

# City of Wilsonville

City Council Meeting

July 1, 2019



**AGENDA**

**WILSONVILLE CITY COUNCIL MEETING  
JULY 1, 2019  
7:00 P.M.**

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

Mayor Tim Knapp

Council President Kristin Akervall - Excused  
Councilor Charlotte Lehan

Councilor - Vacant  
Councilor Ben West

**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**

**6:00 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

**6:30 P.M. ADJOURN**

**THERE IS NO WORK SESSION SCHEDULED.**

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**AN URBAN RENEWAL AGENCY MEETING  
WILL OCCUR PRIOR TO THE CITY COUNCIL MEETING.**

**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, July 1, 2019 at City Hall. Legislative matters must have been filed in the office of the City Recorder by 10 a.m. on June 18, 2019. 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 there with 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. Placeholder for Appointments
- B. Upcoming Meetings

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

- A. Council President Akervall
- B. Councilor Lehan
- C. Councilor West

**7:30 P.M. CONSENT AGENDA**

A. **Resolution No. 2759**

A Resolution Of The City Of Wilsonville Authorizing The City Manager To Execute A Professional Services Agreement Contract Amendment With Harper Houf Peterson Righellis Inc. For Construction Engineering Services For The Garden Acres Road And PLM\_1.2 Water Transmission Line Project. (Weigel)

**7:35 P.M. NEW BUSINESS**

A. **Resolution No. 2760**

A Resolution Authorizing An Intergovernmental Agreement With The Urban Renewal Agency Of The City Of Wilsonville Pertaining To Short Term Subordinate Urban Renewal Debt For The West Side Plan District. (Rodocker)

**7:45 P.M. CONTINUING BUSINESS**

A. **Ordinance No. 816**

An Ordinance Of The City Of Wilsonville Repealing And Replacing Wilsonville Code Chapter 11 – Fees.

**7:55 P.M. CITY MANAGER'S BUSINESS**

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

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

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 [cityrecorder@ci.wilsonville.or.us](mailto:cityrecorder@ci.wilsonville.or.us).

## **CITY COUNCIL ROLLING SCHEDULE**

### **Board and Commission Meetings 2019**

**Items known as of 06/27/19**

#### **July**

<b>DATE</b>	<b>DAY</b>	<b>TIME</b>	<b>EVENT</b>	<b>LOCATION</b>
7/8	Monday	6:30 p.m.	DRB Panel A	Council Chambers
7/10	Wednesday	6:00 p.m.	Planning Commission	Council Chambers
7/15	Monday	7:00 p.m.	City Council Meeting	Council Chambers
7/22	Monday	6:30 p.m.	DRB Panel B	Council Chambers
7/24	Wednesday	6:30 p.m.	Library Board	Library

#### **August**

<b>DATE</b>	<b>DAY</b>	<b>TIME</b>	<b>EVENT</b>	<b>LOCATION</b>
8/5	Monday	7:00 p.m.	City Council Meeting	Council Chambers
8/12	Monday	6:30 p.m.	DRB Panel A	Council Chambers
8/14	Wednesday	6:00 p.m.	Planning Commission	Council Chambers
8/19	Monday	7:00 p.m.	City Council Meeting	Council Chambers
8/26	Monday	6:30 p.m.	DRB Panel B	Council Chambers
8/28	Wednesday	6:30 p.m.	Library Board	Library

#### **Community Events:**

- 7/4** City Offices closed in observance of Independence Day
- 7/10** Walk at Lunch meet at Nichols Family Agency: Allstate Insurance, 11:45 a.m.
- 7/19** Movies in the Park at Memorial Park River Shelter, 9:00 p.m.
- 7/20** Wilsonville Wellness Fair at Town Center Park, 9:00 a.m. – 1:00 p.m.
- 7/20** SMART Bike Rodeo at City Hall Parking Lot, 9:00 a.m. – 1:00 p.m.
- 7/24** Walk at Lunch meet at Collins Aerospace, 11:45 a.m.
- 7/25** Teen Event: Party in the Park at Murase Plaza, 2:00 p.m.
- 7/26** Movies in the Park at Memorial Park River Shelter, 9:00 p.m.
- 7/30** History Pub at McMenamin's Old Church, 6:30 p.m. – 8:00 p.m.
- 8/9** Movies in the Park at Memorial Park River Shelter, 9:00 p.m.
- 8/15** Community Block Party at Town Center Park, 5:00 p.m. – 8:00 p.m.
- 8/23** Movies in the Park at Memorial Park River Shelter, 9:00 p.m.
- 8/27** History Pub at McMenamin's Old Church, 6:30 p.m. – 8:00 p.m.

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).



**CITY COUNCIL MEETING  
STAFF REPORT**

<p><b>Meeting Date:</b> July 1, 2019</p>	<p><b>Subject: Resolution No. 2759</b>                  A Resolution of the City of Wilsonville Authorizing the City Manager to Execute a Professional Services Agreement Contract Amendment with Harper Houf Peterson Righellis, Inc. for Construction Engineering Services for the Garden Acres Road and PLM_1.2 Water Transmission Line project (Capital Improvement Projects 1127, 2103, 4201, 7061)</p> <p><b>Staff Member:</b> Zachary Weigel, P.E. Capital Projects Engineering Manager</p> <p><b>Department:</b> Community Development</p>	
<p><b>Action Required</b></p>	<p><b>Advisory Board/Commission Recommendation</b></p>	
<p><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</p>	<p><input type="checkbox"/> Approval  <input type="checkbox"/> Denial  <input type="checkbox"/> None Forwarded  <input checked="" type="checkbox"/> Not Applicable</p> <p><b>Comments:</b> N/A</p>	
<p><b>Staff Recommendation:</b> Staff recommends that Council adopt the Consent Agenda.</p>		
<p><b>Recommended Language for Motion:</b> I move to approve the Consent Agenda.</p>		
<p><b>Project / Issue Relates To:</b></p>		
<p><input checked="" type="checkbox"/> Council Goals/Priorities:                  Build fully interconnected &amp; effective transportation modes.</p>	<p><input checked="" type="checkbox"/> Adopted Master Plan(s):                  Transportation System Plan – Project UU-08</p>	<p><input type="checkbox"/> Not Applicable</p>

**ISSUE BEFORE COUNCIL:**

A City of Wilsonville Resolution approving Contract Amendment #5 for Construction Engineering Services with Harper Houf Peterson Righellis, Inc. (HHPR) in the amount of \$416,680.00 for construction of Garden Acres Road urban upgrade and coordination with the Willamette Water Supply Program (WWSP) water transmission line construction.

**EXECUTIVE SUMMARY:**

The Garden Acres Road & PLM\_1.2 Water Transmission Line project will upgrade approximately 2,800 feet of a two-lane County road to an urban industrial Minor Arterial standard and extension of City utilities along Garden Acres Road (Attachment 1) in support of future industrial development within the Coffee Creek and Basalt Creek Industrial Areas. Construction of the Tualatin Valley Water District and the City of Hillsboro, jointly referred to as the Willamette Valley Supply Program (WWSP), PLM\_1.2 water transmission pipeline is included as part of the Garden Acres Road project. The PLM\_1.2 project consists of approximately 3,000 feet of 66” welded steel raw water transmission pipe and associated water system appurtenances.

On July 17, 2017, City Council approved Resolution No. 2648, entering into a Professional Services Agreement (PSA) with HHPR for survey, design, acquisition support, and construction support services for the Garden Acres Road project. Since that time, four minor contract amendments to the HHPR PSA have been issued, which include additional storm water analysis, topographic survey of Peters Road, field staking of right-of-way and easement acquisitions, and coordination with the WWSP design team totaling \$61,192.00, of which \$45,612.00 is to be reimbursed by WWSP.

Contract Amendment #5 amends the construction engineering services provided by HHPR from a supporting role to a management role, taking on the day to day administration of the construction project. The amendment also includes the addition of construction inspection responsibility and construction coordination with the WWSP design and inspection team for the water transmission line portion of the work. This increase in involvement by HHPR during construction will help free up time from City staff to focus on other Council priority projects.

