementation Measures 4.1.3.a, b, and d.

22. The proposed amendments are crafted to improve the aesthetic and functional character of industrial and employment development, provide a high-quality environment, and to strengthen the local economy by providing a district that will foster future business development and economic activity.

## **Wilsonville Comprehensive Plan - Areas of Special Concern**

Day Road Area

Area H

23. The proposed amendments are consistent with the expressed need to have a master plan for this area. The proposed code amendments and pattern book provide much improved guidance regarding the form and function of future development in this area following annexation.

## **Wilsonville Development Code - Amendments to the Code**

Planning Commission Public Hearing, Recommendation to City Council

Subsection 4.197 (.01) A.

24. The Planning Commission will conduct a public hearing and then by resolution forward findings and a recommendation to the Wilsonville City Council within the allowed 40-day timeframe.

Findings Required: Compliance with Procedures of 4.008

Subsection 4.197 (.01) B. 1., Section 4.008, Sections 4.009 through 4.024 as applicable

25. The proposed changes and design standards are a response to the direction of City Council to improve development outcomes in the current Day Road Design Overlay District;

however, this direction does not predetermine City Council approval of the proposed code changes and design standards. Notices have been mailed to affected properties consistent with established procedures for legislative actions. Written findings of fact regarding the application have been produced in this document for adoption by the Planning Commission.

**Findings Required: Compliance with Goals, Policies, and Objectives of Comprehensive Plan**  
Subsection 4.197 (.01) B. 2.

26. Findings 9 through 23 above indicate how the applicable goals, policies, objectives, and implementation measures of Wilsonville's Comprehensive Plan are satisfied.

**Findings Required: No Conflict with Over Code Provisions**  
Subsection 4.197 (.01) B. 3.

27. Care has been taken to ensure the proposed code changes and design standards do not conflict with or endanger other provisions of the Development Code. In addition to the replacement of the Day Road Design Overlay District and the creation of the Coffee Creek Industrial Design Overlay District Pattern Book, minor amendments are proposed in various sections of the Development Code to ensure consistency and clarity throughout.

**Findings Required: Compliance with Statewide Land Use Planning Goals, State Rules and Statutes, Federal Statutes**  
Subsection 4.197 (.01) B. 4.-5.

28. Findings 1 through 8 above provide findings related to compliance with the applicable Statewide Land Use Planning Goals as well as applicable state statutes regarding regionally significant industrial areas.

**Affirmative Findings Required**  
Subsection 4.197 (.03)

29. Findings 1 through 28 provide the required affirmative findings on which a recommendation can be made to City Council for adoption of the requested development code text changes and design standards.

EXHIBIT F  
CC HEARING 2.5.2018

Coffee Creek Industrial Form-based Code

Exhibit F – Planning Commission Resolution and Record

<http://www.ci.wilsonville.or.us/665/Coffee-Creek-Industrial-Area-Form-Based>

## Exhibit G – Errata Sheet

In reviewing Section 4.134 (Exhibit A), staff has noted the following corrections and clarifications from the Planning Commission recommendation. The following modifications have been included within Exhibit A dated January 24, 2018. New proposed language is in **bold italics**, deleted language has been ~~struck through~~.

Page 2: Delete Section 4.134 (.03) C. “Essential Public Services” and reletter subsequent items. This term is ambiguous, and is not defined within the Development Code.

Page 4: Correct typo by adding comma after the word “alignment” in Section 4.134 (.10) A.

Page 9: Correct typo by deleting hyphen in “600-feet” in Table CC-1, Connection Spacing

Page 11: Correct typos by deleting hyphens in “150-feet” in Table CC-3, Parcel Driveway Spacing

Page 11: Correct typos by deleting “24-foot” in Table CC-3, Parcel Driveway Width, and replacing with “24 feet”

Page 12: Clarify language by replacing “ROW” with “right-of-way” in table CC-3, Parcel Pedestrian Access to Transit

Page 13: Correct section references in Table CC-3, Parking Perimeter Screening and Landscaping, for the High Screen Landscaping Standard (Section 4.176 (.02) ~~H-F.~~) and reorder accordingly

Page 13: Delete redundant numerical references in Table CC-3, Off-Street Loading Berth “The maximum dimensions for a loading are ~~sixteen~~(16) feet wide and ~~eighteen~~(18) feet tall. A clear space ~~thirty five~~(35) feet, minimum is required in front of the loading berth.”

Page 14: Correct typo by deleting hyphens in “48-inches” and “30-inches” in Table CC-3, Maximum Height

Page 15: Correct section references in Table CC-3, Landscaping Standards Permitted, for the High Screen Landscaping Standard (Section 4.176 (.02) ~~E-F.~~) and the High Wall Standard (Section 4.176 (.02) ~~F-G.~~) and reorder accordingly

Page 16: Correct typos by deleting hyphens in “150-feet” in Table CC-4, Location

Page 18: Correct typos by deleting hyphens in “15-feet” and “8-feet” in Table CC-4, Required Canopy

Page 18: Correct typo by deleting hyphen in “30-feet” in Table CC-4, Front Setback

Page 18: Correct typos by deleting hyphens in “15-feet”, “24-feet”, and “100-feet” in Table CC-4, Allowance of Primary Building Entrance

Page 19: Correct typo by deleting hyphen in “30-feet” in Table CC-4, Required Minimum Height

Page 19: Correct typos by deleting hyphens in “15-feet” and “17.5-feet” in Table CC-4, Ground Floor Height

Page 19: Correct typos by deleting hyphens in “30-inches”, “18-inches”, “5-stories”, “2-stories”, “6-stories”, “1-story”, and “3-stories” in Table CC-4, Base, Body, and Top Dimensions

Page 19: Correct typo by deleting second hyphen in “1 -1/2 -inches” in Table CC-4, Base Design

Page 19: Correct typo by deleting second hyphen in “1 -1/2 -inches” in Table CC-4, Top Design

Page 20: Correct section references in Section 4.134 (.12) D. 1. for the High Screen Landscaping Standard (Section 4.176 (.02) ~~E.F.~~) and the Low Berm Standard (Section 4.176 (.02) ~~G.E.~~) and reorder accordingly

Page 24: Correct section reference in Section 4.134 (.13) B. 1. – Section 4.156.04 to Section 4.156.08



## CITY COUNCIL MEETING STAFF REPORT

<p><b>Meeting Date:</b> February 5, 2018</p>	<p><b>Subject: Ordinance No. 813 - 1<sup>st</sup> Reading</b> Willamette Intake Facilities Intergovernmental Agreement</p> <p><b>Staff Member:</b> Barbara Jacobson, City Attorney</p> <p><b>Department:</b> Legal</p>
<p><b>Action Required</b></p>	<p><b>Advisory Board/Commission Recommendation</b></p>
<p><input checked="" type="checkbox"/> Motion</p> <p><input checked="" type="checkbox"/> Public Hearing Date: February 5, 2018</p> <p><input checked="" type="checkbox"/> Ordinance 1<sup>st</sup> Reading Date: February 5, 2018</p> <p><input type="checkbox"/> Ordinance 2<sup>nd</sup> Reading Date: February 22, 2018</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Information or Direction</p> <p><input type="checkbox"/> Information Only</p> <p><input type="checkbox"/> Council Direction</p> <p><input type="checkbox"/> Consent Agenda</p>	<p><input type="checkbox"/> Approval</p> <p><input type="checkbox"/> Denial</p> <p><input type="checkbox"/> None Forwarded</p> <p><input checked="" type="checkbox"/> Not Applicable</p> <p><b>Comments:</b></p>
<p><b>Staff Recommendation:</b> Staff recommends that Council adopt Ordinance No. 813 on first reading.</p>	
<p><b>Recommended Language for Motion:</b> I move to approve Ordinance No. 813 on first reading authorizing the Mayor to enter into the Willamette Intake Facilities Intergovernmental Agreement in substantially the form as attached to the Ordinance.</p>	
<p><b>Project / Issue Relates To:</b> <i>[Identify which goal(s), master plans(s) your issue relates to.]</i></p>	
<p><input checked="" type="checkbox"/> Council Goals/Priorities</p>	<p><input type="checkbox"/> Adopted Master Plan(s)</p>
<p><input type="checkbox"/> Not Applicable</p>	



### **ISSUE BEFORE COUNCIL:**

Whether to enter into the Willamette Intake Facilities Intergovernmental Agreement (“IGA”) that provides for the expansion and improvement of the existing raw water intake facility (referred to in the IGA as the “WIF”) currently located at the Willamette River Water Treatment Plant (“WRWTP”); for joint ownership of the expanded and improved intake facilities (referred to in the IGA as the Intake Facilities) with the cities of Hillsboro, Tigard, Sherwood, and Beaverton, and the Tualatin Valley Water District (TVWD), through the formation of the Willamette Intake Facilities Commission (“WIF Commission”). The IGA, along with all exhibits thereto, is attached hereto as **Exhibit A**. A summary of some key provisions of the same, for ease of reference, is attached as **Exhibit B**.

### **EXECUTIVE SUMMARY:**

In approximately July of 2000, Wilsonville and TVWD entered into an Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership for the current water treatment plant located in Wilsonville that currently serves Wilsonville and Sherwood. Since that time, only Wilsonville, and later Sherwood (TVWD having sold 5 million gallons per day (“MGD”) of its capacity rights to Sherwood), have utilized that water treatment facility. Subsequently TVWD has determined, for seismic reasons, size, and other considerations, that it will build a new water treatment facility of its own, to be located outside of Wilsonville, in conjunction with Hillsboro, TVWD will retain ownership in the current water treatment plant and will use the current WIF to serve its new plant, but with the WIF to be expanded to an upgraded Intake Facility from its current capacity of 120 MGD to 150 MGD to accommodate more use and users.

The new plant will be built jointly by TVWD and Hillsboro. In order to access the Intake Facilities, TVWD and Hillsboro wish to enter into a Ground Lease with the City of Wilsonville to run a raw water pipe from the Intake Facility, located in Wilsonville, along or under Wilsonville right-of-way and the WRWTP site to its new plant, to be located in Washington County. To that end, staff has spent many months, working closely with City Council, to negotiate a *Ground Lease For Raw Water Pipeline* (TVWD and Hillsboro, Lessees), along with a *First Amendment to Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership*, and a *Willamette Water Supply System Intake Facility Agreement*, both of the foregoing with TVWD.

The City Council approved these three agreements, pursuant to Resolution 2628, on May 1, 2017, with the caveat that the Resolution would only become effective and was contingent upon later approval by the City Council of the IGA that is before you today, which was still in the process of being negotiated at the time Resolution 2628 was approved. A copy of Resolution 2628 is attached hereto as **Exhibit C** for reference.

### **EXPECTED RESULTS:**

Approval of the IGA will create a newly formed WIF Commission, consisting of all of the parties listed above, who will then own, operate, utilize, and pay for the Intake Facilities. The existing WIF will be replaced with the Intake Facilities owned and operated by the WIF Commission, of which Wilsonville would be a member.

While Wilsonville and Sherwood are currently the only parties responsible for paying for any needed repairs or capital improvements to the current intake facilities, going forward all capital improvement and facilities maintenance costs shall be allocated, based on ownership percentages, as more particularly described in the IGA. Only those costs for maintenance required solely due to water coming through the Intake Facilities would be allocated among the parties actually using the Intake Facilities. The ownership of each party is a percentage share of the Intake Facility that is equal to that party's capacity in MGD compared to the total capacity of the Intake Facility. Wilsonville's new capacity is anticipated to be 25 MGD out of the anticipated capacity of 150 MGD. Cost allocations, excluding Intake Facilities Improvement and permitting, except as otherwise provided in the IGA, will be based on percentage capacity. Wilsonville's percentage capacity is anticipated to be 16.67%. More detail on percentage capacity and ongoing cost allocation is set forth in Exhibit 3 of the IGA and is summarized on **Exhibit B**, attached hereto for easier reference.

It is important to note that based on negotiations, Wilsonville's Intake Facilities improvements costs and permitting allocation is capped at \$125,000 and is significantly less than all other parties, including those with lower MGD capacity, accounting for Wilsonville's initial investment in these facilities over a decade ago. All of the parties' respective shares of the anticipated design capacity of the Intake Facilities is attached to the IGA as Exhibit 11, but also attached hereto as **Exhibit D** for easier reference. Signing of this IGA will then cause City Council to also execute the three documents listed above, including the Ground Lease, which will allow construction to begin and will trigger payment of the first two rental payments, in the total amount of approximately \$347,154, which will be due and payable within 30 days following execution of all documents (total rent for the Ground Lease is \$17,184,127).

The start of construction is also anticipated to involve significant staff time among many City departments as well as potential road and traffic disruption in the City. Wilsonville will also receive a benefit of increased capacity (an anticipated 5 MGD), improved Intake Facilities, cost allocation for capital improvements, facilities maintenance and administration of the Intake Facilities, as well as Ground Lease rent and other valuable consideration, as set forth in the Ground Lease. That other consideration includes, but is not limited to, seismic improvements at no cost to Wilsonville, contribution to several road improvement projects, cost sharing on other joint road projects, and dedication of right-of-way for an extension of Kinsman Road. Although TVWD will continue to retain co-ownership in the WRWTP, Wilsonville will be designated as the Managing Owner in perpetuity, regardless of capacity, unless Wilsonville elects to resign from that position.

It should also be noted that water is an essential resource for all citizens of the region, and this IGA and the other three Agreements will benefit the region in providing an alternative or increased water supply to Hillsboro, Beaverton, Sherwood, Tigard, TVWD, and potentially other communities.

#### **TIMELINE:**

2016-2026 for construction. IGA will remain in place as long as the Intake Facilities remain in operation. The IGA, however, does not extend the term of the Ground Lease, which expires on June 30, 2115.

**CURRENT YEAR BUDGET IMPACTS:**

Retroactive rent of \$347,154 will be received within thirty (30) days of execution of the Lease. Additionally, Wilsonville will be required to pay its share of the first year (FY 2018-19) administrative costs for the WIF Commission, which is estimated to be approximately \$18,000.

**FINANCIAL REVIEW / COMMENTS:**

Reviewed by: SCole Date: 1/29/2018

**LEGAL REVIEW / COMMENT:**

Reviewed by: BAJ Date: 1/25/2018

Author of report.

**COMMUNITY INVOLVEMENT PROCESS:**

N/A

**POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY:**

As outlined above.

**ALTERNATIVES:**

Not approve the IGA, which would then negate approval of the three documents approved by Resolution No. 2628, including the Ground Lease. Disapproval would result in the termination of the entire project or, alternatively, City Council could direct staff to renegotiate any provision of the IGA that is unacceptable, which could cause significant delay to the construction of the project or cancellation of the project.

**CITY MANAGER COMMENT:**

**ATTACHMENTS:**

Ordinance No. 813

Exhibit A - Willamette Intake Facilities Intergovernmental Agreement

Exhibit B - Key Policy Points for Willamette Intake Facilities IGA

Exhibit C - Resolution No. 2628

Exhibit D - Willamette Intake Facilities Intake Improvements Cost Allocation Summary

**ORDINANCE NO. 813**

**AN ORDINANCE APPROVING THE WILLAMETTE INTAKE FACILITIES INTERGOVERNMENTAL AGREEMENT TO FORM THE WILLAMETTE INTAKE FACILITIES COMMISSION, AN INTERGOVERNMENTAL ENTITY FORMED UNDER ORS CHAPTER 190 BETWEEN THE CITIES OF WILSONVILLE, HILLSBORO, SHERWOOD, BEAVERTON, AND TIGARD AND TUALATIN VALLEY WATER DISTRICT**

WHEREAS, in 2000 the City of Wilsonville (Wilsonville) and Tualatin Valley Water District (TVWD) entered into an Agreement Regarding the Water Treatment Plant Design, Construction, Operation and Property Ownership for the Willamette River Water Treatment Plant (WRWTP) located in Wilsonville; and

WHEREAS, the WRWTP was constructed by Wilsonville and TVWD, and those parties owned the real property and assets in varying percentages until TVWD sold part of its capacity in the WRWTP facility, but not the plant assets or land, to the City of Sherwood (Sherwood) so that these three entities now own various interests in the WRWTP; and

WHEREAS, TVWD and the City of Hillsboro (Hillsboro) have entered into an agreement to design, construct, own, operate, maintain, repair, and replace a new water treatment plant to be known as the Willamette Water Supply System (WWSS), which will consist of raw water transmission, pumps, water treatment plant, finished water pipelines and terminal storage to deliver water to their respective service boundaries, and it is anticipated that the City of Beaverton (Beaverton) will join TVWD and Hillsboro in the WWSS; and

WHEREAS, TVWD, Wilsonville, Sherwood, Hillsboro, Beaverton, and Tigard have agreed that the existing Willamette Intake Facilities (WIF), located at the WRWTP property, should be upgraded and expanded from current capacity of 120 million gallons per day to 150 million gallons per day to accommodate the additional users and potential additional users and that the upgraded and expanded WIF should be owned, operated, and managed for the use and benefit of the WRWTP and the planned WWSS Water Treatment Plant (WWSS WTP) by an intergovernmental entity formed under ORS 190.003 to 190.265; and

WHEREAS, Wilsonville, TVWD, Sherwood, Hillsboro, Beaverton, and Tigard have agreed to execute the Willamette Intake Facilities Intergovernmental Agreement (WIF IGA) to form the Willamette Intake Facilities Commission (WIF Commission), an intergovernmental

entity under the authorities cited above, vested with the powers and authorities as set forth in the WIF IGA, which is attached hereto as **Exhibit A** and incorporated by reference herein; and

WHEREAS, the Wilsonville City Council finds that it is in the best interest of the City of Wilsonville and in support of the other municipalities to enter into the WIF IGA and to become a member of the WIF Commission; and

WHEREAS, ORS 190.085 requires the City of Wilsonville and the other parties to enact an ordinance approving the WIF IGA and creation of the WIF Commission, and being advised;

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

1. Pursuant to ORS 190.085, the Wilsonville City Council approves the Willamette Intake Facilities Intergovernmental Agreement and joins the Willamette Intake Facilities Commission with the following parties: the cities of Hillsboro, Beaverton, Sherwood, and Tigard, and with TVWD. The Willamette Intake Facilities Intergovernmental Agreement is attached hereto as **Exhibit A** and incorporated by reference herein.
2. The Effective Date of the WIF IGA will be at the time all parties have passed their required ordinance and signed the IGA.
3. To carry out its public purposes, the WIF Commission shall have the powers, duties, and functions set forth therein.
4. This Ordinance has been included in the published notice of the meeting where it was adopted. The published notice did state the time, date, and place of the meeting and gave a brief description of the Ordinance to be considered at the meeting and that copies of the Ordinance are available at the office of the City Recorder.
5. The Mayor is authorized to execute the WIF IGA on behalf of the City of Wilsonville.
6. This Ordinance shall be effective from and after 30 days following its passage or second reading and signature by the Mayor.
7. The City will, by resolution, appoint one City Council Member and an alternate to serve as a member of the WIF Commission.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 5<sup>th</sup> day of February 2018, and a second reading at a regular meeting of the

City Council on February 22, 2018, commencing at the hour of 7 p.m. at the Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon.

\_\_\_\_\_  
Kimberly Veliz, City Recorder

ENACTED by the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2018, by the following votes:            Yes: \_\_\_\_            No: \_\_\_\_

\_\_\_\_\_  
Kimberly Veliz, City Recorder

DATED and signed by the Mayor the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
TIM KNAPP, MAYOR

**SUMMARY OF VOTES:**

- Mayor Knapp
- Council President Starr
- Councilor Stevens
- Councilor Lehan
- Councilor Akervall

**Attachments:**

- Exhibit A - Willamette Intake Facilities Intergovernmental Agreement

# **Willamette Intake Facilities Intergovernmental Agreement**

**EFFECTIVE DATE  
APRIL 6, 2018**

**BY AND AMONG  
TUALATIN VALLEY WATER DISTRICT  
CITY OF WILSONVILLE  
CITY OF SHERWOOD  
CITY OF HILLSBORO  
CITY OF TIGARD AND  
CITY OF BEAVERTON**



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## EXHIBIT A

## EXHIBIT LIST

<b>Exhibit No.</b>	<b>Title</b>
1	Willamette Intake Facilities Easement Agreement (“Easement”)
2	Willamette Intake Facilities Preliminary Design Drawings and Layout
3	Willamette Intake Facilities Capacity Ownership Allocations
4	Real Property
5	Water Rights Authorized for Use at the Willamette Intake Facilities (“Water Rights”)
6	Willamette Intake Facilities Organizational Structure
7	Willamette Intake Facilities Initial Management Plan
8	Willamette Intake Facilities Budget Calendar
9	Willamette Intake Facilities Interim Financials Procedures
10	Willamette Intake Facilities Lease Formulas and Sample Lease
11	Willamette Intake Facilities Improvements Cost Allocation Summary
12	Willamette Intake Facilities Insurance Requirements and Limits
13	Existing Agreements

**Willamette Intake Facilities Intergovernmental Agreement**

This Willamette Intake Facilities Intergovernmental Agreement (“Agreement”) for the ownership, management and operation of the Willamette Intake Facilities (“Intake Facilities”) is entered into between Tualatin Valley Water District (“TVWD”), a domestic water supply district organized under ORS Chapter 264; the City of Wilsonville (“Wilsonville”), a municipal corporation; the City of Sherwood (“Sherwood”), a municipal corporation; the City of Hillsboro (“Hillsboro”) a municipal corporation; the City of Tigard (“Tigard”), a municipal corporation; and the City of Beaverton (“Beaverton”), a municipal corporation; all of which are local governments authorized to own, operate and maintain municipal water supply systems. The cities and TVWD may be referred to herein individually as a “Party” or jointly as “Parties.”

**RECITALS**

WHEREAS, TVWD is a domestic water supply district under ORS 264, which distributes potable water to its respective water system Users;

WHEREAS, Wilsonville operates a municipal water supply utility under ORS 225, which distributes potable water to its respective water system Users;

WHEREAS, Sherwood operates a municipal water supply utility under ORS 225, which distributes potable water to its respective water system Users;

WHEREAS, Hillsboro operates a municipal water supply utility under ORS 225, which distributes potable water to its respective water system Users;

WHEREAS, Tigard operates a municipal water supply utility under ORS 225, which distributes potable water to its respective water system Users;

WHEREAS, Beaverton operates a municipal water supply utility under ORS 225, which distributes potable water to its respective water system Users;

## EXHIBIT A

WHEREAS, TVWD and Wilsonville entered into the *Agreement Regarding Water Treatment Plant Design, Construction, Operation and Property Ownership*, dated July 6, 2000 (“2000 Master Agreement”), and *the Accord Agreement* dated June 19, 2001 (“Accord”), to construct and operate intake facilities, pumps, a water treatment plant, and certain transmission facilities upon jointly owned real property (“Willamette River Water Treatment Plant”) for the purpose of supplying potable water to Wilsonville and providing a future water supply for TVWD;

WHEREAS, TVWD and Wilsonville entered into the *First Amendment to Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership*, dated \_\_\_\_\_, 2018, which modified the above agreement to reflect a change in direction and the rights and obligations between TVWD and Wilsonville;

WHEREAS, TVWD and Wilsonville have also entered into an Operation and Maintenance Contract with Veolia Water North America-West LLC, dated July 1, 2012, as amended, which pertains to the Willamette River Water Treatment Plant and the Intake Facilities;

WHEREAS, in April 2002, Wilsonville and TVWD completed construction of the intake and the Willamette River Water Treatment Plant facilities, including the fish screens, intake pipeline, a raw water pump station, raw water transmission line, the treatment plant and related appurtenances including electrical facilities;

WHEREAS, TVWD and Sherwood entered into an Agreement on December 27, 2006 (“Sherwood TVWD WRWTP Agreement”) for the purchase and sale of five million gallons per day (“MGD”) of capacity in the Intake Facilities, pump station, treatment plant, and certain transmission facilities for the purpose of supplying potable water to Sherwood;

WHEREAS, on October 15, 2008, TVWD Sherwood, Tigard, and Tualatin entered into the *First Restated Intergovernmental Cooperative Agreement Continuing the Willamette River Water*

## EXHIBIT A

*Coalition*” (“WRWC Agreement”) to jointly hold a water right permit for future use of Willamette River water and to plan for regional water supply facilities that would meet future needs;

WHEREAS, Hillsboro and TVWD entered into the *Agreement for Design and Construction of the Willamette Water Supply Program* (“WWSP Agreement”) on June 16, 2015 to permit, design, and construct a water supply system including intake and transmission facilities, a water treatment plant, and reservoir facilities (“Willamette Water Supply System”) to provide additional potable water to Hillsboro and TVWD and provide for system redundancy and reliability;

WHEREAS, TVWD, Hillsboro, and Wilsonville entered into a *Ground Lease for the Raw Water Pipeline*, dated \_\_\_\_\_, 2018, and an *Easement for Raw Water Pipe*, dated \_\_\_\_\_, 2018, that will allow the Intake Facilities to connect to a raw water pipeline located in and along Wilsonville right-of-way and lands owned or to be acquired by Wilsonville and TVWD;

WHEREAS, the Parties hold or may hold certain storage, release and surface water rights on the Willamette River and its tributaries (“Water Rights”) for the purpose of providing water to the Treatment Plant Facilities for ultimate delivery to their respective water system Users;

WHEREAS, the Intake Facilities provide a regional benefit and are the foundation of the other water system assets of the Parties.

WHEREAS, the Parties except Wilsonville are in the process of acquiring a portion of TVWD’s excess capacity ownership interest in the Intake Facilities from TVWD and, with respect to those transfers, Wilsonville has agreed to waive its First Right of Offer pursuant to the *Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership*, dated July 6, 2000 (“2000 Master Agreement”) the *Accord Agreement*, dated June 19,

## EXHIBIT A

2001 (“Accord”), and the *First Amendment to Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership*, dated \_\_\_\_\_, 2018;

WHEREAS, Wilsonville already owns the Intake Facilities with TVWD, but is participating in expanding the screen to allow for additional 5 MGD capacity, among other rights, pursuant to the *City of Wilsonville and Tualatin Valley Water District Willamette Water Supply System Intake Facility Agreement*;

WHEREAS, the transfer, purchase and sale of a portion of TVWD’s excess capacity in the Intake Facilities to the Parties, except Wilsonville, are governed by the *Agreement(s) for Transfer, Purchase and Sale of Intake Facilities*, dated \_\_\_\_\_, 2018. TVWD’s transfer to Wilsonville is governed by the *City of Wilsonville and Tualatin Valley Water District Willamette Water Supply System Intake Facility Agreement*. A condition of any transfer by TVWD of existing Intake Facility capacity is the expansion of the Intake Facilities to an anticipated capacity of 150 MGD;

WHEREAS, the Parties each own and operate municipal water supply systems that provide essential service to their communities, including protection of public health, emergency fire suppression, and potable water supply to support viable community and economic activities, and the Intake Facilities are the foundation of those other water systems;

WHEREAS, the purpose of this Agreement is to set forth the terms for the joint ownership, operation and management of the Intake Facilities in a prudent, economic and efficient manner to provide water to the existing Willamette River Water Treatment Plant (“WRWTP”) and the anticipated Willamette Water Supply System Water Treatment Plant (“WWSS WTP”), to preserve and protect the Parties’ Water Rights, to support the functioning of the Intake Facilities as the foundation of their water systems, and to support their commitment to watershed planning and management; and

## EXHIBIT A

WHEREAS, the Parties are authorized under ORS 190 to enter into an agreement for the performance of any or all functions and activities that the Parties, their officers, employees or agents have authority to perform, and to create this intergovernmental entity.



NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

### AGREEMENT

Based on the foregoing Recitals and the mutual promises and obligations as set forth herein, and other good and fair consideration, the sufficiency of which is hereby acknowledged, the Parties agree to the following.

#### 1. Effective Date

This Agreement is effective as of the 6<sup>th</sup> day of April, 2018.

#### 2. Definitions

As used in this Agreement, the following terms when capitalized shall have the following meanings:

- 2.1. **Agreement** means this Willamette Intake Facilities Intergovernmental Agreement.
- 2.2. **Board** means the Board of Commissioners of the Willamette Intake Facilities Commission created by this Agreement, consisting of one elected or appointed official from each Party. Each Party will appoint one Board member and each Board member will have one equal vote.
- 2.3. **Capacity** means the instantaneous ability of various components of the Intake Facilities to deliver available water that does not exceed a Party's allocation, measured in million gallons per day, gallons per minute, cubic feet per second or other comparable measurement as set forth in the Operations Plan and consistent with generally accepted engineering and prudent utility operating practices.
- 2.4. **Capacity Expansion** means the expansion of the Intake Facilities through a capital improvement project.

## EXHIBIT A

- 2.5. **Commission** means the Willamette River Intake Facilities Commission, an ORS 190 entity formed under this Agreement whose Parties are TVWD, Wilsonville, Sherwood, Hillsboro, Tigard, and Beaverton.
- 2.6. **Curtailement Plan** means a plan developed and approved by the Board for curtailment of water service in accordance with OAR Chapter 690 Division 86 rules.
- 2.7. **Demand** means the amount of water used or projected to be used by a Party and imposed on the Intake Facilities to deliver water to be treated at a Water Treatment Plant where the Party owns capacity. The instantaneous measurement of Demand shall be defined in the Operations Plan as million gallons per day, gallons per minute, cubic feet per second, or other agreed measurement for the Intake Facilities.
- 2.8. **Easement** means the Intake Facilities Easement, attached as **Exhibit 1**.
- 2.9. **Emergency Response Plan** means a plan that outlines emergency procedures that are recommended for implementation by the Federal Emergency Management Agency and are consistent with the National Incident Management System in order to respond quickly and appropriately to an emergency event.
- 2.10. **Effective Date** means the date specified in Section 1.
- 2.11. **Facilities Modification** means a capital improvement to meet operational changes or upgrades in response to requirements of regulatory agencies, but that does not result in a Capacity Expansion.
- 2.12. **Finance Committee** means the committee with a representative appointed by each Party to act as provided in Section 6.3.
- 2.13. **Fiscal Year** means the time period July 1 through June 30.

- 2.14. **Intake Facilities** means existing, expanded, or upgraded Intake Facilities - used to withdraw and transmit water to the Parties at the agreed System Separation Point between the Willamette River Water Treatment Plant System and the Willamette Water Supply System Water Treatment Plant. The Intake Facilities include the fish screens, intake pipe, caisson, pump station building, and other jointly owned equipment leading up to the System Separation Point described in **Exhibit 2**, and the Intake Facilities Easement described in **Exhibit 1**.
- 2.15. **Lease** means the lease of Capacity in the Intake Facilities according to the terms and conditions of Section 14.
- 2.16. **Management Committee** means the committee with a representative appointed by each Party to act as provided in Section 6.1.
- 2.17. **Managing Agency** means the Party designated under Section 5 to manage the business affairs of the Commission and act in accordance with Section 5 and other provisions of this Agreement.
- 2.18. **Master Plan** means a plan that analyzes the performance, documents recommended upgrades, estimates water demand projections from the Parties, and updates the capital improvement plan of the Intake Facilities.
- 2.19. **Member** means a person appointed by a Party to serve on the Board.
- 2.20. **MGD** is an acronym for million gallons per day.
- 2.21. **Municipal Water Provider** means a city or special district, as defined by ORS 174.116, that supplies drinking water to the public.
- 2.22. **Non-Peak Season** means the period from November 1<sup>st</sup> through April 30<sup>th</sup> of any given year.

- 2.23. **Operations Committee** means the committee with a representative appointed by each Party to act as provided in Section 6.2.
- 2.24. **Operations Plan** means the plan that describes the operational protocols, communications, and coordination for the Intake Facilities with the Water Treatment Plants.
- 2.25. **Ownership** means the Capacity interest of a Party in the Intake Facilities, established following a financial investment in the Intake Facilities. The anticipated Capacity of each Party is set forth in **Exhibit 3**.
- 2.26. **Party or Parties** means the Municipal Water Providers that have Capacity ownership interest in the Intake Facilities and that comprise the Commission.
- 2.27. **Peak Season** means the period from May 1<sup>st</sup> through October 31<sup>st</sup> of any given year.
- 2.28. **Point of Diversion** means the geographic location from which water is diverted from the Willamette River using the Intake Facilities and put to beneficial use through the Water Treatment Plants and associated water systems.
- 2.29. **Real Property** means the real property upon which the Intake Facilities are located. The Real Property is described in **Exhibit 4** and is owned by TVWD and Wilsonville.
- 2.30. **Supermajority** means an affirmative vote from all except one of the Members of the Board eligible to vote.
- 2.31. **System Separation Point** means that point designated on **Exhibit 2** where the Intake Facilities terminate and the water from the caisson of the Intake Facilities is separated by the pumps into untreated water pipes conveying water to either the

WRWTP or WWSS WTP.

- 2.32. **Users** means any water system users or customers of a Party's water system including but not limited to residential, commercial and industrial uses as well as other units of local government with whom the Party has agreed to sell water.
- 2.33. **Water Rights** means those surface water registrations, permits (including storage and secondary), or certificates held by a Party, the WRWC, or the Commission as registered with the State of Oregon Water Resources Department, which allow for diversion of water from the Willamette River at the existing Intake Facilities Point of Diversion to deliver water to the Party's respective Water Treatment Plant. The Water Rights are more fully described in **Exhibit 5**.
- 2.34. **Water Treatment Plant** refers to either the WRWTP or the WWSS WTP.
- 2.35. **Willamette River Water Coalition ("WRWC")** means the ORS 190 entity currently consisting of TVWD and Sherwood, Tigard, and Tualatin.
- 2.36. **Willamette River Water Treatment Plant ("WRWTP")** means the Water Treatment Plant located near the Intake Facilities currently serving potable water to Wilsonville, Sherwood, and other potential Parties.
- 2.37. **Willamette Water Supply System ("WWSS")** means the water supply system infrastructure facilities including the raw water pipeline, water treatment plant, finished water pipeline(s), finished water storage, and related facilities that serve potable water to TVWD, Hillsboro, and other potential Parties.
- 2.38. **Willamette Water Supply System Water Treatment Plant ("WWSS WTP")** means the Water Treatment Plant to be located in Washington County outside of Wilsonville to be designed, constructed, and serve potable water to TVWD,

Hillsboro, and other potential Parties.

### **3. Commission**

There is hereby created, pursuant to ORS 190, the Willamette Intake Facilities Commission (“Commission”) governed by the Board of Commissioners according to this Agreement and the laws of Oregon. The Commission is created under this Agreement to own and manage the Intake Facilities in order to enable the Parties to this Agreement to draw water through the Intake Facilities to the System Separation Point and convey water to each Water Treatment Plant. The Board is served by appointed Management and Operations Committees and the affairs of the Board are administered by an appointed Managing Agency with an organization structure illustrated in **Exhibit 6**.

### **4. Board of Commissioners**

#### **4.1. Appointment**

The Commission shall be governed by a six-Member Board consisting of one person and one alternate person appointed by each Party pursuant to the laws and regulations of the Party’s governing body. A Member serves at the pleasure of the Member’s governing body. The name of the Board is the Willamette Intake Facilities Board (“Board”).

#### **4.2. General Powers and Duties**

The Board shall manage the business and affairs of the Commission for the mutual benefit of all of the Parties. The Board shall adopt such bylaws, rules, regulations and policies as it deems necessary in furtherance of the purposes of this Agreement. Subject to the approval of expenditures by the Parties, as set forth in Section 7, the Board shall have the power to hire employees as it deems necessary and to contract for the purchase of property and services. The Board shall perform such further duties as may be required by this Agreement and shall have all powers necessary and incidental to the execution of its specific duties. Except for the provision of

liability of debt obligations as provided for under ORS 190.080, the Board may perform its activities in any manner permitted under ORS 190.030 to 190.150.

4.3. **Duration**

Subject to the dissolution provisions in Section 26, this Agreement is perpetual.

4.4. **Meetings; Manner of Acting**

Board meetings shall be conducted in accordance with the provisions of the Oregon Public Meeting Law, ORS 192.610 to 192.710. The Board shall hold meetings as needed, generally on a quarterly basis, but in no event less than twice a year. Special meetings may be called by the Chair or by any two Members. The Board shall adopt rules governing the conduct of its proceedings.

