



22500 Salamo Road
West Linn, Oregon 97068
<http://westlinnoregon.gov>

CITY COUNCIL MEETING

Monday, November 18, 2013

5:30 p.m. – Executive Session – Rosemont Room

ORS 192.660(2)(i) To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

6:00 - Pre-Meeting Work Session – Rosemont Room

6:30 p.m. – Meeting - Council Chambers

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1. Call to Order & Pledge of Allegiance
 2. Approval of Agenda
 3. Consent Agenda
 1. Agenda Bill 2013-11-18-01: October 14 and November 4, 2013 Draft Notes Approval
 2. Agenda Bill 2013-11-18-02: Willamette Historic Street Sign Grant Approval
 4. Community Comments
 5. Report from the City Manager
 6. Business from the City Council
 7. Business Meeting
 1. Agenda Bill 2013-11-18-03:
 - i. Intergovernmental Cooperative Agreement for the Water System Intertie
 - ii. Cooperative Agreement for Enhancement and Restoration Projects in Mary S. Young State Park
 - iii. Cooperative Agreement for Joint Funding of Water System Improvements
 - iv. Ordinance 1616 Lake Oswego-Tigard Water Partnership Franchise Agreement
 2. Agenda Bill 2013-11-18-04: Resolution 2013-19 Designating the Lake Oswego-Tigard Franchise Agreement Proceeds to the Bolton Reservoir Project
 8. Adjourn



AGENDA BILL 2013-11-18-01

Subject: Consent Agenda: Approval of City Council Meeting Notes

For Council: November 18, 2013

Land Use Case Number: N/A

Public Hearing

Required: ☐

Optional: ☒

City Manager's Initials: *CJ*

Attachments:

1. October 14, 2013, Council Meeting Notes
2. November 4, 2013, Council Meeting Notes

Initiated by:

- City Council

Budget Impact:

- N/A

Sustainability Considerations:

- As a reminder, you may review Council meetings online at <http://westlinnoregon.gov/meetings>.

Policy Question(s) for Council Consideration:

- N/A

Summary:

- The above mentioned City Council Meeting Notes are ready for Council approval.

Staff Recommendation:

This item is on the consent agenda. Approval of the consent agenda will finalize this set of notes.



CITY OF
West Linn

22500 Salamo Road
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WEST LINN CITY COUNCIL MEETING NOTES October 14, 2013

Call to Order & Pledge of Allegiance

Council Present:

Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Staff Present:

City Manager Chris Jordan, Assistant City Manager Kirsten Wyatt, City Recorder Kathy Mollusky, City Attorney Tim Ramis, and Planning Director John Sonnen.

Approval of Agenda

Council President Mike Jones moved to approve the agenda for the October 14, 2013 West Linn City Council Meeting. Councilor Jody Carson seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 5 - 0

[Proclamations, Recognitions and Presentations](#)

Municipal Judge Rhett Bernstein Swearing-In

[Consent Agenda](#)

Agenda Bill 2013-10-14-01: Approve September 9, 2013 Meeting Notes

[Draft Notes Information](#)

Agenda Bill 2013-10-14-02: Resolution 2013-18 Certifying Election Results

[Election Information](#)

Agenda Bill 2013-10-14-03: Managing Oregon Resources Efficiently Intergovernmental Agreement

[MORE IGA Information](#)

Council President Mike Jones moved to approve the Consent Agenda for the October 13, 2013 West Linn City Council Meeting which includes the September 9, 2013 Meeting Notes, Resolution 2013-18 Certifying Election results, and the Managing Oregon Resources Efficiently Intergovernmental Agreement. Councilor Thomas Frank seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 5 - 0

[Community Comments](#)

Roberta Schwarz commended the Planning Commission's handling of the Cut the Red Tape Project, the upcoming White Oak Savanna fundraising events, and articles written about the White Oak Savanna.

Michael Monical spoke about the Lake Oswego-Tigard project and submitted pictures, traffic analysis memo, and DKS lane width information.