**EXPECTED RESULTS:**

Upgrade approximately 2,800 feet of Garden Acres Road to urban industrial Minor Arterial standard and extend/underground utilities necessary to support future industrial development within the Coffee Creek and Basalt Creek Industrial Areas. Install approximately 3,000 feet of WWSP 66” raw water transmission pipeline in accordance with the Ground Lease for Raw Water Pipeline Agreement (Resolution No. 2628).

**TIMELINE:**

Construction is expected to begin July 2019 with a final completion date scheduled for December 31, 2020.

**CURRENT YEAR BUDGET IMPACTS:**

The sewer portion, Project #2103 is funded through sewer system development charges (SDC). The approved FY 2019-20 Wilsonville budget includes \$1,016,000 for construction, contract administration and overhead for the entirety of the sewer work. The sewer portion of Contract Amendment #5 is estimated at \$74,400. When combined with the sewer construction costs, estimated at \$1,223,128, the total amount is over the budgeted amount and will require a supplemental budget adjustment to add sewer SDC funds to the project. In review of the sewer SDC fund, additional funds are available to support the increased sewer portion of the project.

The storm portion, Project #7061 is funded through storm SDC fees. The approved FY2019-20 Wilsonville budget includes \$647,000 for construction, contract administration, and overhead for the entirety of the storm work. The storm portion of Contract Amendment #5 is estimated at \$37,260. When combined with the storm construction costs, estimated at \$612,736, the total amount slightly exceeds the budgeted amount and will require a supplemental budget adjustment to add storm SDC funds to the project. In review of the storm SDC fund, additional funds are available to support the increased sewer portion of the project.

The water transmission line construction coordination portion, Project #1127, of Contract Amendment #5 to be reimbursed by WWSP is estimated at \$32,520.

The remainder of the Contract Amendment #5 applies to the Garden Acres roadwork, Project #4201, estimated at \$272,500. The City's street portion of the work is funded through combination of Coffee Creek Reserve and Coffee Creek Urban Renewal Area funds. The approved FY 2019-20 Wilsonville budget includes \$2,174,000 for construction, contract administration, and overhead for the street work. An additional \$2,281,500 is estimated for street construction in FY 2020-21. The streets portion of Contract Amendment #5 combined with the street construction costs, estimated at \$3,836,251 is within the total anticipated amount.

**FINANCIAL REVIEW / COMMENT:**

Reviewed by: CAR Date: 6/24/2019

**LEGAL REVIEW / COMMENT:**

Reviewed by: BAJ Date: 6/27/2019

**COMMUNITY INVOLVEMENT PROCESS:**

A public open house was held in Fall 2017 for community members to review and comment on the preliminary design concepts proposed for the roadway improvements on Garden Acres Road. Mailers and Boones Ferry Messenger articles have been provided to the public on a number of occasions. In addition, staff directly met with representatives from the properties adjacent to the project location to discuss project impacts and the procurement of right-of-way and easements needed for the work.

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

Completion of the project will positively impact near-term and long-term development of industrial properties within the Coffee Creek Urban Renewal Area, increasing employment and generating tax increment for the URA. New bike lanes and sidewalks will be constructed, expanding Wilsonville's multi-modal network. Joint construction of the Garden Acres Road and raw water pipeline projects will minimize construction costs between the two projects while decreasing the length of construction time and impacts than if the two projects were to be constructed independently.

**ALTERNATIVES:**

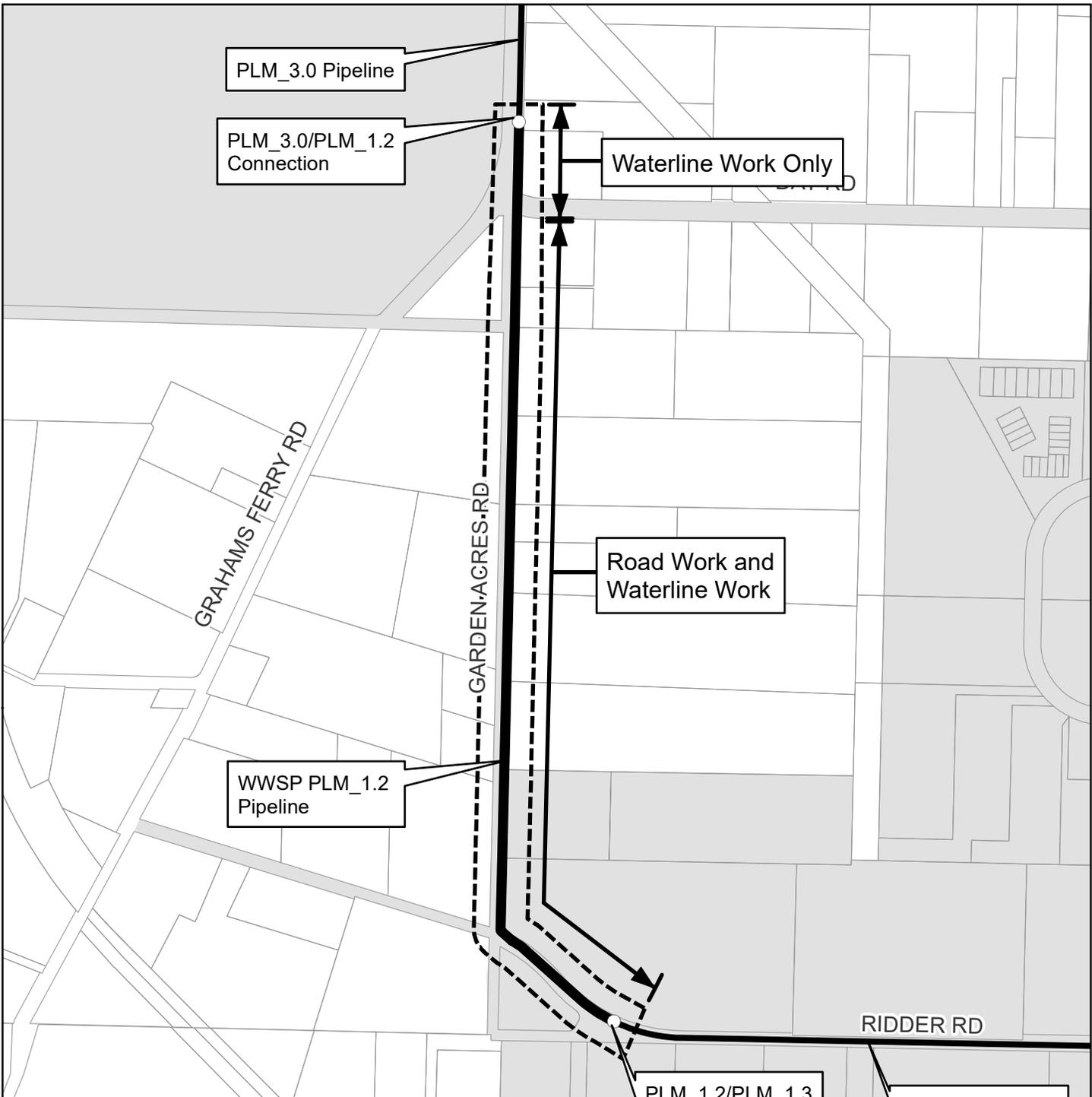
The construction engineering services and construction inspection work to be performed by HHPR as part of Contract Amendment #5 could be provided by City staff. However, were staff to perform this work it would reduce time available to advance other Council project goals.

**CITY MANAGER COMMENT:**

N/A

**ATTACHMENTS:**

1. Project Location Map
2. Resolution No. 2759
  - A. Garden Acres Road & PLM\_1.2 Water Transmission Line Professional Services Agreement Contract Amendment #5 – Scope of Work.



**Legend**

- WWSP Approximate Pipeline Alignment
- - - Approximate Project Area
- Tax Lot
- Wilsonville City Limit

NOTE: WWSP Pipeline Alignment is approximate

Date: 09/06/2018

A north arrow points upwards. Below it is a scale bar marked 0, 250, and 500 Feet.