4.5. **Quorum and Voting**

4.5.1. If a unanimous vote of all Members is required, then all Members must be present to constitute a quorum. In all other cases, five of six Members of the Board shall constitute a quorum for the conduct of business.

4.5.2. Except where a unanimous or Supermajority vote is required, an affirmative vote of five Members is required to decide any issue before the Board.

4.5.3. If the Member and the alternate attend the same meeting, the Member shall be the voting representative for the Party. The Member shall inform the Chair in advance of any meeting if he or she cannot attend and whether the alternate member will attend and will be authorized to vote.

4.6. **Officers**

The Board shall annually elect from its Members a chair and a vice chair, who shall be officers of the Board. The elections shall occur at the first meeting of the Board in each calendar year, unless otherwise agreed. The chair shall serve as the presiding officer. In the absence of the chair, the vice chair shall serve as presiding officer. Officers shall serve at the pleasure of the Board or until a successor is



appointed.

4.7. **Powers and Duties**

The Board shall, among other things:

- 4.7.1. Appoint a Managing Agency, as provided in Section 5, including approval and entry into any agreement(s) with the Managing Agency as described in Section 5.2.
- 4.7.2. Approve an operations and management contract(s) as needed.
- 4.7.3. Annually adopt a budget, as described in Section 7.4.
- 4.7.4. Annually adopt a work plan in association with the budget.
- 4.7.5. Annually approve a five year capital improvement plan that includes the current fiscal year.
- 4.7.6. Adopt contracting rules and serve as the local contract review board under ORS 279A.
- 4.7.7. Approve and periodically update a Master Plan and Operations Plan for the Intake Facilities.
- 4.7.8. Approve the addition of a new Party, as provided in Section 20, subject to unanimous approval of the Board.
- 4.7.9. Approve modifications or amendments to the Exhibits to this Agreement.
- 4.7.10. Approve and periodically update an emergency response and management plan, and related policies and practices, to govern the operation of the Assets in an emergency.
- 4.7.11. Approve and periodically update a Curtailment Plan based on a recommendation from the Management Committee.
- 4.7.12. Consider for approval any Lease that has a term less than one year or longer than five years, as provided in Section 14.
- 4.7.13. Approve and periodically update overuse plans developed under Section 15.

- 4.7.14. Cause an annual audit to be conducted.
- 4.7.15. Obtain appropriate insurance and fidelity coverages.
- 4.7.16. Oversee the management and operation of the Managing Agency.
- 4.7.17. Approve contracts; acquire real property by negotiation, sale or condemnation; and dispose of surplus personal property.
- 4.7.18. Take other actions necessary and proper to manage, operate and maintain the Intake Facilities.

## **5. Managing Agency**

### **5.1. Initial Appointment of Managing Agency**

TVWD is appointed the Managing Agency for an initial term beginning on the Effective Date through June 30, 2032 (“Initial Term”) with formal performance review in 2029 by the Board.

### **5.2. Subsequent Terms**

Once the Initial Term expires or is terminated, the Board may continue with the initial Managing Agency or appoint a successor Managing Agency to manage the business affairs of the Commission. The Board may elect to enter into a written Managing Agency agreement between the designated Managing Agency and the Board. The designated Managing Agency’s subsequent term will be a six year term, effective on July 1, 2032, or other date as agreed to by the Parties. At the end of the fourth year of the term, the full Board shall either re-appoint the Managing Agency for an additional six year term to commence at the end of the current term or direct the Management Committee to obtain proposals for the selection of a Managing Agency. If the Board elects to obtain proposals rather than reappoint the Managing Agency, the Managing Agency may submit a proposal to continue on as Managing Agency. A proposal process will be required for selection of a Managing Agency at a minimum every twelve years. If the Board initiates a proposal process

for the selection of the Managing Agency, at the end of the fifth year of the term, the Management Committee shall submit to the Board a recommendation for a Managing Agency. A Party who submits a proposal to be Managing Agency cannot participate in the selection process. Upon designation of a new Managing Agency, the current and new Managing Agency will be required to create a one year transition plan unless a different period is approved by the Board. The components of the transition plan shall be reviewed and approved by the Management Committee prior to implementation.

5.3. **Contracted Services**

The Board may elect to contract the management of the business affairs of the Commission to a non-Party. In such case, the Board will direct the Management Committee to obtain proposals and provide a recommendation for the award of a contract by the Board. The Board will designate a Party to manage the contract and will adopt an annual work plan. Upon Board approval of the contract, the current Managing Agency will be required to create a one year transition plan unless a different period is approved by the Board. The components of the transition plan shall be reviewed and approved by the Management Committee prior to implementation. The Board may terminate the contract at its sole discretion and appoint a new Managing Agency.

5.4. **Annual Review**

The Management Committee will conduct an annual performance review of the Managing Agency and submit a report to the Board.

5.5. **Termination or Resignation**

The Managing Agency may be terminated at any time at the Board's discretion, or may withdraw at its own discretion. The Board will provide a reasonable notice to

the Managing Agency and Parties if the termination is for convenience and not due to a default. The Managing Agency will provide a notice to the Board if withdrawal is desired. A notice to terminate may specify an effective date for termination or withdrawal. A transition plan with a reasonable period for transfer of duties to the new Managing Agency will be developed by the Board. Termination related to default is covered in Section 24.

5.6. **Powers and Duties of Managing Agency**

TVWD's initial management of the Intake Facilities and Capacity Expansion projects are described in **Exhibit 7** and those terms are only applicable during TVWD's Initial Term. With respect to all other roles and responsibilities of the Managing Agency, the Board may delegate powers to the Managing Agency to provide the management functions required to administer the Commission. The Managing Agency is responsible for administering the business affairs of the Commission. This Section does not prevent the Board, upon a finding that it is in the best interest of the Commission, from modifying the duties of the Managing Agency. The Managing Agency shall act for the mutual benefit of all Parties at all times in the performance of all Managing Agency duties. The Managing Agency duties shall include but are not necessarily limited to the following:

- 5.6.1. Prepare an annual work plan in conjunction with the annual budget.
- 5.6.2. Perform such duties as established in an annual work plan and any other duties as directed by the Board.
- 5.6.3. Provide administration of the Board meetings and required public meeting notices and duties.

- 5.6.4. Maintain records consistent with public records laws.
- 5.6.5. Provide administration of the infrastructure operations and maintenance of the Intake Facilities and associated contract approvals.
- 5.6.6. Perform financial planning and management including payment of invoices, accounting, reporting, and budgeting in accordance with Oregon law.
- 5.6.7. Develop and coordinate capital improvements plans, including the timing of any improvements or expansions as relate to the Intake Facilities. Each Party will participate in planning projects, such as a Master Plan or facilities plan, and will provide good-faith estimates for future Demand.
- 5.6.8. Provide capital project management, unless otherwise directed by the Board.
- 5.6.9. Provide administration and staffing for the Board and committees such as the Management Committee, Operations Committee, and Finance Committee.
- 5.6.10. Prepare an Operations Plan in coordination with the Parties. The Operations Plan must be approved by the Operations Committee prior to submitting it to the Board for adoption.
- 5.6.11. Coordinate with WRWTP and WWSS to support and facilitate the orderly and effective operations, maintenance and construction activities of the Intake Facilities, WRWTP and WWSS.
- 5.6.12. Take prompt action, as necessary, in response to a Curtailment Plan or an Emergency Response Plan and report to the Parties and the Board as soon as reasonably possible. In the case of an emergency, an after-action report

including the nature of the emergency, the effect(s) on the Intake Facilities, and the steps taken by the Managing Agency in response will be provided to the Board.

5.6.13. Procure and manage appropriate insurance coverages and fidelity coverages, in accordance with the insurance requirements set forth in Section 27.3, or as the Board may otherwise direct.

5.6.14. Approve and execute contracts, subject to the contracting rules and direction of the Board.

5.6.15. Other duties as may be assigned by the Board.

## **6. Management, Operations, Finance, and Other Committees**

### **6.1. Management Committee**

Each Party shall appoint its Chief Executive Officer, City Manager, or its designee to serve on the Management Committee. The Managing Agency shall meet with the Management Committee to receive recommendations on policies, planning, operations, capital projects, contract awards, etc., to be forwarded to the Board. The Management Committee members will also serve as the liaison to each of their respective governing bodies and shall be charged with authority to act on behalf of the Party's governing body, except as otherwise provided herein.

### **6.2. Operations Committee**

Each Party shall appoint one person technically knowledgeable in water system operations or engineering to the Operations Committee. A Party may allow other attendees, but in no event will a Party have more than one vote in making a recommendation to the Management Committee. The Managing Agency will advise and consult with the Operations Committee on matters including but not

limited to Intake Facilities operations, capital improvements and planning, and contract management. The Operations Committee shall, as required by this Agreement or requested by the Management Committee, report on or provide recommendations to the Management Committee on any such matter.

**6.3. Finance Committee**

Each Party shall appoint one person, knowledgeable in municipal finance laws and practices, to the Finance Committee. A Party may allow other attendees, but in no event will a Party have more than one vote in making a recommendation to the Management Committee. The Finance Committee shall provide recommendations to the Management Committee on the proposed annual budget, capital improvement plan including resource availability and timing, and other financial policies. The Finance Committee will also provide comment and recommendations on the financial procedures to be developed and implemented by the Managing Agency.

**6.4. Other Committees**

Other Committees may be formed as needed to support and provide guidance to the Commission.

**7. Financial Management**

**7.1. Budget Process and Calendar**

The Board shall adopt a budget for its operations and capital improvements for each Fiscal Year. The Managing Agency shall annually prepare a budget for administration, operations, and capital improvements in coordination with the appropriate committees representing the Parties as described in this Section. The budget review process shall follow the schedule described in **Exhibit 8** unless a



modified schedule is approved by the Board.

7.2. **Operations and Finance Committees Budget Review**

An initial draft budget shall be prepared and distributed by the Managing Agency to the Operations and Finance Committees. The initial draft budget shall include estimates for full-time equivalents, associated benefits, materials and services, a listing of contracts in effect and contemplated for future periods, capital outlay, and any other necessary expenditures. The initial draft budget shall also include supporting detail and assumptions for the Committee's consideration. Joint meeting(s) of the Operations and Finance Committees will be held as needed to refine the initial draft budget. The Operations and Finance Committees will review the initial draft budget, and will provide its recommendation, after any requested revisions are incorporated by the Managing Agency, to the Management Committee. The Managing Agency will incorporate such revisions and prepare a revised draft budget for consideration by the Management Committee.

7.3. **Management Committee Budget Review**

The revised draft budget shall be distributed to the Management Committee as described in **Exhibit 8**, but not later than March 15<sup>th</sup> of each year. The Management Committee will review the revised draft budget, and will either provide a recommendation to the Board for adoption or provide requested revision(s) to the Managing Agency. Following Management Committee review and revisions, the Managing Agency shall prepare a proposed budget and distribute it to the Board.

7.4. **Budget Adoption**

The Board will consider the proposed budget consistent with the schedule presented in **Exhibit 8**. Furthermore, the Board will strive to adopt the budget by resolution in April of each year to enable the Parties to adequately reflect necessary commitments in their own respective budgets, but in no case will the Board adopt

the annual budget later than June 1<sup>st</sup> of each year. The adopted budget shall include estimated subtotals for the categories of personnel services, materials and services, capital outlay, and all other appropriation categories used in the adopted budget. The adopted budget shall also include a narrative describing the supporting detail and assumptions summarized for the Board's consideration, including personnel counts stated as full-time equivalents. Each Party's proportionate share of expenses of operations and maintenance of the Intake Facilities, including reserves and replacements, debt services, payments to the Managing Agency, and all other expenses as may be incurred by the Commission, shall be estimated by the Managing Agency and set forth in the Commission's adopted budget.

**7.5. Capital Improvement Plan Budget**

The Managing Agency shall maintain capital improvement plan budget projections for at least the subsequent four Fiscal Years following the fiscal year budgeted, which shall be updated annually and submitted with the initial draft budget and the proposed budget. The Operations and Finance Committees will review the proposed capital improvement plan, and will provide a recommendation to the Management Committee for review or provide requested revision(s) to the Managing Agency for incorporation. The Management Committee will review the proposed capital improvement plan, as may have been revised by the two committees, and will provide a recommendation to the Board for adoption or provide requested revision(s) to the Managing Agency for incorporation. The Managing Agency will include the capital improvement plan budget, as reviewed and revised by the Management Committee, in the proposed budget and submit it to the Board. The Board will consider the capital improvement plan for adoption on an annual basis on the same timeline as the annual budget. The capital outlay category includes routine purchases as well as major improvements or expansions

as may be outlined under the provisions of Section 17.

**7.6. Accounting**

The Managing Agency shall comply with government accounting standards, maintain independent budget and accounting control procedures, and provide budget financial status reports at least quarterly to the Board and to each of the Parties not later than 30 days after the end of each quarter. The report shall show expenditures and receipts consistent with the requirements of the financial procedures described in Section 7.9. The Managing Agency shall maintain all fiscal records relating to the Intake Facilities and associated capital improvement projects in accordance with generally accepted accounting principles. In addition, the Managing Agency shall maintain any other records pertinent to the Intake Facilities and associated capital improvement projects in such a manner as to clearly document the Managing Agency's performance hereunder. All such fiscal records, books, documents, papers, plans, and writings shall be retained by the Managing Agency and kept accessible as required by law. The Managing Agency agrees that the other Parties and their authorized representatives shall have access to all books, documents, papers and records of the Managing Agency which are directly related to the Intake Facilities and associated capital improvement projects for the purpose of making any audit, examination, copies, excerpts and transcripts.

**7.7. Audit**

The Board shall cause an independent audit of the financial affairs of the Commission to be performed by a certified public accountant licensed and certified to do municipal auditing in the State of Oregon. The audit shall be performed in accordance with the provisions of the Oregon Municipal Audit Law, ORS Section 297.405 – 297.555. The audit shall be completed annually within six months following the end of each Fiscal Year. The Board shall review, accept the annual

audit, and direct the Managing Agency to complete correction actions as needed. A copy of the annual audit shall be provided to each Party upon acceptance by the Board.

7.8. **Issuance of Debt**

When authorized by a unanimous vote of the Board and an affirmative vote by the governing body of each Party, the Board may issue debt under ORS 287A, as allowed under ORS 190.080, as the Board deems necessary to finance capital improvements. Upon receipt of an affirmative vote of each of the governing bodies, the Board shall approve the order or resolution authorizing the issuance of debt, which shall specify the joint and severable liabilities and obligations of the Parties as set forth in ORS 190.080 (3).

7.9. **Financial Procedures**

Interim financial procedures are included as **Exhibit 9**, and will be used until the long-term financial procedures are developed and approved by the Board. The Managing Agency shall propose financial procedures consistent with the requirements of this Section. The Finance Committee will review the proposed financial procedures, and will provide a recommendation to the Management Committee for review or provide requested revision(s) to the Managing Agency to incorporate and forward to the Management Committee. The Management Committee will review the proposed financial procedures, and will provide a recommendation to the Board for adoption or provide requested revision(s) to the Managing Agency to incorporate and forward to the Board. The Board will consider the recommended financial procedures for adoption or send back to the Management Committee for modification. The financial procedures will be reviewed and updated on at least a ten-year basis or as requested by the Finance Committee, Managing Agency, or the Board. The Board approved long-term

financial procedures will be included as an amended **Exhibit 9** to this Agreement subsequent to the effective date of this Agreement.

## **8. Intake Facilities Ownership and Easement**

### **8.1. Capacity Ownership**

The Parties each own various shares of Capacity in the Intake Facilities. The ownership of each Party is a percentage share of the Intake Facilities that is equal to the Party's Capacity in MGD compared to the total Capacity of the Intake Facilities. The Parties' respective shares of the anticipated design Capacity of the Intake Facilities are set forth in **Exhibit 3**. Upon completion of construction, the Board shall determine ownership of Capacity based on actual Capacity achieved of the Intake Facilities to the System Separation Point. If the actual Capacity achieved is more or less than the design Capacity anticipated in **Exhibit 3**, the **Exhibit** will be revised to reflect the ownership based on the actual Capacity achieved. The Capacity shares shall be proportionately increased or reduced. If the actual Capacity achieved is less than the design Capacity anticipated, in no event will the Capacities of TVWD, Wilsonville and Sherwood be less than 56.5 MGD, 20 MGD and 5 MGD, respectively.

### **8.2. Easement**

The Intake Facilities have been granted an Easement described in **Exhibit 1** and are located on the Real Property described in **Exhibit 4**.

## **9. Water Rights**

### **9.1. Existing Water Rights**

A Party shall continue to hold its Water Rights in its individual name, except that TVWD, Sherwood, Tigard and Tualatin jointly hold their Water Right through the WRWC. **Exhibit 5** identifies the Water Rights held by each Party and the WRWC for use at the Intake Facilities Point of Diversion and as described in this Section.

9.2. **Restriction on Use**

If surface water withdrawal rights are partially or fully restricted and unavailable, then each Party will be subjected to the restrictions and conditions applicable to its own Water Rights. The available Water Rights will be used for the benefit of the Party(ies) that own(s) the Water Rights. To the extent that the non-restricted or partially restricted Water Rights are greater than that required by the Party owning the Water Rights, then the unused portion of the Water Rights may be leased to the other Parties, as set forth in the leasing provisions. In times of emergency or curtailment, the Board may allow Parties to use the Water Rights of other Parties without a leasing requirement, subject to the agreement of those Parties. Those Water Rights held jointly through WRWC shall be allocated for use by the WRWC Parties as described in the WRWC agreement.

9.3. **Supplemental Water Rights**

A Party or the Commission may obtain additional Water Rights from the Oregon Water Resources Department or a federal agency that initiates a municipal contracting program in the United States Army Corps of Engineers storage facilities in the Willamette Basin (“Willamette Basin Project”) as the Demand and need is identified. The Board will establish Capacity ownerships of any jointly held Water Right by the Commission at the time of application. **Exhibit 5** identifies the Water Rights authorized for use at the Intake Facilities Point of Diversion held by individual Parties and those jointly held by the WRWC or by the Commission. **Exhibit 5** will be updated by the Board as additional Water Right transactions occur.

9.4. **Obligations of Each Party**

Each Party is responsible for obtaining its own Water Rights with a point of diversion at the Intake Facilities sufficient to meet its Capacity.

#### 9.5. **Perfection and Certification**

A Party's certification or perfection of its individual Water Right through the Intake Facilities cannot exceed the Party's owned Intake Facilities Capacity unless the Board approves otherwise and such approval is not to the detriment to the other Parties' Water Rights.

#### **10. Use of the Intake Facilities by the Parties**

Each Party shall use the Intake Facilities in a manner consistent with prudent water utility operating practices and in a manner that minimizes the impact of use on the other Parties. The Managing Agency shall manage the Intake Facilities for the mutual benefit of all Parties. Each Party shall obtain sufficient Capacity in the Intake Facilities to serve the Demand imposed on the Intake Facilities by the Party.

#### **11. Operations Plan**

Prior to the date the Willamette Water Supply System commences delivery of potable water to its respective Users, an Operations Plan shall be developed by the Operations Committee with support from the Managing Agency, and submitted to the Management Committee. The Management Committee will review the proposed Operations Plan, will work with the Managing Agency on modifications, and will provide a recommendation to the Board for adoption or will send back to the Operations Committee for modification. The Operations Plan for the Intake Facilities will include, but is not limited to, agreed protocols and a methodology to provide for the equitable, effective and efficient operation of the Intake Facilities in accordance with generally accepted utility practices regarding the operation, management, capital improvements, and expansion of all aspects of the Intake Facilities. The Operations Plan will provide that the Parties will use best efforts and good faith in the operation of the Intake Facilities for the mutual benefit of all Parties. The Operations Plan will be updated as needed. The agency responsible for operating the Intake Facilities shall follow the Board-

adopted Operations Plan.

## **12. Curtailment Plan and Emergency Response and Management Plan**

### **12.1. Curtailment Plan**

The Board shall adopt a Curtailment Plan that establishes policies and procedures for when and how reductions in Demand shall be made. The Managing Agency shall develop a proposed Curtailment Plan for review by the Operations Committee. The Operations Committee will review the proposed Curtailment Plan, and will provide any requested revision(s) to the Managing Agency before presentation to the Management Committee. The Management Committee will review the proposed Curtailment Plan, and will either provide a recommendation to the Board for adoption or will send back to the Operations Committee for further review and modification. The Management Committee will provide a recommendation to the Board for its consideration and adoption. When reductions in Demand become necessary, the reduction shall be in accordance with the Curtailment Plan. Any Curtailment Plan must treat all Parties fairly and equitably.

### **12.2. Emergency Response Plan**

The Managing Agency shall prepare an Emergency Response Plan to be reviewed by the Operations Committee and the Management Committee. Procedures and protocols will be included in the proposed Emergency Response Plan. The Operations Committee and Management Committee will review the proposed Emergency Response Plan, and will either provide a recommendation to the Board for adoption or will provide requested revision(s) to the Managing Agency.

## **13. Right of First Offer**

Wilsonville and TVWD entered into the 2000 Master Agreement, Accord, First Amendment and the Willamette Intake Facilities Agreement regarding the construction, joint ownership, and continuing operations of the WRWTP, which all remain and will remain in full force and



**EXHIBIT A**

effect, except as otherwise amended, in writing, by TVWD and Wilsonville. The Accord Agreement, dated June 19, 2001, expressly provides a Right of First Offer be made between Wilsonville and TVWD with respect to any sale, transfer, exchange, grant of option to purchase, lease, or other disposal of their respective interests in the Property, or any part of, or interest in, or ownership interest in the Supply Facilities (which include the Intake Facilities). Wilsonville has been offered and declined the first right to purchase the Intake Facility capacity held by TVWD and consented to sale, purchase and transfer of 62.3 MGD of existing and expanded capacity between TVWD and the other Parties to this Agreement and waived further application of the Accord Agreement thereto. In accordance with the Accord Agreement, the reciprocal Right of First Offer with respect to Intake Facilities remains in full force and effect with respect to 56.5 MGD of TVWD's retained interest in the Intake Facilities and Wilsonville's 25.0 MGD retained interest in the Intake Facilities, notwithstanding anything to be construed to the contrary in this Agreement. Additional terms with respect to the Right of First Offer continue to apply and are detailed in the Accord Agreement. If TVWD or Wilsonville declines to lease or purchase all or a portion of the amount offered, then the declined amount may be offered to the Parties for lease or for purchase, as provided in Sections 14 and 19. Notwithstanding the terms of the Right of First Offer, Wilsonville and TVWD do hereby agree to waive their Right of First Offer for leases of five years or shorter duration offered by Wilsonville or TVWD to the other Parties ("Short Term Waiver"). A lease to which this Short Term Waiver applies may be renewed for one additional term and the Short Term Waiver is applicable for that one time renewal.

**14. Leasing****14.1. Leasing**

The Parties recognize that options for leasing Capacity in the Intake Facilities or Water Rights are important to maintain the cost effective and efficient use of the Intake Facilities and associated infrastructure. Only Parties to this Agreement are

eligible to engage in leasing. Leasing options will include firm, interruptible, and surplus water pool. A Party will not be forced to lease its Capacity in the Intake Facilities or Water Rights to other Parties. Each Party retains sole discretion as to how much, if any, Capacity of the Intake Facilities or Water Rights to make available for leasing. Prior to expanding or adding new infrastructure to the Intake Facilities above 150 MGD, the Parties will determine if leasing options are a reasonable approach as a method to defer capital expansion. The following provisions regarding Leasing are subject to the Right of First Offer, including the Short Term Waiver between TVWD and Wilsonville, as set forth in Section 13.

14.2. **Leasing Procedures**

The Managing Agency will coordinate and manage the annual leasing process, including associated agreements and approval requirements, on a schedule that accommodates the Commission and the Parties' budget processes. The Managing Agency will request available Capacity or Water Rights for leasing options from all Parties who are interested in leasing on an annual Fiscal Year basis prior to the Peak Season. Each interested Party will estimate the amount of Capacity, duration, and type of Lease (interruptible or firm) or Water Rights it wishes to make available to lease to, or the amount of Capacity, duration, and type of Lease (interruptible or firm) it seeks to lease from, the other Parties. The Managing Agency will develop forms and protocols for managing the leasing process including the leasing requests and annual surplus Capacity designated by each Party. A rate methodology for each of the leasing options will be developed by the Managing Agency, reviewed and recommended by the Management Committee and the Finance Committee, and adopted by the Board. A sample Lease form and methodology are attached in **Exhibit 10**, which may be modified and/or updated by the Board. In those years when Water Rights are limited and if requested by the Parties, the Board may adopt

an equitable methodology for leasing of the Water Rights.

14.3. **Firm and Interruptible Lease Terms**

The length of time for firm and interruptible leases will be a minimum of one year and a maximum of five years, unless otherwise approved by the Board and subject to the Right of First Offer provisions. The Capacity acquired from a firm Lease will be considered transferred Capacity from the lessor to the lessee for the quantity and the duration of the Lease agreement for use and overuse purposes. The Capacity acquired from an interruptible Lease will be considered the lessee's Capacity for use and overuse purposes until the lessor calls back the Capacity from the lessee pursuant to the terms of the Lease. The Managing Agency will develop recommended protocols and the terms to be approved by the Board for firm and interruptible Leases, the latter of which will include the terms under which a lessor may call back the "interruptible" leased Capacity, such as when curtailment or loss of Capacity occurs.

14.4. **Surplus Capacity Pool Terms**

When excess Capacity is made available for leasing that is not dedicated to a firm or interruptible Lease, that excess Capacity shall be included in the Surplus Capacity Pool to be made available for a period not to exceed one year from the date of placement in the Surplus for lease for less than one year by the Parties in coordination with the Managing Agency. The premium short term lease rate is included in **Exhibit 10**, and may be amended by the Board. The Managing Agency will develop for approval by the Board the terms, costs, and protocols for the management and use of the Surplus Capacity Pool, taking into account the best interests of the Parties while maintaining the integrity of the system.

14.5. **Lease Approval**

A Lease that is within the terms of this Section will be reviewed and approved by

the Management Committee and administered by the Managing Agency. Status reports regarding the Lease agreements will be provided to the Board by the Managing Agency. A Lease that is not consistent with the terms of this Section must be approved by the Board.

14.6. **Lease Distribution and Payments**

Lease requests and associated Lease revenues will be divided among the lessors based on the percent of Capacity or Water Rights leased, if more than one lessor and one lessee are involved unless otherwise approved by the Board. A Lease approved between two Parties may provide for payment made directly from the lessee to the lessor. When Lease requests exceed the amount of Capacity or Water Rights made available, available Lease Capacity or Water Rights will be divided amongst the lessees based on the percent of Capacity or Water Rights requested unless otherwise approved by the Board.

**15. Overuse**

15.1. **Notification**

A Party will manage its Demand on the Intake Facilities within the Party's respective ownership and Capacity share of the Intake Facilities as may be augmented by firm, interruptible or surplus Capacity pool Lease sources. Overuse terms are included in the Agreement in order to discourage use that may result in adverse impacts to the operational integrity of the Intake Facilities and to promote prudent planning of needed expansions. The Managing Agency shall notify a Party when the Party's instantaneous Demand has exceeded its Capacity ownership as augmented by any leased Capacity, including any short term lease from the Surplus Capacity Pool of the Intake Facilities. A Party should notify the Managing Agency if the Party exceeds or anticipates exceeding its Capacity share as augmented by any leased Capacity and short term lease from the Surplus Capacity

Pool. A Party will be required to take appropriate corrective action to decrease the Party's Demand on the Intake Facilities to be within its Capacity ownership as augmented by any leased Capacity and the surplus Capacity pool. A Party shall be deemed to have overused the Intake Facilities if the Party's Demand on the Intake Facilities exceeds the Party's Capacity as described in Sections 8 and 10. Overuse is subject to remedies described in Section 16.

15.2. **Overuse Terms**

If a Party has been notified by the Managing Agency that their instantaneous Demand on the Intake Facilities has exceeded their ownership Capacity as augmented by any leased Capacity and the surplus Capacity pool, and corrective action was not taken to decrease the Demand within their ownership Capacity as augmented by any leased Capacity and the surplus Capacity pool, then the following Overuse Terms shall apply. A Party shall be deemed to have overused the Intake Facilities if the Party's Demand on the Intake Facilities exceeds the Party's Capacity as augmented by any leased Capacity and the surplus Capacity pool by 5% continuously over a 12 hour period for: i) three consecutive days in two consecutive years or ii) three consecutive days in any three years out of a five year period. Overuse also includes a Party's use exceeding its Water Right ownership regardless of the extent of overuse during times of regulation or curtailment per Section 12, unless otherwise approved by the Board. If overuse occurs, then the Party shall be subject to the remedies for overuse terms set forth in Section 16.

**16. Remedies for Overuse**

16.1. **Remedies Considered by the Board**

To the extent that a Party overuses the Capacity or Water Rights of the Intake Facilities as defined in Section 15 of this Agreement, the Party shall compensate the other Parties as set forth in Section 16.2. When overuse occurs, the Board may

require the Party to lease Capacity or Water Rights in the Intake Facilities, reduce Demand on the Intake Facilities, or purchase Capacity in the Intake Facilities, if made available by another Party such that the overuse will cease to occur. Compensation for overuse is described in Section 16.2. The Party that overused the Intake Facilities shall deliver to the Management Committee and the Board a plan to avoid overuse in the future. The plan must include a proposal for a Lease agreement, a Capacity purchase agreement, and/or other measures to eliminate overuse of the Intake Facilities. Nothing herein shall compel a Party to lease or sell Capacity or Water Rights to an overusing Party. The Board shall approve a plan to eliminate overuse by the Party, and the Managing Agency shall monitor the implementation of the plan and report back to the Board. Penalties for overuse may only be waived by the Board. A request for a waiver may be given to the Managing Agency, along with justification for the waiver, to be presented to the Board.

**16.2. Compensation**

To the extent that a Party overuses the Capacity or Water Rights of the Intake Facilities as defined in Section 15 of this Agreement, the Party shall compensate the other Parties. Unless modified by the Board, compensation for overuse shall be five times the firm Lease rate for Capacity, which would have been in effect in the last period described above in which the overuse occurred for the entire period of the overuse (i.e. two consecutive or three out of five years). The amount of Capacity overused for the determination of retroactive compensation shall be equal to the difference between the Party's Capacity as augmented by any leased Capacity or surplus Capacity pool and the Demand imposed by the Party during the overuse period. The compensation for overuse shall be distributed to the other Parties by their ownership Capacity percentage.

**17. Expansion and Capital Improvements**

**17.1. Current Expansion**

As described in the Recitals, the Parties have or will enter into separate agreements to design and construct upgrades for a Capacity Expansion of the Intake Facilities to achieve a design Capacity of 150 MGD. The preliminary concept and layout for the Intake Facilities improvements are shown in **Exhibit 2**. The preliminary cost allocations for the Intake Facilities improvements are described in **Exhibit 11**. The process set forth in Sections 17.2 and 17.3 shall not apply to this current Capacity Expansion.

**17.2. Future Expansion or Improvement**

Capacity Expansion of the Intake Facilities refers to any capital improvement project not part of Section 17.1 that results in increased Intake Facilities Capacity. Capacity Expansion or Facilities Modification of the Intake Facilities, to the extent possible, shall be planned for through a Master Plan to be updated not less than every five years. The Managing Agency will lead and facilitate the development of the Master Plan, which will be reviewed and recommended for adoption by the Operations and Finance Committees to the Board. The Managing Agency will conduct the planning and implementation of the Intake Facilities Capacity Expansion, including provision for minimum operational impacts and cost impacts, to the other Parties using the Intake Facilities. A Party will notify the Managing Agency of any proposed Capacity Expansion outside the planned Capacity Expansions including the proposed Capacity and schedule.

**17.3. Determination of Future Expansion**

The Managing Agency will provide notice to the Parties of any proposed Capacity Expansions to determine participation. Parties shall have 120 days from the date they receive notice, with an option for an additional 60 days if requested, in which to respond to the Managing Agency whether they wish to participate in the

proposed Capacity Expansion and any proposed conditions for participation. Once participation in the proposed Capacity Expansion is fixed and the scope, budget, and schedule are established, then the non-participating Parties shall have no further opportunity to participate unless all participating Parties approve. Participating Parties will include their proportionate share of the estimated costs in their respective annual budgets. In the case of any proposed Capacity Expansion, a Supermajority of the Board must agree to the proposed Capacity Expansion. If the Board agrees to allow the Capacity Expansion, each Party will have the option to participate in the Capacity Expansion. If not all Parties agree to participate in the Capacity Expansion, then only those Parties electing to participate in the Capacity Expansion will be responsible for all costs related to the Capacity Expansion. The Managing Agency will strive to resolve objections to proposed Expansion prior to a final decision being made with respect to the Capacity Expansion.

### **18. Sale of Water to Non-Party**

The Parties agree that sale of water to a non-party shall occur only through the associated Water Treatment Plant agreements. Parties that require Capacity for such sales shall lease Capacity from other Parties to this Agreement pursuant to Section 14 or purchase Capacity from other Parties pursuant to Section 19.

### **19. Withdrawal and Sale of Interest**

#### **19.1. Notification**

Subject to the notification requirements of the Right of First Offer described in Section 13, one or more Parties (“Selling Parties”) may sell all or a portion of their ownership Capacity in the Intake Facilities by providing written notice to the Managing Agency and the other Parties. Within 60 days of receipt of the notice, each Party with an interest in acquiring additional Capacity in the Intake Facilities shall respond in writing to the Managing Agency and the Selling Party indicating



whether it wishes to purchase all or a portion of the interest in the Intake Facilities, the offer price, and the proposed terms and conditions of the purchase and sale (“Purchase Nomination”).

19.2. **Purchase Nomination Recommendation**

The Managing Agency will review each Purchase Nomination and make a preliminary determination as to whether all Parties submitting a Purchase Nomination (“Purchasing Parties”) and Selling Parties can be accommodated in full. If the Managing Agency is a purchaser or seller, then the Management Committee will perform the tasks outlined in this Section. If all Purchasing and Selling Parties can be accommodated in full, the Managing Agency shall notify the Selling Parties and Purchasing Parties of how the reallocation of ownership will be calculated. If all Purchasing and Selling Parties cannot be satisfied in full, then the Managing Agency will confer with the Purchasing and Selling Parties individually or collectively and make a recommendation as to how the total interest designated for sale should be allocated among the Purchasing and Selling Parties. The Managing Agency shall allocate proportionately in order to achieve an equitable and fair solution for the Purchasing and Selling Parties. The Managing Agency will make the recommendation to the Management Committee with respect to the proposed allocation within 30 days after receipt of Purchase Nominations.

19.3. **Purchase Negotiations**

Within 30 days after the Managing Agency makes the recommendation and provides written notice of the proposed allocation (as approved by the Management Committee), the Managing Agency will convene a meeting of the Selling Party and the Purchasing Party to reach final agreement on the allocation of Capacity, the purchase price to be paid and other terms of sale. The Purchasing Party and Selling Party will each designate a representative for negotiations. As a result of the

negotiations, one price will be set that will apply to all Selling and Purchasing Parties.

19.4. **Purchase Term Sheet**

All Purchasing Parties and Selling Parties, with the Managing Agency as the facilitator, will have 60 days to negotiate a fair and equitable transaction through a process so that all Purchasing and Selling Parties are privy to all discussions of price and terms resulting in a mutually agreed final reallocation of Intake Facilities ownership and the terms of purchase and sale. The final terms will be reduced to a term sheet for tentative approval by the designated representatives of the Purchasing and Selling Parties. If the Managing Agency is a Purchasing Party or a Selling Party, the Management Committee will assume the facilitator role throughout the purchase and sale process.

19.5. **Acceptance or Rejection**

Within 45 days of approval of a term sheet, each Purchasing and Selling Party will conduct such internal review as it deems necessary and provide written notice of intent to proceed with or decline the transaction to the other Parties and the Managing Agency. If any Purchasing or Selling Party declines, then the Managing Agency will convene the remaining Purchasing and Selling Parties who will then determine how to reallocate the Capacity and adjust their respective purchase price or terms. If there is excess Capacity available, the Managing Agency may also offer the excess Capacity to those Parties who had earlier declined to be a Purchasing Party. Those declining Parties shall have 15 days from notice by the Managing Agency to accept or decline the term sheet as is and without opportunity to vary its terms unless the Purchasing Party and Selling Party mutually agree.