[Michael Monical submittal](#)

Shanon Vroman spoke out against the Lake Oswego-Tigard project and submitted her comments.

[Shanon Vroman submittal](#)

Yvonne Davis shared her concerns about the Lake Oswego-Tigard project construction and submitted photos.

[Yvonne Davis submittal](#)

Jana Rea is concerned about the Lake Oswego-Tigard project construction traffic, the cranes they are going to use, and the construction/neighborhood meeting times.

Sam Stephens is concerned about the Lake Oswego-Tigard construction dump truck sizes.

Steve Wilson is building a house next to the Lake Oswego-Tigard project and is upset that the project was allowed to move forward.

Robert Stowell does not feel staff is following Council goals, specifically Goal two, citizen involvement.

Steve & Julie Blake are concerned about the Lake Oswego-Tigard project construction traffic and submitted pictures.

[Steve & Julie Blake submittal](#)

Vicky Smith requests the Lake Oswego-Tigard project be a regular City Council agenda item and would like the permitted project online so citizens can access it.

Lamont King is concerned about the Lake Oswego-Tigard project construction traffic and that the conditional use Intergovernmental Agreement has not been negotiated yet.

Scott Gerber stated the backup beepers were not what was agreed to at first, the neighbors complained, and now they are.

Eric Jones is concerned about his mother's safety so he is selling her house and moving her. He asked Council to reconsider the project after the LUBA appeal comes back.

Jenne Henderson is concerned about the safety of walking around the Lake Oswego-Tigard construction project, that the neighbor's have to police the project (like the backup beepers) to make sure Lake Oswego-Tigard complies, and that they have not been paid for the lawsuit they settled.

Karie Oakes requests that the City Manager's evaluation be made public.

Teri Cummings shared concerns about the 2008 Council decisions and other past City Council's performances.

Robert Thomas provided Council his comments from 2009 and 2010 regarding the City Manager. He spoke about the urban growth boundary; he feels the attorney the City hired represents developers and the City should have hired Peggy Hennessy.

[Robert Thomas submittal](#)

Gary Hitesman asked Council questions about the City Manager and executive sessions. He wants Council to look at the benefits and problems of the Lake Oswego-Tigard project when it is remanded.

[Gary Hitesman submittal](#)

Kathleen Conroy thinks Council should all be recalled for allowing the ballot measures. Two measures were redundant, the City had already voted on them and one of them was about eliminating the March and September ballots and this was on the September ballot. The other one was about Council not interfering with the City Manager and the Staff. She feels Council should manage the City Manager, City business, and City Staff. She wants to know how Council is going to respond to citizens who have questions about the City Manager or City Staff.

Alice Richmond stated neither Council nor City Management are listening to citizens.

[Report from the City Manager](#)

City Manager Chris Jordan reminded everyone we are taking applications for the West Linn Leadership Academy, applications are online and due November 15. Neighbors Helping Neighbors is December 14. This year the City is offering a Youth Leadership Academy for 6th, 7th and 8th graders. The Haunted Trail at Mary S. Young Park is October 25 and 26.

[Business from the City Council](#)

Councilor Jody Carson responded to the citizen comment that there was an election in September because it is required in the Charter to have the election. The other items were to clarify language since the language in the Charter was vague and has caused issues. The Willamette Falls and Lock Fest were very successful.

Councilor Thomas Frank welcomed a new addition to their family and showed pictures of their daughter, Lila. Councilors Carson and Frank attended the League of Oregon Cities Conference. There is a Lake Oswego-Tigard Water Treatment Plant meeting 8:00 a.m. tomorrow at Burgerville. The Library does Terrific Tuesdays at 6:30 p.m. This next Tuesday Penny Puppets will be there.

Councilor Jenni Tan offered her congratulations to the Frank Family. She shared pictures of Oktoberfest, the Tualatin River elected officials river race where Councilor Frank and she came in first, the tour of Willamette Falls, and the Lock Festival. She answered the citizens question that if a citizen were to complain to her about the City Manager she responds to that citizen.