Garden Acres Road And  
PLM\_1.2 Projects

**RESOLUTION NO. 2759**

**A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT CONTRACT AMENDMENT WITH HARPER HOUF PETERSON RIGHELLIS INC. FOR CONSTRUCTION ENGINEERING SERVICES FOR THE GARDEN ACRES ROAD AND PLM\_1.2 WATER TRANSMISSION LINE PROJECT.**

WHEREAS, the City has planned, designed, and budgeted for the completion of Capital Improvements Projects #1127, 2103, 4201, and 7061, known as Garden Acres Road and PLM\_1.2 Water Transmission Line project (the Project); and

WHEREAS, the City solicited Requests for Proposals from qualified consultants for the Project that duly followed the State of Oregon Public Contracting Rules and the City of Wilsonville Municipal Code; and

WHEREAS, Harper Houf Peterson Righellis, Inc. was selected as the most qualified consultant, was awarded a contract for survey, design, and acquisition support services, and performed and completed services to the satisfaction of the City; and

WHEREAS, the City entered into an intergovernmental agreement (Resolution No. 2743) with Tualatin Valley Water District and the City of Hillsboro, collectively doing business and referred to herein as Willamette Water Supply Program (WWSP), to jointly design and construct the Garden Acres Road project and Willamette Water Supply PLM\_1.2 Garden Acres to 124th Pipeline project; and

WHEREAS, WWSP will reimburse the City for all costs associated with construction, construction management and administration of the PLM\_1.2 Water Transmission Line portion of the Project as part of the joint construction project; and

WHEREAS, the City desires to amend the Professional Services Agreement contract with Harper Houf Peterson Righellis, Inc. to perform construction engineering services;

**NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:**

Section 1. The procurement process for the Project duly followed Oregon Public Contracting Rules, and Harper Houf Peterson Righellis, Inc. has provided a responsive and responsible proposal for construction engineering services.

Section 2. The City of Wilsonville, acting as the Local Contract Review Board, authorizes the City manager to enter into and execute, on behalf of the City of Wilsonville, a Professional Services Agreement contract amendment with Harper Houf Peterson Righellis, Inc. for a not-to-exceed amount of \$416,680.00

Section 3. This resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting there of this 1<sup>st</sup> day of July 2019, and filed with the Wilsonville City Recorder this date.

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TIM KNAPP, MAYOR

ATTEST:

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Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Knapp

Council President Akervall

Councilor Lehan

Councilor West

EXHIBITS:

A. Garden Acres Road & PLM\_1.2 Water Transmission Line Professional Services Agreement Contract Amendment #5 – Scope of Work

## Exhibit A

### Contract Amendment #05 Garden Acres Road & PLM\_1.2 Water Transmission line CIP # 1127, 2103, 4201, 7061

#### SCOPE OF SERVICES

On July 24, 2017, the City of Wilsonville entered into a Professional Services Agreement (PSA) with Harper Houf Peterson Righellis, Inc. (HHPR) for design and construction management services for the Garden Acres Road project. This Contract Amendment No. 5 amends the original PSA between HHPR and the City of Wilsonville. This Contract Amendment No. 5 defines changes in contract scope, cost and schedule specific to Construction Engineering Services.

The original Scope of Work remains in effect except as modified herein and previous Contract Amendment/Change Orders. Tasks noted below as “amended” refers to the Task numbering from the original PSA. New tasks are also noted.

#### **Scope of Work**

##### **Task 11 – Construction Phase Service**

###### *AMENDED*

Task 11.1 – Construction Meetings – *Delete this section and replace with the following:* Consultant will attend the Project’s pre-construction meeting and 1 construction meeting per week, to be scheduled by the City and to be held at Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, OR. For the purpose of this scope, construction is anticipated to be 18 months. The contractor will provide the three week look ahead schedule.

###### Deliverables

The Project deliverables will include:

- Meeting agenda
- Meeting notes
- Answers to any questions arising from the meetings

###### *AMENDED*

Task 11.3 – Construction Engineering and Management – *Delete this section and replace with the following:*

- Consultant shall manage and coordinate the submittal review and approval process, except for submittals associated with the 66” WWSP pipe. Consultant will coordinate receipt of contractor submittals, review submittals and return any submittals needing

revision directly to the Contractor. If/when submittals are ready for approval, Consultant shall transmit the submittal to the City Project Manager or Inspector for approval. Approved submittals will be returned directly to the Contractor.

- Consultant will conduct periodic site visits as necessary to determine whether construction activities are consistent with the approved plans and specifications.
- Consultant shall clarify construction plans or specifications, as needed
- Consultant shall manage and process Requests For Information (RFI's) and respond to requests for clarifications from the contractor or City personnel.
- Consultant shall manage and produce revised plans and details based on changes in field conditions, unforeseen conflicts, or changes to the plans authorized by the City Project Manager.
- Consultant shall review monthly Contractor invoices for the appropriateness of the invoice compared to actual completion of bid items and provide recommendations to the City Project Manager.
- Consultant shall review Contractor Change Order Requests for appropriateness compared to approved plans and specifications and provide recommendations to the City Project Manager.
- Consultant shall participate in a full project walk-thru at time of Substantial Completion, and assist the City in preparing the Substantial Completion Punch List.

*NEW TASK*

Task 11.5 – Construction Meetings for WWSP related work

Of the meetings described in Task 11.1, approximately 6 hours per month of the construction meeting time will be allocated to coordination and summary of WWSP related work items.

*NEW TASK*

Task 11.6 – Construction Engineering and Management for WWSP related work

Of the Construction Management described in Task 11.3, approximately 6 hours per month of the management will be allocated to coordination of WWSP related work items.

*NEW TASK*

Task 11.7 – Construction Inspection

Consultant will provide a full time construction inspector for the Schedule A – Road Work items. Daily written reports will be submitted to the City's Project Manager for all inspection work and quantity verification. For the purpose of this scope we anticipate 12 months of full time inspection and 6 months of half time inspection.



**CITY COUNCIL MEETING  
STAFF REPORT**

<p><b>Meeting Date:</b> July 1, 2019</p>	<p><b>Subject: Resolution No. 2760</b> Interagency Agreement – City and URA to lend and repay up to \$9.0 million</p> <p><b>Staff Member:</b> Cathy Rodocker, Finance Director</p> <p><b>Department:</b> Finance</p>	
<p><b>Action Required</b></p>	<p><b>Advisory Board/Commission Recommendation</b></p>	
<p><input checked="" type="checkbox"/> Motion</p> <p><input type="checkbox"/> Public Hearing Date:</p> <p><input type="checkbox"/> Ordinance 1<sup>st</sup> Reading Date:</p> <p><input type="checkbox"/> Ordinance 2<sup>nd</sup> Reading Date:</p> <p><input checked="" 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> Action provides resources to fund Urban Renewal projects underway in FY 2019-20.</p>	
<p><b>Staff Recommendation:</b> Staff recommends that Council adopt Resolution No. 2760.</p>		
<p><b>Recommended Language for Motion:</b> I move to approve Resolution No. 2760.</p>		
<p><b>Project / Issue Relates To:</b></p>		
<p><input type="checkbox"/> Council Goals/Priorities</p>	<p><input type="checkbox"/> Adopted Master Plan(s)</p>	<p><input checked="" type="checkbox"/> Not Applicable</p>

**ISSUE BEFORE COUNCIL:**

Council action is needed to approve an Intergovernmental Agreement (IGA) between the City and the Urban Renewal Agency that will provide up to \$9.0 million on a short term basis.

**EXECUTIVE SUMMARY:**

The Year 2000 Urban Renewal District (District) has capital projects that are under construction. Short-term borrowing is necessary to complete these projects. The District has sufficient cash balances in its debt service fund to allow for repayment of borrowing on a short term basis – short term being defined as “over-night.”

In order for the District to save significantly on short term borrowing costs, the Urban Renewal District has been using overnight loans for short term borrowings. The terms of the borrowing are as follows:

- City lends to Agency \$9,000,000 at 2.75 percent (2.75%).
- The Agency repays the amount from tax increment funds on hand the day after receipt of the loan.
- Total interest to the General Fund will be approximately \$678.
- The borrowing is subordinate to outstanding senior lien debt.

By borrowing from City funds the Agency is able to avoid loan origination fees and legal costs associated with borrowing from a financial institution, estimated to be more than \$10,000 for this type of financing. The legal/bond costs for the last long term debt issuance of \$3.8M was nearly \$25,000. The public purpose of the loan is to fund projects authorized in the Urban Renewal Plan for the District.