19.6. **Purchase and Sale Agreement**

Once the terms of purchase and sale are determined, the Managing Agency shall

notify all Parties of the pending transaction. Purchasing and Selling Parties will prepare the necessary documents for final approval by the governing bodies of the Selling and Purchasing Parties and the transaction will close within 30 days after approval, unless a longer period is agreed to by the Selling and Purchasing Parties. Upon closing of the transaction the Managing Agency will undertake to gather or prepare amended Exhibits and other documents necessary to memorialize the transaction and will enter the revised Capacity allocation and resulting equity interest on the books and records of the Commission. Board approval of the transaction is not required, but the Board will approve the amended Exhibits that reflect the revised Capacity allocations.

19.7. **Commission's Purchase Rights**

If all or a portion of the offered Capacity remains unsold after the exhaustion of the procedure in Sections 19.1 through 19.6 above, the Board will have the right to consider whether to purchase a Selling Party's interest on terms and conditions agreed upon by the Board and the Selling Party. If so acquired, the Commission will hold the Capacity in trust for the benefit of all of the Parties.

19.8. **Sale to Municipal Non-Party**

If all or a portion of the offered Capacity remains unsold after the exhaustion of the procedure in Sections 19.1 through 19.7, then the Selling Parties may seek and obtain offer(s) from a non-Party so long as the non-Party is a Municipal Water Provider and becomes a Party to the Commission and this Agreement. Such offers will be reviewed in accordance with Section 20.

19.9. **Party Status**

If the interests of the Selling Party remain unsold, then the Selling Party will continue as a Party. Upon sale of all ownership interests, the Selling Party will cease

to be a Party.

19.10. **Water Rights**

The process described in this Section does not govern the sale or purchase of Water Rights.

19.11. **Schedule**

Participating Parties in any proposed transaction may adjust the schedule provided in this Section as mutually agreed.

**20. Admission of New Municipal Parties**

20.1. **Eligibility**

Only a Municipal Water Provider is eligible to apply to become a Party and must make a written request to become a Party (“Applicant”).

20.2. **Applicant Request**

The Applicant’s written request shall state the proposed date of joinder, Demand and Capacity sought to be purchased, identify the quantity and status of Water Rights the Applicant would provide, identify the existing Capacity necessary to serve the Applicant, identify any improvement(s) that would need to be built or expanded to accommodate the Applicant, and other supply sources available to Applicant.

20.3. **Consideration by Managing Agency and Board**

The Applicant shall deliver its request to the Managing Agency who shall then distribute it to the Board and the Management Committee. Each Party’s representative of the Management Committee will be responsible for presenting the application to their respective governing bodies for a recommendation to approve or deny. Once the Management Committee reports back the results from each of the Party’s respective governing bodies, at the next regularly scheduled Board

meeting, the Board will consider the request. A decision to consider an application for admission will require a unanimous affirmative vote of the Board. If the Board determines that the application will not be considered, the Managing Agency will inform the Applicant the request is denied and the matter will be deemed concluded.

20.4. **Provision of Additional Information**

If the Board unanimously votes to consider the admission, the Board, through the Managing Agency, shall request that Applicant provide all information as the Board deems necessary, in its sole discretion, to adequately consider the matter. This may include a request for oral presentation by Applicant's staff and/or elected officials.

20.5. **Term Sheet**

Based on the information submitted, the Board shall determine if there is unanimous interest to continue to consider the request. If so, then the Managing Agency shall deliver a term sheet to the Applicant defining the terms and conditions for joinder, including but not limited to the date of joinder, the method of payment for existing Capacity and Applicant's obligations for construction of new Intake Facilities or expansion of existing Intake Facilities.

20.6. **Applicant Review of Term Sheet and Negotiation**

The Applicant shall have 30 days from the receipt of the term sheet to accept or decline the term sheet, or propose modified terms. If the term sheet is acceptable to the Applicant and the Board, or if the Applicant and the Board negotiate and reach agreement within 30 days on the proposed modified terms, the Managing Agency shall cause a joinder agreement to be prepared for approval by the Applicant and the Board. If declined, the matter will be deemed terminated without any further action.

20.7. **Sale or Transfer to Applicant**

In accordance with Section 19, if an existing Party wishes to sell or transfer Capacity ownership to an Applicant, the Party seeking to sell shall give notice to the Managing Agency as provided in Section 19, Sale of Interest. The Party shall also include a written statement of its intent to sell. Thereafter, the evaluation of the Applicant and terms and conditions of joinder shall follow the process of Applicant request under this Section concurrent with the Sale of Interest provisions of Section 19 for the Selling Party and remaining Parties.

## **21. Indemnity**

### **21.1. Indemnification of Board, Officers and Employees**

Except as may otherwise be provided by contractual agreement between the Commission or Board and any agent of the Commission, including but not limited to the Managing Agency, the Commission shall defend and indemnify any Board member, officer, committee member, employee or agent of the Commission who was or is a party, or is threatened to be a party, to any threatened or actual action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the collective Parties under this Agreement), by reason of the fact that such person is or was a Board member, officer, committee member, employee, or agent of the Commission, against all reasonable expenses, attorney fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if such person acted in good faith and such person reasonably believed his or her conduct to be lawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or with a plea of nolo contendere or its equivalent shall not in and of itself create a presumption that the person did not act in good faith or did not reasonably believe his or her conduct to be lawful. Payment under this clause may be made during the pendency of such claim, action suit or proceeding

as and when incurred, subject to the right of the Commission to recover such payment from such person, should it be proven at a later time that such person had no right to such payments. Any person who is ultimately held liable for his/her good faith and reasonably believed to be lawful actions on behalf of the Commission as a Board Member, officer, committee member, employee, or agent of the Commission shall be fully covered by this indemnity. Any person who is ultimately held liable but is determined by the Board to have acted in bad faith or without reasonably believing his or her conduct to be lawful shall not be indemnified by the Commission but may have a right of contribution over and against any other Board Members, officers, committee member, employees, agent of the Commission, or Parties who, in bad faith or without reasonably believing his or her conduct to be lawful, participated in the action that created said liability. As used herein, "person" refers to an individual or an entity.

## **22. Default**

### **22.1. Generally**

A Party is deemed in Default of this Agreement if the Party violates any provision of this Agreement or fails to perform an obligation required to be performed or otherwise breaches this Agreement. An Event of Default shall be deemed to have occurred if the Defaulting Party fails to cure the Default within the cure period designated in this Section.

### **22.2. Notice of Default and Cure**

A written notice of Default ("Notice of Default") shall be delivered to the Party in Default ("Defaulting Party") by the Managing Agency, acting at the direction of the Board. The Notice must specify the nature of the Default and provide a specified period to cure the Default or otherwise reasonably commence to cure the Default in a diligent manner. A reasonable cure period ("Cure Period") shall be

deemed to be 30 days unless another time for cure is set by the Board and contained in the Notice of Default. The Notice of Default may also include a requirement to engage in the Dispute Resolution process. A copy of the Notice of Default shall be delivered to all other Parties. Specific provisions relating to Default by the Managing Agency are found in Section 24.

22.3. **Response by Defaulting Party**

22.3.1. **Nonpayment Default**

The alleged Defaulting Party shall either: (1) make payment in full by the date set in the Default notice; (2) submit a plan for repayment that the Board must approve; or (3) request Dispute Resolution. The Cure Period for non-payment is a 30 day period, but the Board may, in its sole discretion, approve a payment plan in extraordinary circumstances.

22.3.2. **Other Defaults**

The Defaulting Party must: (1) cure the Default by the Cure Period set forth in the Notice of Default; (2) state why the Default cannot be cured within the Cure Period, what efforts the Defaulting Party has made to Cure the Default and provide a reasonable plan to cure the Default; or (3) request Dispute Resolution. The Board must approve the plan for cure and if not approved, an Event of Default will be declared. If Dispute Resolution is requested by the Defaulting Party of the Board, then that process will be followed.

22.3.3. **Failure to Cure**

Failure to cure the Default within the allowed Cure Period will result in the Declaration of an Event of Default, and a Final Notice to Cure will be delivered to the Defaulting Party by the Managing Agency. The Final Notice to Cure will contain one final allowed Cure Period. Failure to cure



the Event of Default within Final Notice of Default Cure Period will result in a Declaration of Default and the Remedies for Default will apply.

## **23. Remedies**

### **23.1. Determination of Remedy**

Upon Declaration of an Event of Default, the Board will determine an appropriate remedy. The Defaulting Party will not have voting privileges regarding the appropriate remedy and a Supermajority vote of the remaining Board Members shall be required to determine the remedy. The imposition and scope of remedies by the Board is subject to Dispute Resolution. In making a determination of remedy for the Default, the remaining Board Members shall consider:

23.1.1. The nature of and severity of the Event of Default and resulting impact on the other Parties;

23.1.2. Whether the factors leading to the Event of Default were beyond the reasonable control of the Defaulting Party;

23.1.3. The Defaulting Party's history of performance and satisfaction of obligations and duties under this Agreement;

23.1.4. The Defaulting Party's responsiveness and cooperation to cure the Event of Default, including consideration of how proactive the Defaulting Party was in revealing the Default.

23.1.5. Other factors that the Board deems relevant.

### **23.2. Potential Remedies for Consideration by the Board**

The Board may consider all remedies available at law, or in equity, for breach of this Agreement as provided in this Section and Section 24. The purpose of the remedy is to make all non-Defaulting Parties whole and to bring the Defaulting

Party into compliance, if possible. The remedies, until the Event of Default is cured, may include, but not be limited to, the following:

**23.2.1. Loss of Voting Privileges**

The loss of voting privileges such that a Supermajority of the remaining Members of the Board may conduct business without the Defaulting Party until the Defaulting Party fully cures the Event of Default.

**23.2.2. Money Damages**

The Board may recover money damages for additional costs of service, costs of capital and other actual costs incurred by the other Parties resulting from the Default, plus interest at the statutory judgement rate of interest from the date of Default.

**23.2.3. Termination of Service**

The Board may elect: (1) to terminate water deliveries to the Defaulting Party until the Event of Default is cured, if the Defaulting Party has other sources of water sufficient to meet Non-peak Season average daily demands, or (2) reduce water deliveries so that the Intake Facilities provides only enough water to meet Non-peak Season average daily demands when combined with the Defaulting Party's other sources.

**23.2.4. Expulsion**

In cases of repeated Defaults by the Defaulting Party, the Board may expel the Defaulting Party from the Commission and require the Defaulting Party to sell their Capacity ownership in the Intake Facilities. The removed Defaulting Party may ask to be a wholesale finished water supply purchaser from either Water Treatment Plant.

**23.2.5. Litigation**

Subject to Section 22 and 23, if the Event of Default is not cured or the

Board imposed Remedies are not complied with and the Dispute Resolution process has been waived or unsuccessful, any Party may file a lawsuit and seek available remedies under Oregon law.

**23.3. Suspension of Legal Remedies Imposed by the Board**

A Default may be addressed using the Dispute Resolution process described in Section 25. If Dispute Resolution has been requested, then the Remedy provisions of Section 23 will be suspended until the Dispute Resolution process is exhausted. Notwithstanding the foregoing, if the Default is of a nature that it poses a health risk to any user of the Intake Facilities or could cause damage to the Intake Facilities, Water Treatment Plants, or the Real Property, then the Board or any aggrieved Party may seek immediate equitable relief without waiting for initiation or completion of any Dispute Resolution.

**24. Default by the Managing Agency**

**24.1. Generally**

This Agreement obligates the Managing Agency to manage the business affairs of the Commission for the mutual benefit of all Parties to consistently deliver water from the Intake Facilities to their respective Water Treatment Plants. If the Managing Agency is also a Party and is alleged to be a Defaulting Party, a Supermajority of the remaining Board Members shall designate another Party to act as the facilitator for the Default. Based on the nature of the Default, the Board may also remove the Managing Agency from some or all Managing Agency duties pending Dispute Resolution, mediation, arbitration, or litigation, as the case may be. The following provisions shall apply to a Default by the Managing Agency, unless other Default provisions are contained in a separate Managing Agency contract, with the Managing Agency and are stated to control and supersede over these provisions.

**24.2. Notice of Default and Cure**

A written Notice of Default shall be delivered to the Managing Agency by the Board following a Supermajority vote of the remaining Members of the Board. The Managing Agency serves at the will of the Board. Therefore, the Notice may include a Notice of Termination of the Managing Agency, which termination may be immediate for acts or omissions such as gross negligence, malfeasance or dishonesty in financial practices, or at the end of a specified period of time set by the Board in the Notice. The Board must consider and provide a plan of transition if the Notice includes termination. If a Notice of Default with an opportunity to cure the Default is given, the Notice must specify the nature of the Default and provide a specified period in which to cure the Default or otherwise reasonably commence to cure the Default in a diligent manner. A reasonable cure period (“Cure Period”) shall be deemed to be 30 days unless another time for cure is set by the Board and contained in the Notice of Default. The Notice of Default may also include a requirement by the Board for the Managing Agency to engage in the Dispute Resolution process. A copy of the Notice of Default shall be delivered to all Parties. If the Managing Agency is a Party and the Board does not elect to terminate the Managing Agency, the Board may vote to temporarily remove the Managing Agency from some or all of its duties pending a cure of the Default.

**24.3. Event of Default**

The Managing Agency shall be deemed in Default of this Agreement if it fails to perform any obligation required to be performed by the Managing Agency under this Agreement or through a separate Managing Agency contract. An Event of Default shall be deemed to have occurred if the Managing Agency fails to cure the Default within the Cure Period designated in this Section 24.2, if any Cure Period

is allowed. If no Cure Period is given, then the Default shall be deemed to be an immediate Event of Default.

#### 24.4. **Remedies**

If the Managing Agency commits an Event of Default, the Commission may seek any remedy available to it, at law or in equity. Such remedies include but are not limited to money damages, including restitution; specific performance; injunctive relief; and termination of the Managing Agency's contract. The Board, at its sole discretion, may enter into the Dispute Resolution process described in Section 25 if requested by the Managing Agency.

### **25. Dispute Resolution**

This Agreement obligates the Parties to cooperate in the ownership and operation of the Intake Facilities for the mutual benefit of all Parties to consistently deliver water to their respective Water Treatment Plants. The Intake Facilities are the foundation of the other water system assets and Water Treatment Plants of the Parties. To that end, the Parties agree that each Party should bring forward issues regarding past performance or anticipated performance of obligations and duties at the earliest reasonable opportunity so that all Parties can proactively work toward solutions in an attempt to avoid a formal declaration of default. This Dispute Resolution process is provided to encourage informal resolution through negotiation among the Parties' staff, executives or elected officials before resorting to a formal process using mediation, arbitration, or litigation.

#### 25.1. **Notice of Dispute**

Except in the case of a Default, any dispute shall be submitted in writing to the Management Committee. The Management Committee has 30 days from the date of notice to meet with the affected Parties to resolve the dispute. If the Management Committee does not resolve the dispute within the 30 day period, it shall be referred to mediation. In the case of a Default, either the Defaulting Party or the Board may

demand Dispute Resolution at any time during the Default process or within 10 days following imposition of any of the Remedies by the Board or the court, as set forth above. If Dispute Resolution is not requested during that time period, it shall be deemed waived and any aggrieved Party may proceed to litigation.

25.2. **Mediation**

A Party desiring mediation shall provide the other Parties with a written notice (“Request to Mediate”), which shall set forth the nature of the dispute. The Parties will thereafter cooperate in good faith to select the mediator within 14 days of either Party requesting mediation, and may adopt any procedural format that seems appropriate for the particular dispute. Mediation should be scheduled within 14 days of selection of the mediator, or as soon as possible, based on availability. In the event the Parties cannot agree on a mediator, the Parties will ask the Presiding Judge of Clackamas County Circuit Court to appoint a mediator. The mediator will then set the ground rules for the mediation. The Parties will share the mediation costs as agreed upon with the mediator. If a written settlement agreement is not reached by the Parties within 60 days from the date of the Request to Mediate, or such longer time frame as may be agreed upon, in writing, by the Parties, then the Parties may commence litigation. If the mediation fails the Parties may agree to binding arbitration. If all Parties do not agree to arbitrate, then any Party may seek legal relief through the Circuit Court of Clackamas County, or U.S. District Court if jurisdiction is available.

25.3. **Arbitration**

If the Parties agree to enter into binding arbitration, selection of the arbitrator, time frame for arbitration, and ground rules for arbitration will be agreed upon at that time. Any arbitrator or arbitrators selected must have a minimum of 10 years’ of municipal law experience, unless the Parties mutually agree, in writing, otherwise.

25.4. **Injunctive Relief and Specific Performance**

A Party may seek and obtain immediate equitable relief before or during the Dispute Resolution process and as described in Section 23.3.

25.5. **Attorney Fees**

Each Party shall bear its own legal fees and expert witness fees and all other costs in any Dispute Resolution process, including litigation.

**26. Dissolution**

The Parties may desire to dissolve the Commission. Dissolution of the Commission shall require an affirmative vote of each Party's governing body. Dissolution shall occur no later than five years from the date of the last affirmative vote to dissolve and no sooner than two years, unless the governing body of each Party agrees to a different deadline. If the Commission is not dissolved then any Party(ies) seeking dissolution may elect to terminate and withdraw as described in Section 19. If the Commission is dissolved, the Easement for the Intake Facilities in **Exhibit 1** will be automatically terminated.

26.1. **Plan of Dissolution**

The Managing Agency will develop a dissolution plan to wind up business affairs, to be reviewed and approved by the Management Committee before it is presented to each Party's respective governing body. The dissolution plan must provide for among other things: (1) the continued operation of the Intake Facilities while the dissolution plan is implemented; (2) an accounting of assets and liabilities; (3) provisions for the payment of debts and obligations, including assumption of future payment for ongoing debts and obligations along with appropriate indemnity provisions as the Parties mutually agree; (4) the creation of a reserve account for known, unforeseen, and contingent liabilities; (5) a plan for liquidation of the assets; and (6) a mechanism for distribution of asset proceeds and excess funds among the Parties in accordance with their ownership interest, following payment

of all liabilities and obligations related to the Intake Facilities.

**26.2. Transfer of Capacity Ownership**

The dissolution plan may provide for transfers of Capacity ownership, for cash or other consideration, from a Party that seeks complete divestiture of ownership to a Party who plans to remain and withdraw water from the Willamette River at the Intake Facilities. The dissolution plan must provide for appropriate documents to vest proportionate ownership as tenants in common for owners that remain in joint ownership of the Intake Facilities.

**26.3. Disputes**

Any dispute regarding dissolution, the dissolution plan, division of Capacity or transfer of Capacity shall be first subject to the Dispute Resolution process of Section 25 and, if not resolved in Dispute Resolution or mediation, then as determined by the Circuit Court of Clackamas County under ORS 190.020 (2).

**27. General Provisions**

**27.1. Warranties and Representations**

Each Party hereto warrants and represents that it has the legal authority to enter into this Agreement.

**27.2. Ordinance of the Governing Body**

Each Party to this Agreement hereby represents that it has undertaken or will undertake the necessary public procedures to approve an ordinance in accordance with ORS 190.085. The ordinance shall authorize the Party's representatives to the Board of the Commission to modify the Exhibits to this Agreement as provided in Section 27.6. The Parties further agree that they shall file with the Secretary of State, within 30 days after the Effective Date, the filings described in ORS 190.085(2).



27.3. **Insurance Requirements**

The insurance requirements and limits necessary for the operations of the Intake Facilities are described in **Exhibit 12** and shall be purchased and maintained at all times. The requirements will be reviewed by the Board annually, and modified when necessary per recommendations from the Managing Agency.

27.4. **Other Agreements**

Each Party warrants that entry into this Agreement will not constitute a default under any other agreement or covenant the Party may be bound to.

27.5. **Interpretation**

Unless a clear contrary intention appears: (a) reference to any person includes such person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity; (b) reference to any gender includes each other gender; (c) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (d) reference to any Section, Schedule or Exhibit means such Section, Schedule or Exhibit to this Agreement, and references in any Section, Schedule, Exhibit or definition to any clause means such clause of such Section, Schedule, Exhibit or definition; (e) "hereunder," "hereof," "hereto," "herein," and words of similar import are references to this Agreement as a whole and not to any particular Section or other provision hereof; (f) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding," and "through" means "through and including"; (g) "including" (and with correlative meaning "include")

means including without limiting the generality of any description preceding such term; (h) reference to any law (including statutes and ordinances) means such law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder; and reference to a singular number or person may include the plural number or person, and the plural number or person the singular.

27.6. **Exhibits**

The Parties agree that the Exhibits to this Agreement may be modified or amended by the Commission without other modification or amendment to this Agreement and without approval by the governing body of each Party. Upon execution of this Agreement, the Parties have agreed to include **Exhibits 1 through 13**, attached hereto and incorporated by reference. The purpose and intent of specific exhibits are set forth in other parts of this Agreement. Exhibits consisting of other agreements or contracts among other Parties to this Agreement, or with outside parties, may only be modified by consent of all of those named Parties/parties to those other agreements or contracts and not by the Commission without the consent of those other Parties/parties.

27.7. **Existing Agreements**

Existing Agreements between some or all of the Parties that affect or are affected by the Intake Facilities that are the subject of this Agreement are identified in **Exhibit 13**. These related agreements are not superseded or modified by this Agreement. Nothing in this Agreement shall be construed to require any alteration or modification of any other Existing Agreement. Specifically, the duration of this Agreement does not alter or extend the term of the Ground Lease.

**27.8. Periodic Review**

Exhibits shall be reviewed at least annually by the Board. Exhibits must be updated by resolution of the Board when ownership percentages change, new or expanded Capacity is placed in service, a new Party joins, an existing Party withdraws, or one or more Party(ies) purchases or sells an interest in the Intake Facilities.

**27.9. Severability**

Should any provision of this Agreement be rendered invalid by a court of competent jurisdiction or arbitrator with authority to render a provision invalid, it is agreed that every other part of the Agreement shall remain in full force and effect.

**27.10. No Joint and Several Liability**

Each Party to this Agreement assumes its own rights and obligations and does not assume the rights and obligations of any other Party.

**27.11. Counterparts**

This Agreement may be signed in one or more counterparts, and each counterpart shall be deemed to be an original instrument.

**27.12. Amendments and Modifications**

Except as provided in Section 27.6 for Exhibits, any modification or amendment to this Agreement requires unanimous approval of the Board and an affirmative vote of the governing bodies of all Parties. The amended Agreement must be signed by all Parties upon approval.

**27.13. Judicial Review and Attorney Fees**

This Agreement and its construction shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding between the Parties that arises from or relates to this Agreement shall be brought and conducted solely and

exclusively within the Circuit Court of Clackamas County for the State of Oregon. In any such claim, action, suit, or proceeding, the Parties shall bear their own fees and costs including attorney fees.

27.14. **Third Parties**

Except as expressly provided otherwise in this Agreement, the provisions of this Agreement are for the exclusive benefit of the Parties hereto and not for the benefit of any other persons, as third-party beneficiaries or otherwise, and this Agreement shall not be deemed to have conferred any rights, express or implied, upon any person not a Party to this Agreement.

27.15. **Non-Waiver**

Failure of any Party at any time to require performance of any provision of this Agreement shall not limit the Party's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provisions.

27.16. **Time of the Essence**

Time is of the essence of each and every term, covenant, and condition set forth in this Agreement.

27.17. **Further Assurances**

Each Party agrees that it will reasonably consider cooperation in the execution of other documents and/or performance of other action as may be reasonably requested by another Party to more effectively consummate or achieve the purposes or subject matter of this Agreement.

27.18. **Signing Authority**

Each person signing this Agreement on behalf of a Party hereby warrants actual authority to bind their respective Party.

**TUALATIN VALLEY WATER DISTRICT**

By:

\_\_\_\_\_  
Richard Burke, President

APPROVED AS TO FORM

By:

\_\_\_\_\_  
Clark Balfour, District Counsel

**CITY OF SHERWOOD**

By:

\_\_\_\_\_  
Lee Weislogel, Mayor

APPROVED AS TO FORM

By:

\_\_\_\_\_  
Josh Soper, City Attorney

**CITY OF TIGARD**

By:

\_\_\_\_\_  
John Cook, Mayor

APPROVED AS TO FORM

By:

\_\_\_\_\_  
Shelby Rihala, City Attorney

**CITY OF WILSONVILLE**

By:

\_\_\_\_\_  
Tim Knapp, Mayor

APPROVED AS TO FORM

By:

\_\_\_\_\_  
Barbara Jacobson, City Attorney

**CITY OF HILLSBORO**

By:

\_\_\_\_\_  
Michael Brown, City Manager

APPROVED AS TO FORM

By:

\_\_\_\_\_  
Christopher Crean, City Attorney

**CITY OF BEAVERTON**

By:

\_\_\_\_\_  
Dennis Doyle, Mayor

APPROVED AS TO FORM

By:

\_\_\_\_\_  
Peter Livingston, City Attorney

*After recording, return to:*  
 City of Wilsonville  
 Attn: Legal Department  
 29799 SW Town Center Loop East  
 Wilsonville OR 97070

## INTAKE FACILITIES EASEMENT

KNOW ALL BY THESE PRESENTS, that the **City of Wilsonville**, a duly chartered home rule municipal government of the State of Oregon (“Grantor Wilsonville”), and **Tualatin Valley Water District**, a duly organized water supply district under Oregon Revised Statutes (ORS) Chapter 264 (“Grantor TVWD”) (hereinafter collectively referred to as “Grantor”), as the legal owners of that certain real property described below (“Property”), for the consideration hereinafter stated, do hereby grant and convey unto the **Willamette River Intake Facilities Commission**, an ORS Chapter 190 entity of the State of Oregon (hereinafter referred to as “Grantee”), a permanent Intake Facilities Easement (“Easement”), effective the \_\_\_\_ day of \_\_\_\_\_ 2018 (“Effective Date”), in, under, across, and along the full width and length of that certain land owned by Grantor (“Easement Area”) and legally described and depicted as follows:

See **Exhibit A**, Easement legal description, and **Exhibit B**, drawing of Easement Area showing Intake Facilities, attached hereto and incorporated by reference as if fully set forth herein.

The true and actual consideration paid for this Easement, stated in terms of dollars, is Zero Dollars, but consists of value given or promised, which is agreed by Grantor and Grantee to be whole and adequate consideration.

TO HAVE AND TO HOLD the above-described Easement unto said Grantee for the benefit of the Grantee, in accordance with the conditions and covenants as follows:

1. **Scope of Easement.** Pursuant to the terms of the Willamette Intake Facilities Intergovernmental Agreement, dated \_\_\_\_\_, 2018 (the “IGA”), this Easement grants to Grantee the right, privilege, and authority to access, construct, inspect, operate, maintain, repair, replace, and remove the Intake Facilities. Grantor, upon request of Grantee, will authorize reasonable temporary work areas outside of the permanent easement area for a reasonable time period required for Grantee to perform construction, maintenance, repair, or replacement of the Intake Facilities. As used herein, Intake Facilities means the existing or upgraded Intake Facilities used to withdraw and transmit water from the authorized diversion point in the Willamette River to the agreed System Separation Point between the Willamette River Water Treatment Plant and the Willamette Water Supply System Water Treatment Plant. The System Separation Point means that point shown where the Intake Facilities terminate and water from the caisson of the Intake Facilities is separated by pumps into untreated water pipes conveying water to the two above-referenced Plants. There will be items beyond the System Separation Point that are separately owned and are

not assets of Grantee but rather are some assets owned by Grantor and some assets owned by only certain of the Grantees, as depicted on Exhibit B. The Intake Facilities and the System Separation Point, as noted on **Exhibit B** are all Permanent Assets and can remain with the Easement Area. All of those assets are permitted and will remain within the Easement Area. Except those buildings or structures depicted on **Exhibit B**, and for existing structures or improvements already located within the Easement Area, including but not limited to the pedestrian bridge, no buildings or structures shall be constructed within the Easement Area that would materially impede access to Grantee's Intake Facilities. Grantor shall, however, continue to have full access to the Easement Area and use of the same as long as the use does not unreasonably interfere with the uses granted to Grantee herein. Any expansion of the Intake Facilities beyond those shown on **Exhibit B** will require written approval of Grantor and an amendment to this Easement. Attached hereto as **Exhibit C** is a copy of Pipeline Easement No. 22670-EA from the Division of State Lands (DSL) to Grantor City of Wilsonville for that area at or below the ordinary low water mark which allows for the current in-water facilities. As part of this Easement, Grantor Wilsonville allows Grantee to exercise Wilsonville's rights under this DSL Easement, provided Grantee complies with all provisions. Grantor and Grantee understand the DSL Easement may need to be amended, with such amendment subject to DSL approval, in order to accommodate the new Intake Facilities. Grantor Wilsonville will use good faith efforts to work with DSL to obtain any such amendment, if needed.

2. **Definitions.** Capitalized terms not defined herein are as defined in the IGA.

3. **Security.** Grantee acknowledges and agrees that the Easement Area is currently and must remain a secure area and that access to the Easement Area must be closely monitored by Grantor Wilsonville. Therefore, except in the case of an emergency, Grantee shall give Grantor Wilsonville at least a 24-hour notice (may be by email or telephone) that Grantee will be coming to the Easement Area. In all cases, Grantee must sign in at the Willamette River Water Treatment Plant administration building before entering the Easement Area. While on site, Grantee must follow the Willamette River Water Treatment Plant security protocol. The administration building is staffed 24 hours a day, seven days a week. If this staffing protocol should ever change, Grantee will be given another means of immediate access (after required notice) before any change is made. Grantee shall give as much notice as reasonably possible in the case of an emergency. If Grantee wishes to come on to the Easement Area for routine operations, maintenance, or inspection and has not given at least 24 hours' advance notice, Grantee may contact Grantor Wilsonville and ask permission to come onto the Easement Area with shorter notice. Grantor Wilsonville may deny any shorter request that would interfere or conflict with already planned operations of the Willamette River Water Treatment Plant.

4. **AS IS CONDITION.** Except for warranty of title, Grantor makes no other representations or warranties with regard to the condition or suitability of the Easement Area for Grantee's intended use. This disclaimer of any and all warranties, excepting warranty of title, includes, but is not limited to, the environmental condition of the Easement Area and adjacent lands. It is Grantee's sole responsibility to conduct environmental due diligence and remediation for the Easement Area and any required archeological studies, if applicable, prior to construction. If any environmental hazards are discovered within the Easement Area, Grantee will be solely responsible for clean-up and remediation unless Grantee can prove that a Hazardous Substance release was caused by Grantor after the Effective Date of this Easement. Grantor will not be responsible to Grantee for the clean-up or remediation of any pre-existing environmental hazards, releases, or contamination. Grantee shall also be responsible for any exacerbation by Grantee of

any Hazardous Substance release that was caused by either Grantor after the Effective Date, but only to the extent of the exacerbation as long as Grantee had not been made aware of the condition caused by Grantor after the Effective Date and prior to the action that caused the exacerbation. Grantor's limited post-Effective Date responsibility for any Hazardous Substance condition within the Easement Area will apply only to the Grantor who actually caused the Hazardous Substance release after the Effective Date, and not to the other member of the collective Grantor(s). As used herein, "Hazardous Substances" include, but are not necessarily limited to, any substance, material, or product defined or designated as hazardous, toxic, radioactive, or dangerous, regulated wastes or substances, or any other similar term in or under any Environmental Laws as now apply or may apply in the future.

5. **Damage and Restoration.** Grantee, upon the initial expansion and construction of the Intake Facilities, and upon each and every occasion that the same be occupied for inspection, repair, replacement, addition to, or removal, shall restore the Easement Area and any improvements disturbed by Grantee, including but not limited to the pedestrian ramp, if any, to the same or better condition and repair, unless Grantor mutually agrees to some other proposed condition. Grantee shall be responsible to follow all City of Wilsonville public works and permitting standards during construction and shall be liable for all repair and restoration of any damage caused by Grantee's use of or operations within the Easement Area. Grantee shall also be liable to reimburse Grantor for any damage to Grantor's adjoining property caused by Grantee's construction or operations. Grantee shall have no obligation, however, to restore any building or structure placed within the Easement Area in violation of **Paragraph 1**.

6. **Relocation.** Grantor, or any one of them, may request relocation of the Easement Area and Intake Facilities impacted thereby, provided that such request for relocation is subject to written approval by Grantee, which approval shall not be unreasonably withheld or delayed. If requested by one Grantor, the other Grantor must also approve the requested relocation, in writing. If approved, the cost of relocation shall be at the requesting Grantor's sole expense.

7. **Duration of Easement.** This Easement begins on the Effective Date and will remain in place for as long as the Intake Facilities are used to transmit water to Grantee's water treatment plants for public consumption. Nothing contained herein, however, including duration, shall be construed in any way to alter or extend the term of the Ground Lease (wherein Grantor Wilsonville is the lessor) for the water pipeline currently used to convey water from the Intake Facilities to the Willamette Water Supply System Water Treatment Plant. If the Ground Lease is terminated, it will be incumbent upon Grantee to find another route to move the water from the Intake Facilities to its destination.

8. **Abandonment.** If the Intake Facilities are not used for a period of two years by Grantee, this Easement shall be deemed abandoned unless such lack of use is due to damage, destruction, reconstruction, or another event that temporarily prevents use by Grantee, and Grantee has made Grantor aware of the interruption in use and is exercising good faith to restore use. Notwithstanding the foregoing, if the Easement is not used for a period of seven years or longer, it will be deemed abandoned and this Easement will terminate. A delay in completion of construction of the Willamette Water Supply System Water Treatment Plant will not be considered an abandonment if longer than two years, as long as the construction is ongoing.



9. **Insurance.** Grantee will maintain and abide by the insurance requirements set forth in the IGA and will name Grantor as additional insureds with respect to this Easement. In addition, during construction activities and any time Hazardous Substances are being used within the Easement Area, other than in small quantities as generally needed for landscaping or as cleaning supplies, Grantee or Grantee's contractor shall carry full environmental coverage, including sudden and accidental and gradual release pollution liability coverage that will cover, among other things, environmental damage, any spillage of chemicals, fuels, oils, lubricants, de-icing, anti-freeze, or other hazardous materials, or disturbance of any Hazardous Substances during the performance of any work on the pipeline and/or other activities in the Easement Area or as a result of any pipe rupture, leakage, or other failure, written on an "occurrence" form policy. Grantee will be fully responsible for the cost of any clean-up of any released materials or disturbance, in accordance with Oregon Department of Environmental Quality ("DEQ") and Federal Environmental Protection Agency ("EPA") clean-up requirements. The amount of coverage will be agreed by Grantor and Grantee to be reasonable given the type of construction activity. Whatever the coverage might be, however, will not limit Grantee's liability or responsibility for any environmental damage claim or Hazardous Substances release. If said insurance is carried by Grantee's contractor, in lieu of Grantee, then Grantee must ensure that Grantor is named as an additional insured on the pollution policy in accordance with all requirements for naming Grantor as an additional insured. Nothing contained herein, however, shall be construed as a limitation on liability. Grantor shall maintain a direct right of action against Grantee and shall not be required to first seek relief through the insurance carrier or general contractor.

10. **Grantee's General Indemnity.** Grantee agrees to defend (using legal counsel reasonably acceptable to Grantor, taking into account insurance defense requirements), indemnify, reimburse, and hold harmless Grantor from and against any and all claims, demands, damages to person or property, including Grantor's own property, causes of action for injury or death, fines, penalties, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), liabilities, losses, proceedings, and/or suits that may be imposed on or claimed against Grantor, in whole or in part, directly or indirectly, arising from or in any way connected with: (a) any act, omission, or negligence by Grantee or its partners, officers, directors, members, managers, agents, employees, invitees, contractors, subcontractors, and suppliers; (b) any use, occupation, management, or control of the Easement Area by Grantee, including, but not limited to, the sudden or accidental release of raw water that causes damage to person or property; (c) any condition created in or about the Easement Area by Grantee, including any accident, injury, or damage occurring on or about the Easement Area during the term of this Easement, unless caused by Grantor or a third party unrelated to Grantee; (d) any breach, violation, or nonperformance of any of Grantee's obligations under this Easement; or (e) any damage caused on or to the Easement Area during Grantee's use or occupancy thereof, unless caused by Grantor or a third party unrelated to Grantee. As used throughout this Easement, "Grantee" includes all of Grantee's partners, officers, directors, members, managers, agents, employees, invitees, contractors, consultants, and suppliers. This indemnity shall apply to any claim, however caused, or regardless of the legal grounds and basis, in which Grantor is named.