Councilor Mike Jones stated the ballot measure is regarding Council not interfering with the staff because Council is a policy making body. Council is responsible for hiring and evaluating the City Manager. The City Manager is responsible for hiring staff. Some previous Councilors have tried to pressure the City Manager to hire someone for a position or a Contractor which is

entirely inappropriate. If a citizen expressed concern about someone on staff, Council would take it to the City Manager. If there was a concern about the City Manager, Council would discuss it as a group. The ballot measure did not change anything the City Manager does, it reduced the chance a policymaker would exert undue influence on a City Manager.

Mayor John Kovash stated there is no single answer to her questions. People complain about the City Manager, if it is serious, Council will investigate. City Council made the decision to hire an in-house attorney.

Mayor John Kovash and City Manager Chris Jordan offered to meet with the citizen or any other citizens that have questions about how the City functions.

Mayor John Kovash apologized that it took so long for Lake Oswego to fix the back up beepers. He will ask Councilor Frank to bring the beeper issue, construction truck concerns, and alternating meeting times to the Lake Oswego construction meeting tomorrow.

Business Meeting

Agenda Bill 2013-10-14-03: Approve Proposed Planning Docket

Planning Projects Information

Planning Director John Sonnen staff report.

Council President Mike Jones moved to approve the proposed Planning Docket. Councilor Jenni Tan seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 5 - 0

Adjourn



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WEST LINN CITY COUNCIL SPECIAL MEETING NOTES November 4, 2013

Call to Order

[2013-11-01 City Manager Memo](#)

Council Present:

Mayor John Kovash, Council President Mike Jones, Councilor Thomas Frank, and Councilor Jenni Tan.

Council Excused:

Councilor Jody Carson

Staff Present:

City Manager Chris Jordan, Assistant City Manager Kirsten Wyatt, City Recorder Kathy Mollusky, City Attorney Tim Ramis, Assistant City Attorney Megan Thornton, Parks and Recreation Director Ken Worcester, and Associate Planner Zach Pelz.

Business from the City Council * STOP LOT v. City of West Linn

Mayor John Kovash explained how some citizens filed a lawsuit in circuit court against City Council, the legal fees for the City are around \$25,000. The plaintiff has asked Council if they want to accept the dismissal or pursue it. Mayor Kovash would like to dismiss it so there is no further cost to the City.

Council President Mike Jones moved to direct Special Council, Chris Crean, to sign the Stipulated General Judgment of Dismissal, which requires the City to give up its right to pursue its legal fees from STOP or the other plaintiffs. Councilor Jenni Tan seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 4 - 0

Council President Mike Jones moved to adjourn the Special Meeting and move into Work Session. Councilor Thomas Frank seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 4 - 0

Oregon Solutions Presentation

Regional Solutions Coordinator Bobby Lee presentation.
[Regional Solutions Coordinator Lee PowerPoint](#)

Trails Master Plan

Associate Planner Zach Pelz and Parks and Recreation Director Ken Worcester Staff report.

Transportation System Plan

Associate Planner Zach Pelz Staff Report.

2014 Public Opinion Survey

Assistant City Manager Kirsten Wyatt Staff report.

Other Items

City Manager Chris Jordan informed Council the City has received proposals for the Arch Bridge Planning Project. Council President Mike Jones and Councilor Jenni Tan volunteered to be on the interview panel to review the finalists.

Council agreed to move the Trails Master Plan from the December 16 to the December 9 meeting.

Council asked Lake Oswego-Tigard to give an update every month, the next update will be December 2. The Planning Commission Interviews will start at 5:00 p.m. on December 2.

In 2011, Council passed a resolution supporting the statewide plastic bag measure. Council directed Staff to draft an ordinance and have the Sustainability Board take it to the community/grocery stores to see what they think.