**EXPECTED RESULTS:**

Authorizing the IGA by the respective Resolution of the City and the Agency will provide cash resources of \$9.0 million to pay for costs associated with the capital projects under construction within the Year 2000 Plan District.

**TIMELINE:**

Borrowing and repayment will occur within the month of July 2019. The IGA anticipates the loan and repayment occurring on July 2 and July 3, respectively.

**CURRENT YEAR BUDGET IMPACTS:**

This loan and the repayment were included in the adopted FY 2019-20 City budget.

**FINANCIAL REVIEW / COMMENT:**

Reviewed by: CAR Date: 6/18/2019

**LEGAL REVIEW / COMMENT:**

Reviewed by: BAJ Date: 6/27/2019

The form of the Resolutions and IGA are approved. The City is a home rule city and as such under its Charter it has the authority to act in ways that are necessary and convenient under the laws and Constitution of the State of Oregon. The Oregon Constitution, Article XI, Section 9 limits the powers of cities to loan its credit to private corporations. The Agency is not a private corporation, but is a unit of local government as is the City. Specifically, the laws in ORS Chapter 190 provide for intergovernmental agreements between units of local governments to provide for functions or activities which they are authorized to do (building road projects are such functions or activities) and to provide for apportioning the responsibility for providing funds to pay for the expenses incurred in the performance of the functions or activities, which is what is occurring in this IGA.

**COMMUNITY INVOLVEMENT PROCESS:**

There has been no specific community outreach or involvement pertaining to this borrowing.

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

The borrowing will not directly impact local businesses or neighborhoods, however, the construction projects to be funded will have significant positive impact on both.

**ALTERNATIVES:**

Engage in borrowing from a financial institution. Using this process would take more time and cost the Urban Renewal Agency significantly more money.

**CITY MANAGER COMMENT:**

N/A

**ATTACHMENTS:**

1. Resolution No. 2760
  - A. Intergovernmental Agreement between the City and the Urban Renewal Agency.

**RESOLUTION NO. 2760**

**A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE PERTAINING TO SHORT TERM SUBORDINATE URBAN RENEWAL DEBT FOR THE WEST SIDE PLAN DISTRICT.**

WHEREAS, the City of Wilsonville finds it desirable to authorize an intergovernmental agreement with the Urban Renewal Agency (the “Agency”) of the City of Wilsonville, Oregon which is to lend money to the Agency on a short term basis in an amount of not more than \$9,000,000 for the Agency’s Year 2000 Plan District; and,

WHEREAS, ORS 190.010 provides legal authority for the two entities to enter into a binding intergovernmental agreement (the “Agreement”); and,

WHEREAS, the use of an Agreement is efficient and less costly than other means of obtaining financing for the Agency; and,

WHEREAS, ORS 294.468 allows a city to loan money from one fund to another fund of the municipal corporation provided the loan is authorized by official resolution and states the terms of the loan; and,

WHEREAS, the Year 2000 Plan District debt service fund has sufficient cash balances to allow for repayment of the amounts borrowed without violation of terms of outstanding senior debt liens.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WILSONVILLE HEREBY RESOLVES AS FOLLOWS:

1. To enter into the Agreement with the Urban Renewal Agency of the City of Wilsonville to lend from the City’s General Fund to the Agency’s capital project funds and receive repayment from the Agency back into the General Fund of up to \$9,000,000 together with interest of 2.75 percent per annum on a 365 day year basis in accordance with the terms specified in the Agreement.
2. To authorize the City Manager, or designee, to negotiate any and all documents to complete the Agreement and transactions related to the borrowing and repayment.

3. Effective Date of this Resolution shall be immediately upon its adoption.

ADOPTED by the City of Wilsonville at a regular meeting thereof this 1<sup>st</sup> day of July, 2019 and filed with Wilsonville City Recorder this same date.

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Tim Knapp, Mayor

ATTEST:

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Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Knapp

Council President Akervall

Councilor Stevens

Councilor Lehan

Councilor West

Exhibit:

A. Intergovernmental Agreement Between the City and the Urban Renewal Agency

**INTERGOVERNMENTAL LOAN AGREEMENT, IN AN AMOUNT NOT TO EXCEED \$9,000,000, FROM THE CITY OF WILSONVILLE TO THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE FOR THE PURPOSE OF FUNDING APPROVED PROJECTS IN THE WEST SIDE PLAN**

**THIS INTERGOVERNMENT AGREEMENT** entered into between the City of Wilsonville, an Oregon municipal corporation (the City), and the Urban Renewal Agency of the City of Wilsonville, Oregon, Oregon quasi-municipal corporation (the Agency),

**RECITALS**

**WHEREAS**, the Agency is a public body, corporate and politic, duly activated by the City, exercising its powers to engage in urban renewal activity as authorized by ORS Chapter 457; and

**WHEREAS**, the Year 2000 Plan District (the “District“) was duly established on May 4, 1992, and the Year 2000 Plan (the “Plan“) was adopted on August 29, 1990, setting out goals, objectives and projects (the “Projects“) for the Area; and

**WHEREAS**, the West Side District (the “District“) was duly established on November 3, 2003, and the West Side Plan (the “Plan“) was adopted on November 3, 2003, setting out goals, objectives and projects (the “Projects“) for the Area; and

**WHEREAS**, the Board of the Urban Renewal Agency has determined that a need exists to borrow funds for the Projects, to be repaid with tax increment financing; and

**WHEREAS**, Oregon Revised Statutes 457 and Oregon Constitution Article IX, Section 1(c) authorizes the Urban Renewal Agency to incur debt for the purpose of financing projects of an urban renewal plan, and to repay the debt and related costs with tax increment revenue; and

**WHEREAS**, the City of Wilsonville has approved a maximum indebtedness for the Year 2000 District of \$107,196,524. The Agency has previously issued \$84,385,000 of long and short term indebtedness that is subject to the maximum indebtedness limitation, and there is no other indebtedness outstanding for the District to which the maximum indebtedness limitation applies. As a result the Agency has \$22,811,524 of capacity (before issuance of the referenced borrowing of this Agreement) to incur indebtedness for the District, and

**WHEREAS**, ORS 294.468 authorizes a municipality to lend unrestricted money from its general fund to other funds of the municipal corporation if authorized by resolution of the governing body, and

**WHEREAS**, the City and Agency have determined that financing the Projects through an intergovernmental agreement as allowed by ORS 190.010, is more cost efficient than external financing methods, is financially feasible, and is in the best interest of both parties.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**Section 1: Term and Termination.** This agreement shall become effective upon the date of the last signature hereon, and shall continue in full force and effect until the loan is paid in full.

**Section 2: Delegation.** The Designated Representatives, or a person(s) assigned by the Designated Representatives, may, on behalf of the City or Agency, act without further action by the Council, to establish the final principal amounts.

**Section 3: Duties of the City.** The City shall authorize all actions and execute all documents necessary or desirable to loan up to \$9,000,000 from the City’s General Fund to the Agency’s capital project funds as delineated in Section 5, and comply with the laws of the State of Oregon, including the terms and conditions contained within this Agreement. The Agency shall reimburse the City for its expenses incurred in the performance of this Agreement.

**Section 4: Duties of the Agency.** The Agency shall authorize all actions and execute all documents necessary or desirable to accept the loan, authorize repayment of the loan under the terms and conditions stated herein, and comply with the laws of the State of Oregon, applicable Urban Renewal Plans. The Agency shall be responsible for its expenses incurred in the performance of this agreement and of its activities contemplated herein.

**Section 5: Loan Terms.** The Loan shall be made from the City’s General Fund to the Agency’s Year 2000 Plan Capital Improvement Fund in the principal amount as noted below. The City shall transfer up to \$9,000,000 in aggregate on or before July 2, 2019, as follows:

Year 2000 Plan Capital Improvement Fund	<u>\$9,000,000</u>
Total	\$9,000,000

Interest on the loan, at a rate of 2.75 percent (2.75%) shall begin to accrue on the date of transfer and the corresponding loan plus accrued interest shall be repaid by each District not later than July 3, 2019.