11. **Grantee's Environmental Indemnity.** Grantee will be solely responsible for and agrees to defend (using legal counsel reasonably acceptable to Grantor, taking into account insurance defense requirements), indemnify, and hold harmless Grantor from and against all environmental costs claimed against or assessed against Grantor arising, in whole or in part, from acts or omissions of Grantee (including Grantee's own employees, agents, contractors, or suppliers)

on or about the Easement Area. Grantee will be responsible to promptly and fully address and remediate any claims for natural resources damages, as directed by the agency assessing such damage claim. Notwithstanding the foregoing, Grantee will not be responsible for, and does not indemnify Grantor for, any actions of Grantor, including Grantor's own employees, agents, contractors, suppliers, or any other tenant of Grantor, that cause environmental damage or a violation of any environmental law within the Easement Area occurring after the Effective Date of this Easement.

12. **Condemnation.** If the Easement Area or any interest therein is taken as a result of the exercise of the right of eminent domain or under threat thereof (a "Taking"), this Easement will terminate with regard to the portion that is taken by condemnation authority. If Grantee determines that the portion of the Easement Area taken does not feasibly permit the continuation of the operation of the Intake Facilities, this Easement will terminate. The termination will be effective as of the date of the Taking. Any condemnation award relating to the land will be the property of Grantor. Grantee will not be entitled to any proceeds of any such real property award, except Grantee will be entitled to any compensation attributed by the condemning authority to Grantee's ownership interest in the Intake Facilities and relocation expense and loss or interruption of business.

13. **Legal Effect and Assignment.** This Easement runs with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

14. **Defaults and Disputes.** Any legal action based on an alleged violation of this Easement will be brought in Clackamas County Circuit Court in the State of Oregon, and all remedies available at law or in equity will be available to the aggrieved Grantor(s) or Grantee. Except in those cases where either Grantor(s) or Grantee determines that equitable relief, including injunctive relief or specific performance, is needed, Grantor and Grantee agree to follow the mediation provision set forth in the IGA. In the case of equitable relief, either Grantor or Grantee may apply for immediate relief from the Court.

15. **Legal Action/Attorney Fees.** If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Easement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review. This attorney fee provision will not apply to mediation proceedings conducted pursuant to the IGA.

16. **Governing Law.** This Easement will be governed in accordance with the laws of the State of Oregon.

17. **Nonwaiver.** Any failure to enforce any provision of this Easement will not be deemed a waiver of the right to enforce that provision or any other provision of this Easement.

18. **Severability.** If any provision of this Easement is found to be void or unenforceable, it is the intent of the parties that the rest of the Easement shall remain in full force and effect, to the greatest extent allowed by law.

19. **Modification.** This Easement may not be modified unless signed by Grantor and Grantee and the modification is recorded.

20. **Time of the Essence.** Time is of the essence in performance of this Easement.

21. **Recording.** The fully executed original of this Easement shall be duly recorded in the Deed Records of Clackamas County, Oregon.

22. **Notices.** Any notice required or permitted under this Easement shall be in writing and shall be given when actually delivered in person or 48 hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To Grantor Wilsonville: City of Wilsonville  
Attn: Finance Director  
29799 SW Town Center Loop East  
Wilsonville, OR 97070

with copy to: Wilsonville City Attorney  
29799 SW Town Center Loop East  
Wilsonville, OR 97070

To Grantor TVWD: Tualatin Valley Water District  
Attn: Chief Executive Officer  
1850 SW 170<sup>th</sup> Avenue  
Beaverton, OR 97003

with copy to: District Counsel  
1850 SW 170<sup>th</sup> Avenue  
Beaverton, OR 97003

To Grantee: Willamette River Intake Facilities Commission  
Attn: Managing Agency  
1850 SW 170<sup>th</sup> Avenue  
Beaverton, OR 97003

*[Signatures on following pages]*

23. **Authority.** The individuals executing this Easement on behalf of Grantor and Grantee each represent and warrant that he/she has the full power and authority to do so on behalf of the respective party and to bind said party to the terms of this Easement.

IN WITNESS WHEREOF, the undersigned have executed this Easement effective as of the date first above written.

**GRANTOR WILSONVILLE:**

CITY OF WILSONVILLE

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_  
Bryan Cosgrove  
As Its: City Manager

\_\_\_\_\_  
Barbara A. Jacobson, City Attorney

STATE OF OREGON        )  
                                  ) ss.  
County of Clackamas    )

This instrument was acknowledged before me on \_\_\_\_\_, 2018, by Bryan Cosgrove, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the City Manager of the City of Wilsonville, a municipal corporation of the State of Oregon, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
Notary Public – State of Oregon

*[Signatures continued on following pages]*

**GRANTOR TVWD:**

TUALATIN VALLEY WATER DISTRICT

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_  
Mark Knudson, P.E.  
As Its: Chief Executive Officer

\_\_\_\_\_  
Clark Balfour, Counsel

STATE OF OREGON            )  
  ) ss.  
County of Washington        )

This instrument was acknowledged before me on \_\_\_\_\_, 2018, by Mark Knudson, P.E., who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the Chief Executive Officer of Tualatin Valley Water District, a water supply district organized under ORS Chapter 264, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
Notary Public – State of Oregon

*[Signatures continued on following pages]*

ACCEPTED BY:

**GRANTEE:**

TUALATIN VALLEY WATER DISTRICT

By: \_\_\_\_\_  
Richard Schmidt  
As Its: Board President

STATE OF OREGON            )  
  ) ss.  
County of Washington        )

This instrument was acknowledged before me on \_\_\_\_\_, 2018, by Richard Schmidt, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the Board President of the Tualatin Valley Water District, a water supply district organized under ORS Chapter 264, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
Notary Public – State of Oregon

APPROVED AS TO FORM:

\_\_\_\_\_  
Clark Balfour, Counsel

*[Signatures continued on following pages]*

ACCEPTED BY:

**GRANTEE:**

CITY OF BEAVERTON

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

Dennis Doyle

As Its: Mayor

STATE OF OREGON            )  
  ) ss.  
County of Washington        )

This instrument was acknowledged before me on \_\_\_\_\_, 2018, by Dennis Doyle, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the Mayor of the City of Beaverton, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
Notary Public – State of Oregon

APPROVED AS TO FORM:

\_\_\_\_\_  
Peter Livingston, City Attorney

*[Signatures continued on following pages]*

ACCEPTED BY:

**GRANTEE:**

CITY OF HILLSBORO

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

Michael Brown

As Its: City Manager

STATE OF OREGON            )  
  ) ss.  
County of Washington        )

This instrument was acknowledged before me on \_\_\_\_\_, 2018, by Michael Bropwn, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the City Manager of the City of Hillsboro, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
Notary Public – State of Oregon

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher Crean, City Attorney

*[Signatures continued on following pages]*



ACCEPTED BY:

**GRANTEE:**

CITY OF SHERWOOD

By: \_\_\_\_\_  
Krisanna Clark  
As Its: Mayor

STATE OF OREGON        )  
  ) ss.  
County of Washington    )

This instrument was acknowledged before me on \_\_\_\_\_, 2018, by Krisanna Clark, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that she executed the instrument in her authorized capacity as the Mayor of the City of Sherwood, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
Notary Public – State of Oregon

APPROVED AS TO FORM:

\_\_\_\_\_  
Josh Soper, City Attorney

*[Signatures continued on following pages]*

ACCEPTED BY:

**GRANTEE:**

CITY OF TIGARD

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

John Cook

As Its: Mayor

STATE OF OREGON            )  
  ) ss.  
County of Washington        )

This instrument was acknowledged before me on \_\_\_\_\_, 2018, by John Cook, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the Mayor of the City of Tigard, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
Notary Public – State of Oregon

APPROVED AS TO FORM:

\_\_\_\_\_  
Shelby Rihala, City Attorney

*[Signatures continued on following page]*

ACCEPTED BY:

**GRANTEE:**

CITY OF WILSONVILLE

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

Tim Knapp

As Its: Mayor

STATE OF OREGON            )  
  ) ss.  
County of Clackamas        )

This instrument was acknowledged before me on \_\_\_\_\_, 2018, by Tim Knapp, who personally appeared before me, was identified by satisfactory evidence, and acknowledged that he executed the instrument in his authorized capacity as the Mayor of the City of Wilsonville, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

\_\_\_\_\_  
Notary Public – State of Oregon

APPROVED AS TO FORM:

\_\_\_\_\_  
Barbara A. Jacobson, City Attorney

APPROVED AS TO LEGAL DESCRIPTION:

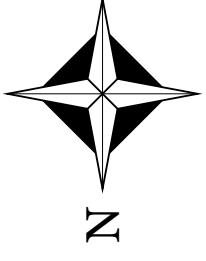
\_\_\_\_\_  
Nancy J.T. Kraushaar, P.E., City Engineer  
City of Wilsonville, Oregon

**EXHIBIT A**

**PLACEHOLDER FOR LEGAL DESCRIPTION**

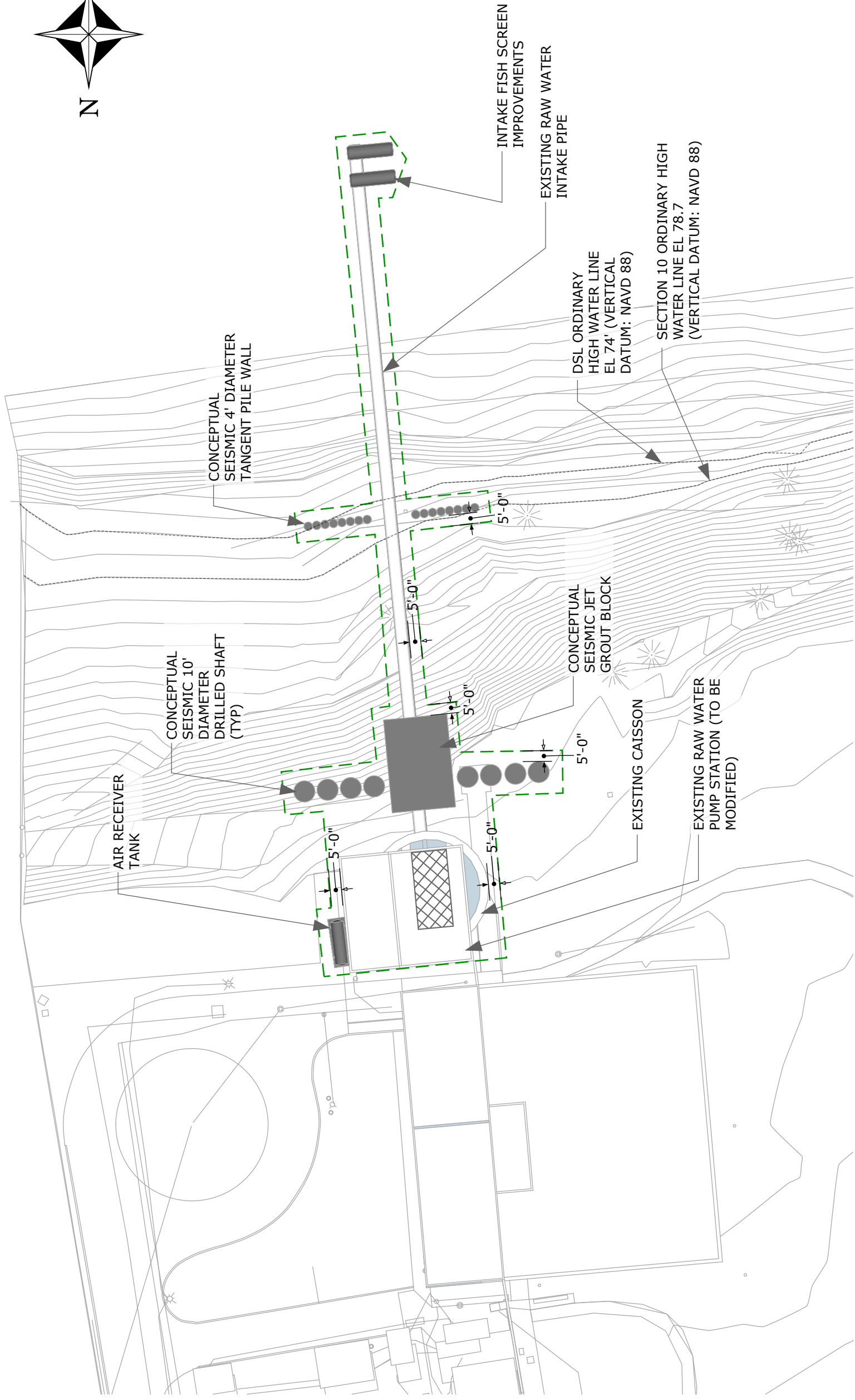
To be completed at a later date

EXHIBIT B



**EXHIBIT B**  
**WILLAMETTE INTAKE**  
**FACILITIES EASEMENT**  
 JANUARY 2018

scale: 50'



- EASEMENT
- EXISTING INFRASTRUCTURE
- NEW WILLAMETTE INTAKE FACILITIES INFRASTRUCTURE
- SYSTEM SEPARATION AREA

**NOTES:**  
 1) EXHIBIT B IS A GENERAL LAYOUT DESCRIPTION BASED ON PRELIMINARY DESIGN CONCEPTS, BUT IS SUBJECT TO FINAL APPROVAL AT THE TIME EXHIBIT A IS GENERATED AND APPROVED.  
 2) THE SYSTEM SEPARATION POINT IS LOCATED AT THE POINT WITHIN SYSTEM SEPARATION AREA THAT THE RAW WATER ENTERS THE RAW WATER PUMPS.  
 3) THERE ARE ITEMS SUCH AS PUMPS AND ASSOCIATED MECHANICAL AND ELECTRICAL EQUIPMENT THAT ARE LOCATED WITHIN THE SYSTEM SEPARATION AREA THAT ARE NOT PART OF THE WILLAMETTE INTAKE FACILITIES EASEMENT.

**STATE OF OREGON  
Division of State Lands**

**PIPELINE EASEMENT NO. 22670-EA**

The STATE OF OREGON, by and through its Division of State Lands, GRANTOR, for and in consideration of Two Hundred and Fifty Dollars and no cent (\$250.00), hereby grants to City of Wilsonville, GRANTEE, an easement and right to construct, maintain, operate and replace a water intake structure and pipeline in, over, upon, and across the State-owned submerged and submersible land of the Willamette River, in Clackamas County, Oregon, described as follows:

That portion of the following described land being below the Ordinary Low Water line as defined by elevation 55.0 feet above mean sea level, NGVD 1929, and being described as follows:

A strip of land, variable in width located within the Southwest one-quarter of Section 23, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. The centerline of said strip being described as commencing at the Northwest corner of said Section 23, Township 3 South, Range 1 West, Willamette Meridian, from which the North one-quarter corner of said Section 23 bears South 88°24'47" East, a distance of 2631.38 feet;

thence South 07°32'58" East, a distance of 3081.79 feet to the TRUE POINT OF BEGINNING;

thence South 03°04'44" East, a distance of 230 feet more or less to the said Ordinary Low Water line;

thence continuing South 03°04'44" East, a distance of 104.20 feet to the terminus of said centerline.

The width of said strip East of said centerline being 12 feet measured at right angles to said centerline from the point of beginning to its terminus. The width of said strip West of said centerline being 12 feet measured at right angles to said centerline from the point of beginning to a point 28 feet from its terminus; varying in width by straight line from 12 feet at 28 feet from the terminus to 17 feet at 14 feet from its terminus; varying in width by straight line from 17 feet at 14 feet from its terminus to 12 feet at the terminus. Said strip of land encompassing 2,571 square feet or 0.06 acres, more or less, and as shown on the attached Exhibit "A".

TO HAVE AND TO HOLD the same unto GRANTEE for 40 years, subject to the following conditions:

1. Construction in navigable waters shall conform to standards and specifications set by the U.S. Army Corps of Engineers or the U.S. Coast Guard for this Project.
2. The bed and banks of the waterway shall be restored to a condition acceptable to the GRANTOR as soon as construction or maintenance is completed.
3. Any blasting which may be necessary in the construction of the pipeline shall be performed according to the laws of the State.
4. GRANTOR reserves the right to lease or otherwise utilize the State-owned lands within the granted area hereinabove described in a manner and for uses that will not be incompatible with the primary use for which this easement is granted.
5. GRANTOR shall have the right to stop operation of the pipeline for noncompliance with the conditions of this easement or any lawful requirement by a regulatory agency of this State.
6. GRANTEE agrees to defend and hold GRANTOR harmless from any and all claims suffered or alleged to be suffered on the premises. Further, GRANTEE shall be responsible for the payment of any fines or penalties charged against the premises as a result of GRANTEE's action in not complying with laws or regulations affecting the premises.
7. If the facility for which this easement is granted is not used for a period of five (5) consecutive years, this easement may be terminated by written notice from GRANTOR to GRANTEE at its last known address. Upon termination, GRANTEE will have 90 days to remove the pipeline and appurtenances from the State-owned lands.
8. Nothing in this document may be construed as permission, except during construction or maintenance periods, to GRANTEE to interfere with navigation or reduce the public's rights to the free and unimpeded use of the navigable waters of the State of Oregon within the boundaries of this easement; provided, however, that to the extent necessary to facilitate construction and maintenance of these facilities, GRANTEE may so interfere, but shall keep such interference to an absolute minimum.
9. GRANTEE shall pay all assessments that may be legally charged on public lands which are levied against the property subject to this easement, whether or not such assessments have been levied against the leasehold or STATE by the assessing agency.
10. GRANTEE shall use the property subject to this easement only in a manner, or for such purposes, that assure fair and nondiscriminatory treatment of all persons





# EXHIBIT TO ACCOMPANY DESCRIPTION

## EXHIBIT A

### 'A'

*Water Intake Easement  
SW 1/4, Section 23, Township 3 South, Range 1 West,  
Willamette Meridian, City of Wilsonville, Clackamas County, Oregon*

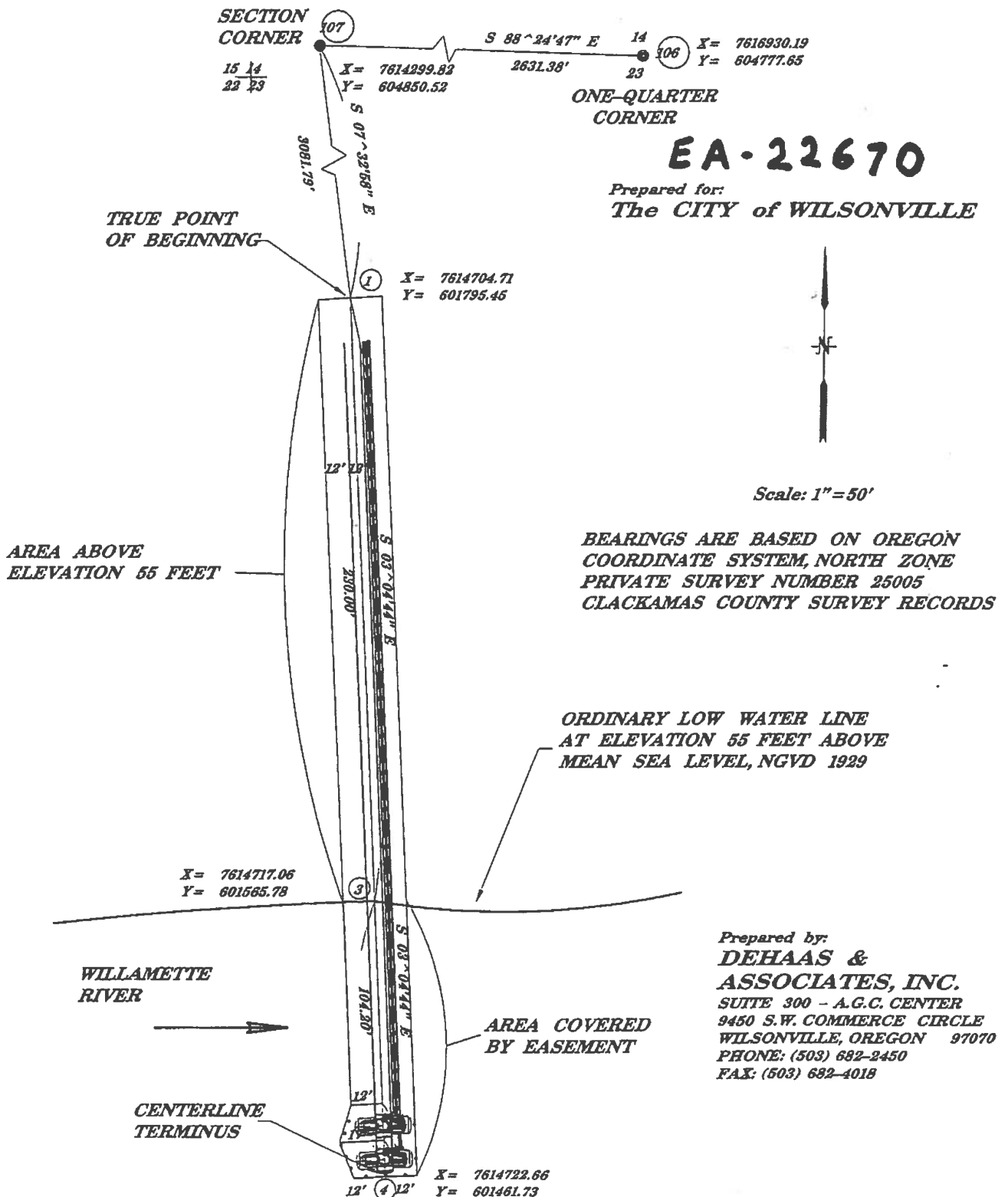


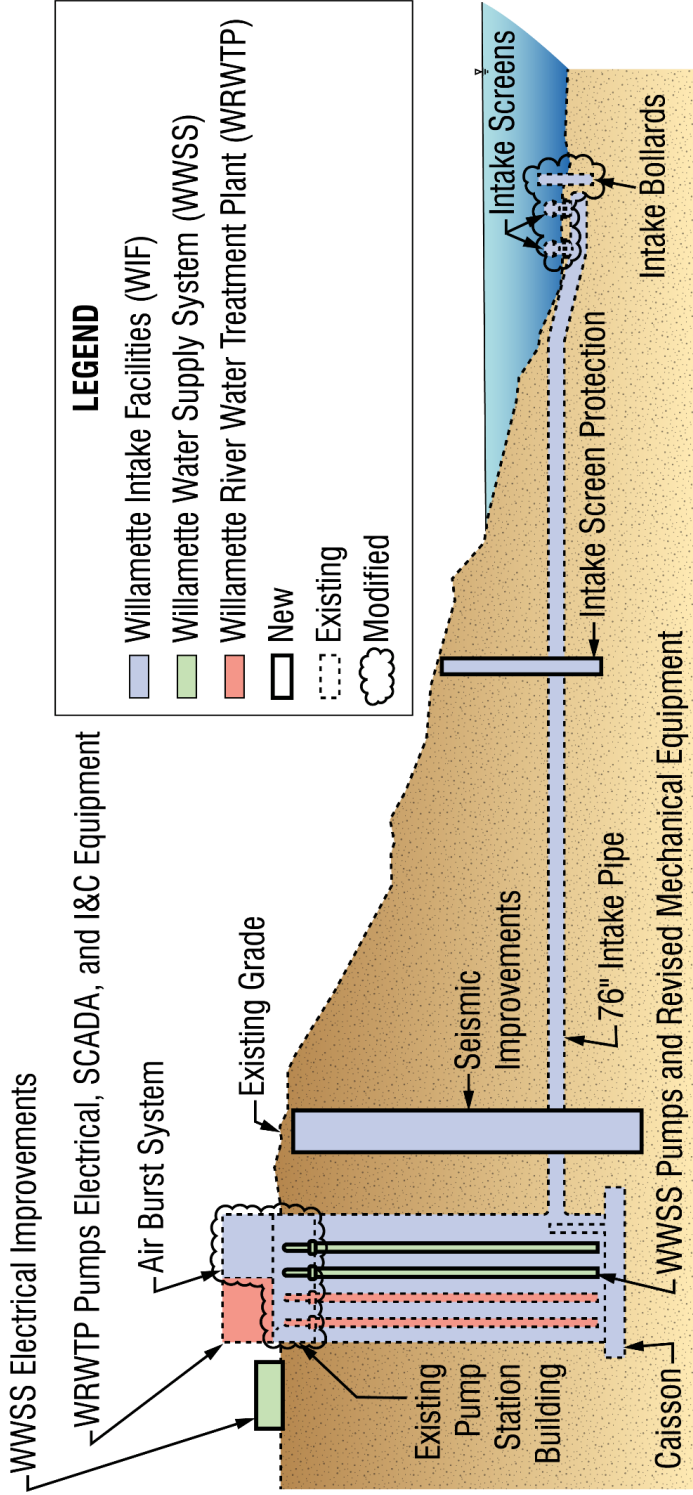
EXHIBIT A

# Exhibit 2 Willamette Intake Facilities Preliminary Design Drawings and Layouts

*Willamette Intake Facilities IGA 01-08-2018*  
Exhibit 2

Page 1

# New, Existing, and Modified WIF Project Components



The System Separation Point is located where the raw water enters the raw water pumps.



**Exhibit 3**  
**Willamette Intake Facilities**  
**Capacity Ownership Allocations**

**Description:**

<b>Willamette Intake Facilities Capacity Ownership</b>		
<b>Entity</b>	<b>Capacity (mgd) (1)</b>	<b>Percent</b>
Wilsonville	25.0	16.67%
Tualatin Valley Water District	59.1	39.40%
Sherwood (2)	9.7	6.47%
Tigard (3)	15.0	10.00%
Hillsboro (3)	36.2	24.13%
Beaverton (3)	5.0	3.33%
<b>Total</b>	<b>150.00</b>	<b>100.00%</b>

- (1) Estimated capacity which will be evaluated through additional physical hydraulic modeling.
- (2) Includes existing ownership interest with allocation of increased intake capacity to 150 mgd and estimated capacity to be purchased from TVWD.
- (3) Estimated capacity to be purchased by each entity from TVWD.

**Willamette Intake Facilities – Asset Values at Original (2002) Cost of Construction\***

Project Element	Wilsonville	TVWD	Sherwood	Total
Screening	\$ 207,147	\$ 466,082	\$ 51,787	\$ 725,016
Intake Pipe	\$ 228,029	\$ 1,083,139	\$ 57,007	\$ 1,368,175
Wetwell	\$ 364,847	\$ 1,733,021	\$ 91,212	\$ 2,189,079
Pump Station Building	\$ 233,834	\$ 1,110,709	\$ 58,458	\$ 1,403,001
<b>Total</b>	<b>\$ 1,033,857</b>	<b>\$ 4,392,950</b>	<b>\$ 258,464</b>	<b>\$ 5,685,271</b>

**\*Notes:**

- (1) Original cost shares based on 2002 original construction costs and do not include allocation of program management costs.
- (2) Pumps, Electrical Wire & Conduit, Electrical Equipment and the Raw Water Pipeline from the caisson to the Willamette River Water Treatment Plant were included as part of the original cost of construction in 2002, but are not included here since those assets are not included in the Willamette Intake Facilities.

**Methodology used to establish buy-in costs for each Party:**

1. TVWD & Wilsonville identified TVWD's share of **Original Direct Cost** (2002) for each asset included in the purchase and sale
2. For each asset, added TVWD's share of **Program Costs** from original Wilsonville-TVWD construction (2002) to **Original Direct Cost** to establish **TVWD Original Cost**
3. Subtracted depreciation from **TVWD Original Cost** to establish **TVWD Book Value**
4. Added **TVWD Cost of Capital** (from 2002 to 2016 at 4% per year) to **TVWD Book Value** to establish **TVWD Asset Offer Price**
5. Added one-time Administrative Cost (3% of **Asset Offer Price**) to **TVWD Asset Offer Price** to establish **Buy-in Offer Price**
6. Calculated cost per MGD of **Buy-in Offer Price** based on TVWD available capacity of 59.7 MGD to establish **Buy-in Offer Unit Price**
7. For each asset being purchased by each Party, multiplied the **Buy-in Unit Price** times the capacity being purchased by the party to establish **Buy-in Offer Price** by Party by asset
8. For each party, totaled the Party's **Buy-in Offer Price** for all assets being purchased

### Resulting Capacity and Cost of Purchase for WIF Assets Acquired from TVWD\*

Acquired Capacity (MGD) from TVWD by Party by Asset								
Project Element	Wilsonville	TVWD	Sherwood	Tigard	Tualatin	Hillsboro	Beaverton	Total
Screening	0	0	0	0	0	0	0	0
Intake Pipe	0	0	3.45	15	0	36.2	5	59.65
Wetwell	0	0	3.45	15	0	36.2	5	59.65
Pump Station Building	0	0	3.45	15	0	36.2	5	59.65
Cost of Purchase (\$) from TVWD by Party by Asset								
Project Element	Wilsonville	TVWD	Sherwood	Tigard	Tualatin	Hillsboro	Beaverton	Total
Screening	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Intake Pipe	\$ -	\$ -	\$ 50,462	\$ 219,399	\$ -	\$ 529,482	\$ 73,133	\$ 872,476
Wetwell	\$ -	\$ -	\$ 80,739	\$ 351,038	\$ -	\$ 847,171	\$ 117,013	\$ 1,395,961
Pump Station Building	\$ -	\$ -	\$ 41,355	\$ 179,802	\$ -	\$ 433,923	\$ 59,934	\$ 715,014
Total	\$ -	\$ -	\$ 172,555	\$ 750,239	\$ -	\$ 1,810,577	\$ 250,080	\$ 2,983,451

\*Notes:

1. Raw water Pumps, Electrical Wire & Conduit, Electrical Equipment, and Raw Water Pipeline are not WIF assets and transfers of Raw Water Pipeline capacity are covered under separate agreements.
2. Wilsonville acquired 5 MGD of capacity in existing Raw Water Pipeline to the WRWTP from TVWD under separate agreement.
3. Sherwood acquired 4.7 MGD of capacity in existing Raw Water Pipeline to the WRWTP from TVWD under a separate agreement.
4. Tigard will not acquire capacity in the existing Raw Water Pipeline to the WRWTP or the future WWSS at this time. Tigard will conduct planning in the future to determine if Tigard will use capacity from the WWSS system or from the WRWTP

system, in which case Tigard will need to obtain Raw Water Pipeline capacity from TVWD and/or capacity in the WWSS.

<b>Willamette Intake Facilities Seismic and Facilities Improvements (1)</b>		
<b>Location</b>	<b>Year</b>	<b>Cost</b>
Wilsonville		
Tualatin Valley Water District		
Sherwood		
Tigard		
Hillsboro		
Beaverton		
<b>Total:</b>		

(1) To be updated after project completion with actual design and construction costs.

**Exhibit 4  
Real Property**

**Description:**

The Real Property currently owned by Wilsonville and TVWD upon which the Willamette Intake Facilities and appurtenances are located are described in Attachment 1, Real Property Legal Description and Map, and Attachment 2, Special Warranty Deed.



Order No: 216629

**LEGAL DESCRIPTION**

**PARCEL I:**

Being a part of the R. V. Short Donation Land Claim in Township 3 South, Range 1 West, Willamette Meridian, in the County of Clackamas and State of Oregon, bounded and described as follows, to-wit:

Beginning at a point on the line between Sections 22 and 23, said township and range, 792.23 feet South 0°03' East of the Northwest corner of said Section 23; running thence South 0°03' East on said section line 604.99 feet to the Southwest corner of M.A. Holbrook Tract as recorded in Book 159, Page 546, Records of Deed for Clackamas County, Oregon; thence North 89°50' East 1239.0 feet along the South boundary of the said Holbrook Tract to the East line of the above mentioned Short DLC; thence North 0°17' West along the East boundary of the said Short DLC 545.7 feet to a point; thence North 87°25' West 1237.9 feet to the place of beginning.

EXCEPT the West 20 feet thereof conveyed for private roadway.

AND FURTHER EXCEPTING THEREFROM that portion included in Quit Claim Deed to Joe Bernert Towing Co., Inc. recorded December 29, 1987 as Recorder's Fee No. 87057703.

**PARCEL II:**

A tract of land in a portion of the Robert V. Short DLC No.46 located in the Northwest and Southwest one-quarters of Section 23, Township 3 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a point on the North line of said Section 23, that bears East a distance of 20.00 feet from the Northwest corner of said Section 23; thence South 0°03'00" East, parallel with and 20 feet Easterly of the West line of said Section 23, a distance of 1397.22 feet to an interior angle corner in the Northerly line of that tract of land conveyed to Hardy S. Young by Deed, described in and recorded under Fee Number 74-10618 Clackamas County Deed Records; thence North 89°51' East, along said Young's North line, a distance of 580.00 feet to a 5/8 inch iron rod at the Northwest corner of that tract of land conveyed as a Tract I to Joe Bernert Towing Company, Inc., in a contract recorded under Fee Number 75-9882, Deed Records; thence South 0°03' East, along the Westerly line of said Towing Company Tract, a distance of 220.00 feet to a 5/8 inch iron rod at the Northeast corner of that tract of land conveyed to Joe Bernert Towing Company, Inc., by a contract described in and recorded under Fee Number 90-2243, Deed Records; thence South 89°51' West, along the Northerly line of last said tract, a distance of 60.00 feet to a 5/8 inch iron rod; thence South 77°08'26" West, along last said Towing Company Tract, a distance of 492.25 feet to a 5/8 inch iron rod; thence South 0°03' East, along the Westerly line of last said tract, a distance of 141.69 feet to a 5/8 inch iron rod; thence South 49°54'37" East, along a Westerly line of last said tract, a distance of 659.97 feet to a 5/8 inch iron rod at an angle corner in said Westerly line; thence South 9°47'13" East, along said Westerly line, a distance of 747.37 feet to a 5/8 inch iron rod, being the South corner of said Fee Number 90-2243, said South corner being on the West line of said Tract I of Fee Number 75-9882; thence South 0°03' East, along the West line of said Tract I, a distance of 225.18 feet, more or less, to the South line of said Fee Number 74-10618; thence South 83°31'40" West, along the South line of said Fee Number 74-10618, a distance of 517.54 feet, more or less, to the mouth of a ravine; thence

Order No: 216629

**LEGAL DESCRIPTION**

South 77°46'41" West, continuing along the South line of Fee Number 74-10618, a distance of 79.72 feet to the Southwest corner thereof; thence North, along the Westerly line of said Fee Number 74-10618, a distance of 966.90 feet to a point; thence North 58°00' West, a distance of 117.48 feet to a point on the West line of said Section 23; thence North 0°03" West, along said West section line, a distance of 2299.44 feet to the Northwest corner of said Section 23; thence East a distance of 20.00 feet returning to the point of beginning.