November 11, Veteran's Day, meeting moved to November 18, 2013

Adjourn

DRAFT



AGENDA BILL 2013-11-18-02

Subject: Community grant funding for Willamette Historic District signage

For Council: November 18, 2013

Land Use Case Number: NA

Public Hearing

Required: ☐

Optional: ☐

City Manager's Initials: CJ

Attachments:

1. Memorandum to City Manager

Initiated by: Willamette Historic District, Historic Review Board

Budget Impact:

The proposed project will use community grant funding for the street signs in the Willamette Historic District. Any related poles or other items will be replaced by the Public Works department.

Sustainability Considerations: None

Policy Question(s) for Council Consideration: Does the City wish to identify the Willamette Historic District with street signs funded through a Community Grant?

Summary:

- Residents of the Willamette Historic District have expressed an interest in street signs identifying the area as a historic district.
- Elizabeth Rocchia, a Willamette neighborhood resident, developed street sign sketches that Thane Eddington, a Historic Review Board member, worked to develop as graphic suitable for a street sign.
- A "test" sign was posted in the neighborhood (see attached memo) for residents to see and provide feedback. Based on this, the sign was slightly modified (Attachment 1).
- Zumar Industries provided an estimate of \$2,754 for the signage (18 signs with the graphic topper and 18 without).

Staff Recommendation: Staff recommends that City Council approve using Community Grant funding for the Willamette Historic District signage.

Memorandum

Date: November 4, 2013

To: Chris Jordan, City Manager

From: Sara Javoronok, Associate Planner

Subject: Willamette Historic District street signs

Background

The Willamette Historic District was listed on the National Register of Historic Places in 2009. This district includes most of the locally designated historic district. Following the listing of the district, the residents expressed an interest in street signs identifying the area as a district. The signage would be limited to the National Register district and would not apply to other areas of the City.

Discussion

Staff initiated a couple processes over the past few years to develop a sign, but was unsuccessful in reaching an agreement on a design. The Historic Review Board identified developing a street sign as a goal for 2013 and the City Council included this on the Historic Review Board work program.

The Historic Review Board reviewed other street signs from around the country and determined features that they wanted to see in a sign. Thane Eddington, a member of the Historic Review Board worked to develop a design with a Craftsman style bungalow that was presented to the Historic Review Board and the Willamette Neighborhood Association. Elizabeth Rocchia, a Willamette resident, drew sketches with Queen Anne or Victorian houses that the neighborhood preferred and Mr. Eddington translated these to a sign. City staff posted a “test” sign (shown below) that was favorably received by residents, with one small change that is incorporated in the final proof (Attachment 1).



Staff requested quotes from sign companies and the least expensive was from Zumar Industries, who the city regularly works with, for \$2,754. This is for 18 street signs with the graphic topper and 18 signs without the topper, which includes six extras if there is damage. They will be located at the intersections shown on the attached map (Attachment 2).

Options

1. Authorize staff to use Community Grant funds for Willamette Historic District street signs.
2. Direct staff not to pursue the street signs.
3. Recommend changes for the street signs.

Recommendation

Authorize staff to use Community Grant funds for Willamette Historic District street signs.

Attachments

1. Final proof
2. Sign location map



Ver 5



Ver 5



Ver 5



Ver 5



Ver 5



Ver 5



Ver 5

Proposed Street Sign Topper Locations



Legend

Willamette Historic District
National Register



Scale 1:2,400 - 1 in = 200 ft
Scale is based on 8-1/2 x 11 paper size



Map created by: sjavoronok
Date Created: 21-Oct-13 04:40 PM

WEST LINN GIS

DISCLAIMER: This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. Source: West Linn GIS (Geographic Information System) MapOptix.