**Section 6: Consideration.** In consideration of the terms and conditions set forth herein, the City agrees to loan up to \$9,000,000 in exchange for the Agency's obligation to repay the loan solely from the tax increment revenues of the corresponding urban renewal districts. The lien of this pledge shall be subordinate to the lien of any currently outstanding senior lien bonds and to any requirement to fund or maintain debt service funds, reserve funds or similar funds or as part of minimum balances or similar requirements for those senior lien bonds.

**Section 7: Indemnification.** Subject to the limitations in the Oregon Constitution and the Oregon Tort Claims Act, the parties agree to defend, indemnify and hold each other, its officers, agents and employees harmless from all claims, suits, or actions of whatsoever kind, which arise out of or result from the transfer of funds.

**Section 8: Modification.** This agreement may not be altered, modified, supplemented or amended in any manner whatsoever except by mutual agreement of the parties in writing. Any such alteration, modification, supplementation, or amendment, if made, shall be effective only in the specific instance and for the specific purpose given, and shall be valid and binding only if signed by the parties.

**Section 9: Waiver.** No provision of the agreement may be waived except in writing by the party waiving compliance. No waiver of any provision of the Agreement shall constitute waiver of any other provision, whether similar or not, nor shall any one waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or of any other provision.

**Section 10: Severability.** The parties agree that if any term or provision of the Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term and provision held to be invalid.

**Section 11: Designated Representative.** The City authorizes the City Manager or the City Manager's designee to act on behalf of the City under this agreement. The Agency authorizes the Executive Director of the Agency or the Executive Director's designee to act on behalf of the Agency under this Agreement.

IN WITNESS WHEREOF, the execution of which having been first duly authorized according to law.

CITY OF WILSONVILLE

\_\_\_\_\_  
Bryan Cosgrove  
City Manager of the City of Wilsonville, Oregon

\_\_\_\_\_  
Date

URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE, OREGON

\_\_\_\_\_  
Bryan Cosgrove  
Executive Director of the Urban Renewal  
Agency of the City of Wilsonville, Oregon

\_\_\_\_\_  
Date



## CITY COUNCIL MEETING STAFF REPORT

<b>Meeting Date:</b> July 1, 2019	<b>Subject: Ordinance No. 816 – 2<sup>nd</sup> Reading</b> Repeal and Replace Chapter 11 of the Wilsonville Code  <b>Staff Member:</b> Patty Nelson, City Engineer; Cathy Rodocker, Finance Director and Amanda Guile-Hinman, Assistant City Attorney  <b>Department:</b> Engineering/Finance/Legal	
<b>Action Required</b>	<b>Advisory Board/Commission Recommendation</b>	
<input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Public Hearing Date: June 17, 2019 <input checked="" type="checkbox"/> Ordinance 1 <sup>st</sup> Reading Date: June 17, 2019 <input checked="" type="checkbox"/> Ordinance 2 <sup>nd</sup> Reading Date: July 1, 2019 <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 type="checkbox"/> Approval <input type="checkbox"/> Denial  <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable  <b>Comments:</b> Adoption of revisions to Chapter 11 of the Wilsonville Code concerning system development charges and other “housekeeping” items.	
<b>Staff Recommendation:</b> Staff recommends that Council adopt Ordinance No. 816 on second reading.		
<b>Recommended Language for Motion:</b> I move to approve Ordinance No. 816 on 2 <sup>nd</sup> reading.		
<b>Project / Issue Relates To:</b>		
<input type="checkbox"/> Council Goals/Priorities	<input type="checkbox"/> Adopted Master Plan(s)	<input checked="" type="checkbox"/> Not Applicable

### ISSUE BEFORE COUNCIL:

Whether to adopt changes to Chapter 11 of the Wilsonville Code (“WC”) regarding revisions to and updates of Chapter 11 of the Wilsonville Code regarding system development charges (“SDCs”) and other fees. The Ordinance and revised Chapter 11 are attached hereto at **Attachment A**.

**EXECUTIVE SUMMARY:**

In 2018, the League of Oregon Cities updated its model SDC code. That publication prompted City staff to examine Wilsonville Code (WC) Chapter 11, “Fees,” to determine whether the SDC provisions and other sections within Chapter 11 needed updating. Upon examination, City staff found several provisions that needed to be updated and other staff recommended updates to provisions that have proven to be problematic. The last revision to Chapter 11 occurred in 1994.

Staff previously provided staff reports and presentations at Council work sessions on March 18, 2019 and May 20, 2019 and provided a staff report and presentation for the public hearing on June 17, 2019. Staff also separately provided a staff report regarding installment payments and deferral payment program options for the Council work session on June 17, 2019, at which point the Council indicated that it wanted to investigate options for small business incentive programs, which may include SDC deferral or installment payment options, which, if adopted, would be adopted by resolution rather than in Chapter 11. Those four staff reports are incorporated by reference.

**EXPECTED RESULTS:**

Clearer standards for establishing, collecting, and expending SDCs.

**TIMELINE:**

A public hearing on revisions to Chapter 11 was scheduled for May 20, 2019 and was continued to June 17, 2019 where Ordinance 816 was adopted on first reading. The second reading is scheduled for July 1, 2019. Staff recommend setting the effective date for September 3, 2019 to allow for staff training for handling SDC credit certificates.

**CURRENT YEAR BUDGET IMPACTS:**

N/A

**FINANCIAL REVIEW / COMMENT:**

Reviewed by: CAR Date: 6/7/2019

**LEGAL REVIEW / COMMENT:**

Reviewed by: BAJ Date: 6/11/2019

Deferral programs tend to change with the times and economy. Enacting a deferral agreement, if one is desired, by resolution rather than Ordinance makes better legal sense.

**COMMUNITY INVOLVEMENT PROCESS:**

Staff included information in the July Boones Ferry Messenger, in addition to standard public posting for a public hearing.

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

Clearer standards for applicants and developers regarding the payment of SDCs and how to apply for and use SDC credits.

**ALTERNATIVES:**

Retain Chapter 11 as currently drafted.

**CITY MANAGER COMMENT:**

N/A

**ATTACHMENT:**

A. Ordinance No. 816

1. Chapter 11, System Development Charges

# ATTACHMENT

## ORDINANCE NO. 816

### AN ORDINANCE OF THE CITY OF WILSONVILLE REPEALING AND REPLACING WILSONVILLE CODE CHAPTER 11 – FEES.

WHEREAS, the State of Oregon prescribes the general requirements for collection of systems development charges (SDCs) for capital improvement projects pursuant to Oregon Revised Statutes (ORS) 223.297 through 223.314; and

WHEREAS, Chapter 11 of the Wilsonville Code (WC) governs the City’s collection of certain fees, including SDCs; and

WHEREAS, WC Chapter 11 has not been amended since 1994; and

WHEREAS, in addition to the SDC provisions in Chapter 11, other provisions are outdated or obsolete;

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

1. The above recitals are incorporated by reference as if fully set forth herein.
2. Wilsonville Code Chapter 11, Fees, is repealed and replaced with Attachment 1, attached hereto and incorporated by reference as if fully set forth herein.
3. The City Recorder shall conform these amendments to the City’s code format and correct any scrivener’s errors.
4. This Ordinance shall become effective on September 3, 2019.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the \_\_\_\_ day of \_\_\_\_\_, 2019, and scheduled for a second reading at a regular meeting of the Council on \_\_\_\_\_, commencing at the hour of 7 p.m. at the Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon.

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Kimberly Veliz, City Recorder

ENACTED by the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2019, by the following votes:            Yes: \_\_\_\_            No: \_\_\_\_

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

DATED and signed by the Mayor the \_\_\_\_ day of \_\_\_\_\_, 2019.