**PARCEL III:**

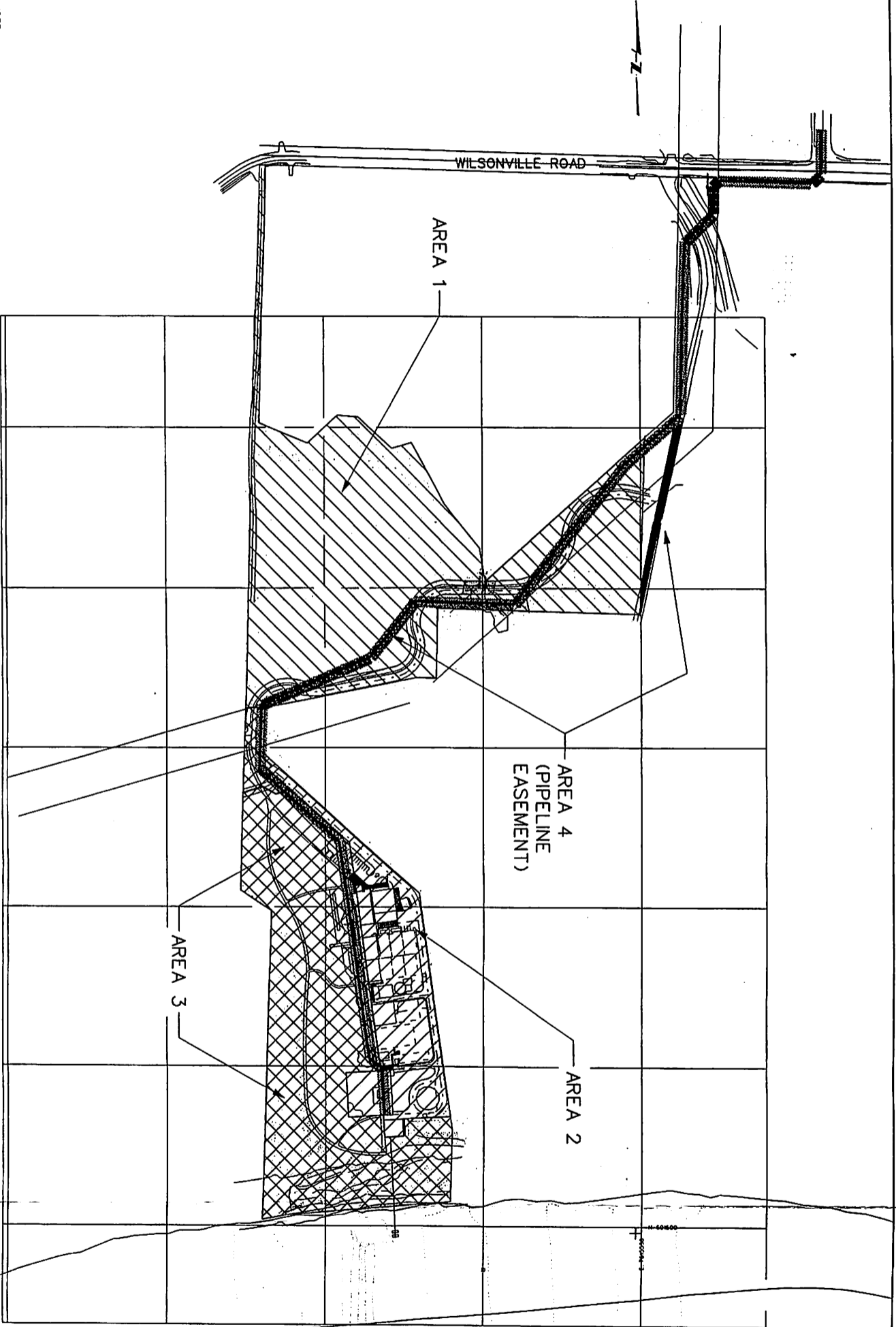
TOGETHER WITH an easement for road and utility purposes over the following described parcel:

A tract of land situated in Section 23, Township 3 South, Range 1 West, of the Willamette Meridian, in the County of Clackamas and State of Oregon, being more particularly described as follows, to wit:

A strip of land 60.00 feet in width and heretofore known as the Industrial Way Road easement, the centerline intersection of said 60.00 foot strip of land with the centerline of Market Road No. 6 (also known as Wilsonville Road), which intersection is North 89°56' East along the centerline of Market Road No. 6, 1278.43 feet from the Northwest corner of said Section 23, Township 3 South, Range 1 West, of the Willamette Meridian, in the County of Clackamas and State of Oregon, from said place of beginning; thence leaving said centerline of Market Road No. 6, South 31°36' East along the centerline of said 60.00 foot strip of land 263.90 feet; thence South 17°48' East 64.49 feet; thence South 10°22' West, 145.34 feet to the intersection of the North line of the Bailey D.L.C. No. 45; the same point of intersection being South 89°55' East 163.15 feet from the Northwest corner of the Thomas Bailey D.L.C. No. 45; thence South 10°22' West 906.74 feet along the centerline of said 60.00 foot strip of land South to the point of intersection of said centerline with the West line of said Thomas Bailey D.L.C.

Job No: 1076081 File: r:\wilsonville, city of\willamette\_wlp\_d-b\civil\wi30c01-eah-2bw.dgn Plot Date: 21-JUL-2000 15:15

NOTE:  
AREA 4 - OFF-SITE LOCATION FOR ACCESS AND PIPELINE IS OWNED BY THE CITY WITHIN THE INDUSTRIAL WAY EASEMENT, BUT IS SHOWN NEARBY IN CONTEMPLATION OF A PROBABLE LOCATION ADJUSTMENT BY DEVELOPMENT REVIEW BOARD AND ACQUISITION FROM PROPERTY OWNERS.



CITY OF WILSONVILLE  
WILLAMETTE RIVER WATER TREATMENT PLANT

EXHIBIT B  
GENERAL AREA MAP

Exhibit 4 Attachment 2

**EXHIBIT A**

We certify this instrument to be a true  
 copy recorded 7/28/2000  
 Book 2000-048871, Page \_\_\_\_\_, For \_\_\_\_\_  
 Records of Clackamas County, Oregon.  
 CHICAGO TITLE INSURANCE COMPANY  
 By [Signature]

**SPECIAL WARRANTY DEED**

**City of Wilsonville, an Oregon Municipal corporation, Grantor,** grants, conveys and specially warrants to **Tualatin Valley Water District, a water supply district, Grantee,** an undivided forty-nine percent (49%) interest as tenant in common, and the City of Wilsonville reserves to itself the remaining fifty-one percent (51%) interest as tenant in common, in and to the following described real property free of encumbrances created or suffered by the Grantor except as specifically set forth herein, situated in Clackamas County, Oregon, to-wit:

Parcels I and II, together with Parcel III, an easement, as described in the attached Exhibit A and incorporated by reference herein.

The true consideration for this conveyance is \$1,291,350.00.

The said property is free of all encumbrances created or suffered by Grantor, except easements, access agreements, roadway agreements, and maintenance agreements of record, and changes (if any) in the location of the Willamette River and shall be subject to the following covenants to run with the land:

1. The above described real property is dedicated, conveyed and granted for domestic and municipal water supply purposes and such accessory uses as may be necessary and convenient thereto, together with the following purposes:
  - 1.1 Area 1, which is the northern portion of the property as set forth in Exhibit B, attached hereto and incorporated herein, shall include an access road and bicycle and pedestrian access to Areas 2 and 3. The Grantor reserves Area 1 for park and recreational purposes at the sole risk and cost of Grantor; provided, however, upon one-year notice by either Grantor or Grantee to the other, park and recreation usage shall terminate to accommodate use for future domestic and municipal water supply facility capacity in excess of the 70 mgd facilities in Area 2, subject to required land use approval and such other governmental approvals as may be required. Nothing in the foregoing sentence is intended to limit or restrict the parties from agreeing to use the property in any manner in support of the Supply Facilities and/or such governmental regulations as may be imposed on the parties for the operation of up to a 70 mgd capacity plant.

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After recording, return to:  
 City Recorder, City of Wilsonville  
 30000 SW Town Center Loop E.  
 Wilsonville, OR 97070

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Until requested otherwise, send tax statements to:  
 No Change

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- 1.2 Area 2 is that portion on the site which includes the multi-barrier treatment plant with expansion up to 70 mgd (the wall and area behind the wall) as set forth in Exhibit B.
  - 1.3 Area 3 is the "Meadow Area" and Water Feature as set forth on Exhibit B and is to be developed for passive recreational use and will have bicycle and pedestrian use and access. This public bicycle and pedestrian access will also extend to the Plant.
  - 1.4 Area 4 is the 70' access easement, together with such other property and/or easements necessary for the alignment of the access roadway from the property to Wilsonville Road and the water transmission line from the Treatment Plant to Wilsonville Road as set forth in Exhibit B. Thereafter, the transmission line will be in the Grantor's Wilsonville Road right-of-way until it joins the City's transmission system at or about Station 67<sup>00</sup>+/- of the Grantor's Kinsman Road right-of-way. The Grantor's Wilsonville Road and Kinsman Road right-of-ways are not intended to be conveyed to Grantee as part of this deed or otherwise.
2. Grantee's 49% ownership interest may be conveyed in whole or in part by Grantee, with prior approval by Grantor to the Willamette Water Supply Agency (WWSA) for a period of one year (365 days) from June 30, 2000, and thereafter without prior approval by Grantor; provided, however, WWSA's membership remains one of local governments and water districts. Neither Grantor nor Grantee shall convey to any person or entity which is not a local government or water district without the prior consent of the other. Each party's consent shall be based in its sole discretion on whether an allocation or conveyance to an entity other than a local government or water district is in the best interest of, in the case of Grantor, its citizens and, in the case of Grantee, its customers. Nothing in this paragraph is intended to prevent Grantee from conveying to Grantor or Grantor from conveying to Grantee its respective interest as the parties may agree in the future.
  3. Neither Grantor nor Grantee shall seek or obtain through any legal proceedings an administrative or judicial partition of the Property or sale of the Property in lieu of partition, without the prior written consent of the other. Paragraph 2 above is not intended or meant to create a partition of the Property and this paragraph on partition is not intended or meant to prevent an allocation and conveyance of Grantee's interest as set forth in paragraph 2 above.
  4. Nothing in the above covenants is intended to prevent a deletion, amendment, or modification of the above covenants if expressly agreed to by Grantor and Grantee, their respective successors in interest, if any, in writing and duly recorded.

Grantee has inspected the said property and accepts the condition of the said property as is.

This Deed fully satisfies paragraphs 2.1 and 2.2 of that certain Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership, which document is a matter of record and on file with both the Grantor and Grantee.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

IN WITNESS WHEREOF, the Grantor has executed this instrument this 7<sup>th</sup> day of July, 2000.

GRANTOR: CITY OF WILSONVILLE

By *Charlotte Lehan*  
Charlotte Lehan

Title: Mayor

ATTESTED TO:

By *Diane M. Pankonin*  
Diane M. Pankonin  
Acting City Recorder

Date: July 7, 2000

STATE OF OREGON )  
 ) ss  
County of Clackamas )

On this 7<sup>th</sup> day of July, 2000, before me, a notary public in and for said County and State, personally appeared Charlotte Lehan, known to me to be the Mayor of the City of Wilsonville and whose name she subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year above written.

*Susan Marie Farnsworth*  
Notary Public for Oregon  
My Commission Expires: March 12, 2003



**EXHIBIT 5 - Water Rights Authorized for Use at Willamette Intake Facilities**

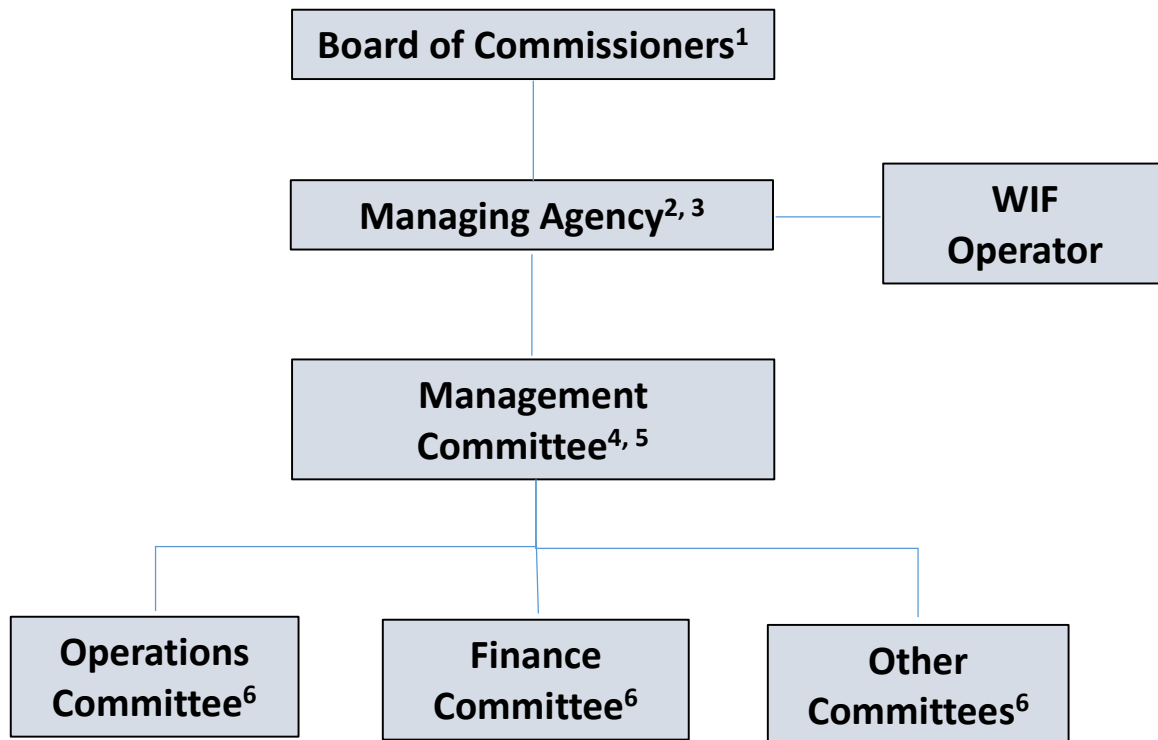
Water Right Permits and Certificates Authorized by the Oregon Water Resources Department

Entity Name on Water Right	Application	Permit	Certificate	Transfer or Permit Amendment	Priority Date	Type of Beneficial Use	Authorized Rate (cfs)	Authorized Date for Completion	Conditions
Willamette River Water Coalition	S-50693	S-49240	N/A	T-10477	June 19, 1973	Municipal & Industrial	202.0	October 1, 2047	<ul style="list-style-type: none"> <li>Measuring device required</li> <li>Fish screen required</li> <li>A 60-day waiting period is required between WMCP approval and diversion of water for the first diversion and each increment of "green light water" for each water supplier.</li> <li>WMCP provisions apply to additional future municipal water suppliers using water under permit under certain conditions. WRWC member Sherwood has access to up to 23 cfs based on last WMCP approval. TVWD has access to up to 80.1 cfs following approval of its most recent updated WMCP.</li> <li>Fish persistence conditions. Proportional reduction based on target flows and the portion of permit to which permittee has legal access. Reduction is capped at 20% during April, May and June.</li> </ul>
City of Wilsonville	S-51780	S-46319	N/A	T-8444	March 27, 1974	Municipal	30.0	October 1, 2042	<ul style="list-style-type: none"> <li>Measuring device required</li> <li>Fish screen required</li> </ul>
City of Beaverton	S-87964	S-54940	N/A	-	March 11, 2014	Municipal	33.7	May 4, 2035	<ul style="list-style-type: none"> <li>Measuring device and water use reporting are required</li> <li>Fish screen required</li> <li>Diversion of water is prohibited at times when the ODFW recommended flow targets at the Salem gage are not met.</li> </ul>
City of Hillsboro	S-55010	S-55045	N/A	T-12512	December 6, 1976	Municipal	56	October 1, 2086	<ul style="list-style-type: none"> <li>Willamette Intake Facilities added as a point of diversion through a permit amendment</li> <li>Conditions from permit amendment require measurement device and fish screen.</li> <li>Fish persistence conditions. Proportional reduction based on target flows and permit's maximum authorized rate; capped at 20% year-round.</li> <li>Approval of a WMCP is required to obtain access to water under the permit.</li> </ul>

### Exhibit 6 Organizational Structure

**Description:**

This Exhibit sets forth the Organizational Structure for the Willamette Intake Facilities Commission.



**Notes:**

1. Appointed by governing bodies of each Party
2. Provides its and Management Committee’s recommendations to Board
3. Provides support to and consults with all committees
4. Provides recommendations to Managing Agency to be forwarded to the Board
5. Serve as liaisons to Parties’ governing bodies
6. Provides recommendations to Management Committee



**Exhibit 7**  
**Willamette Intake Facilities**  
**Managing Agency**  
**Initial Management Plan**

**Description:**

This Exhibit sets forth the Managing Agency Interim Term Plan under Section 5 of the Willamette Intake Facilities Intergovernmental Agreement (Agreement).

**1. Designation of Interim Managing Agency**

1.1. TVWD is designated as the Interim Managing Agency under Section 5 until June 30, 2032. In 2029, the Commission will complete a performance review of the Managing Agency and will decide whether to initiate the selection process under Section 6.1, Subsequent Appointment of Managing Agency, or continue with TVWD without engaging in the described process. TVWD will designate General Manager that will have primary responsibility for reporting to the Commission.

**2. Duties of Interim Managing Agency**

2.1. TVWD shall have all duties and powers of the Managing Agency under Section 6, except as provided in Paragraphs 3.0 and 4.0 of this Exhibit.

**3. Interim Operations Management Until 2022**

3.1. Wilsonville and TVWD have approved an operations contract extension with Veolia through June 30, 2022 for the Willamette River Water Treatment Plant. The scope of work for this contract includes operation of the Willamette Intake Facilities. Upon execution of this Agreement by the parties, the Commission delegates authority to Wilsonville, through its own forces or through the operations contract, to manage daily operations and operational coordination of the Intake Facilities to:

- 3.1.1. Assure delivery of water to the WRWTP for the benefit of Wilsonville and Sherwood; and
- 3.1.2. Assure effective coordination with the design and construction of improvements, modifications, and expansion of the Intake Facilities and connection to a new WWSS transmission pipeline.

3.2. Prior to expiration of this contract extension, the Parties will cooperate in conducting an evaluation of performance under the contract and will coordinate to identify planned activities of all Parties relating to the Intake Facilities during the period July 1, 2022 to June 30, 2026. Based on that coordination, the Management Committee will recommend to Wilsonville terms and activities that should be addressed in a contract extension or operations protocols for the period July 1, 2022 through June 30, 2026.

**4. Interim Operations Management from 2022 to 2026**

4.1. For the period of July 1, 2022 to June 30, 2026, the Commission delegates authority to Wilsonville, through its own forces or through an operations contract, to manage daily operations and operational coordination of the Intake Facilities. Thereafter, the Commission shall determine who will manage the operations of the Intake Facilities and may either delegate this responsibility to the Managing Agency or to a Party or contractor.

**5. Wilsonville covenants that it will do the following during the Interim Operations Management periods:**

- 5.1. Daily operations and operational coordination to supply water to the existing WRWTP;
- 5.2. Timely and cooperative coordination with TVWD (or its designee, Willamette Water Supply Program staff) in the construction of the expansion of the Intake Facilities and the WWSS transmission pipeline;
- 5.3. Timely and cooperative coordination with TVWD (or its designee, Willamette Water Supply Program staff) of Wilsonville/Sherwood operations and the startup and commissioning of the expansion of the Intake Facilities during calendar year 2025;
- 5.4. Best efforts to effect transition of all intake operations to the Commission and facilitate assumption of operational duties to the Party designated by the Board on or before June 30, 2026.

**6. Repairs to Existing Intake Facility Assets Prior to June 30, 2026**

- 6.1. Wilsonville has identified that there may be potential repairs required to the intake pipe, caisson, sparge system, and grout pipe joints in order to repair maintain and preserve the Intake Facilities. Any such repair costs (less any cost for sediment removal which shall only be paid by those actually drawing water through the Intake Facilities, currently Wilsonville and Sherwood), shall be shared by Wilsonville, TVWD, Sherwood, Hillsboro, Tigard and Beaverton in proportion to Intake Facilities Capacity ownership. Wilsonville will evaluate the condition of the Intake Facility when the sediment clean-out occurs, scheduled for Fiscal Year 2017-18. If the need for any repairs is identified, Wilsonville will work with the Willamette Water Supply Program to incorporate those repairs into the expansion of the Intake Facilities, managed by TVWD, to achieve construction coordination and cost savings. If Wilsonville discovers any repairs that it deems must be made before the expansion of the Intake Facilities is ready for construction, including any emergency repairs, Wilsonville will notify the Managing Agency about the repairs and may proceed independent of the expansion of the Intake Facilities. Wilsonville will follow all public contracting rules in making any such repairs and will invoice the Managing Agency the actual costs of any such required repairs. Wilsonville and TVWD will coordinate the Intake Facility expansion and any other Intake Facility repairs so that the making of the repairs and expansion of the Intake Facility will not interfere with or adversely impact the expansion of the Intake Facilities or the WRWTP.

**7. Interim Fee**

- 7.1. TVWD, as the initial Managing Agency, will prepare a work plan and associated cost estimate for the Fiscal Year 2017-18 budget for Commission administration responsibilities. Budgets for subsequent years will be proposed by TVWD and will be subject to review by the Parties and will require approval by the Board, as provided in this Agreement.
- 7.2. Wilsonville elects not to charge an Interim Operations Fee to the Commission.

**Exhibit 8**  
**Willamette Intake Facilities**  
**Budget Calendar**

**Description: Annual Proposed Budget Submission and Calendar**

The Board shall adopt a budget for its operations and capital improvements for each Fiscal Year. The Managing Agency shall annually prepare a budget for administration, operations, and capital improvements in coordination with the appropriate committees representing the Parties as described in Section 7 of this Agreement. The budget review process shall follow the following schedule listed below.

<b>Budget Deliverable</b>	<b>Annual Submission Date</b>	<b>Party Receiving Budget</b>
Preliminary capital improvement project list	December 15	Operations Committee
Preliminary budget	January 5	Operations and Finance Committees
Draft budget	February 15	Management Committee
Proposed budget	March 31	Board

The proposed budget for review shall be submitted with the proposed annual work plan, associated budget narratives, project descriptions, and budget summary spreadsheets for each level of Committee and Board review.

**Exhibit 9**  
**Willamette Intake Facilities**  
**Interim Financial Procedures**

**Description:**

The Willamette Intake Facilities Commission (Commission) is a joint venture of the cities of Beaverton, Hillsboro, Tigard, Sherwood, and Wilsonville and the Tualatin Valley Water District. The Commission owns and operates water intake facilities for the benefit of the Parties to the Willamette Intake Facilities (WIF) Agreement. This Exhibit establishes the interim financial procedures to be followed by the Commission as it undertakes its activities as described in Exhibit 7 to the WIF Agreement. The City of Wilsonville operates the current WIF facilities and those operations are not included within the interim financial procedures.

These interim financial procedures consist of three sections. Each is described below.

**1. Elements of Financial Procedures:**

**a) Establishing Rates and Charges**

This section outlines the methodology the Commission will use to set rates and charges to recover the cost of operating the Commission.

**b) Accounting and Financial Reporting**

This section outlines the accounting and financial procedures that the Commission and its managing agency will follow.

**2. Establishing Rates and Charges:**

**a) Rate Setting Process**

Each Party's proportionate share of the expenditures of the Commission, shall be estimated by the Commission, and set forth in the Commission's annual budget.

**b) Quarterly Payments**

Each Party shall make quarterly payments to the Commission for operations in accordance with the IGA.

**i. *Commission Expenditures***

Each Party shall pay for its share of the Commission's expenditure quarterly based on the formulas described below.

**ii. *Allocation of Expenditures for Administration***

Expenditures related to administration of the Commission will be allocated among the Parties using the following formula: Twenty-five percent of the expenditures of the Commission will be divided evenly among the Parties; and

the remaining 75 percent will be divided among the Parties according to each Party's percentage share of the Capacity Ownership in the WIF facilities.

- iii. ***Allocation of Expenditures for Operations, Maintenance, and Repair***  
Expenditures by the WIF for Operations, Maintenance, and Repair of the facilities shall be identified by the Operations and Finance Committees along with an allocation methodology. Operations, Maintenance, and Repair expenditures that are the result of use of the facilities will be allocated based on each Party's proportionate use of the WIF facilities. Operations, Maintenance, and Repair expenditures that are unrelated to use will be allocated based on each Party's proportionate ownership of the WIF facilities. If an expenditure serves multiple purposes, jointly, the Operations and Finance Committees shall divide expenditures into both use-based allocations and ownership-based allocations in a fair and equitable manner. If the matter cannot be resolved by the joint Operations and Finance Committees, the matter shall be referred to the Management Committee for resolution.
- iv. ***Invoicing***  
The Commission shall invoice the Parties for the prior quarter's expenditures within thirty days of the end of the preceding quarter. Payment is due to the Commission thirty days after receipt of the invoice.

### **3. Accounting and Financial Reporting:**

#### **a) Periodic Financial Reports**

The Commission shall maintain an independent budget control procedure and provide budget reports at least quarterly to each of the Parties not later than 30 days after the end of each quarter. This report shall show expenditures and receipts by budget item for each transaction through the last working day of the preceding quarter.

#### **b) Accounting Policies**

##### **i. *Fiscal Year***

The Commission shall operate on a fiscal year basis from July 1 through June 30 of the subsequent year.

##### **ii. *Accounting Standards***

The Managing Agency shall use generally accepted accounting principles to account for the transactions of the Commission. The Commission shall be treated as an enterprise fund for accounting purposes and report its finances on an accrual basis.

**iii. *Indirect Cost Allocations***

The Managing Agency shall maintain an indirect cost allocation plan that conforms to industry standards for allocating the indirect overhead costs of the entity. The Managing Agency shall submit the indirect cost allocation plan annually with the budget.

**iv. *Working Capital***

The Managing Agency will provide working capital for the Commission by paying the Commission's bills when due and receiving payments from the Partners within 30 days after invoicing. The Managing Agency shall adopt accounting procedures to determine the cost of providing the Commission working capital and shall be entitled to charge the Parties a proportionate share of the cost of providing the working capital. The cost of providing the Commission's working capital shall be based on the forgone interest earnings the Managing Agency could have earned at its then-current rate of earnings on its portfolio of investments. Working capital, and the rate, will be listed separately on the invoices.

**Exhibit 10**  
**Willamette Intake Facilities**  
**Lease Payment Formulas**

**Firm Lease Formula:**

The lease payment for Willamette Intake Facilities capacity shall be determined by utilizing the depreciated replacement cost value of the asset amortized over the remaining book depreciation life of the asset at an interest rate equal to the Municipal Bond Index rate at the year of the lease payment, Engineering News Record (ENR) index rate, or a comparable index. The Commission may modify the method used to calculate lease payments by resolution of the Board. A firm lease rate example is shown in the Attachment 1 to this Exhibit.

**Interruptible Lease Formula:**

The interruptible lease payment for the Willamette Intake Facilities shall be 80 percent of the firm lease rate formula minus the daily rate amount that the capacity was withdrawn from the Lessee back to the Lessor. The interruptible lease shall have a minimum term of 12 months. The lease payment shall be calculated at the start of the lease term using 80 percent of the firm lease as determined by the firm lease formula. The interruptible lease cost shall be recalculated at the end of the lease term. If the Lessor notified the Commission that its interruptible capacity was not available for any portion of that lease year, the interruptible lease cost would be reduced by 1/365 of the cost for each day that it withdrew the interruptible capacity. If the Lessor agency did not exercise the right to withdraw capacity during the lease year, then full interruptible lease cost would apply.

Interruptible Lease Rate = 80% \* (Firm Lease Rate for 1 year) – [(Number of Days Withdrawn/365 \* (80% \* Firm Lease Rate for 1 Year)]

**Surplus Capacity Pool Formula:**

The protocols for Surplus Capacity Pool payment for the Willamette Intake Facilities shall be determined using the firm lease rate formula calculated with a daily rate and multiplied by a factor of two. For each day that the Surplus Capacity Pool capacity was used, the Lessee of the pool will be required to pay that daily rate. The Surplus Capacity Pool capacity requests and payment procedures will be developed and determined by the Managing Agency.

Surplus Pool Daily Rate = (1/365) \* Firm Lease Rate for 1 year \* 2

**Exhibit 10 - Attachment 1**  
**Willamette Intake Facilities Commission**  
**Firm Lease Payment Example**

*Assumptions:*

Year of Construction		2000
Cost of Constuction	\$	19,683,536
Capacity		150 MGD
Useful Life		50 Years
First Year of Lease		2026
Municipal Bond Index (Year of Lease)		4.93%
ENR Cost Construction Index-Seattle (Month/Year Construction was Complete)		7,368.25
ENR Cost Construction Index-Seattle-December Prior to Mo/Year of Lease-Update for all assets		7,368.25

*Lease Calculation:*

Replacement Cost (Capacity*ENR CCI-Seattle Construction Complete/ENR CCI-Seattle-Dec prior to lease)	\$	19,683,536
Accumulated Depreciation (Replacement cost/Useful Life*(First Year of Lease-Year of Construction))		<u>10,235,439</u>
Depreciated Replacement Cost	\$	9,448,097
Lease Payment	\$	680,057
<b>Annual Cost</b>	<b>\$</b>	<b>4,534 Per MGD</b>



**EXHIBIT 10  
ATTACHMENT 2  
SAMPLE LEASE**

This Willamette Intake Facilities Lease (Agreement) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ between \_\_\_\_\_, located in Washington County, Oregon (hereinafter “\_\_\_\_\_”), and \_\_\_\_\_, a \_\_\_\_\_ located in Washington County, Oregon.

Recital:

WHEREAS, the parties to this Agreement are members of the Willamette Intake Facilities Commission (Commission), an intergovernmental entity formed pursuant to ORS Chapter 190 by agreement dated \_\_\_\_\_, and amended at various and sundry times since, including the addition of new members;

WHEREAS, the parties of the Commission have into a Willamette Intake Facilities Agreement dated \_\_\_\_\_, 20\_\_;

WHEREAS, the Willamette Intake Facilities Agreement, among other things, provides for a party to lease all or a portion of its interest in a component(s) of the Intake Facilities as defined therein, including water rights and supplemental water rights, to another party, upon such terms and conditions as approved by the Commission;

WHEREAS, the parties hereto have agreed that \_\_\_\_\_ will lease \_\_\_\_\_ to \_\_\_\_\_ upon the terms and conditions set forth herein and that the Commission has approved the terms and conditions as evidenced by signature below and being fully advised

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Intake Facilities Capacity.** \_\_\_\_\_ agrees to provide \_\_\_\_\_, and \_\_\_\_\_ agrees to purchase, \_\_\_\_\_ million gallons per day in Willamette Intake Facilities capacity each fiscal year during the life of this Agreement, unless modified by other provisions of this Agreement, for an initial \_\_\_-year period beginning \_\_\_\_\_, through \_\_\_\_\_, subject to renewal, extension or termination on the terms and conditions as set forth in this Agreement. If a change in lease is anticipated because \_\_\_\_\_ (Lessor’s) demands have increased, the parties will negotiate the terms of such change.

2. **Connections, Measurement and Meters.** The Commission or the leasing Party as appropriate and necessary will provide and maintain meters, valves and controls, and measurement devices, in proper order for measurement of Intake Facilities capacity used and connections at the following locations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Meters or measurement devices shall be tested and calibrated biennially by the Commission or an independent tester qualified to do such work. A copy of the test report shall be forwarded to the parties hereto.

3. **Rates.** \_\_\_\_\_ shall be billed monthly for the total leased Intake Facilities capacity under this Agreement, and payment shall be made within 30 days of billing. A late fee of 1.5 percent per month shall be assessed for any unpaid balance.

\_\_\_\_\_ will pay monthly to \_\_\_\_\_ for all leased asset capacity , at rates as described in Exhibit X of the Willamette Intake Facilities Agreement.

Inasmuch as \_\_\_\_\_ has contracted to lease an amount of capacity each year, \_\_\_\_\_ agrees to pay \_\_\_\_\_ the greater of: the amount calculated based on the actual volume of water passing through the meter(s) described above; or the amount calculated based on the minimum lease amount. This calculation will be done annually after the end of the year.

4. **Term.** This Agreement shall be for \_\_\_\_\_-years, commencing with execution of this Agreement and ending \_\_\_\_\_ years thereafter.

**[ALTERNATIVE A]**

\_\_\_\_\_ agrees to notify \_\_\_\_\_ in writing as soon as practicable if \_\_\_\_\_ wishes to extend the term of this Agreement, but not later than one year prior to the termination of this Agreement. The parties shall meet to determine if extension or renewal and the terms thereof is mutually agreeable.

**[ALTERNATIVE B]**

\_\_\_\_\_ shall have the right to renew this Agreement for \_\_\_\_\_ successive periods of \_\_\_\_\_ years, each by giving written notice thereof not less than one year prior to the expiration of this Agreement, whichever shall first occur. The terms and conditions of this Lease shall continue in any renewal term.

5. **Notices.** Notices shall be deemed sufficient if deposited in the United States mail, postage prepaid, to the following addresses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. **Severability.** In the event any provisions of this Agreement shall be held to be impossible, invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties hereto. One or more waivers by either party of any provision, term, condition or covenant, shall not be construed by the other party as a waiver of subsequent breach of the same by the other party. Both parties have fully participated in negotiating and writing this Agreement; therefore, it

EXHIBIT A

shall not be construed against the party preparing it, but shall be construed as if both parties have prepared it.

7. **Acts of God, Emergency, Etc.** Performance or delay in performance of the obligations stated in this Agreement shall be reasonably excused when performance or timely performance is impossible or impracticable because of the occurrence of unforeseeable events such as emergency, catastrophe, disaster, labor disputes, or acts of God.

8. **Disputes: Attorney’s Fees.** If a dispute arises between the parties regarding breach of this Lease, the dispute resolution process in Section \_\_\_ of the Agreement shall be utilized.

9. **Full Agreement.** This document is the entire, final and complete agreement of the parties pertaining to \_\_\_\_\_ lease of Intake Facilities to \_\_\_\_\_, and supersedes and replaces all prior or existing written and oral agreements between the parties or their representatives.

10. **Service Reduction in Case of Emergency.** If a general emergency or water shortage requires restrictions on the delivery of raw water, general restrictions placed upon deliveries to \_\_\_\_\_ shall be determined by the Curtailment Plan.

\_\_\_\_\_

\_\_\_\_\_

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

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

APPROVED AS TO FORM AND  
CONTENT

WILLAMETTE INTAKE FACILITIES  
COMMISSION

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

**Exhibit 11**  
**Willamette Intake Facilities**  
**Intake Improvements Cost Allocation Summary**  
**Preliminary Estimate - June 2017**

**Description:**

The following is a summary of the cost estimate for the Intake Facilities improvements required to achieve a Capacity of 150 MGD. The cost estimates are based on preliminary design and will be refined as design progresses. Attachment 1 includes the preliminary design drawings and layout of the Intake Facilities.

**Assumptions**

1. Costs based on WWSP cost estimates presented to WGG on 5/25/17
2. Assumes total expanded capacity of intake is 150 MGD, including:

Feature	Capacity (MGD)
Existing Screen Capacity	70
Additional Screen Capacity resulting from expansion	80
Existing Hydraulic Capacity of intake pipe & caisson	120
Additional Hydraulic Capacity of intake pipe & caisson from expansion	30

3. Assumes permitting and mitigation costs = \$1.257 million (WWSP, 6/9/17)
4. Assumes screen cost for 150 MGD = \$4.65 million – includes intake screen replacement to 150 MGD, intake screen protection, and upgrades to air burst system (WWSP, 5/24/17)
5. Assumes seismic upgrade for the Intake Facilities = \$9.36 million – includes piles and jet grout for seismic stability of existing caisson structure (only); does not include seismic improvements for WWSS improvements (WWSP, 5/24/17)
6. Value of remaining useful life of existing screen = \$7,876 per MGD (Wilsonville, March 2017)

**Anticipated Cost Allocations**

**Note: Costs and cost allocations are based on capacity shares and preliminary cost estimates as of current date and are subject to change. Final cost shares will be updated based on final capacity shares and actual costs for proposed improvements using cost allocation methodology as detailed below.**

Partner	Capacity (MGD)	Capacity Share (%)	Cost Allocations (\$)			
			Permitting (1)	Screen & Air Burst	WIF Seismic Upgrades (9)	Total
Wilsonville	25.0	16.7%	\$ 75,000	\$ 50,000 (2)	-	\$ 125,000 (3)
TVWD (4,8)	59.1	39.4%	\$ 393,786	\$ 955,000 (5)	\$ 4,487,458	\$ 5,836,244
Sherwood (6)	9.7	6.5%	\$ 77,567	\$ 160,000 (7)	\$ 605,280	\$ 842,847
Tigard (8)	15.0	10.0%	\$ 189,674	\$ 930,160	\$ 1,138,949	\$ 2,258,783

## EXHIBIT A

Hillsboro (8)	36.2	24.1%	\$ 457,748	\$ 2,244,786	\$ 2,748,663	\$ 5,451,197
Beaverton (8)	5.0	3.3%	\$ 63,225	\$ 310,053	\$ 379,650	\$ 752,928
<b>Total</b>	<b>150.0</b>	<b>100.0%</b>	<b>\$ 1,257,000</b>	<b>\$ 4,650,000</b>	<b>\$ 9,360,000</b>	<b>\$ 15,267,000</b>

**Footnotes for Cost Allocation Methodology**

Cost allocations are generally based on proportionate ownership shares subject to additional terms and conditions as noted below.