AGENDA BILL 2013-11-18-03

Subject: Lake Oswego Tigard Agreements

For Council: November 18, 2013

Land Use Case Number: N/A

Public Hearing

Required: ☐

Optional: ☒

City Manager's Initials: __CJ__

Attachments:

1. Intergovernmental Cooperative Agreement for Water System Intertie
2. Cooperative Agreement for Enhancement and Restoration Projects in Mary S. Young State Park
3. Cooperative Agreement for Joint Funding of Water System Improvements
4. Franchise Agreement

Initiated by:

- Administration

Budget Impact:

1. The Intertie Agreement will prevent the City from constructing an alternative means of securing emergency water.
2. The Mary S. Young State Park Agreement provides the City with approximately \$90,000 to use for enhancement and restoration projects in the Park.
3. These are approximates because all of the projects have not been bid at this time and preliminary work will be completed prior to bid release. The Cooperative Agreement will result in approximately \$1,301,000 of pipeline, intertie and roadway improvements to West Linn facilities and rights of way. This estimate does not include the value of the replacement pipelines along Kenthorpe Way, which are also part of this agreement.
4. The Franchise Agreement will result in a one-time payment of \$5,000,000.

Sustainability Considerations:

- Not applicable.

Policy Question(s) for Council Consideration:

These agreements are the means of implementing previous policy decisions made by the Council.

Summary:

These four agreements are necessary to comply with the conditions of approval for the Lake Oswego Tigard Water Treatment Plant and Pipeline approvals.

Staff Recommendation:

Approve all four of the Lake Oswego Tigard Agreements.

Memorandum

Date: November 7, 2013

To: Chris Jordan, City Manager

From: Megan Thornton, Assistant City Attorney

Subject: Lake Oswego Tigard Agreements

Purpose

These four agreements are necessary to comply with the conditions of approval for the Lake Oswego Tigard Water Treatment Plant and Pipeline approvals; each of those agreements will be discussed in turn.

Background

The City Council approved the Lake Oswego Tigard Water Treatment Plant and Pipeline Expansion Projects on February 18, 2013. These agreements implement previous policy decisions of the Council and comply with the conditions of approval in the Council's final decisions. The policy discussions regarding the water system intertie, franchise agreement, and cooperative agreement for water system improvements took place during previous work sessions, meetings and hearings. Thus, there is not a policy decision to be made tonight.

The conditions of approval required that Lake Oswego and Tigard, collectively referred to as the "Partnership," enter into a cooperative agreement for public improvements, an intertie agreement, and a franchise agreement. The attached documents are proposed to meet the conditions of approval. In addition, an intergovernmental agreement was necessary for the City to receive funds for the required enhancement and restoration projects the State of Oregon Parks and Recreation Department is requiring in Mary S. Young Park.

Discussion

Water System Intertie Agreement

The Intertie Agreement was originally adopted in 1984, and amended in 2003. Southfork Water Board and the cities of Lake Oswego, Tigard, and West Linn are all parties to the Agreement.

The conditions of approval in both the Water Treatment Plant Expansion and Pipeline Expansion require the Partnership to enter into a new agreement that:

1. cannot be terminated without the consent of all parties,
2. requires written consent of all parties to change the amount of water being supplied, and
3. ensures the intertie will continue in perpetuity.

Water Treatment Plant Conditions of Approval ("Plant COA") #21, and Water Pipeline Conditions of Approval ("Pipeline COA") #17.

The Intertie Agreement meets the conditions of approval, and provides for some additional modifications and benefits such as:

- Including Tigard as a party,
- Requiring the Partnership to provide 4 million gallons per day of water to the City until at least 2041, and
- Specifying the ownership and maintenance responsibilities of the parties.

Cooperative Agreement for Projects in Mary S. Young Park

This Agreement is necessary because Lake Oswego must “demonstrate an overwhelming public benefit accrues” from the easement it receives from the Oregon State Parks and Recreation Department (“OPRD”). In order to meet OPRD’s requirement, OPRD is requiring Lake Oswego to provide West Linn with approximately \$90,000 for enhancement and restoration projects in the Park. OPRD is not receiving the money and overseeing the restoration projects itself because OPRD has leased the Park to the City of West Linn. The six projects that will be undertaken with the funds are listed in Exhibit B, which is attached to the Agreement.