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

**SUMMARY OF VOTES:**

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

**Attachments:**

- Attachment 1 – Chapter 11, System Development Charges

**WILSONVILLE CODE**

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**CHAPTER 11 – FEES**

**SYSTEM DEVELOPMENT CHARGES**

- 11.000 Purpose
- 11.010 Scope
- 11.020 Definitions
- 11.030 System Development Charge Established
- 11.040 Methodology
- 11.050 Authorized Expenditures
- 11.060 Expenditure Restrictions
- 11.070 Improvement Plan
- 11.080 Collection of Charge
- 11.090 Exemptions
- 11.100 Credits
- 11.110 Notice
- 11.120 Segregation and Use of Revenue
- 11.130 Refunds
- 11.140 Implementing Regulations; Amendments
- 11.150 Appeal Procedure
- 11.160 Prohibited Connection
- 11.170 Penalty
- 11.180 Severability
- 11.190 Classification

**CITY LIEN DOCKET SEARCH**

- 11.200 Fee for Search of City's Lien Docket

**LAND USE AND SITE DEVELOPMENT**

- 11.300 Land Use and Site Development Fees

**PARK USE**

- 11.400 Park Use Fees

## SYSTEM DEVELOPMENT CHARGES

**11.000 Purpose.** The purpose of the System Development Charge (SDC) is to impose an equitable share of the public costs of Capital Improvements for water, sewers and wastewater drainage, streets, flood control, and parks upon those parties undertaking Developments and redevelopments that add to the need for or increase the demands on all or any of the foregoing.

**11.010 Scope.** The System Development Charges imposed by this Chapter 11 are separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, exaction, dedication, or fee otherwise provided by law or imposed as a condition of Development approval application.

**11.020 Definitions.** For purposes of this Chapter 11, the following terms are defined as follows:

(1) “Applicant” means the party who applies for a permit listed in WC 11.080 below who is subject to SDCs because the Applicant’s Development creates the need for or increases the demands on the City’s sewer, water, stormwater drainage, parks, and/or transportation systems.

(2) “Business Days” means days of the week excluding Saturdays, Sundays, and legal holidays observed by the City.

(3) “Capital Improvement” means public facilities or assets used for the following:

(a) Water supply, treatment, and distribution;

(b) Wastewater collection, transmission, treatment, and disposal;

(c) Stormwater system for collection, treatment, drainage, transmission, and flood control;

(d) Transportation, including, but not limited to, streets, sidewalks, bicycle lanes, multi-use paths, street lights, traffic signs and signals, pavement markings, street trees, swales, public transportation, vehicle parking, and bridges; or

(e) Parks and recreation, including, but not limited to, community parks, public open space and trail systems, recreational buildings, courts, fields, and other like facilities.

(4) “Capital Improvement” does not include costs of the operation or routine maintenance of Capital Improvements.

(5) “City Manager” means the City Manager for the City of Wilsonville or the City Manager’s duly authorized representative.

(6) “Community Development Director” means the Community Development Director for the City of Wilsonville or the Community Development Director’s duly authorized representative.

(7) “Development” means all improvements on a site, including buildings, other

structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities, any building permit resulting in increased usage of Capital Improvements, and any new connection or increased size connection for a Capital Improvement. Development includes the redevelopment of property. Development also includes improved open areas such as plazas and walkways but does not include natural geologic forms or unimproved lands.

(8) “Qualified Public Improvement” means a Capital Improvement that is required as a condition of Development approval, identified in a plan and list adopted pursuant to WC 11.070 and either:

- (a) Not located on or continuous to property that is the subject of Development approval; or
- (b) Located in whole or in part on or contiguous to property that is the subject of Development approval and required to be built larger or with greater capacity than is necessary for the particular Development project to which the Improvement Fee is related.

(9) “System Development Charge” (“SDC”) means:

(a) A Reimbursement Fee (defined in (ii) below), an Improvement Fee (defined in (i) below), or a combination thereof, assessed or collected at the time of increased usage of a Capital Improvement or the issuance of a Development permit, building permit, or connection to the Capital Improvement.

- i. “Improvement Fee” means a SDC for costs associated with Capital Improvements to be constructed after the date the fee is adopted pursuant to Section 11.030 of this Chapter 11.
- ii. “Reimbursement Fee” means a SDC for costs associated with Capital Improvements already constructed, or under construction when the fee is established, which the City Council determines can be equally imposed.

(b) The portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the City for its average cost of inspecting and installing connections with water and sewer facilities.

(10) “System Development Charge” does not include any fees assessed or collected as part of a Local Improvement District or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed upon a land use decision, expedited land use decision, or limited land use decision.

### **11.030 System Development Charge Established.**

(1) SDCs will be established and may be revised by resolution of the City Council. The resolution will set the amount of the SDC through a methodology developed pursuant to Section 11.040, the type of permit to which the charge applies, and, if the charge applies to a

geographic area smaller than the entire city, the geographic area subject to the charge. Changes in the SDCs shall also be adopted by resolution, except those changes resulting solely from inflationary cost impacts. Inflationary cost impacts shall be based on the yearly changes to the applicable index established each March 1; any changes measured and calculated by the Community Development Director will be implemented each July 1 and charged accordingly. Such calculations will be based upon Pacific Northwest Construction cost changes in the Engineering News Record Construction Cost Index (ENR Index) as represented by the City of Seattle, Washington, or other index that replaces the ENR Index. Notwithstanding the foregoing, the inflationary amount of each SDC may also be calculated as stated in the SDC methodology approved by City Council pursuant to WC 11.040.

(2) Unless otherwise exempted by the provisions of this Chapter, or by other local or state law, an SDC is hereby imposed upon all Development within the City, upon issuance of the type of permit described in Section 11.080, or upon the act of making a connection to the city water or sewer system within the City, as described in Section 11.080, and upon all Development outside the boundary of the City that connects to or otherwise uses the sewer facilities, storm sewers, or water facilities of the City. In lieu of payment being made as required under Section 11.080, the owner of the land on which the improvement will be located may enter into an agreement to pay the SDC in semiannual installments, as authorized by ORS 223.208. The obligation to pay the SDC pursuant to ORS 223.208 shall be secured by a lien against the property upon which the improvement will be located. The lien shall be entered into the City's lien docket and may be collected in the same manner as allowed by law for collection of assessment liens.

(3) When imposing a SDC for Development that requires a building permit, the date of a complete building permit application, as identified on the building permit application, is the effective date of the SDC that will be calculated, consistent with Section (1) above. For clarity, the adopted SDC methodologies that exist at the time the building permit application is deemed complete by the City will be the methodologies used to calculate SDCs. All other SDCs owed to the City will be calculated using the methodology(ies) in effect at the time the SDCs are due and payable to the City under Section 11.080.

#### **11.040 Methodology.**

(1) The methodology used to establish or modify a Reimbursement Fee shall promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities and be available for public inspection. The methodology used to establish or modify a Reimbursement Fee shall, where applicable, be based on:

- (a) Ratemaking principles employed to finance publicly owned Capital Improvements;
- (b) Prior contributions by existing users;
- (c) Gifts or grants from federal or state government or private persons;
- (d) The value of unused capacity available to future system users or the cost of the existing facilities; and

(e) Other relevant factors identified by the City Council.

(2) The methodology used to establish or modify an Improvement Fee shall, where applicable, demonstrate consideration of the estimated cost of projected Capital Improvements identified in an improvement plan (*see* Section 11.070) that are needed to increase the capacity of the systems to which the fee is related. The methodology shall be calculated to obtain the cost of Capital Improvements for the projected need for available system capacity for future system users.

(3) The methodology used to establish or modify a Reimbursement Fee or Improvement Fee shall be contained in a resolution adopted by the City Council.

**11.050 Authorized Expenditures.**

(1) Reimbursement Fees shall be spent on Capital Improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

(2) Improvement Fees shall be spent on capacity increasing Capital Improvements, including expenditures relating to repayment of debt for such improvements. An increase in system capacity may be established if a Capital Improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by Improvement Fees must be related to the need for increased capacity to provide service for future users.

**11.060 Expenditure Restrictions.**

(1) SDCs may not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other Capital Improvements or for the expenses of the operation or maintenance of the facilities constructed with SDC revenues.

(2) Any Capital Improvement being funded wholly or in part with SDC revenues must be included in the plan and list adopted by the City Council pursuant to ORS 223.309 and Section 11.070 of this Chapter.

(3) SDC proceeds may only be expended on Capital Improvements included on a list of Capital Improvements that the City intends to fund, in whole or in part, with SDC revenues, including the cost of compliance with this Chapter; development of the Improvement Plans or master plans; development of methodologies; annual accounting of SDC expenditures; debt repayment; engineering, design, and construction; other administrative costs; and related expenses.