1. Permitting cost allocation assumes 50% of costs applied to new capacity (80 MGD) and 50% of costs applied to total capacity (150 MGD).
2. Wilsonville receives full credit equal to remaining undepreciated asset value of 20 MGD share of existing screen.
3. Wilsonville total cost cap for permitting, screen, air burst & seismic = \$125,000.
4. TVWD capacity share includes 56.5 MGD for demand and 2.6 MGD of capacity not allocated to other partners.
5. TVWD receives partial credit for remaining undepreciated asset value of 45 MGD share of existing screen.
6. Sherwood does not contribute toward Wilsonville's cost shares in excess of Wilsonville cost caps for permitting, screen, and seismic improvements.
7. Sherwood receives partial credit for remaining undepreciated asset value of 5 MGD share of existing screen.
8. TVWD, Tigard, Hillsboro and Beaverton costs include allocation, proportionate to capacity share, for Wilsonville's cost shares for permitting, screen, and seismic improvements in excess of Wilsonville cost caps.
9. Improvements for seismic stability of existing caisson structure and intake pipe only; does not include seismic improvements for WWSS improvements. Wilsonville cost share for seismic improvements = \$0. TVWD, Tigard, Hillsboro and Beaverton - but not Sherwood - pay Wilsonville's cost share for seismic improvements.

**Exhibit 12**  
**Willamette Intake Facilities**  
**Insurance Requirements and Limits**

**Description:**

The following insurance requirements and limits are necessary for the operations of the Willamette Intake Facilities (Intake Facilities) and shall be purchased and maintained at all times. The requirements will be reviewed and approved by the Board annually, and modified when necessary.

**1. Insurance Requirements**

- (a) The Managing Agency shall obtain and maintain at all times appropriate insurance coverage for the Intake Facilities on behalf of the Commission based on exposure. Where applicable, the insurance limit shall meet or exceed the corresponding monetary limit of the Oregon Tort Claims Act. For all other insurance, the insurance limits shall meet or exceed the corresponding limit or obligation established for a special government body under Oregon law.
- (b) The Managing Agency shall recommend the purchase of all necessary insurance to protect the interests of the Intake Facilities and the Commission.
- (c) The Board shall review and approve insurance coverage, limits and deductibles proposed by the Managing Agency.
- (d) The Commission, its members, officers, boards, agents and employees will be listed as additional insureds on all policies purchased by the Managing Agency for the Intake Facilities, and be listed on insurance policies required of the Commission of their contractors and consultants.

**2. Summary Insurance Requirements and Limits:**

**a) Property**

To include loss or damage to all types of property owned by the Commission due to perils such as fire, wind, theft, vandalism, malicious mischief, earthquake and flood, for the full insurable replacement-cost basis. (For earthquake and flood, a sublimit typical of the industry standard). Property coverage shall also include machinery breakdown coverage.

**b) Commercial General Liability**

To include all major coverage including bodily injury, personal injury, property damage and wrongful acts. Coverage shall be provided for all XCU (explosion, collapse and all underground) hazards and shall be in the amount not less than **\$2,000,000** per occurrence and **\$4,000,000** general aggregate.

**c) Automobile Liability**

To include all owned, hired and non-owned vehicles of a combined single limit per occurrence shall not be less than **\$2,000,000**.

**d) Workers' Compensation and Employers' Liability**

Workers' compensation coverage sufficient to meet statutory liability limits and Employers' Liability of **\$1,000,000** for each accident, **\$1,000,000** for each bodily injury/disease and **\$1,000,000** for aggregate bodily injury/disease.

**e) Fidelity bond or Crime**

A fidelity bond or equivalent crime coverage in the amount not less than **\$500,000**.

**f) Directors and Officers**

For the protection of all directors and officers of the Commission in the amount of not less than **\$1,000,000**.

**g) Pollution Liability**

The Board may require the purchase of pollution liability coverage for any significant construction projects on the Intake Facilities or may require contractors to obtain pollution liability coverage for the Intake Facilities construction projects. Contractors' policy shall name the Commission as an additional insured.

### Exhibit 13 Existing Agreements

#### Description:

The following is a list of existing agreements between some or all of the Parties that affect or are affected by the Intake Facilities that are the subject of this Agreement. These related agreements are not superseded by this Agreement unless agreed to by the parties to those agreements.

- 1) *Agreement Regarding Water Treatment Plant Design, Construction, Operation and Property Ownership* (“2000 Master Agreement”), dated July 6, 2000 and entered into by Wilsonville and TVWD
- 2) *The Accord Agreement* (“Accord”), dated June 19, 2001 and entered into by Wilsonville and TVWD
- 3) *First Amendment to Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership*, dated \_\_\_\_\_, 2018, entered into by TVWD and Wilsonville;
- 4) *Operation and Maintenance Contract with Veolia Water North America-West LLC*, dated July 1, 2017, as amended, entered into by TVWD and Wilsonville;
- 5) *First Restated Intergovernmental Cooperative Agreement Continuing the Willamette River Water Coalition* (“WRWC Agreement”), dated October 15, 2008 and entered into by TVWD, Sherwood, Tigard, and Tualatin
- 6) *Sherwood and Tualatin Valley Water District Willamette River Water Treatment Plant Agreement* (“Sherwood TVWD WRWTP Agreement”), dated December 27, 2006 and entered into by TVWD and Sherwood
- 7) *Agreement for Design and Construction of the Willamette Water Supply Program* (“WWSP Agreement”), dated June 16, 2015 and entered into by TVWD and Hillsboro
- 8) *Agreement(s) for Transfer, Purchase and Sale of Intake Facilities*, dated \_\_\_\_\_, 2018 and separate agreements entered into by TVWD and Beaverton, TVWD and Hillsboro, TVWD and Sherwood, TVWD and Tigard
- 9) *City of Wilsonville and Tualatin Valley Water District Willamette Water Supply System Intake Facility Agreement*, dated \_\_\_\_\_, 2018 and entered into by Wilsonville and TVWD



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- 10) *Ground Lease for the Raw Water Pipeline*, dated \_\_\_\_\_, 2018, entered into by TVWD, Wilsonville, and Hillsboro.
- 11) *Easement for Raw Water Pipe*, dated \_\_\_\_\_, 2018, entered into by TVWD, Wilsonville, and Hillsboro.
- 12) *Intake and Pipeline Easement No. 22670-EA*, dated July 13, 2000 and granted by the State of Oregon Division of State Lands to the City of Wilsonville.

**Key Policy Points – Willamette Intake Facilities Agreement**

<b>Purpose</b>	Ownership, governance, and operation of the expanded and upgraded Intake Facilities. (Raw water pumps and pipelines, water treatment plants and transmission pipelines are not included.)		
<b>Parties and Ownership Interests</b>	Only municipal water providers may become parties.		
	<i>Party</i>	<i>Capacity (million gallons per day)</i>	<i>Capacity %</i>
	Tualatin Valley Water District (TVWD)	59.1	39.40%
	City of Wilsonville	25.0	16.67%
	City of Sherwood	9.7	6.47%
	City of Hillsboro	36.2	24.13%
	City of Tigard	15.0	10.00%
	City of Beaverton	5.0	3.33%
	Total	150.0 MGD	100%
<b>Assets</b>	Intake Infrastructure Facilities: intake screens, intake pipeline, caisson/raw water holding tank, seismic reinforcement structures. See IGA Exhibit A.		
<b>Governing Body</b>	A six-member Board, consisting of one member and one alternate appointed by each party's governing body, will meet quarterly and have full governing authority.		
<b>Voting</b>	Action requires affirmative vote of supermajority (5 of 6); except a unanimous vote (6 of 6) is required for three actions: approval of a new party to join the IGA; issuance of debt by the Commission; and amendment of the IGA.		
<b>Managing Agency</b>	A Managing Agency will perform day-to-day management and will provide support for the Commission's committee and Board functions. TVWD is designated as the initial Managing Agency through 6/30/2032 (covers the period during design and construction of the new Willamette Water Supply System improvements, plus one 6-year term). After completion of initial Managing Agency term, the term of Managing Agency appointment is 6 years. Wilsonville will continue to maintain responsibility for operation and maintenance of the existing intake facilities through 6/30/2026. Thereafter, the Commission will determine who will manage the Intake Facilities. Options include Wilsonville, another member, the Managing Agency, or a third-party contractor.		
<b>Committees</b>	Parties provide technical, budget, and policy input to the Managing Agency and Board through Operations, Finance, and Management Committees. See IGA Exhibit 6.		
<b>Cost Allocations</b>	Ongoing Capital Improvements and Facilities Maintenance: costs allocated based on ownership percentages. Other costs (such as administration): allocated 75% based on ownership percentages, 25% in equal shares. Cost allocation for Intake Improvements is based on a different formula and is detailed in Exhibit 11 of the IGA, and is attached to the Staff Report as Exhibit D.		
<b>Utilizing Intake Capacity</b>	A party's draw of water through the intake facility cannot exceed its ownership capacity. If other parties own intake capacity greater than their need, those parties may choose to make that excess capacity available to be leased by other parties who are seeking access to additional capacity. A party is subject to penalties if it utilizes more than its share of owned and leased intake capacity.		

EXHIBIT C

**RESOLUTION NO. 2628**

**A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE CITY MANAGER TO ENTER INTO: (1) THE FIRST AMENDMENT TO AGREEMENT REGARDING WATER TREATMENT PLANT DESIGN, CONSTRUCTION, OPERATION, AND PROPERTY OWNERSHIP; (2) THE WILLAMETTE WATER SUPPLY SYSTEM INTAKE FACILITY AGREEMENT WITH TUALATIN VALLEY WATER DISTRICT; AND (3) THE GROUND LEASE FOR RAW WATER PIPELINE WITH TUALATIN VALLEY WATER DISTRICT AND THE CITY OF HILLSBORO**

WHEREAS, the City of Wilsonville (“Wilsonville”) and the Tualatin Valley Water District (TVWD) are the original and current owners in the Wilsonville Willamette River Water Treatment Plant (WRWTP) land and facilities, including the current Willamette Intake Facilities (WIF); and

WHEREAS, on or about July 6, 2000, Wilsonville and TVWD entered into an Agreement Regarding Water Treatment Plant Design, Construction, Operation and Property Ownership (the “Agreement”) for the WRWTP that currently serves Wilsonville and Sherwood, and pursuant to that Agreement the WRWTP was constructed, and

WHEREAS, the Agreement provides for a transfer of the Managing Owner position from Wilsonville to TVWD if Wilsonville’s usage from the WRWTP is less than fifty percent (50%) of the total usage, but Wilsonville has continuously been the designated Managing Owner, managing the WRWTP since its construction, and desires to retain that position; and

WHEREAS, TVWD has determined, for seismic reasons and other considerations, that it will build a water treatment facility of its own; and

WHEREAS, TVWD, along with the City of Hillsboro and potentially other units of local government, plans to build the new water treatment facility at a location other than the WRWTP; and

WHEREAS, TVWD will most likely not obtain finished drinking water from the WRWTP but will retain ownership in the WRWTP and desires to use the WIF to serve its new plant; and

WHEREAS, TVWD intends to pump raw water from the river through the WRWTP WIF to its new, yet to be constructed, water treatment plant to be built at an undisclosed location in Washington County, with themselves and Hillsboro as the primary users of the new plant; and

## EXHIBIT C

WHEREAS, although Wilsonville stands to gain no use rights of the new raw water pipeline or new plant and only limited beneficial use of the intake facility upgrades, Wilsonville is amenable to allowing the foregoing for the benefit of other local governments in the region and the consideration set forth in the agreements referenced below; and

WHEREAS, Wilsonville, TVWD, and the City of Hillsboro (the “Parties”) have undertaken arm’s length negotiations for a period in excess of two years with regard to the terms and conditions of a Ground Lease, First Amendment, and Intake Agreement (“Water Agreements” described below), the Parties are satisfied that the terms and conditions are reasonable and rational given the impacts and benefits to be incurred; and

WHEREAS, The Parties are authorized to enter into the Water Agreements under the authority of ORS Chapter 190, ORS 271.310, and ORS 271.380; and

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. Wilsonville will lease to TVWD and Hillsboro (“Lessors”) a large area of land (primarily below the ground surface) in which to place an approximately six-foot (6’) diameter raw water pipeline approximately eight feet (8’) underground, stretching for approximately three (3) miles through Wilsonville. The Lease Term will be for 99 years.
2. In consideration of the Lease, Lessors will pay Wilsonville rent in the total cash amount of Seventeen Million One Hundred Eighty-Four Thousand One Hundred Twenty-Seven Dollars (\$17,184,127). Lessors will pay this rent in annual installments of \$173,577, payable in advance of each fiscal year, retroactive to July 1, 2016, and every July 1 up to and including on July 1, 2025. On July 1, 2026, a final lump sum rent payment in the amount of \$15,448,357 will be paid to Wilsonville. Construction is expected to be completed by no later than July 1, 2026.
3. As additional consideration, Lessors will make a minimum of six (6) significant infrastructure improvements to Wilsonville streets, which will benefit Wilsonville, as outlined in the attached Ground Lease, as Lessors construct in those various areas. Additionally, there will be other joint construction projects that Lessors will contribute to, to be negotiated at the time of the projects.
4. Lessors will also provide seismic upgrades to the existing intake facility owned by TVWD and Wilsonville, at TVWD’s expense, as well as some other seismic

## EXHIBIT C

- improvements that will benefit Wilsonville's existing plant, at no financial cost to Wilsonville.
5. Although TVWD will continue to retain co-ownership in the existing WRWTP and land with Wilsonville, the Agreement between Wilsonville and TVWD will be amended to provide that Wilsonville will become the Managing Owner of the WRWTP in perpetuity unless Wilsonville elects to resign from that position.
  6. The First Amendment adds a new section that provides that Wilsonville will give TVWD and the other municipalities an easement to run from the current WIF location westerly along the Willamette River, and then northerly through the property owned by TVWD and Wilsonville, in an exact location to be agreed upon by Wilsonville and TVWD ("Easement Agreement"). The Easement Agreement will also include area for several aboveground structures that will take up approximately two acres, as currently configured.
  7. TVWD, as co-owner of the WRWTP real estate, will dedicate right-of-way to Wilsonville for an extension of Kinsman Road through a portion of the property, yet to be determined, for the future Boones Ferry Road to Brown Road east-west connector road and the Kinsman extension to the connector road.
  8. After the effective date of the Water Agreements, TVWD agrees to pay a pro rata share of certain repairs and all improvements needed to the existing WIF, based on ownership rather than usage. The July 6, 2000 Agreement put all responsibility for such repairs on the users of the WRWTP (Wilsonville and Sherwood only).
  9. Pursuant to negotiations, it has been agreed that Wilsonville will receive an additional five million gallons per day (5 MGD) in exchange for the Easement Agreement discussed above and a payment not to exceed \$125,000 to TVWD, based on actual cost to upgrade and permit the expanded WIF. Wilsonville is getting credit for the screen and permitting already done and is the only entity whose buy-in price is capped.
  10. The City Manager is authorized to sign the Water Agreements in substantially the form as presented, with latitude to make minor revisions to reflect construction variances and clarifications.

EXHIBIT C

11. This Resolution will become effective and is contingent upon the approval by City Council of an Intergovernmental Agreement for the Intake Facility, anticipated to occur on or about July 2017.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 1st day of May, 2017, and filed with the Wilsonville City Recorder this date.

  
TIM KNAPP, MAYOR

ATTEST:

  
Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp	Yes
Council President Starr	Yes
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Yes

Attachments:

- Exhibit A: Ground Lease for Raw Water Pipeline
- Exhibit B: First Amendment to Agreement Regarding Water Treatment Plant Design, Construction, Operation, and Property Ownership
- Exhibit C: Willamette Water Supply System Intake Facility Agreement

**Exhibit 11**  
**Willamette Intake Facilities**  
**Intake Improvements Cost Allocation Summary**  
**Preliminary Estimate - June 2017**

**Description:**

The following is a summary of the cost estimate for the Intake Facilities improvements required to achieve a Capacity of 150 MGD. The cost estimates are based on preliminary design and will be refined as design progresses. Attachment 1 includes the preliminary design drawings and layout of the Intake Facilities.

**Assumptions**

1. Costs based on WWSP cost estimates presented to WGG on 5/25/17
2. Assumes total expanded capacity of intake is 150 MGD, including:

Feature	Capacity (MGD)
Existing Screen Capacity	70
Additional Screen Capacity resulting from expansion	80
Existing Hydraulic Capacity of intake pipe & caisson	120
Additional Hydraulic Capacity of intake pipe & caisson from expansion	30

3. Assumes permitting and mitigation costs = \$1.257 million (WWSP, 6/9/17)
4. Assumes screen cost for 150 MGD = \$4.65 million – includes intake screen replacement to 150 MGD, intake screen protection, and upgrades to air burst system (WWSP, 5/24/17)
5. Assumes seismic upgrade for the Intake Facilities = \$9.36 million – includes piles and jet grout for seismic stability of existing caisson structure (only); does not include seismic improvements for WWSS improvements (WWSP, 5/24/17)
6. Value of remaining useful life of existing screen = \$7,876 per MGD (Wilsonville, March 2017)

**Anticipated Cost Allocations**

**Note: Costs and cost allocations are based on capacity shares and preliminary cost estimates as of current date and are subject to change. Final cost shares will be updated based on final capacity shares and actual costs for proposed improvements using cost allocation methodology as detailed below.**

Partner	Capacity (MGD)	Capacity Share (%)	Cost Allocations (\$)			
			Permitting (1)	Screen & Air Burst	WIF Seismic Upgrades (9)	Total
Wilsonville	25.0	16.7%	\$ 75,000	\$ 50,000 (2)	-	\$ 125,000 (3)
TVWD (4,8)	59.1	39.4%	\$ 393,786	\$ 955,000 (5)	\$ 4,487,458	\$ 5,836,244
Sherwood (6)	9.7	6.5%	\$ 77,567	\$ 160,000 (7)	\$ 605,280	\$ 842,847
Tigard (8)	15.0	10.0%	\$ 189,674	\$ 930,160	\$ 1,138,949	\$ 2,258,783

## EXHIBIT D

Hillsboro (8)	36.2	24.1%	\$ 457,748	\$ 2,244,786	\$ 2,748,663	\$ 5,451,197
Beaverton (8)	5.0	3.3%	\$ 63,225	\$ 310,053	\$ 379,650	\$ 752,928
<b>Total</b>	<b>150.0</b>	<b>100.0%</b>	<b>\$ 1,257,000</b>	<b>\$ 4,650,000</b>	<b>\$ 9,360,000</b>	<b>\$ 15,267,000</b>

**Footnotes for Cost Allocation Methodology**

Cost allocations are generally based on proportionate ownership shares subject to additional terms and conditions as noted below.

1. Permitting cost allocation assumes 50% of costs applied to new capacity (80 MGD) and 50% of costs applied to total capacity (150 MGD).
2. Wilsonville receives full credit equal to remaining undepreciated asset value of 20 MGD share of existing screen.
3. Wilsonville total cost cap for permitting, screen, air burst & seismic = \$125,000.
4. TVWD capacity share includes 56.5 MGD for demand and 2.6 MGD of capacity not allocated to other partners.
5. TVWD receives partial credit for remaining undepreciated asset value of 45 MGD share of existing screen.
6. Sherwood does not contribute toward Wilsonville's cost shares in excess of Wilsonville cost caps for permitting, screen, and seismic improvements.
7. Sherwood receives partial credit for remaining undepreciated asset value of 5 MGD share of existing screen.
8. TVWD, Tigard, Hillsboro and Beaverton costs include allocation, proportionate to capacity share, for Wilsonville's cost shares for permitting, screen, and seismic improvements in excess of Wilsonville cost caps.
9. Improvements for seismic stability of existing caisson structure and intake pipe only; does not include seismic improvements for WWSS improvements. Wilsonville cost share for seismic improvements = \$0. TVWD, Tigard, Hillsboro and Beaverton - but not Sherwood - pay Wilsonville's cost share for seismic improvements.



**URA AGENDA**

**CITY OF WILSONVILLE  
URBAN RENEWAL AGENCY**

**FEBRUARY 5, 2018  
7:00 P.M.**

**CITY HALL  
29799 SW TOWN CENTER LOOP  
WILSONVILLE, OREGON**

*Immediately Following the City Council Meeting*

Chair Tim Knapp

Board Member Scott Starr  
Board Member Susie Stevens

Board Member Kristin Akervall  
Board Member Charlotte Lehan

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**CALL TO ORDER**

A. Roll Call

**CITIZEN INPUT**

**CONSENT AGENDA**

A. **URA Resolution No. 279** Page 302  
A Resolution Of The City Of Wilsonville Urban Renewal Agency Acting In Its Capacity As Its Local Contract Review Board Authorizing The City Manager To Execute A Construction Contract With Tapani, Inc. For Construction Of The Tooze Road Project (CIP# 4146). (Ward)

B. Minutes of the December 4, 2017 URA Meeting. Page 343

**ADJOURN**



## URBAN RENEWAL AGENCY MEETING STAFF REPORT

<b>Meeting Date:</b> February 5, 2018	<b>Subject: URA Resolution No. 279</b> Tooze Road Contract Award (CIP# 4146)  <b>Staff Member:</b> Mike Ward, PE, Civil Engineer  <b>Department:</b> Community Development	
<b>Action Required</b>	<b>Advisory Board/Commission Recommendation</b>	
<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 <sup>st</sup> Reading Date: <input type="checkbox"/> Ordinance 2 <sup>nd</sup> Reading Date: <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input checked="" type="checkbox"/> Consent Agenda	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input type="checkbox"/> Not Applicable  <b>Comments:</b>	
<b>Staff Recommendation:</b> Staff recommends the Urban Renewal Agency (URA) adopt URA Resolution No. 279.		
<b>Recommended Language for Motion:</b> I move to approve URA Resolution No. 279.		
<b>Project / Issue Relates To:</b> <i>[Identify which goal(s), master plans(s) your issue relates to.]</i>		
<input checked="" type="checkbox"/> Council Goals/Priorities	<input checked="" type="checkbox"/> Adopted Master Plan(s) Transportation System Plan	<input type="checkbox"/> Not Applicable

### ISSUE BEFORE COUNCIL:

Staff is requesting the Urban Renewal Agency to approve URA Resolution No. 279 authorizing the City Manager to execute a Construction Contract with Tapani, Inc. in the amount of \$4,588,466.25 for completion of the Tooze Road project.

**EXECUTIVE SUMMARY:**

Construction Bids were opened for the Tooze Road project on December 12, 2017. Construction items include approximately 1,900 feet of 3-lane roadway improvements, including vertical curve adjustment, walls, stormwater facilities, and 18-inch diameter water line in addition to creating a signalized intersection at Tooze Road and Grahams Ferry Road with widened approaches and turn lanes. The City received seven bids with Tapani, Inc. determined to be the lowest responsive bid at \$4,588,466.25.

**EXPECTED RESULTS:**

The project will reconstruct the road from a rural to an urban section that serves all travel modes. Increases to capacity and safety will result from the addition of the traffic signal, streetlights, smoothing the vertical curves, sidewalks, and bike lanes. The new Tooze and Grahams Ferry Road intersection will meet the City's level of service standards well into the future.

**TIMELINE:**

Pending receipt of signed contracts, bonds, and insurance certificates, construction is scheduled to begin in mid-February and be substantially completed by August 15, 2019.

**CURRENT YEAR BUDGET IMPACTS:**

The FY 2017-18 budget for CIP# 4146 authorizes \$2,562,500 (\$162,500 from Street System Development Charges (SDCs)) and \$2.4 million from West Side Urban Renewal Program Income. This amount is adequate to fund the project for the remainder of this fiscal year. The balance of the contract, \$2,025,966, will be included in the FY 2018-19 proposed budget.

In reviewing the funding for this project, it has come to light that the 5-year capital plan has an error. Currently, only that amount from the West Side Urban Renewal Program Income is displayed, at \$1.3 million. The amount from the West Side Urban Renewal Tax Increment was inadvertently left out of the 5-year plan; approximately \$725,000, to complete this contract, as well as an additional \$175,000 for various engineering and inspection costs from ODOT.

**FINANCIAL REVIEW / COMMENTS:**

Reviewed by: SCole Date: 1/19/2018

**LEGAL REVIEW / COMMENT:**

Reviewed by: BAJ Date: 1/26/2018

**COMMUNITY INVOLVEMENT PROCESS:**

N/A

**POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY** (businesses, neighborhoods, protected and other groups):

This project will complete the improvements planned around the edge of the Villebois community. Reconstructing this section of Tooze Road and its intersection with Grahams Ferry Road to urban standards will improve user safety and level of service for all modes. The addition of streetlights, sidewalks and bike facilities will increase recreational and transportation use by area residents and visitors.

**ALTERNATIVES:**

Delay the project.

**CITY MANAGER COMMENT:**

**ATTACHMENTS:**

Urban Renewal Agency Resolution No. 279

**THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE**

**URA RESOLUTION NO. 279**

**A RESOLUTION OF THE CITY OF WILSONVILLE URBAN RENEWAL AGENCY ACTING IN ITS CAPACITY AS ITS LOCAL CONTRACT REVIEW BOARD AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH TAPANI, INC. FOR CONSTRUCTION OF THE TOOZE ROAD PROJECT (CIP# 4146).**

WHEREAS, the City has planned, designed, and budgeted for the completion of Capital Improvement Project #4146, known as the Tooze Road Project (the Project); and

WHEREAS, the City solicited bids from qualified contractors for the Project that duly followed the State of Oregon Public Contracting Rules and the City of Wilsonville Municipal Code; and

WHEREAS, Tapani, Inc. submitted a bid for the Project on December 12, 2017 for FOUR MILLION, FIVE HUNDRED EIGHTY-EIGHT THOUSAND, FOUR HUNDRED SIXTY-SIX DOLLARS AND TWENTY-FIVE CENTS (\$4,588,466.25) which was subsequently evaluated as the lowest responsive bid.

NOW, THEREFORE, THE URBAN RENEWAL AGENCY RESOLVES AS FOLLOWS:

1. The Agency, acting as the Local Contract Review Board, authorizes the City Manager to enter into, on behalf of the Urban Renewal Agency, a Construction Contract with Tapani, Inc. for a stated value of FOUR MILLION, FIVE HUNDRED EIGHTY-EIGHT THOUSAND, FOUR HUNDRED SIXTY-SIX DOLLARS AND TWENTY-FIVE CENTS (\$4,588,466.25).
2. This resolution is effective upon adoption.

ADOPTED by the Wilsonville Urban Renewal Agency at a regular meeting thereof this 5<sup>th</sup> day of February 2018, and filed with the Wilsonville City Recorder this date.

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Tim Knapp, Board Chair

ATTEST:

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Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Board Chair Knapp

Board Member Starr

Board Member Lehan

Board Member Akervall

Board Member Stevens

Attachments:

Exhibit A – Construction Contract

**CITY OF WILSONVILLE  
CONSTRUCTION CONTRACT (CIP #4146)  
TOOZE ROAD: 110<sup>th</sup> AVENUE – GRAHAMS FERRY ROAD**

This Construction Contract for the Tooze Road: 110<sup>th</sup> Avenue – Grahams Ferry Road Project (“Contract”) is made and entered into on this \_\_\_\_\_ day of February 2018 (“Effective Date”) by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and **Tapani, Inc.**, a Washington corporation (hereinafter referred to as “Contractor”).

**RECITALS**

WHEREAS, the City issued a formal Invitation to Bid for the Project described herein; and

WHEREAS, Contractor represents that Contractor is qualified to perform the services described in the Invitation to Bid on the basis of specialized experience and technical expertise; and

WHEREAS, after reviewing all bids submitted in accordance with the Invitation to Bid, the City has determined this Contract shall be awarded to Contractor; and

WHEREAS, Contractor is prepared to perform this Contract in accordance with all the terms and conditions as set forth below, as the City does hereinafter require.

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

**AGREEMENT**

**Section 1. Contract Documents**

This Contract includes and incorporates by reference all of the foregoing recitals and all of the following additional “Contract Documents”: Specifications and Contract Documents for the Tooze Road: 110<sup>th</sup> Avenue to Grahams Ferry Road Project, dated <TBD>, including Plans, Details, and Drawings bound separately; Construction Contract Administration Plan (CAP) Key No. 17212; Contractor’s Bid submitted in response thereto; 2015 City of Wilsonville Public Works Standards, Oregon Department of Transportation 2015 Oregon Standard Specifications for Construction; Special Provisions to ODOT Standards; 2010 ADA Standards for Accessible Design; 2004 Americans with Disabilities Act Accessibility Guidelines (“ADAAG”), as amended; and the provisions of Oregon Revised Statutes (ORS) 279C, as more particularly set forth in this Contract. Contractor must be familiar with all of the foregoing and comply with them. Any conflict or inconsistency between the Contract Documents shall be called to the attention of the City by Contractor before proceeding with affected work. All Contract Documents should be read in concert and Contractor is required to bring any perceived inconsistencies to the attention of the City before executing this Contract. In the event a provision of this Contract conflicts with standards or requirements contained in any of

the foregoing Contract Documents, the provision that is more favorable to the City, as determined by the City, will apply.

## **Section 2. Term**

The term of this Contract shall be from the Effective Date until all work required to be performed hereunder (“Work”) is completed and accepted, or no later than October 15, 2019, whichever occurs first, unless earlier terminated in accordance herewith or an extension of time is agreed to, in writing, by the City. Contractor shall diligently perform the Work according to the requirements and deliverable dates identified in the Contract Documents. All Work must be at Substantial Completion by no later than August 15, 2019 and at Final Completion by October 15, 2019. See **Section 22** for the definitions of Substantial Completion and Final Completion.

## **Section 3. Contractor’s Work**

3.1. Contractor will perform the Work as more particularly described herein and in the other Contract Documents for the Tooze Road: 110<sup>th</sup> Avenue – Grahams Ferry Road Project (“Project”). It is important to note that the Work includes ADA projects, and ADA measurement standards are strict, with very little margin for error. Therefore, Contractor must take great care to know the exact standards and meet them precisely. If the finished product is not within ADA allowances, as published, Contractor will be required to re-work or remove and replace, at Contractor’s sole expense, so that the ADA specifications are fully complied with.

3.2. All written documents, drawings, and plans submitted by Contractor in conjunction with the Work shall bear the signature, stamp, or initials of Contractor’s authorized Project Manager. Any documents submitted by Contractor which do not bear the signature, stamp, or initials of Contractor’s authorized Project Manager, will not be relied upon by the City. Interpretation of plans and answers to questions regarding the Work given by Contractor’s Project Manager may be verbal or in writing, and may be relied upon by the City, whether given verbally or in writing. If requested by the City to be in writing, Contractor’s Project Manager will provide such written documentation.

3.3. The existence of this Contract between the City and Contractor shall not be construed as the City’s promise or assurance that Contractor will be retained for future services beyond the Work described herein.

3.4. Contractor shall maintain the confidentiality of any confidential information that is exempt from disclosure under state or federal law to which Contractor may have access by reason of this Contract. Contractor warrants that Contractor’s employees assigned to perform any of the Work provided in this Contract shall be clearly instructed to maintain this confidentiality. All agreements with respect to confidentiality shall survive the termination or expiration of this Contract.



## **Section 4. Contract Sum and Payment**

4.1. Except as otherwise set forth in this **Section 4**, the City agrees to pay Contractor a unit price not to exceed amount of FOUR MILLION FIVE HUNDRED EIGHTY-EIGHT THOUSAND FOUR HUNDRED SIXTY-SIX DOLLARS AND TWENTY-FIVE CENTS (\$4,588,466.25) for performance of the Work (“Contract Sum”). Any compensation in excess of the Contract Sum will require an express written Change Order between the City and Contractor. Contractor’s unit pricing and rates are set forth on **Exhibit A**, attached hereto and incorporated by reference herein.

4.2. During the course of Contractor’s performance, if the City, through its Project Manager, specifically requests Contractor to provide additional services beyond the Work described in the Contract Documents, Contractor shall provide such additional services and bill the City a reasonable agreed upon fee, pursuant to a written Change Order, executed in compliance with the provisions of **Section 23**.

4.3. Contractor will be paid for Work for which an itemized invoice is received by the City within thirty (30) days of receipt, unless the City disputes such invoice, less a five percent (5%) withholding for retainage. Retainage shall be as outlined in the Contract Documents and as specified under ORS 279C.550 to 279C.570. If the City disputes an invoice, the undisputed portion of the invoice will be paid by the City within the above timeframe, less the retainage. The City will set forth its reasons for the disputed claim amount and make good faith efforts to resolve the invoice dispute with Contractor as promptly as is reasonably possible. Final payment will be held until completion of the final walkthrough, as described in **Section 22**.

4.4. Except as provided in **Section 8.2**, the Contract Price includes the cost of all required fees payable to governmental agencies, including but not limited to plan checking, land use, zoning, and all other similar fees required to perform the Work on the Project.

4.5. The City will be responsible for the direct payment of required fees payable to governmental agencies, including but not limited to plan checking, land use, zoning, and all other similar fees resulting from this Project that are not specifically otherwise provided for in the Contract Documents.

4.6. Contractor’s unit prices and Contract Sum are all inclusive and include, but are not limited to, all work-related costs, expenses, salaries or wages, plus fringe benefits and contributions, including payroll taxes, workers compensation insurance, liability insurance, profit, pension benefits, and all other contributions and benefits, office expenses, travel expenses, mileage, and all other indirect and overhead charges.

4.7. Contract provisions regarding payment policies, progress payments, interest, etc. are as outlined in the Contract Documents and in ORS 279C.570.

## **Section 5. Davis-Bacon/BOLI Prevailing Wages and the Copeland Anti-Kickback Act**

5.1. Because this Contract is federally funded, in part, the higher of Davis-Bacon or the Oregon Bureau of Labor and Industries (BOLI) wages will apply to some or all individuals

performing Work under this Contract. It is the responsibility of Contractor to be in full compliance with the higher of the Davis-Bacon or BOLI requirements, and Contractor shall defend, indemnify, and hold harmless the City from any claims based on Contractor's failure or alleged failure to comply. The Davis-Bacon Act is codified at 40 USC § 3141 *et seq.* See the Davis-Bacon requirements enumerated in 29 CFR § 5.5(a), attached hereto as **Exhibit B** and incorporated by reference herein.

5.2. This Contract is also a Public Works Project, subject to ORS 279C.800 to 279C.870. Therefore, not less than the current applicable state prevailing wage must be paid on this Project. Wage rates for this Project are those published by BOLI, effective July 1, 2017, and all subsequent amendments. The BOLI prevailing wage rate for public works contracts can be found at the following website: [http://www.oregon.gov/boli/WHD/PWR/Pages/pwr\\_state.aspx](http://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx). Because this is a public works contract subject to payment of prevailing wages, each worker in each trade or occupation employed in the performance of the Services, either by Contractor, a subcontractor, or other person doing or contracting to do, or contracting for the whole or any part of the Services, must be paid not less than the applicable state prevailing wage for an hour's work in the same trade or occupation in the locality where such labor is performed, in accordance with ORS 279C.838 and 279C.840. In addition, because this Contract is also covered by the federal Davis-Bacon Act (40 USC § 3141 *et seq.*), the Contractor and all subcontractors shall pay workers or others performing Services contemplated by this Contract the higher of the state or federal prevailing rate of wage, as determined by the Commissioner of the Bureau of Labor and Industries, in accordance with ORS 279C. Contractor must comply with all public contracting wages required by law. Contractor and any subcontractor, or their sureties, shall file a certificate of rate of wage as required by ORS 279C.845. If the City determines at any time that the prevailing rate of wages has not been or is not being paid as required herein, it may retain from the moneys due to Contractor an amount sufficient to make up the difference between the wages actually paid and the prevailing rate of wages, and may also cancel the Contract for breach. Contractor shall be liable to the workers affected for failure to pay the required rate of wage, including all fringe benefits under ORS 279C.840(5). Contractor shall include a contract provision in compliance with this paragraph in every subcontract and shall require each subcontractor to include it in subcontract(s).