Cooperative Agreement for Water System Improvements

This Agreement allows the City and the Partnership to work in a manner that will be efficient, cost effective, and timely to complete public projects in the rights of way. For example, because the Partnership needs to place a new pipeline in Mapleton Drive, the City will replace its pipeline at the same time so that there will only be construction impacts and street repaving one time in that area.

The conditions of approval in both the Water Treatment Plant Expansion and Pipeline Expansion require street improvements and street restoration to City rights of way, including Mapleton Drive, Kenthorpe Way, and Old River Road. Plant COA #14; Pipeline COA #4. The Pipeline Expansion also requires Lake Oswego to abandon certain pipeline facilities and convey them to West Linn, replace a portion of the pipeline along Mapleton Drive, and make improvements to the intertie. Pipeline #5, 19, 9, and 10.

The City and the Partnership have not advertised bid documents for all of these projects, and there is some preliminary work that will be completed prior to bidding the projects, but the following estimates are approximations for various components in the Agreement. The Agreement distributes the cost of the various projects between the City and the Partnership. This Agreement results in approximately \$696,000 in pipeline improvements (excluding Kenthorpe), \$480,000 in road improvements, and \$125,000 in intertie improvements. There is not yet a cost estimate for the Kenthorpe pipelines because that project will not be designed until closer to the project date.

Franchise Agreement

The Franchise Agreement requires the Partnership to pay the City a franchise fee for use of the rights of way within the City that the new Partnership’s pipelines will occupy. This Agreement is required by Pipeline COA #16. The Franchise does not cover Lake Oswego’s current pipelines. The Franchise states that it is perpetual, and that it will continue until terminated. Franchise Section 14. The Partnership is required to make a lump sum payment of \$5,000,000 within 60 days after the City issues construction permits *and* the Partnership begins construction in the right of way.

Options and Potential Motions

1. The Council can approve all four agreements.
 - 1.1. *Move to approve the Intergovernmental Cooperative Agreement for the Water System Intertie and authorize the City Manager to sign the Agreement.*
 - 1.2. *Move to approve the Cooperative Agreement for Enhancement and Restoration Projects in Mary S. Young State Park and authorize the City Manager to sign the Agreement.*
 - 1.3. *Move to approve the Cooperative Agreement for Joint Funding of Water System Improvements and authorize the City Manager to sign the Agreement.*
 - 1.4. *Move to approve First Reading for “An Ordinance Granting a Nonexclusive Franchise to the City of Lake Oswego, Approving the Form of the Franchise Agreement, and Authorizing Signature of the Agreement,” and set the matter for Second Reading.*
 - *If the motion passes unanimously, the Council may: Move to approve Second Reading for “An Ordinance Granting a Nonexclusive Franchise to the City of Lake Oswego, Approving the Form of the Franchise Agreement, and Authorizing Signature of the Agreement,” and adopt the ordinance.*
2. The Council can delay its decision regarding one or more of the agreements and approve the remaining agreements.
 - 2.1. *Move to delay consideration of one or more of the agreements, specifically _____, and approve the remaining agreement.*
3. The Council can delay its decision regarding all of the agreements.
 - 3.1. *Move to delay consideration of the agreements.*

Recommendation

Staff recommends approval of all four agreements.

**AMENDED AND RESTATED
INTERGOVERNMENTAL COOPERATIVE AGREEMENT
FOR WATER SYSTEM INTERTIE
BETWEEN THE
SOUTH FORK WATER BOARD, THE CITY OF LAKE OSWEGO, THE CITY OF TIGARD
AND THE CITY OF WEST LINN**

This Agreement is made and entered into by and between the South Fork Water Board, an intergovernmental entity created pursuant to ORS Chapter 190, serving as a water supply agency and jointly owned and operated by the Cities of Oregon City and West Linn, hereinafter referred to as "Board," and the City of Lake Oswego, an Oregon municipal corporation, hereinafter referred to as "Lake Oswego" and the City of West Linn, an Oregon municipal corporation, hereinafter referred to as "West Linn," and the City of Tigard, an Oregon Municipal Corporation, hereinafter referred to as "Tigard," all hereinafter collectively referred to as the "Parties."