**11.070 Improvement Plan.**

(1) Prior to the establishment of a SDC, the City Council shall prepare a Capital Improvement plan, public facilities plan, master plan, or other comparable plan that includes:

(a) A list of the Capital Improvements that the City Council intends to fund, in whole or in part, with revenues from SDCs; and

(b) The estimated cost and time of construction of each improvement and the percentage of that cost eligible to be funded with SDCs.

(2) In adopting a plan under Section 11.070(1), the City Council may incorporate by reference all or a portion of any Capital Improvement plan, public facilities plan, master plan, or other comparable plan that contains the information required by this Section.

(3) The City Council may modify such plan and list, as described in Section 11.070(1), at any time. If a SDC will be increased by a proposed modification to the list to include a capacity increasing public improvement, the City Council will:

(a) At least thirty (30) calendar days prior to the adoption of the proposed modification, provide written notice to persons who have requested notice pursuant to Section 11.110;

(b) Hold a public hearing if a written request for a hearing is received within seven (7) Business Days of the date of the proposed modification.

(4) A change in the amount of a Reimbursement Fee or an Improvement Fee is not a modification of the SDC if the change in amount is based on:

(a) A change in the cost of materials, labor, or real property applied to projects or project capacity, as set forth on the list adopted pursuant to Section 11.070(1);

(b) The periodic application of one or more specific cost indexes or other periodic data sources. A specific cost index or periodic data source must be:

- 1) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property, or a combination of the three;
- 2) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the SDC methodology; and
- 3) Incorporated as part of the established methodology or identified and adopted by the City Council in a separate resolution, or if no other index is identified in the established methodology, then the index stated in Section 11.030(1).

**11.080 Collection of Charge.**

(1) The SDC is due and payable upon the issuance of the following:

(a) A building permit;

(b) Any other Development or connection permit not requiring the issuance of a building permit, including, but not limited to a permit or approval to connect to or upsize connection(s) related to City infrastructure; or

(c) A right-of-way access permit.

(2) If no building, Development, or connection permit is required but there is an increased impact of one or more Capital Improvement due to a new or changed use, the SDC is payable at the time the usage of the Capital Improvement is increased based on changes in the use of that property, unrelated to seasonal or ordinary fluctuations in usage.

(3) If Development is commenced or connection is made to any City systems without an appropriate permit, the SDC is immediately due and payable at the rate currently assessed by the City, and it will be unlawful for anyone to continue with the construction or associated use until the SDC has been paid.

(4) The City shall collect the applicable SDC from the permittee when a permit that allows building or Development of a parcel is issued or when a connection to any City infrastructure is made.

(5) The City shall not issue such permit or allow such connection until the charge has been paid in full or unless an exemption is granted pursuant to Section 11.090.

(6) Deferral and/or City Financing of System Development Charges. The Council, by resolution, may establish a program for the deferral and/or financing of system development charges by the City consistent with good business practices, Oregon law, and the goal of promoting economic development.

#### **11.090 Exemptions.**

(1) Additions to single-family dwellings, including Accessory Dwelling Units, as defined in Wilsonville Code Chapter 4, are exempt from all portions of the SDC.

(2) An alteration, addition, replacement, or change in use that does not increase the use of the public improvement facility are exempt from all portions of the SDC.

#### **11.100 Credits.**

(1) The City will grant to an Applicant a credit against any Improvement Fee assessed when the Applicant constructs or dedicates a Qualified Public Improvement as part of the Development. The Applicant bears the burden of evidence and persuasion in establishing entitlement to a SDC credit and the amount of SDC credit in accordance with the requirements of this Section. The initial determination on all credit requests shall be made by the City Manager or Community Development Director.

(2) SDC Credit Application. To obtain a SDC credit, the Applicant must make the request, in writing, to the Community Development Director prior to constructing or dedicating a Qualified Public Improvement. In the request, the Applicant must state the following:

- (a) Identify the improvement for which the credit will be sought;
- (b) Explain how the improvement will be a Qualified Public Improvement; and
- (c) Document, with credible evidence, the estimated value of the improvement for which credit will be sought. Applicable soft costs for engineering design, project management, permitting, and testing may be allowed as approved by

the Community Development Director.

(3) The City will evaluate a request for credit and will either approve, modify, or reject the proposed Qualified Public Improvement project as part of the Applicant's Development review approval conducted by the City pursuant to Wilsonville Code Chapter 4. The City will specify in the conditions of approval, for the Applicant's Development, any Qualified Public Improvements and will further state that the Applicant is required to submit the information stated in subsection (4) below to obtain SDC credits.

(4) SDC Credit Confirmation. Upon completion and inspection by the City accepting the Qualified Public Improvement, the Applicant must submit to the Community Development Director the following information to confirm the completion of the Qualified Public Improvement and the actual cost to the Applicant for constructing the Qualified Public Improvement:

- (a) The name of the Applicant;
- (b) The improvement for which the credit is sought;
- (c) The condition of approval contained within the City's Development approval that includes the improvement;
- (d) The date(s) the City inspected the improvement and approved the construction of the improvement;
- (e) Documentation, with supporting credible evidence, of the actual cost to the Applicant for constructing the Qualified Public Improvement;
- (f) The date of the submission along with the Applicant's signature; and
- (g) A "Certification of Completion and Payment of Subcontractors and Suppliers."

(5) SDC Credit Certificate. The City will verify the amount of credit the Applicant is entitled to receive no later than thirty (30) days after its receipt of the SDC credit confirmation documents required in subsection (4) above. The City may require, in its sole discretion, additional time if the Applicant's confirmation documents are insufficient to verify the amount of the SDC credit. Upon verification, the City will issue a credit certificate to the Applicant in the amount determined by the City.

- (a) The credit certificate shall contain, at a minimum, the following information:
  - 1) The name of the Applicant and the project to which the improvement giving rise to the credit is related;
  - 2) The SDC to which the credit may be applied;
  - 3) The issue date and the expiration date;
  - 4) The amount of the credit given;

- 5) A place for entry of reduced SDC credit amounts as the SDC credits are used by the Applicant; and
  - 6) The original signature of the City Manager, the Finance Director, and the Community Development Director.
- (b) The SDC credit shall be an amount equal to the fair market value of the improvement. Fair market value shall be determined by the City based on credible evidence of the following:
- 1) For real property, value shall be based upon a written appraisal of fair market value by a qualified Member of the Appraisal Institute (MAI) appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;
  - 2) For a Qualified Public Improvement already constructed, value shall be based on the actual cost of construction as verified by contract documents and receipts submitted by the Applicant;
  - 3) For a Qualified Public Improvement located on, or contiguous to, the site of the Development, only the over-capacity portion, as described in the definition of Qualified Public Improvement, is eligible for SDC credit. There is a rebuttable presumption that the over-capacity portion of such a Qualified Public Improvement is limited to the portion constructed larger, or of greater capacity, than the City's minimum standard facility capacity or size needed to serve the particular Development.

(6) Form of Credit and Limitation on Use. When given, SDC credits will be for a particular dollar value as a credit against a SDC assessed on a Development. The party named on the SDC credit certificate issued pursuant to subsection (5) above must provide the SDC credit certificate to the City at the time payment of SDCs is due to use the SDC credits. Credits may only be used to defray or pay the SDC for the particular Capital Improvement system to which the Qualified Public Improvement is related, e.g., credit from a Qualified Public Improvement for sewer may only be used to pay or defray a sewer SDC. When an Applicant utilizes the SDC credits stated in the SDC credit certificate, the City will note on the SDC credit certificate the new balance of the SDC credits and the effective date of the new balance. SDC credit certificates are not refundable for cash or any other thing of value, except as provided in subsection (6)(b) below.

- (a) SDC Credit Transfers. If the Applicant does not utilize the entire balance of the SDC credit, the Applicant may carry-forward the balance to a future project, or may transfer the SDC credit to another developer by submitting a written request with the SDC credit certificate to the City, which request must be signed by the Applicant and the other party seeking to obtain the SDC credits. If SDC credits are transferred to another party, the amount of the remaining SDC credits being transferred will be reduced by twenty-five (25) percent. The City will issue a new SDC credit certificate to the other party.