5.3. Contractor will also comply with the Copeland "Anti-Kickback" Act (40 USC § 3145), as supplemented by Department of Labor regulations at 29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work to give up any part of the compensation to which he or she is otherwise entitled.

See **Contractor's Responsibilities** below and other Contract Documents for additional requirements and responsibilities regarding compliance with wage and hour laws and regulations.

## **Section 6. Filing of Certified Statement**

As required in ORS 279C.845(7), the City will retain twenty-five percent (25%) of any amount earned by Contractor under the Contract until Contractor has filed the certified statements required in ORS 279C.845(1). The City will pay to Contractor the amount withheld within

fourteen (14) days after Contractor files the required certified statements. As required in ORS 279C.845(8), Contractor shall retain twenty-five percent (25%) of any amount earned by a first-tier subcontractor on the Project until the first-tier subcontractor has filed with the City the certified statements required in ORS 279C.845(1). Before paying any amount withheld, Contractor shall verify that the first-tier subcontractor has filed the certified statement. Within fourteen (14) days after the first-tier subcontractor files the required certified statement, Contractor shall pay the first-tier subcontractor any amount withheld. Contractor shall require all other sub-subcontractors to file certified statements regarding payment of prevailing wage rates with the City.

## **Section 7. Reports to Department of Revenue**

When a public contract is awarded to a nonresident bidder and the contract price exceeds Ten Thousand Dollars (\$10,000), Contractor shall promptly report to the Department of Revenue, on forms to be provided by the Department, the total contract price, terms of payment, length of contract, and such other information as the Department may require, before the City will make final payment on the Contract.

## **Section 8. City's Rights and Responsibilities**

8.1. The City will designate a Project Manager to facilitate day-to-day communication between Contractor and the City, including timely receipt and processing of invoices, requests for information, and general coordination of City staff to support the Project.

8.2. If applicable, the City will pay the required Bureau of Labor and Industries fee of one-tenth of one percent (0.1%) of the Contract Sum, or as required by statute.

8.3. The City reserves the right to reject any bid or to refuse delivery of materials or services at or from any manufacturer, supplier, or contractor with which the City has reasonable grounds to believe is or may be operating in violation of any local, state, or federal law or which is the subject of pending litigation.

8.4. If Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person in connection with the Contract as such claim becomes due, the City may, but shall not be obligated to, pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due Contractor by reason of the Contract. The payment of a claim in the manner authorized hereby shall not relieve Contractor or its surety from the obligation with respect to any unpaid claim. If the City is unable to determine the validity of any claim for labor or services furnished, the City may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined, and the claim, if valid, is paid by Contractor or the City. There shall be no final acceptance of the Work under the Contract until all such claims have been resolved.

## **Section 9. City's Project Manager**

The City's Project Manager is Mike Ward. The City shall give Contractor prompt written notice of any re-designation of its Project Manager.

## **Section 10. Contractor's Project Manager**

Contractor's Project Manager is Justin Massie. In the event that Contractor's Project Manager is changed, Contractor shall give the City prompt written notification of such re-designation. Recognizing the need for consistency and knowledge in the administration of the Project, Contractor's Project Manager will not be changed without the written consent of the City, which consent shall not be unreasonably withheld. In the event the City receives any communication from Contractor that is not from Contractor's Project Manager, the City may request verification by Contractor's Project Manager, which verification must be promptly furnished.

## **Section 11. Project Information**

Except for confidential information designated by the City as information not to be shared, Contractor agrees to share Project information with, and to fully cooperate with, those corporations, firms, contractors, public utilities, governmental entities, and persons involved in the Project. No information, news, or press releases related to the Project, whether made to representatives of newspapers, magazines, or television and radio stations, shall be made without the written authorization of the City's Project Manager.

## **Section 12. Duty to Inform**

If at any time during the performance of this Contract, Contractor becomes aware of actual or potential problems, faults, environmental concerns, or defects in the Project, Contract Documents, or Work, or any portion thereof; or of any nonconformance with federal, state, or local laws, rules, or regulations; or if Contractor has any objection to any decision or order made by the City with respect to such laws, rules, or regulations, Contractor shall give prompt written notice thereof to the City's Project Manager. Any delay or failure on the part of the City to provide a written response to Contractor shall neither constitute agreement with nor acquiescence to Contractor's statement or claim, nor constitute a waiver of any of the City's rights.

## **Section 13. Subcontractors and Assignments**

13.1. Unless expressly authorized in writing by the City, pursuant to **Subsection 14.2**, Contractor shall not subcontract with others for any of the Work prescribed herein. Contractor shall not assign any of Contractor's rights acquired hereunder without obtaining prior written approval from the City. Some Work may be performed by persons other than Contractor, provided Contractor advises the City of the names of such subcontractors and the services which they intend to provide, and the City specifically agrees, in writing, to such subcontracting. Contractor acknowledges such services will be provided to the City pursuant to a subcontract(s) between Contractor and subcontractor(s) and no privity of contract exists between the City and the subcontractor(s). Unless otherwise specifically provided by this Contract, the City incurs no liability to third persons for payment of any compensation provided herein to Contractor. Any attempted assignment of this Contract without the written consent of the City shall be void. Except as otherwise specifically agreed, all costs for services

performed by others on behalf of Contractor shall not be subject to additional reimbursement by the City.

13.2. The City shall have the right to enter into other agreements for the Project, to be coordinated with this Contract. Contractor shall cooperate with the City and other firms, engineers, or subcontractors on the Project so that all portions of the Project may be completed in the least possible time and within normal working hours. Contractor shall furnish other engineers, subcontractors, and affected public utilities, whose designs are fitted into Contractor's design, detail drawings giving full information so that conflicts can be avoided.

#### **Section 14. Contractor's Responsibilities**

Except as otherwise provided under ORS 30.265, the performance under this Contract is at Contractor's sole risk. The service or services to be rendered under the Contract are those of an independent contractor who is not an officer, employee, or agent of the City, as those terms are used in ORS 30.265. Notwithstanding the Oregon Tort Claims Act or provisions of any other contract, Contractor is acting as and assumes liability of an independent contractor as to claims between the City and Contractor. Contractor is solely liable for any workers compensation coverage, social security, unemployment insurance or retirement payments, and federal or state taxes due as a result of payments under the Contract. Any subcontractor hired by Contractor shall be similarly responsible. Contractor shall be liable to the City for any failure of any subcontractor(s) to comply with the terms of the Contract. This Contract is a public works contract governed by the laws found at ORS Chapter 279C, which Contractor must be familiar with and adhere to. Those required provisions include but are not limited to all of the following:

14.1. Except as otherwise mandated by state law, the performance of Work under this Contract is at Contractor's sole risk. All damages or loss to Work, equipment, or materials incurred during the performance of the Work shall be at Contractor's sole risk. Any injury to persons or property incurred during the performance of the Work shall be at Contractor's sole risk. Contractor is an independent contractor for all purposes and shall be entitled to no compensation other than the Contract Sum provided for under **Section 4** of this Contract. Contractor will be solely responsible for determining the manner and means of accomplishing the end result of Contractor's Work. The City does not have the right to control or interfere with the manner or method of accomplishing said Work. The City, however, will have the right to specify and control the results of Contractor's Work so such Work meets the requirements of the Project.

14.2. Based on Contractor's Bid, the City understands and agrees that some Work may be performed on the Project by persons or firms other than Contractor, through a subcontract with Contractor. Contractor acknowledges that if such Work is provided to the City pursuant to a subcontract(s) between Contractor and those who provide such services, Contractor may not utilize any subcontractor(s), or in any way assign its responsibility under this Contract, without first obtaining the express written consent of the City. The names of subcontractors provided as part of the accepted Bid are deemed already accepted by the City. In all cases, processing and payment of billings from subcontractors is solely the responsibility of Contractor. References to "subcontractor" mean a subcontractor at any tier.

14.3. Contractor shall be responsible for, and defend, indemnify, and hold the City harmless against, any liability, cost, or damage arising out of Contractor's use of such subcontractor(s) and subcontractor's negligent acts, errors, or omissions. Unless otherwise agreed to, in writing, by the City, Contractor shall require that all of Contractor's subcontractors also comply with and be subject to the provisions of this **Section 14** and meet the same insurance requirements of Contractor under this Contract.

14.4. Contractor shall make prompt payment for any claims for labor, materials, or services furnished to Contractor by any person in connection with this Contract, as such claims become due. Contractor shall not permit any liens or claims to be filed or prosecuted against the City on account of any labor or material furnished to or on behalf of Contractor. If Contractor fails, neglects, or refuses to make prompt payment of any such claim, the City may pay such claim to the subcontractor furnishing the labor, materials, or services, and offset the amount of the payment against funds due, or to become due, to Contractor under this Contract. The City may also recover any such amounts directly from Contractor.

14.5. Contractor must comply with all Oregon and federal wage and hour laws, including BOLI wage requirements, if applicable. Contractor shall make all required workers compensation and medical care payments on time. Contractor shall be fully responsible for payment of all employee withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA), and Medicaid. Contractor shall also be fully responsible for payment of salaries, benefits, taxes, and all other charges due on account of any employees. Contractor shall pay all contributions or amounts due the Industrial Accident Fund from Contractor or subcontractor incurred in the performance of this Contract. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. All costs incident to the hiring of subcontractors or employees shall be Contractor's responsibility. Contractor shall defend, indemnify, and hold the City harmless from claims for payment of all such expenses. Unless otherwise expressly set forth in the Contract Documents as a reimbursable expense item not included in the Contract Sum, specific costs associated with items set forth in this subsection shall be deemed as fully and conclusively included in the rate upon which Contractor's Contract Sum is based.

14.6. Contractor certifies that Contractor has not discriminated against minority, women, or small business enterprises in obtaining any subcontract.

14.7. Pursuant with ORS 279C.505(2), by execution of this Contract, Contractor agrees to have an employee drug testing program in place at the time of executing the Contract, acknowledges that such a program will be maintained throughout the Contract period, including any extensions, and shall demonstrate to the City that such drug testing program is in place. The failure of Contractor to have, or to maintain, such a drug-testing program is grounds for immediate termination of the Contract. Contractor shall require each subcontractor providing labor for the Project to also comply with this drug testing program requirement.

14.8. Contractor agrees that the City shall not be liable, either directly or indirectly, in any dispute arising out of the substance or procedure of Contractor's drug testing program. Nothing in this drug testing provision shall be construed as requiring Contractor to violate any legal, including constitutional, rights of any employee, including but not limited to selection of which employees to test and the manner of such testing. The City shall not be liable for

Contractor's negligence in establishing or implementing, or failure to establish or implement, a drug testing policy or for any damage or injury caused by Contractor's employees acting under the influence of drugs while performing Work covered by the Contract. These are Contractor's sole responsibilities, and nothing in this provision is intended to create any third party beneficiary rights against the City.

14.9. Contractor is solely responsible for ensuring that any subcontractor selection and substitution is in accordance with all legal requirements. The City shall not be liable, either directly or indirectly, in any dispute arising out of Contractor's actions with regard to subcontractor selection and/or substitution.

14.10. Contractor shall make payment promptly, as due, to all parties supplying to such Contractor labor or material for the prosecution of the Work provided for in the Contract Documents, and shall be responsible for payment to such persons supplying labor or material to any subcontractor.

14.11. By execution of this Contract, as required by ORS 305.385(6), Contractor certifies under penalty of perjury that to the best of Contractor's knowledge, Contractor is not in violation of any tax laws described in ORS 305.380(4).

14.12. Contractor agrees that if Contractor or a first-tier subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with this Contract within thirty (30) days after receiving payment from the City or a contractor, Contractor or the first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the ten (10) day period within which payment is due under ORS 279C.580(3)(a) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due shall be calculated in accordance with ORS 279C.515(2). The amount of interest may not be waived.

14.13. Contractor agrees that if Contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

14.14. Contractor shall make payment promptly, as due, to any party furnishing medical, surgical, hospital, or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums which Contractor agreed to pay for the services or collected or deducted from the wages of employees pursuant to any law, contract, or agreement for the purpose of providing or paying for such service.

14.15. Contractor and all subcontractors shall comply with the provisions of ORS 279C.540 pertaining to maximum hours, holidays, and overtime. With certain exceptions listed below, Contractor shall not require or permit any person to work more than ten (10) hours in any one (1) day, or forty (40) hours in any one (1) week, except in case of necessity, emergency, or where public policy requires it, and in such cases the person shall be paid at least time and a half for:

14.15.1. All overtime in excess of eight (8) hours in any one (1) day or forty (40) hours in any one (1) week when the work week is five (5) consecutive days, Monday through Friday; or

14.15.2. All overtime in excess of ten (10) hours in any one (1) day or forty (40) hours in any one (1) week when the work week is four (4) consecutive days, Monday through Friday; and

14.15.3. All work performed on the days specified in ORS 279C.540(1)(b) for public improvement contracts.

14.16. Contractor and all subcontractors shall comply with the provisions of ORS 279C.545 pertaining to time limitation on claims for overtime and requirements for posting circulars containing said provisions.

14.17. For personal/professional service contracts, as designated under ORS 279A.055, instead of 14.15.1, 14.15.2, and 14.15.3 above, a laborer shall be paid at least time and a half for all overtime worked in excess of forty (40) hours in any one (1) week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 USC §§ 201 to 209 from receiving overtime.

14.18. Contractor shall follow all other exceptions, pursuant to ORS 279B.235 (for non-public improvement contracts) and ORS 279C.540 (for public improvement contracts), including contracts involving a collective bargaining agreement, contracts for services, and contracts for fire prevention or suppression.

14.19. Contractor must give notice to employees who work on a public contract, in writing, either at the time of hire or before commencement of Work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

14.20. The hourly rate of wage to be paid by any Contractor or subcontractor to employed workers or other persons doing or contracting to do all or part of the work contemplated by a public contract shall be not less than the applicable wage required by law.

14.21. Contractor, its subcontractors, and all employers working under the Contract are subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017 and provide the required workers compensation coverage, unless otherwise exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.

14.22. In the performance of this Contract, Contractor shall comply with all applicable federal, state, and local laws, municipal codes, regulations, rules, and ordinances, including but not limited to those dealing with public contracts (ORS Chapter 279C) and with the prevention of environmental pollution and the preservation of natural resources (and avoidance of natural resource damages) in the performance of the Contract, including but not limited to ORS 279C.525. To the extent that known environmental and natural resource risks are specifically noted, shown, or specified in the Contract Documents or on the construction



drawings, such risks are allocated to Contractor pursuant with ORS 279C.525(8)(a). If new or amended statutes, ordinances, rules, or regulations are adopted, or Contractor encounters a condition not referred to in this Contract, not caused by Contractor, and that was not discoverable by reasonable site inspection which requires compliance with federal, state, or local laws, codes, or regulations dealing with the preservation of the environment, both the City and Contractor shall have all the rights and obligations set forth in ORS 279C.525.

14.23. Contractor shall be liable for any fine imposed against Contractor, the City or the 'Project' as a result of a violation of any laws or permitting requirements by Contractor or any of its subcontractors or their sub-subcontractors or any suppliers.

14.24. Because this Contract is funded, in part, by federal funds, Contractor must comply with all Required Federal Provisions, as set forth in **Section 15**, below, some of which may overlap with those stated in this Section. Should a conflict exist, the stricter provision shall apply unless otherwise specifically pre-empted by federal law.

### **Section 15. Required Federal Provisions**

This Contract is funded, in part, with federal funds. Contractor must therefore comply with all of the following, in addition to the provisions set forth in Sections 14.5 through 14.18 listed above:

15.1. **Buy America.** Contractor agrees to comply with 49 USC § 5323(j) and 49 CFR Part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products used in Federal Transit Administration (FTA) funded projects are produced in the United States, unless a waiver has been granted by the FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7. Separate requirements for rolling stock are set out at 49 USC § 5323(j)(2)(C) and 49 CFR § 661.11. All steel must originate in the USA and not leave the USA at any point. Contractor shall have submitted the appropriate Buy America certification to the City before commencement of any Work. Contractor must have submitted to the City the appropriate Buy America certification with its Bid, as bids that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. See **Exhibit C**.

15.2. **Clean Air and Clean Water.** Contractor agrees to comply with the inspection and other requirements of the Clean Air Act, as amended (42 USC § 7401 *et seq.*), and the Federal Water Pollution Control Act, as amended (33 USC § 1251 *et seq.*). Contractor agrees it will not use any violating facilities, it will report the use of facilities placed on or likely to be placed on the U.S. Environmental Protection Agency (EPA) "List of Violating Facilities," and it will report any violation of use of prohibited facilities to the City. Contractor understands and agrees that the City will, in turn, report each violation, as required, to assure notification to the FTA and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$150,000, financed in whole or in part with federal assistance provided by the FTA.

15.3. **Energy Conservation.** Contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

15.4. **Recovered Materials.** Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended (42 USC § 6962), and U.S. Environmental Protection Agency, “Comprehensive Procurement Guideline for Products Containing Recovered Materials” (40 CFR Part 247).

#### 15.5. **Civil Rights Requirements.**

15.5.1. Nondiscrimination. In accordance with Title VI of the Civil Rights Act of 1964, as amended (42 USC § 2000d), Section 303 of the Age Discrimination Act of 1975, as amended (42 USC § 6102), Section 202 of the Americans with Disabilities Act of 1990, as amended (42 USC § 12132), and federal transit laws at 49 USC § 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, age, disability, or national origin. In addition, Contractor agrees to comply with applicable federal implementing regulations and other implementing requirements the FTA may issue.

15.6. Race, Religion, Gender, National Origin. No person shall be discriminated against by Contractor or any subcontractor in the performance of this Contract on the basis of sex, gender, race, color, creed, religion, marital status, age, disability, sexual orientation, gender identity, or national origin. Any violation of this provision shall be grounds for cancellation, termination, or suspension of the Contract, in whole or in part, by the City. Contractor shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the Contract or to the implementation of the Project. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations, and executive orders to the extent they are applicable to the Contract or the implementation of the Project: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules, and regulations; (b) Titles VI and VII of the Civil Rights Act of 1964, as amended; (c) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (d) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (e) Executive Order 11246, as amended; (f) the Health Insurance Portability and Accountability Act of 1996; (g) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (h) the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended; (i) all regulations and administrative rules established pursuant to the foregoing laws; and (j) all other applicable requirements of federal civil rights and rehabilitation statutes, rules, and regulations.

15.6.1. Age. In accordance with the Age Discrimination in Employment Act of 1967, as amended (29 USC §§ 621-634); U.S. Equal Employment Opportunity Commission regulations, “Age Discrimination in Employment Act” (29 CFR Part 1625); the Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*); U.S. Department of Health and Human Services implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance” (45 CFR Part 90); and federal transit law at 49 USC § 5332,

Contractor agrees to refrain from discrimination against present and prospective employees on the basis of age.

15.6.2. Disabilities. In accordance with Section 504 of the Rehabilitation Act of 1973, as amended (29 USC § 794); the Americans with Disabilities Act of 1990, as amended (42 USC § 12101 *et seq.*); the Architectural Barriers Act of 1968, as amended (42 USC § 4151 *et seq.*); and federal transit law at 49 USC § 5332, Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, Contractor agrees to comply with any implementing requirements the FTA may issue.

**Section 16. Environmental Laws**

16.1. In compliance with the provisions of ORS 279C.525, the following is a list of federal, state, and local agencies, of which the City has knowledge, that have enacted ordinances or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that may affect the performance of the Contract:

FEDERAL AGENCIES:

Forest Service  
 Defense, Department of  
 Environmental Protection Agency  
 Bureau of Sport Fisheries and Wildlife  
 Bureau of Land Management  
 Bureau of Reclamation  
 Occupational Safety and Health Administration  
 Coast Guard

Agriculture, Department of  
 Soil Conservation Service  
 Army Corps of Engineers  
 Interior, Department of  
 Bureau of Outdoor Recreation  
 Bureau of Indian Affairs  
 Labor, Department of  
 Transportation, Department of  
 Federal Highway Administration

STATE AGENCIES:

Environmental Quality, Department of  
 Forestry, Department of  
 Human Resources, Department of  
 Soil and Water Conservation Commission  
 State Land Board

Agriculture, Department of  
 Fish and Wildlife, Department of  
 Geology and Mineral Industries, Department of  
 Land Conservation and Development Commission  
 National Marine Fisheries Service (NMFS)  
 State Engineer  
 Water Resources Board

LOCAL AGENCIES:

County Courts  
 Port Districts  
 County Service Districts  
 Water Districts

City Council  
 County Commissioners, Board of  
 Metropolitan Service Districts  
 Sanitary Districts  
 Fire Protection Districts

This list may not be all inclusive, and it is the responsibility of Contractor to know all applicable laws and to comply with them in the performance of this Contract.

16.2. Pursuant with ORS 279C.510(1), if this Contract calls for demolition work, Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective.

16.3. Pursuant with ORS 279C.510(2), if this Contract calls for lawn or landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

16.4. Contractor shall be responsible for the immediate clean-up, remediation, reporting, and payment of fines, if any, related to the release of any hazardous substance or material by Contractor or any subcontractor.

16.5. Contractor must comply with all mitigation conditions as set forth in the Contract Documents and in accordance with all applicable state and federal environmental laws.

## **Section 17. Indemnity and Insurance**

17.1. Indemnification. Contractor acknowledges responsibility for liability arising out of the performance of this Contract, and shall defend, indemnify, and hold the City harmless from any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from Contractor's negligent acts, omissions, errors, or willful or reckless misconduct pursuant to this Contract, or from Contractor's failure to perform its responsibilities as set forth in this Contract. The review, approval, or acceptance by the City, its Project Manager, or any City employee of documents or other work performed, prepared, or submitted by Contractor shall not be considered a negligent act, error, omission, or willful misconduct on the part of the City, and none of the foregoing shall relieve Contractor of its responsibility to perform in full conformity with the City's requirements, as set forth in this Contract, and to indemnify the City as provided above and to reimburse the City for any and all costs and damages suffered by the City as a result of Contractor's negligent performance of this Contract, failure of performance hereunder, violation of state or federal laws, or failure to adhere to the standards of performance and care described in **Subsection 17.2**. Contractor shall defend the City (using legal counsel reasonably acceptable to the City) against any claim that alleges negligent acts, omissions, errors, or willful or reckless misconduct by Contractor.

17.2. Standard of Care. In the performance of the Work, Contractor agrees to use that degree of care and skill exercised under similar circumstances by reputable members of Contractor's profession, practicing in the Portland metropolitan area. Contractor will re-perform any services not meeting this standard without additional compensation. Contractor's re-performance of any services, even if done at the City's request, shall not be considered as a limitation or waiver by the City of any other remedies or claims it may have arising out of Contractor's failure to perform in accordance with the applicable standard of care of this Contract and within the prescribed timeframe.

17.3. Insurance Requirements. Contractor must maintain insurance coverage acceptable to the City in full force and effect throughout the term of this Contract. Such insurance shall cover all risks arising directly or indirectly out of Contractor's activities or work hereunder. The amount of insurance carried is in no way a limitation on Contractor's liability hereunder. The policy or policies of insurance maintained by Contractor shall provide at least the following minimum limits and coverages at all times during performance of this Contract:

17.3.1. Commercial General Liability Insurance. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, comprehensive Commercial General Liability Insurance covering Bodily Injury and Property Damage, written on an "occurrence" form policy. This coverage shall include broad form Contractual Liability insurance for the indemnities provided under this

Contract and shall be for the following minimum insurance coverage amounts: The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$3,000,000** general aggregate and shall include Products-Completed Operations Aggregate in the minimum amount of **\$2,000,000** per occurrence, Fire Damage (any one fire) in the minimum amount of **\$50,000**, and Medical Expense (any one person) in the minimum amount of **\$10,000**. All of the foregoing coverages must be carried and maintained at all times during this Contract.

17.3.2. Business Automobile Liability Insurance. If Contractor will be using a motor vehicle in the performance of the Work herein, Contractor shall provide the City a certificate indicating that Contractor has business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than **\$2,000,000**.

17.3.3. Pollution Liability Coverage. Contractor shall carry sudden and accidental and gradual release pollution liability coverage that will cover, among other things, any spillage of paints, fuels, oils, lubricants, de-icing, anti-freeze or other hazardous materials, or disturbance of any hazardous materials, as that term is defined under Oregon law, during the performance of this Contract. Contractor will be fully responsible for the cost of any clean-up of any released materials or disturbance, in accordance with Oregon Department of Environmental Quality (“DEQ”) and Federal Environmental Protection Agency (“EPA”) clean-up requirements. The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$2,000,000** general aggregate.

17.3.4. Workers Compensation Insurance. Contractor and all employers providing work, labor, or materials under this Contract that are subject employers under the Oregon Workers Compensation Law shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers under ORS 656.126. Out-of-state employers must provide Oregon workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer’s Liability Insurance with coverage limits of not less than **\$500,000** each accident.

17.3.5. Insurance Carrier Rating. Coverages provided by Contractor must be underwritten by an insurance company deemed acceptable by the City, with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

17.3.6. Additional Insured & Termination Endorsements. Additional Insured coverage under Contractor’s Commercial General Liability, Automobile Liability, Pollution Liability, and Excess Liability Policy(ies), as applicable, will be provided by endorsement. Additional insured coverage shall be for both ongoing operations via ISO Form CG 2010 or its equivalent, and products and completed operations via ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO Form CG 2404 or its equivalent shall be provided. The following is included as additional insured: “The City

of Wilsonville, its elected and appointed officials, officers, agents, employees, and volunteers.” An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days’ written notification of any termination or major modification of the insurance policies required hereunder.

17.3.7. Certificates of Insurance. As evidence of the insurance coverage required by this Contract, Contractor shall furnish a Certificate of Insurance to the City. This Contract shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Contractor agrees that it will not terminate or change its coverage during the term of this Contract without giving the City at least thirty (30) days’ prior advance notice and Contractor will obtain an endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

17.4. Primary Coverage. The coverage provided by these policies shall be primary, and any other insurance carried by the City is excess. Contractor shall be responsible for any deductible amounts payable under all policies of insurance. If insurance policies are “Claims Made” policies, Contractor will be required to maintain such policies in full force and effect throughout any warranty period.

## **Section 18. Bonding Requirements**

18.1. Payment and Performance Bonds. Contractor shall obtain a Payment Bond and a Performance Bond, each in a form acceptable to the City and from a surety acceptable to the City, and each in the full amount of the Contract Sum.

18.2. Maintenance/Warranty Bond. Contractor shall maintain a two (2) year Maintenance/Warranty Bond, in a form acceptable to the City and from a surety acceptable to the City, in the amount of ten percent (10%) of the Contract Sum.

18.3. Bond Claims. Any notice of claim on a payment or performance bond or public works bond shall comply with the requirements of ORS 279C.605.

## **Section 19. Warranty**

19.1. Contractor shall fully warranty all Work for a period of two (2) years from the date of Final Acceptance of all Work. As set forth above, Contractor understands that ADA specifications are exact and, if exact compliance is not met, Contractor will be required to repair or redo the Work to bring all Work into compliance with ADA requirements.

19.2. In addition to, and not in lieu of, any other warranties provided by various manufacturers and suppliers, Contractor fully warrants all Work for a period of two (2) years from the date of Final Acceptance of the Work and shall make all necessary repairs and replacements to remedy, in a manner satisfactory to the City’s Project Manager and at no cost to the City, any and all defects, breaks, or failures of the Work occurring within two (2) years following the date of completion due to faulty or inadequate materials or workmanship. Repair of damage or disturbances to other improvements under, within, or adjacent to the Work, whether or not caused by settling, washing, or slipping, when such damage or disturbance is

caused, in whole or in part, from activities of Contractor in performing his/her duties and obligations under this Contract, is also covered by the warranty when such defects or damage occur within the warranty period. The two (2) year warranty period shall, with relation to such required repair, be extended two (2) years from the date of completion of such repair.

19.3. If Contractor, after written notice, fails within **ten (10) days** to proceed to comply with the terms of this section, the City may have the defects corrected, and Contractor and Contractor's surety shall be liable for all expense incurred. In case of an emergency where, in the opinion of the City's Project Manager, delay would cause serious loss or damage, repairs may be made without notice being given to Contractor, and Contractor or Contractor's surety shall pay the cost of repairs. Failure of the City's Project Manager to act in case of an emergency shall not relieve Contractor or Contractor's surety from liability and payment of all such costs.

19.4. Current State Law (ORS 12.135) provides for a ten (10) year period, from the time of Substantial Completion, for the City to file a claim for repairs of defective Work due to Contractor's improper use of materials and/or workmanship, and Contractor agrees it is bound thereby.

## **Section 20. Early Termination; Default**

20.1. This Contract may be terminated prior to the expiration of the agreed upon terms:

20.1.1. By mutual written consent of the parties;

20.1.2. By the City, for any reason, and within its sole discretion, effective upon delivery of written notice to Contractor by mail or in person. The City retains the right to elect whether or not to proceed with actual construction of the Project; or

20.1.3. By the City if Contractor breaches this Contract and fails to cure the breach within ten (10) days of receipt of written notice of the breach from the City.

20.2. If the City terminates this Contract in whole or in part, due to default or failure of Contractor to perform Work in accordance with the Contract, the City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, both at law and in equity, for breach of contract, Contractor shall be liable for all costs and damages incurred by the City as a result of the default by Contractor, including, but not limited to all costs incurred by the City in procuring services from others as needed to complete this Contract. This Contract shall be in full force to the extent not terminated by written notice from the City to Contractor. In the event of a default, the City will provide Contractor with written notice of the default and a period of ten (10) days to cure the default. If Contractor notifies the City that it wishes to cure the default but cannot, in good faith, do so within the ten (10) day cure period provided, then the City may elect, in its sole discretion, to extend the cure period to an agreed upon time period, or the City may elect to terminate this Contract and seek remedies for the default, as provided above.

20.3. If the City terminates this Contract for its own convenience not due to any default by Contractor, payment of Contractor shall be prorated to, and include the day of, termination and shall be in full satisfaction of all claims by Contractor against the City under this Contract.

20.4. Termination under any provision of this section shall not affect any right, obligation, or liability of Contractor or the City that accrued prior to such termination. Contractor shall surrender to the City items of work or portions thereof, referred to in **Section 26**, for which Contractor has received payment or the City has made payment.

## **Section 21. Suspension of Work**

The City may suspend, delay, or interrupt all or any part of the Work for such time as the City deems appropriate for its own convenience by giving written notice thereof to Contractor. An adjustment in the time of performance or method of compensation shall be negotiated as a result of such delay or suspension, unless the reason for the delay was within Contractor's control. The City shall not be responsible for Work performed by any subcontractors after notice of suspension is given by the City to Contractor.

## **Section 22. Substantial Completion, Final Completion, and Liquidated Damages**

22.1. Contractor's Project Manager and City's Project Manager shall conduct a final inspection of the Project when Contractor believes the Work is substantially complete, and create a project corrections list ("punch list") of items to be completed before final payment will be made. Substantial Completion means that the Work is completed and roads are fully functional and may be utilized with only minor punch list items remaining that do not significantly impact road use. Unless otherwise agreed to, in writing, by both parties, the punch list items will be completed within sixty (60) days thereof, and then a final walk-through will occur to confirm all punch list items have been completed. Final payment will occur upon completion of all punch list items ("Final Completion") as determined by final acceptance by the City ("Final Acceptance"). Substantial Completion must occur on or before August 15, 2019 or liquidated damages will apply. The parties agree that delay damages can be significant but are often difficult to quantify and costly to litigate; therefore the Contractor and the City agree that the sums set forth below in **Section 22.3** and **Section 22.4** shall apply as liquidated damages for every day the Project is not completed beyond the Substantial Completion and Final Completion dates.

22.2. The City and Contractor recognize that time is of the essence of this Contract and that the City will suffer financial loss and public detriment if the Work is not substantially completed within the time specified in the paragraph above, plus any extensions thereof granted, in writing, by the City. Both parties also recognize the delays, expenses, and difficulties involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not substantially completed on time. Accordingly, instead of requiring any such proof, the City and Contractor agree that, as liquidated damages for delay (but not as a penalty), Contractor shall pay the City the amounts listed below for each and every day that expires after the time specified for Substantial and Final Completion.



22.3. Liquidated damages shall apply against Contractor and accrue to the City at the rate of Ten Thousand Dollars (\$10,000) for each day that expires after the time specified for Substantial Completion of all Work until the Work reaches Substantial Completion.

22.4. If Contractor shall neglect, fail, or refuse to complete the remaining Work on the punch list by the Final Completion date of October 15, 2019, or any proper extension thereof granted by the City, Contractor shall pay the City Five Thousand Dollars (\$5,000) for each day that expires after the time specified above for the Work to reach Final Completion and be ready for final payment.

22.5. The parties further agree that this amount of liquidated damages is a reasonable forecast of just compensation for the harm caused by any breach and that this harm is one which is impossible or very difficult to estimate. In addition to the liquidated damages above, Contractor shall reimburse the City for all costs incurred by the City for engineering, inspection, and project management services required beyond the time specified for Substantial Completion. Contractor shall also reimburse the City for all costs incurred for inspection and project management services required due to punch list items not completed within the time allotted for Final Acceptance. If Contractor fails to reimburse the City directly, the City will deduct the cost from Contractor's final pay request.

22.6. Contractor will not be responsible for delay damages or be deemed to be in default by reason of delays in performance due to reasons beyond Contractor's reasonable control, including but not limited to strikes, lockouts, severe acts of nature, or actions of unrelated third parties not under Contractor's direction and control that preclude Contractor from performing the Work ("Force Majeure"). In the case of the happening of any Force Majeure event, the time for completion of the Work will be extended accordingly and proportionately by the City, in writing. Poor weather conditions, unless extreme, lack of labor, supplies, materials, or the cost of any of the foregoing shall not be deemed a Force Majeure event.

### **Section 23. Contract Modification/Change Orders**

Any modification of the provisions of this Contract shall not be enforceable or binding unless reduced to writing and signed by both the City and Contractor. A modification is a written document, contemporaneously executed by the City and Contractor, which increases or decreases the cost to the City over the agreed Contract Sum in **Section 4** of this Contract, or changes or modifies the Work or the time for performance. In the event Contractor receives any communication of whatsoever nature from the City, which communication Contractor contends gives rise to any modification of this Contract, Contractor shall, within five (5) days after receipt, make a written request for modification to the City's Project Manager in the form of a Change Order. Contractor's failure to submit such written request for modification in the form of a Change Order shall be the basis for refusal by the City to treat said communication as a basis for modification or to allow such modification. In connection with any modification to this Contract affecting any change in price, Contractor shall submit a complete breakdown of labor, material, equipment, and other costs. If Contractor incurs additional costs or devotes additional time on Project tasks, the City shall be responsible for payment of only those additional costs for which it has agreed to pay under a signed Change Order. To be enforceable, the Change Order must describe with particularity the nature of the change, any

delay in time the Change Order will cause, or any increase or decrease in the Contract Sum. The Change Order must be signed and dated by both Contractor and the City before the Change Order may be implemented.

#### **Section 24. Dispute Resolution**

In the event of a dispute concerning performance of this Contract, the parties agree to meet to negotiate the problem. If such negotiation fails, the parties will mediate the dispute using a professional mediator, and the parties will split the cost. If the dispute cannot be resolved in either of the foregoing ways within thirty (30) days, either party may file suit in Clackamas County Circuit Court. In the alternative, at the City's election, the parties may follow the dispute resolution procedures found in the Special Provisions.

#### **Section 25. Access to Records**

The City shall have access, upon request, to such books, documents, receipts, papers, and records of Contractor as are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts for a period of four (4) years, unless within that time the City specifically requests an extension. This clause shall survive the expiration, completion, or termination of this Contract.