RECITALS

The Parties agree upon the following recitals:

1. The Board, West Linn and Lake Oswego entered into an intergovernmental cooperative agreement in 1984 to provide for the construction, operation and maintenance of an emergency water system intertie between the water supply system of the Board and West Linn and the water supply system of Lake Oswego.
2. The facilities as described in the 1984 agreement, which are located near the intersection of Old River Road and Kenthorpe Way in West Linn, were constructed and the intertie became operable in that same year.
3. The intertie has been utilized periodically since 1984 during emergencies and scheduled shut-downs to provide water supply between the Board, West Linn and Lake Oswego.
4. After the construction of the intertie, West Linn, Lake Oswego and the Board jointly funded, and West Linn constructed, a pump station on Old River Road near its intersection with Kenthorpe Way to provide for automatic and unattended operation of the intertie.
5. The intertie, pump station and appurtenant facilities provide benefit to all of the Parties to this agreement.
6. Lake Oswego and Tigard entered into an intergovernmental cooperative agreement that conveys an ownership interest in the existing water supply facilities that supply emergency water to West Linn and Board, and provides for construction of new water supply facilities including an expanded water treatment plant and raw and finished water pipelines to supply Lake Oswego and Tigard's long term water needs.
7. The changes in ownership and anticipated facilities expansion called for in the intergovernmental agreement between Lake Oswego and Tigard necessitate amending the existing water system intertie agreement and adding Tigard to the agreement.

8. The Parties desire that this agreement supersede and replace the 2003 agreement.
9. The Parties acknowledge that they have the authority to execute this cooperative intergovernmental agreement pursuant to the terms of their respective municipal charters and pursuant to ORS 190.010 *et seq.*

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed by and between the Parties hereto as follow;

1. “Water Supply Facilities” Defined. As used herein, the term “water supply facilities” means river intake, raw and finished pumping facilities, water treatment facilities, water storage facilities, and all other infrastructure used in conjunction with the appropriation, treatment, storage or transmission of the Parties’ water.
2. “Emergency Condition” Defined. An “emergency condition” is an occurrence created by a failure of a Party’s water supply facilities, or the occurrence of an event that jeopardizes a Party’s water quality, whereby insufficient supply of water to the Party’s customers could threaten the health or safety of those customers. Such failure includes failure or interruption in the operation of river intakes, raw and finished water pumping facilities, water treatment facilities, raw and finished water pipelines, reservoirs, and appurtenant facilities. “Emergency condition” does not include a situation that involves the loss of water pressure or diminution in water volume in a water distribution system during periods of high demand if the system remains in a normal operational mode or a reduction in available water resulting from regulatory action by a state or federal agency.
3. Use of Water Intertie.
 - a. *Emergency Conditions.* Use of the water intertie during an emergency condition may be accomplished by the mutual consent of the Executive Officer of each Party or the Executive Officer’s designee.
 - b. *Non-Emergency Conditions Less Than Two Weeks.* Temporary use of the intertie for a period less than two weeks during scheduled maintenance and repair may be accomplished by the mutual consent of the Executive Officer of each Party or the Executive Officer’s designee.
 - c. *Non-Emergency Conditions Greater Than Two Weeks.* Prolonged use of the intertie for more than two weeks during scheduled maintenance and repair must be approved by the Executive Officer of each Party.
4. Location and Description of Water System Intertie. The water system intertie and pump station facility is located at 20225 Old River Road. Supply to the pump station from Lake Oswego / Tigard is from a connection to Lake Oswego’s finished water transmission main. The pipeline connection between Lake Oswego’s finished water transmission main and the intertie pump station is under the exclusive ownership and control of West Linn. The pump station and related valves and control systems allow the intertie to be used on a continuous and automatically controlled basis in both directions of supply, i.e. Board/West Linn to Lake Oswego/Tigard and Lake Oswego/Tigard to West Linn/Board. The pump station includes flow, pressure control, metering and telemetry facilities, and a connection for providing emergency power supply. The pump station, along with the facilities and appurtenances associated with it,

and any modifications thereto, constitute the water system intertie that is the subject of this agreement.