- (b) SDC Refund Check. If the City Manager requests that a developer complete a Qualified Public Improvement, the City may opt, in its sole discretion, to provide a refund of SDCs collected for the type of Qualified Public Improvement by issuing a check to the developer. Such a refund must be approved by the City Council if the refund exceeds one hundred thousand dollars (\$100,000).
- (c) SDC credit certificates are void and of no value if not redeemed with the City for payment of a SDC of the same type of Capital Improvement system for which the credit was issued within ten (10) years of the original date of issuance. Transfers of SDC credit certificates do not restart the ten (10) year term.

(7) SDC Credit Deadline. The Applicant must submit SDC credit confirmation documents pursuant to WC 11.100(4) to the Community Development Director no later than one hundred eighty (180) calendar days after acceptance of the Qualified Public Improvement by the City.

**11.110 Notice.**

(1) The City will maintain a list of persons who have made a written request for notification prior to adoption or modification of a methodology for any SDC. Written notice will be mailed to persons on the list at least ninety (90) calendar days prior to the first hearing to establish or modify a SDC. The methodology supporting the SDC shall be available at least sixty (60) calendar days prior to the first hearing to adopt or amend a SDC. The failure of a person on the list to receive a notice that was mailed does not invalidate the action of the City.

(2) The City may periodically delete names from the list if the name has been on the list for more than one (1) year, but at least thirty (30) calendar days prior to removing a name from the list, the City must notify the person whose name is to be deleted that a new written request for notification is required if the person wishes to remain on the notification list.

**11.120 Segregation and Use of Revenue.**

(1) All funds derived from a particular type of SDC are to be segregated by accounting practices from all other funds of the City. That portion of the SDC calculated and collected on account of a specific facility system shall be used for no purpose other than that set forth in Section 11.050.

(2) The Finance Director shall provide the City Council with an annual accounting, by January 1 of each year, for SDCs showing the total amount of SDC revenue collected for each type of facility and the projects funded from each account in the previous fiscal year. A list of the amount spent on each project funded, in whole or in part, with SDC revenue shall be included in the annual accounting.

**11.130 Refunds.**

(1) Refunds shall be given by the Finance Director upon finding by the Community Development Director that there was a clerical error in the calculation of a SDC or may be given

in accordance with WC 11.100(6)(b).

(2) Refunds shall not be allowed for failure to timely claim a credit under Section 11.100.

**11.140 Implementing Regulations; Amendments.** The City Council delegates to the City Manager the authority to adopt necessary procedures to implement the provisions of this Chapter 11. All rules developed pursuant to that delegated authority shall be filed with the office of the City Manager and be available for public inspection.

**11.150 Appeals; Procedure.**

(1) A person challenging the propriety of an expenditure of SDC revenue may appeal the decision or the expenditure to the City Council by filing a written appeal petition with the City Manager, pursuant to Subsection (4) below. An appeal of an expenditure must be filed not later than two (2) years after the expenditure of the SDCs.

(2) A person challenging the propriety of the methodology adopted by the City Council pursuant to Section 11.040 may appeal the decision or the expenditure to the City Council by filing a written appeal petition with the City Manager, pursuant to Subsection (4) below. An appeal petition challenging the adopted methodology shall be filed not later than sixty (60) calendar days from the date of adoption of the methodology.

(3) A person challenging the calculation of a SDC must file a written appeal petition regarding the calculation of the SDC with the City Manager within ten (10) Business Days of assessment of the SDC. The ten (10) Business Day period shall be measured from the date the permit is issued pursuant to WC 11.080.

(4) Any person submitting an appeal petition pursuant to Subsections (1) through (3) above, must describe, with particularity, the basis for the appeal and include:

- (a) The name and address of the appellant;
- (b) The nature of the expenditure, methodology, or calculation being appealed;
- (c) The reason the expenditure, methodology, or calculation is allegedly incorrect; and
- (d) Detailed explanation, with supporting documentation, concerning what the correct determination of the appeal should be or how the correct calculation should be derived.

(5) If the appeal petition is untimely or fails to meet the requirements of Subsection (4) above, the appeal shall be automatically and summarily dismissed by the City Council without a hearing.

(6) If the appeal petition is timely filed and submitted in accordance with Subsection (4) above, the City Council shall order an investigation and direct that within sixty (60) calendar days of receipt of the petition a written report be filed by the Community Development Director recommending appropriate action. Within sixty (60) calendar days of

receipt of said report, the City Council shall conduct a hearing to determine whether the expenditure, methodology, or calculation was proper. The City Council shall provide notice and a copy of the report to the appellant at least fourteen (14) calendar days prior to the hearing. The appellant shall have a reasonable opportunity to present appellant's position at the hearing.

(7) The appellant shall have the burden of proof. Evidence and argument shall be limited to grounds specified in the petition. The City Council shall issue a written decision stating the basis for its conclusion and directing appropriate action to be taken.

(8) The City Council shall render its decision within thirty (30) calendar days after the hearing date, and the decision of the City Council will be final. The decision will be in writing, but written findings shall not be made or required unless the City Council, in its discretion, elects to make findings for precedential purposes. If the City Council determines there was an improper expenditure of SDC funds, the City Council shall direct that a sum equal to the misspent amount be deposited within one (1) year of the date of the decision to the account of the fund from which it was spent.

(9) Any legal action contesting the City Council's decision on the appeal must be filed within sixty (60) calendar days of the City Council's decision. Review of the City Council decision shall be by writ of review pursuant to ORS 34.010 to 34.100.

**11.160 Prohibited Connection.** No person may connect to the water or sewer systems of the City unless the appropriate SDC has been paid.

**11.170 Penalty.** Violation of Section 11.160 of this Chapter 11 constitutes a violation and is punishable by a fine not to exceed \$1,000 per day.

**11.180 Severability.** The provisions of this Chapter 11 are severable, and it is the intention of the City Council to confer the whole or any part of the powers herein provided for. If any clause, section, or provision of this Chapter 11 is declared unconstitutional or invalid for any reason, the remaining portion of this Chapter 11 shall remain in full force and effect and be valid as if such invalid portion had not been incorporated. It is hereby declared that the City Council intends that this Chapter 11 would have been adopted had such an unconstitutional provision not been included.

**11.190 Classification.** The City Council hereby determines that any charges imposed by this Section (WC 11.000 through WC 11.190) of Chapter 11 are not a tax subject to the property tax limitations of Article XI, Section 11(b), of the Oregon Constitution.

## **CITY LIEN DOCKET SEARCH**

### **11.200 Fee for Search of City's Lien Docket.**

(1) For each certificate of lien or non-lien of the City requested by anyone and issued by the City after first searching the City's Lien Docket to determine whether or not a lot, tract or parcel of real property located within the City is subject to any City lien, there shall be paid to the City a cost recovery fee determined by the City Manager. Such fee shall accompany the request to the City for the lien search or, at the discretion of the City, shall be invoiced to the

person, firm or corporation requesting the lien search upon delivery to the requesting party of the lien or non-lien certificate, payable within thirty (30) calendar days of the invoice date.

(2) Monthly utility bills that are shown to be in arrears may be reported on lien searches for subject property.

(3) All fees received by the City under the provisions of subsection (1) above shall be deposited in the General Fund of the City.

## **LAND USE AND SITE DEVELOPMENT**

### **11.300 Land Use and Site Development Fees.**

(1) The purpose of the fees and charges authorized by the provisions of 11.300(1) - 11.300(3) are to defray actual costs. All such fees and charges shall be paid in full at the time of application and shall be non-refundable, except in the case of a withdrawal prior to the publication of public notice. In cases of withdrawal prior to the publication of public notice, the application fee less any actual publication costs incurred and less fifteen percent (15%) of the fee for initial administrative processing shall be refunded.

(2) Staff Consulting - When considerable staff time is required to provide detailed/or special information to professional consultants, staff time and materials will be charged at actual cost. Procedures for these fees shall be established by the Planning Director and City Manager.

(3) The City Council shall adopt by Resolution, from time to time, fees and charges to defray the City's actual costs in reviewing and processing land use and development permit(s). Such fees and charges may also include actual costs incurred by the City in employing specialized consultants, including but not limited to Traffic Engineers and Wetland Biologists.

## **PARK USE**

**11.400 Park Use Fees.** The City Council shall by Resolution, from time to time, adopt fees and charges for use of the City's parks and park facilities.