#### **Section 26. Property of the City**

26.1. Originals or certified copies of the original work forms, including but not limited to documents, drawings, tracings, surveying records, mylar's, papers, diaries, inspection reports, and photographs, performed or produced by Contractor under this Contract shall be the exclusive property of the City and shall be delivered to the City prior to final payment. Any statutory or common law rights to such property held by Contractor as creator of such work shall be conveyed to the City upon request without additional compensation. Upon the City's approval, and provided the City is identified in connection therewith, Contractor may include Contractor's work in its promotional materials. Drawings may bear a disclaimer releasing Contractor from any liability for changes made on the original drawings and for reuse of the drawings subsequent to the date they are turned over to the City.

26.2. Contractor shall not be held liable for any damage, loss, increased expenses, or otherwise, caused by or attributed to the reuse by the City or its designees of all Work performed by Contractor pursuant to this Contract without the express written permission of Contractor.

#### **Section 27. Notices**

Any notice required or permitted under this Contract shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City: City of Wilsonville  
Attn: Mike Ward  
29799 SW Town Center Loop East  
Wilsonville, OR 97070

To Contractor: Tapani, Inc.  
Attn: Justin Massie  
1904 SE 6<sup>th</sup> Place  
Battleground, WA 98604

## Section 28. Miscellaneous Provisions

28.1. Integration. This Contract contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these documents, the provisions of this Contract shall control.

28.2. Legal Effect and Assignment. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Contract may be enforced by an action at law or in equity.

28.3. No Assignment. Contractor may not assign this Contract, nor delegate the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

28.4. Adherence to Law. Contractor shall adhere to all applicable federal and state laws, including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers compensation, and minimum and prevailing wage requirements. Any certificates, licenses, or permits that Contractor is required by law to obtain or maintain in order to perform the Work shall be obtained and maintained throughout the term of this Contract.

28.5. Governing Law. This Contract shall be construed in accordance with and governed by the laws of the State of Oregon. All contractual provisions required by ORS Chapters 279A and 279C to be included in public agreements are hereby incorporated by reference and shall become a part of this Contract as if fully set forth herein.

28.6. Jurisdiction. Venue for any dispute will be in Clackamas County Circuit Court.

28.7. Legal Action/Attorney Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Contract or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. If the City is required to seek legal assistance to enforce any term of this Contract, such fees shall include all of the above fees, whether or not a proceeding is initiated. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review.

28.8. Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions of this Contract shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

28.9. Severability. If any provision of this Contract is found to be void or unenforceable to any extent, it is the intent of the parties that the rest of the Contract shall remain in full force and effect, to the greatest extent allowed by law.

28.10. Modification. This Contract may not be modified except by written instrument executed by Contractor and the City.

28.11. Time of the Essence. Time is expressly made of the essence in the performance of this Contract.

28.12. Calculation of Time. Except where the reference is to business days, all periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday observed by the City, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday. Where the reference is to business days, periods of time referred to herein shall exclude Saturdays, Sundays, and legal holidays observed by the City. Whenever a time period is set forth in days in this Contract, the first day from which the designated period of time begins to run shall not be included.

28.13. Headings. Any titles of the sections of this Contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

28.14. Number, Gender and Captions. In construing this Contract, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Contract.

28.15. Good Faith and Reasonableness. The Parties intend that the obligations of good faith and fair dealing apply to this Contract generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Contract. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of where this Contract gives the City "sole discretion" or the City is allowed to make a decision in its "sole judgment."

28.16. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Contract in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

28.17. Interpretation. As a further condition of this Contract, the City and Contractor acknowledge that this Contract shall be deemed and construed to have been prepared mutually by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the contract, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including attorney fees and costs, whether incurred in a court of law or otherwise.

28.18. Defined Terms. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Specifications and Contract Documents.

28.19. Entire Agreement. This Contract, all documents attached to this Contract, and all Contract Documents and laws and regulations incorporated by reference herein, represent the entire agreement between the parties.

28.20. Counterparts. This Contract may be executed in one or more counterparts, each of which shall constitute an original Contract but all of which together shall constitute one and the same instrument.

28.21. Authority. Each party signing on behalf of Contractor and the City hereby warrants actual authority to bind their respective party.

The Contractor and the City hereby agree to all provisions of this Contract.

**CONTRACTOR:**

**CITY:**

TAPANI, INC.

CITY OF WILSONVILLE

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

As Its: \_\_\_\_\_

As Its: \_\_\_\_\_

Employer I.D. No. \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Barbara A. Jacobson, City Attorney  
City of Wilsonville, Oregon

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EXHIBIT A

Tooze Road:  
110th to Graham's Ferry Road

BID SCHEDULE						
City of Wilsonville						
SECTION	Tooze Rd: 110th Ave. - Grahams Ferry Rd (Wilsonville)					COUNTY
						Clackamas
KEY NUMBER	KIND OF WORK	LENGTH	DATE	ROADWAY DESIGNER		
17212	Grading, Drainage, Structures, Paving, Signing, Striping, Signals, Illumination, & Roadside Development	0.37	12/7/17	N. Polenske		
SPEC NUMBER	ITEM NUMBER	ITEM DESCRIPTION	BID UNIT	QUANTITY	UNIT COST	TOTAL
<b>TEMPORARY FEATURES AND APPURTENANCES</b>						
00210	10	MOBILIZATION	LS	ALL	<del>\$325,000.00</del>	<del>\$325,000.00</del>
00210	20	PROJECT INFORMATION SIGN - LARGE	EACH	5.0	\$700.00	\$3,500.00
00225	30	TEMPORARY PROTECTION AND DIRECTION OF TRAFFIC	LS	ALL	\$25,000.00	\$25,000.00
00225	40	TEMPORARY SIGNS	SQFT	884.5	\$17.00	\$15,036.50
00225	50	TEMPORARY BARRICADES, TYPE III	EACH	10.0	\$300.00	\$3,000.00
00225	60	SURFACE MOUNTED TUBULAR MARKERS	EACH	90.0	\$80.00	\$7,200.00
00225	70	TEMPORARY PLASTIC DRUMS	EACH	30.0	\$70.00	\$2,100.00
00225	80	TEMPORARY FLEXIBLE PAVEMENT MARKERS	EACH	180.0	\$8.00	\$1,440.00
00225	90	TEMPORARY STRIPING	FT	6000.0	\$0.50	\$3,000.00
00225	100	TEMPORARY PAVEMENT BARS	SQFT	4.0	\$10.00	\$40.00
00225	110	PORTABLE CHANGEABLE MESSAGE SIGNS	EACH	4.0	\$12,500.00	\$50,000.00
00225	120	FLAGGERS	HOUR	700.0	\$55.00	\$38,500.00
00280	130	EROSION CONTROL	LS	ALL	\$25,000.00	\$25,000.00
00280	140	PLASTIC SHEETING	SQYD	500.0	\$1.50	\$750.00
00280	150	TEMPORARY MULCHING, STRAW	ACRE	0.3	\$5,000.00	\$1,500.00
00280	160	MATTING, TYPE C	SQYD	100.0	\$3.50	\$350.00
00280	170	COMPOST EROSION BLANKET	SQYD	100.0	\$3.50	\$350.00
00280	180	CHECK DAM, TYPE 3	EACH	10.0	\$150.00	\$1,500.00
00280	190	CONSTRUCTION ENTRANCE, TYPE 1	EACH	3.0	\$2,000.00	\$6,000.00
00280	200	INLET PROTECTION, TYPE 4	EACH	12.0	\$50.00	\$600.00
00280	210	SEDIMENT BARRIER, TYPE 3	FT	839.0	\$3.00	\$2,517.00
00280	220	SEDIMENT BARRIER, TYPE 9	FT	575.0	\$10.00	\$5,750.00
00290	230	POLLUTION CONTROL PLAN	LS	ALL	\$500.00	\$500.00
<b>ROADWORK</b>						
00310	240	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	LS	ALL	\$20,000.00	\$20,000.00
00320	250	CLEARING AND GRUBBING	LS	ALL	\$30,000.00	\$30,000.00
00330	260	GENERAL EXCAVATION	CUYD	9287.0	\$22.00	\$204,314.00
00331	270	18 INCH SUBGRADE STABILIZATION	SQYD	3196.0	\$30.00	\$95,880.00
00350	280	DRAINAGE GEOTEXTILE, TYPE 1	SQYD	1270.0	\$1.00	\$1,270.00
00350	290	SUBGRADE GEOTEXTILE	SQYD	13169.0	\$1.00	\$13,169.00
<b>DRAINAGE AND SEWERS</b>						
00415	300	MAINLINE VIDEO INSPECTION	FT	2506.0	\$2.00	\$5,012.00
00445	310	12 INCH CULVERT PIPE, 5 FT DEPTH	FT	61.0	\$85.00	\$5,185.00
00445	320	10 INCH STORM SEWER PIPE, 5 FT DEPTH	FT	426.0	\$55.00	\$23,430.00
00445	330	12 INCH STORM SEWER PIPE, 5 FT DEPTH	FT	257.0	\$70.00	\$17,990.00
00445	340	12 INCH STORM SEWER PIPE, 10 FT DEPTH	FT	613.0	\$75.00	\$45,975.00
00445	350	SLOPED END SECTIONS, 10 INCH	EACH	1.0	\$1,500.00	\$1,500.00
00470	360	CONCRETE STORM SEWER MANHOLES	EACH	1.0	\$6,000.00	\$6,000.00
00470	370	CONCRETE INLETS, TYPE BEEHIVE	EACH	2.0	\$2,000.00	\$4,000.00
00470	380	CONCRETE INLETS, TYPE CG-30	EACH	10.0	\$1,700.00	\$17,000.00
00470	390	CONCRETE INLETS, TYPE D	EACH	1.0	\$2,000.00	\$2,000.00
00470	400	CONCRETE INLETS, TYPE AREA DRAIN	EACH	2.0	\$1,700.00	\$3,400.00
00470	410	CONCRETE INLETS, TYPE SWALE INLET	EACH	16.0	\$700.00	\$11,200.00
00470	420	CATCH BASINS, TYPE G-2	EACH	1.0	\$2,000.00	\$2,000.00
00490	430	ADJUSTING BOXES	EACH	12.0	\$300.00	\$3,600.00
00490	440	CONNECTION TO EXISTING STRUCTURES	EACH	4.0	\$1,500.00	\$6,000.00
00490	450	ADJUSTING INLETS	EACH	1.0	\$500.00	\$500.00
00490	460	MINOR ADJUSTMENT OF MANHOLES	EACH	2.0	\$500.00	\$1,000.00
00495	470	TRENCH RESURFACING	SQYD	5.0	\$250.00	\$1,250.00
<b>RETAINING WALL A, MSE</b>						
00587	480	PEDESTRIAN RAIL	LS	ALL	\$28,000.00	\$28,000.00
00596A	490	RETAINING WALL, MSE	LS	ALL	\$90,000.00	\$90,000.00
<b>BASES</b>						
00641	500	AGGREGATE BASE	CUYD	6302.0	<del>\$50.00</del>	<del>\$315,100.00</del>
<b>WEARING SURFACES</b>						
00745	510	LEVEL 4, 1/2 INCH ACP	TON	5904.0	<del>\$90.00</del>	<del>\$531,360.00</del>



EXHIBIT A

Tooze Road:  
110th to Graham's Ferry Road

BID SCHEDULE										
City of Wilsonville										
SECTION	Tooze Rd: 110th Ave. - Grahams Ferry Rd (Wilsonville)					COUNTY	Clackamas			
KEY NUMBER	17212	KIND OF WORK	Grading, Drainage, Structures, Paving, Signing, Striping, Signals, Illumination, & Roadside Development		LENGTH	0.37	DATE	12/7/17	ROADWAY DESIGNER	N. Polenske
SPEC NUMBER	ITEM NUMBER	ITEM DESCRIPTION	BID UNIT	QUANTITY	UNIT COST	TOTAL				
00745	520	PG 64-22 ASPHALT IN 1/2 INCH ACP	TON	355.0	\$1.25	\$443.75				
00749	530	ASPHALT APPROACHES	EACH	10.0	\$4,200.00	\$42,000.00				
00757	540	PERVIOUS CONCRETE SIDEWALK	SQYD	1198.0	\$108.00	\$129,384.00				
00759	550	CONCRETE CURBS, LOW PROFILE MOUNTABLE CURB	FT	440.0	\$29.00	\$12,760.00				
00759	560	CONCRETE CURBS, MOUNTABLE CURB AND GUTTER	FT	3666.0	\$29.00	\$106,314.00				
00759	570	CONCRETE CURBS, STANDARD CURB	FT	617.0	\$28.00	\$17,276.00				
00759	580	CONCRETE DRIVEWAYS	SQFT	3358.0	\$14.00	\$47,012.00				
00759	590	CONCRETE DRIVEWAYS, REINFORCED	SQFT	777.0	\$16.00	\$12,432.00				
00759	600	CONCRETE WALKS	SQFT	892.0	\$22.00	\$19,624.00				
00759	610	CONCRETE WALKS, MODIFIED	SQFT	180.0	\$70.00	\$12,600.00				
00759	620	EXTRA FOR NEW SIDEWALK RAMPS	EACH	10.0	\$300.00	\$3,000.00				
00759	630	TRUNCATED DOMES ON NEW SURFACES	EACH	11.0	\$30.00	\$330.00				
<b>PERMANENT TRAFFIC SAFETY AND GUIDANCE DEVICES</b>										
00851	640	PAVEMENT LINE REMOVAL	FT	2400.0	\$0.75	\$1,800.00				
00851	650	PAVEMENT LEGEND REMOVAL	EACH	2.0	\$75.00	\$150.00				
00855	660	MONO-DIRECTIONAL WHITE TYPE 1 MARKERS	EACH	50.0	\$6.00	\$300.00				
00855	670	BI-DIRECTIONAL YELLOW TYPE 1 MARKERS	EACH	100.0	\$6.00	\$600.00				
00865	680	METHYL METHACRYLATE, EXTRUDED, SURFACE, NON-PROFIED	FT	21500.0	\$1.50	\$32,250.00				
00867	690	PAVEMENT LEGEND, TYPE B-HS: ARROWS	EACH	12.0	\$400.00	\$4,800.00				
00867	700	PAVEMENT LEGEND, TYPE B-HS: BICYCLE LANE STENCIL	EACH	8.0	\$425.00	\$3,400.00				
00867	710	PAVEMENT BAR, TYPE B-HS	SQFT	470.0	\$17.00	\$7,990.00				
00867	720	PAVEMENT BAR, TYPE E: GREEN BICYCLE MARKINGS	SQFT	450.0	\$8.00	\$3,600.00				
<b>PERMANENT TRAFFIC CONTROL AND ILLUMINATION SYSTEMS</b>										
00902	730	CROSSWALK CLOSURE BARRICADES	EACH	4.0	\$350.00	\$1,400.00				
00905	740	REMOVE AND SALVAGE EXISTING SIGNS AND SUPPORTS	LS	ALL	\$1,500.00	\$1,500.00				
00905	750	REMOVE AND REINSTALL EXISTING SIGNS	LS	ALL	\$1,500.00	\$1,500.00				
00930	760	PERFORATED STEEL SQUARE TUBE ANCHOR SIGN SUPPORTS	EACH	11.0	\$170.00	\$1,870.00				
00930	770	VILLEBOIS ORNAMENTAL SIGN SUPPORTS	EACH	1.0	\$1,000.00	\$1,000.00				
00940	780	TYPE "G" SIGNS IN PLACE	SQFT	50.0	\$50.00	\$2,500.00				
00940	790	TYPE "R1" SIGNS IN PLACE	SQFT	10.0	\$30.00	\$300.00				
00940	800	TYPE "W1" SIGNS IN PLACE	SQFT	60.0	\$30.00	\$1,800.00				
00970	810	POLE FOUNDATIONS	LS	ALL	\$16,000.00	\$16,000.00				
00970	820	LIGHTING POLES, FIXED BASE	LS	ALL	\$24,000.00	\$24,000.00				
00970	830	LIGHTING POLES, SLIP BASE	LS	ALL	\$11,000.00	\$11,000.00				
00970	840	LIGHTING POLE ARMS	LS	ALL	\$2,500.00	\$2,500.00				
00970	850	LUMINAIRES, LAMPS, AND BALLASTS	LS	ALL	\$11,000.00	\$11,000.00				
00970	860	SWITCHING, CONDUIT, AND WIRING	LS	ALL	\$60,000.00	\$60,000.00				
00990	870	TRAFFIC SIGNAL INSTALLATION, GRAHAMS FERRY ROAD AT TOOZE RD	LS	ALL	\$370,000.00	\$370,000.00				
00995	880	FIBER OPTIC TRAFFIC SIGNAL INTERCONNECT, COMPLETE	LS	ALL	\$35,000.00	\$35,000.00				
00995	890	INTERCONNECT CONDUIT SYSTEM, COMPLETE	LS	ALL	\$72,000.00	\$72,000.00				
00995	900	FIBER OPTIC COMMUNICATION CABLE SPLICING	EACH	72.0	\$44.00	\$3,168.00				
00995	910	FIBER OPTIC COMMUNICATION CABLE TESTING	LS	ALL	\$4,000.00	\$4,000.00				
01280	920	INSTALL POWER AND COMMUNICATION UTILITIES	LS	ALL	\$580,000.00	\$580,000.00				
01280	930	CONDUIT TRENCH ADJUSTMENT	CUYD	500.0	\$26.00	\$13,000.00				
01280	940	CONDUIT ADJUSTMENT, 2 INCH CONDUIT	FT	770.0	\$6.00	\$4,620.00				
01280	950	CONDUIT ADJUSTMENT, 3-4 INCH CONDUIT	FT	990.0	\$8.00	\$7,920.00				
01280	960	CONDUIT ADJUSTMENT, 6 INCH CONDUIT	FT	690.0	\$12.00	\$8,280.00				
01280	970	EXTRA FOR RIGID STEEL CONDUIT, 2 INCH	FT	140.0	\$15.00	\$2,100.00				
01280	980	EXTRA FOR RIGID STEEL CONDUIT, 3 INCH	FT	90.0	\$25.00	\$2,250.00				
01280	990	EXTRA FOR RIGID STEEL CONDUIT, 4 INCH	FT	340.0	\$35.00	\$11,900.00				
01280	1000	EXTRA FOR RIGID STEEL CONDUIT, 6 INCH	FT	690.0	\$95.00	\$65,550.00				
01280	1010	EXTRA FOR CONTROLLED DENSITY FILL	CUYD	330.0	\$135.00	\$44,550.00				
<b>RIGHT-OF-WAY DEVELOPMENT AND CONTROL</b>										
01012	1020	WATER QUALITY SWALE, ROADSIDE	LS	ALL	\$26,000.00	\$26,000.00				
01012	1030	WATER QUALITY SWALE, SWF-A	LS	ALL	\$5,000.00	\$5,000.00				
01012	1040	WATER QUALITY SWALE, SWF-B	LS	ALL	\$20,000.00	\$20,000.00				



EXHIBIT A

Tooze Road:  
110th to Graham's Ferry Road

BID SCHEDULE							
City of Wilsonville							
SECTION						COUNTY	
Tooze Rd: 110th Ave. - Grahams Ferry Rd (Wilsonville)						Clackamas	
KEY NUMBER	KIND OF WORK			LENGTH	DATE	ROADWAY DESIGNER	
17212	Grading, Drainage, Structures, Paving, Signing, Striping, Signals, Illumination, & Roadside Development			0.37	12/7/17	N. Polenske	
SPEC NUMBER	ITEM NUMBER	ITEM DESCRIPTION		BID UNIT	QUANTITY	UNIT COST	TOTAL
01014	1050	WATER QUALITY FILTER STRIP		LS	ALL	\$3,000.00	\$3,000.00
01030	1060	WEED CONTROL		ACRE	1.0	\$4,200.00	\$4,200.00
01030	1070	PERMANENT SEEDING, MIX NO. 1		ACRE	0.2	\$4,500.00	\$900.00
01030	1080	PERMANENT SEEDING, MIX NO. 2		ACRE	0.3	\$3,000.00	\$900.00
01030	1090	LAWN SEEDING		SQYD	780.0	\$3.50	\$2,730.00
01040	1100	SOIL TESTING		EACH	1.0	\$3,500.00	\$3,500.00
01040	1110	TOPSOIL		CUYD	717.0	\$48.00	\$34,416.00
01040	1120	SOIL CONDITIONER		CUYD	129.0	\$50.00	\$6,450.00
01040	1130	CONIFER TREES, 6 FT HEIGHT		EACH	19.0	\$200.00	\$3,800.00
01040	1140	DECIDUOUS TREES, 2 INCH CALIPER		EACH	8.0	\$325.00	\$2,600.00
01040	1150	DECIDUOUS TREES, 3 INCH CALIPER		EACH	34.0	\$700.00	\$23,800.00
01040	1160	SHRUBS, #1 CONTAINER		EACH	711.0	\$14.00	\$9,954.00
01040	1170	SHRUBS, #2 CONTAINER		EACH	337.0	\$30.00	\$10,110.00
01040	1180	SHRUBS, #5 CONTAINER		EACH	529.0	\$34.00	\$17,986.00
01040	1190	BULBS		EACH	1122.0	\$3.00	\$3,366.00
01040	1200	BARK MULCH		CUYD	47.4	\$50.00	\$2,370.00
01040	1210	ROOT BARRIER		FT	1239.0	\$8.00	\$9,912.00
01070	1220	SINGLE MAILBOX SUPPORTS		EACH	2.0	\$750.00	\$1,500.00
01070	1230	MULTIPLE MAILBOX SUPPORTS		EACH	4.0	\$850.00	\$3,400.00
01070	1240	MAILBOX CONCRETE COLLARS		EACH	4.0	\$300.00	\$1,200.00
<b>WATER SUPPLY SYSTEMS</b>							
01120	1250	IRRIGATION SYSTEM		LS	ALL	\$50,000.00	\$50,000.00
01140	1260	18 INCH DUCTILE IRON PIPE WITH RESTRAINED JOINTS AND CLASS B BACKFILL		FT	1149.0	\$140.00	\$160,860.00
01140	1270	18 INCH CONNECTION TO 18 INCH EXISTING MAIN		EACH	1.0	\$2,500.00	\$2,500.00
01140	1280	24 INCH CONNECTION TO 24 INCH EXISTING MAIN		EACH	1.0	\$4,500.00	\$4,500.00
01140	1290	DUCTILE IRON PIPE BEND, 18 INCH		EACH	2.0	\$1,500.00	\$3,000.00
01140	1300	DUCTILE IRON PIPE COUPLING, 18 INCH		EACH	1.0	\$1,500.00	\$1,500.00
01140	1310	DUCTILE IRON PIPE REDUCER, 18 INCH X 24 INCH		EACH	1.0	\$1,800.00	\$1,800.00
01150	1320	18 INCH BUTTERFLY VALVE		EACH	2.0	\$3,500.00	\$7,000.00
01150	1330	1 INCH COMBINATION AIR RELEASE / AIR VACUUM VALVE ASSEMBLY		EACH	1.0	\$2,000.00	\$2,000.00
01160	1340	MOVING EXISTING HYDRANTS		EACH	1.0	\$3,000.00	\$3,000.00
01170	1350	1 INCH PVC WATER SERVICE LINE		FT	20.0	\$40.00	\$800.00
01170	1360	RELOCATE 6 INCH WATER METER ASSEMBLY		EACH	1.0	\$1,500.00	\$1,500.00
<b>SUBTOTAL Tooze Rd: 110th Ave. - Grahams Ferry Rd (Wilsonville), Construction Items</b>						<b>\$4,252,196.25</b>	<b>\$4,252,196.25</b>



EXHIBIT A

Tooze Road:  
110th to Graham's Ferry Road

BID SCHEDULE						
City of Wilsonville						
SECTION					COUNTY	
Tooze Rd: 110th Ave. - Grahams Ferry Rd (Wilsonville)					Clackamas	
KEY NUMBER	KIND OF WORK			LENGTH	DATE	ROADWAY DESIGNER
17212	Grading, Drainage, Structures, Paving, Signing, Striping, Signals, Illumination, & Roadside Development			0.37	12/7/17	N. Polenske
SPEC NUMBER	ITEM NUMBER	ITEM DESCRIPTION	BID UNIT	QUANTITY	UNIT COST	TOTAL
<b>Tooze Rd: Calais Public Storm Drain System</b>						
<b>TEMPORARY FEATURES AND APPURTENANCES</b>						
00210	1370	MOBILIZATION	LS	ALL	\$20,000.00	\$20,000.00
00225	1380	TEMPORARY WORK ZONE TRAFFIC CONTROL, COMPLETE	LS	ALL	\$25,000.00	\$25,000.00
00280	1390	EROSION CONTROL	LS	ALL	\$5,000.00	\$5,000.00
00280	1400	CHECK DAM, TYPE 3	EACH	10.0	\$120.00	\$1,200.00
00280	1410	INLET PROTECTION, TYPE 4	EACH	88.0	\$50.00	\$4,400.00
<b>DRAINAGE AND SEWERS</b>						
00310	1420	REMOVAL OF PIPES	FT	50.0	\$20.00	\$1,000.00
<b>DRAINAGE AND SEWERS</b>						
00415	1430	MAINLINE VIDEO INSPECTION	FT	1450.0	\$2.00	\$2,900.00
00445	1440	24 INCH STORM SEWER PIPE, 5 FT DEPTH	FT	58.0	<del>\$150.00</del>	<del>\$8,700.00</del>
00445	1450	24 INCH STORM SEWER PIPE, 10 FT DEPTH	FT	1333.0	<del>\$120.00</del>	<del>\$159,960.00</del>
00445	1460	24 INCH STORM SEWER PIPE, 20 FT DEPTH	FT	59.0	<del>\$160.00</del>	<del>\$9,440.00</del>
00470	1470	CONCRETE STORM SEWER MANHOLE	EACH	10.0	<del>\$4,500.00</del>	<del>\$45,000.00</del>
00470	1480	CONCRETE MANHOLES, WATER QUALITY, LARGE	EACH	1.0	\$2,500.00	\$2,500.00
00490	1490	CONNECTION TO EXISTING STRUCTURES	EACH	3.0	\$2,500.00	\$7,500.00
00495	1500	TRENCH RESURFACING	SQYD	397.0	<del>\$110.00</del>	<del>\$43,650.00</del>
<b>SUBTOTAL, Tooze Rd: Calais Public Storm Drain System Construction Items</b>						<b>\$336,270.00</b>
<b>TOTAL COST</b>						<b>\$4,588,466.25</b>

\$4,588,466.25

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been certified by the Secretary of Transportation in accordance with 23 U.S.C. 113(c).

(4) A distinct classification of "helper" will be issued in wage determinations applicable to work performed on construction projects covered by the labor standards provisions of the Davis-Bacon and Related Acts only where:

(i) The duties of the helper are clearly defined and distinct from those of any other classification on the wage determination;

(ii) The use of such helpers is an established prevailing practice in the area; and

(iii) The helper is not employed as a trainee in an informal training program. A "helper" classification will be added to wage determinations pursuant to §5.5(a)(1)(ii)(A) only where, in addition, the work to be performed by the helper is not performed by a classification in the wage determination.

(o) Every person performing the duties of a laborer or mechanic in the construction, prosecution, completion, or repair of a public building or public work, or building or work financed in whole or in part by loans, grants, or guarantees from the United States is *employed* regardless of any contractual relationship alleged to exist between the contractor and such person.

(p) The term *wages* means the basic hourly rate of pay; any contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a bona fide fringe benefit fund, plan, or program; and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan of program, which was communicated in writing to the laborers and mechanics affected. The fringe benefits enumerated in the Davis-Bacon Act include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing; unemployment benefits; life insurance, disability insurance, sickness insurance, or accident insurance; vaca-

tion or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits. Fringe benefits do not include benefits required by other Federal, State, or local law.

(q) The term *wage determination* includes the original decision and any subsequent decisions modifying, superseding, correcting, or otherwise changing the provisions of the original decision. The application of the wage determination shall be in accordance with the provisions of §1.6 of this title.

[48 FR 19541, Apr. 29, 1983, as amended at 48 FR 50313, Nov. 1, 1983; 55 FR 50149, Dec. 4, 1990; 57 FR 19206, May 4, 1992; 65 FR 69693, Nov. 20, 2000; 65 FR 80278, Dec. 20, 2000]

**§§5.3-5.4 [Reserved]****§5.5 Contract provisions and related matters.**

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(1) *Minimum wages.* (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and

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bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

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(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the

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first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) *Withholding*. The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any

further payment, advance, or guarantee of funds until such violations have ceased.

(3) *Payrolls and basic records*. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the

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case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regu-

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lations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) *Apprentices and trainees*—(i) *Apprentices*. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when

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they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable

classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) *Trainees*. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess

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of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) *Compliance with Copeland Act requirements.* The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) *Contract termination: debarment.* A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) *Compliance with Davis-Bacon and Related Act requirements.* All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of

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this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) *Certification of eligibility.* (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) *Contract Work Hours and Safety Standards Act.* The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms *laborers* and *mechanics* include watchmen and guards.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in

**Office of the Secretary of Labor**

**§5.5**

paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any con-

tract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in §5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(The information collection, recordkeeping, and reporting requirements contained in the following paragraphs of this section were approved by the Office of Management and Budget:

Paragraph	OMB Control Number
(a)(1)(ii)(B) .....	1215-0140
(a)(1)(ii)(C) .....	1215-0140
(a)(1)(iv) .....	1215-0140
(a)(3)(i) .....	1215-0140, 1215-0017
(a)(3)(ii)(A) .....	1215-0149
(c) .....	1215-0140, 1215-0017

[48 FR 19540, Apr. 29, 1983, as amended at 51 FR 12265, Apr. 9, 1986; 55 FR 50150, Dec. 4, 1990; 57 FR 28776, June 26, 1992; 58 FR 58955, Nov. 5, 1993; 61 FR 40716, Aug. 5, 1996; 65 FR 69693, Nov. 20, 2000; 73 FR 77511, Dec. 19, 2008]

EFFECTIVE DATE NOTE: At 58 FR 58955, Nov. 5, 1993, §5.5 was amended by suspending paragraph (a)(1)(ii) indefinitely.



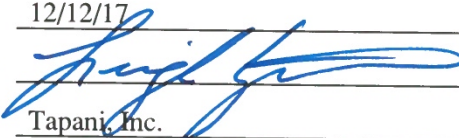
## BUY AMERICA CERTIFICATION

### Certification Requirement for the Procurement of Steel, Iron, or Manufactured Products

Tooze Road: 110<sup>th</sup> Avenue to Grahams Ferry Road Project

#### *CERTIFICATE OF COMPLIANCE WITH BUY AMERICA REQUIREMENTS:*

The bidder or offeror hereby certifies that it will comply with the requirements of 49 USC 5323(j)(1), and the applicable regulations in 49 CFR Part 661.

Date: 12/12/17  
Signature:   
Company: Tapani, Inc.  
Name: Leigh Tapani  
Title: President

#### *CERTIFICATE OF NON-COMPLIANCE WITH BUY AMERICA REQUIREMENTS:*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 USC 5323(j), but it may qualify for an exception to the requirement pursuant to 49 USC 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

Date: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Company: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT C

**URA AGENDA**

**CITY OF WILSONVILLE  
URBAN RENEWAL AGENCY**

**FEBRUARY 5, 2018  
7:00 P.M.**

**CITY HALL  
29799 SW TOWN CENTER LOOP  
WILSONVILLE, OREGON**

*Immediately Following the City Council Meeting*

Chair Tim Knapp

Board Member Scott Starr  
Board Member Susie Stevens

Board Member Kristin Akervall  
Board Member Charlotte Lehan

**CALL TO ORDER**

A. Roll Call

**CITIZEN INPUT**

**CONSENT AGENDA**

- A. **URA Resolution No. 279** Page  
 A Resolution Of The City Of Wilsonville Urban Renewal Agency Acting In Its Capacity As Its Local Contract Review Board Authorizing The City Manager To Execute A Construction Contract With Tapani, Inc. For Construction Of The Tooze Road Project (CIP# 4146). (Ward)
- B. Minutes of the December 4, 2017 URA Meeting. Page

**ADJOURN**

**CITY OF WILSONVILLE  
URBAN RENEWAL AGENCY  
DECEMBER 4, 2017**

The Urban Renewal Agency held a regular meeting on December 4, 2017 in the Wilsonville City Hall immediately following the adjournment of the City Council meeting. Chair Knapp called the meeting to order at 7:35 p.m.

The following Board Members were present:

Chair Knapp  
Member Starr  
Member Stevens  
Member Lehan  
Member Akervall

Staff present included:

Bryan Cosgrove, City Manager  
Jeanna Troha, Assistant City Manager  
Barbara Jacobson, City Attorney  
Kimberly Veliz, City Recorder  
Nancy Kraushaar, Community Development Director  
Susan Cole, Finance Director  
Mark Ottenad, Public/Government Affairs Director  
Angela Handran, Assistant to the City Manager  
Jordan Vance, Economic Development Manager  
Zach Weigel, Civil Engineer  
Miranda Bateschell, Long-Range Planning Manager

**CALL TO ORDER**

Chair Knapp called the URA meeting to order at 7:35 p.m. followed by roll call.

**CITIZEN INPUT**

There was none.

**CONSENT AGENDA**

A. Minutes of the September 18, 2017 URA Meeting.

**Motion:** Ms. Lehan moved to adopt the consent agenda. Mr. Starr seconded the motion.

**Vote:** Motion carried 5-0.

SUMMARY OF VOTES:

Board Chair Knapp        Yes  
Board Member Starr        Yes  
Board Member Lehan        Yes  
Board Member Akervall    Yes  
Board Member Stevens    Yes

**NEW BUSINESS**

Ms. Jacobson read the title of URA Resolution No. 278 into the record.

A.     **URA Resolution No. 278**

Year 2000 Urban Renewal Plan 11th Amendment – Approval To Forward The Year 2000 Urban Renewal Plan 11th Amendment Through The Public Review And Approval Process. (Kraushaar/Cole/Vance)

Nancy Kraushaar, Community Development Director, Jordan Vance, Economic Development Manager and Elaine Howard of Elaine Howard Consulting, LLC presented a PowerPoint to Council.

Bulletin points from the presentation included:

Purpose

- Send plan amendment out for public review by the Wilsonville Planning Commission, taxing districts, Open House, and Wilsonville City Council

Background: Project Discussions

- City Council briefed on Boeckman Dip Project March 20, 2017
- \$14 million dollars
- Substantial amendment
- Wilsonville Urban Renewal Task Force unanimously supported Plan Amendment at April 27, 2017 meeting

Project

- Boeckman Road currently has a major “dip” that is unsafe for all driving modes
- Proposed project is a bridge to address the “dip” and bring road up to current safety standards

Financial Implications

- Increasing Maximum Indebtedness (MI) by \$14,509,101 to \$107,196,524
- Collection of additional MI extends duration through 2023

Approval Process

- Concurrence of Taxing Districts (approval of 75% of the permanent rate levy)
- Clackamas County approval of amendment in entirety

Increase in Maximum Indebtedness (MI)

- MI is being increased by more than 20% of original MI indexed for inflation
- Increases above 20% require concurrence

Alternative Revenue Sharing Program

- Current revenue sharing program caps Year 2000 TIF collections to \$4 million
- Because it is not the statutory revenue sharing program, concurrence is required

Clackamas County Approval

- Year 2000 Plan Area contains properties unincorporated properties in Clackamas County
- Because there are Clackamas County properties in the boundary, Clackamas County approval of the Plan Amendment in its entirety is required. (not just approval of concurrence issues)

Impacts to Taxing Districts

- Process of 1) increasing MI and 2) confirming alternative revenue sharing program complicates the presentation of impacts
- Individualized Taxing District letters (consult and confer letters)
- Include the following tables:
  - Alternative revenue sharing program impacts vs. statutory
  - Impact of amendment
  - Impact without amendment

Action

- Consider resolution

**Motion:** Ms. Stevens moved to adopt URA Resolution No. 278. Mr. Starr seconded the motion.

**Vote:** Motion carried 5-0.

SUMMARY OF VOTES:

Board Chair Knapp	Yes
Board Member Starr	Yes
Board Member Lehan	Yes
Board Member Akervall	Yes
Board Member Stevens	Yes

**ADJOURN**

The URA meeting adjourned at 7:59 p.m.

Respectfully submitted,

\_\_\_\_\_  
Kimberly Veliz, City Recorder

ATTEST:

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Tim Knapp, Chair