5. Title to Intertie Facilities. Title to the water system intertie facilities as described above in Paragraph 4 and the obligation to insure them shall be in the name of West Linn. Title to the property occupied by the intertie pump station will be in the name of West Linn.
6. Method of Water Supply Through Intertie. Supply to Lake Oswego and Tigard from the Board and West Linn will be by gravity through the piping, metering, flow and pressure control facilities associated with the intertie pump station. Supply to West Linn and the Board from Lake Oswego and Tigard will be accomplished by pumping from Lake Oswego's water system through the intertie pump station into West Linn's system. Instrumentation, control and telemetry systems in the station are under the primary control of West Linn. Lake Oswego has installed additional instrumentations, control and telemetry systems that provide for pump station status indication and additional control functions. West Linn will prepare and update as necessary an operating plan for the intertie pump station and appurtenant facilities and provide copies of same to the Board, Lake Oswego and Tigard.
7. Quantity of Water to be Supplied. Upon agreement between the Parties to make use of the intertie pursuant to Paragraph 3 of this Agreement, the Party supplying water shall endeavor to supply the amount of water requested by the other Party, and take all reasonable actions necessary to accomplish the same, so long as such actions are not detrimental to the operation of the supplying Party's own water system. Provided that Lake Oswego's supply facilities are expanded to a treatment capacity of 38 million gallons per day (mgd), Lake Oswego and Tigard can provide West Linn and Board with up to 4 mgd through at least 2041.
8. Cost of Water to be Supplied. The Parties agree to pay for all water provided through the intertie at a rate that is the greater of:
 - a. The rate being paid by West Linn to South Fork for wholesale water; or
 - b. The cost to Lake Oswego and Tigard to produce and deliver water to the inlet side of the intertie pump station, which in the first year of operation of the expanded treatment plant is estimated to be \$0.95 per 100 cubic feet.

The volume of water delivered shall be measured by the meter installed at the intertie pump station. The Parties have the right at any time to review rates for water supplied and make such adjustments to the cost of water provided, as they deem necessary and by mutual agreement of all Parties. In the event it is necessary for the Party supplying water through the intertie to obtain additional water from a water provider that is not a party to this agreement, the water rate charged to the Party receiving water under this agreement shall be the water rate charged to the supplying Party by the non-party water provider. The Parties further agree that water utilized for periodic testing and exercising of the facilities will be furnished between the Parties without cost. In addition to the rate charged for water, the Parties by mutual agreement reserve the right to impose wheeling charges.

9. Operation and Maintenance Costs. Lake Oswego and Tigard agree to supply the water used to exercise the intertie pumps at a rate of approximately 500 gallons per minute for one hour each week at no cost to West Linn or the Board. The Parties agree that West Linn, as the owner of the intertie facilities, is responsible for all other costs of the normal day-to-day operation and maintenance of the facilities.
10. Repairs, Renewals, Replacements, Upgrading and Modifications. The Parties agree that West Linn, as the owner of the intertie facilities, will be responsible for scheduling, contracting for and implementing any repairs, renewals, replacements, upgrading and modifications that may be required in the future to maintain or increase the function of the facilities.
 - a. Cost of Repairs. West Linn shall be responsible for the cost of all repairs, except that Lake Oswego and Tigard agree to pay 50% of the cost of any repairs necessary to those facilities that benefit Lake Oswego and Tigard. Those facilities are defined as the piping, valves, vaults, metering, instrumentation and control systems, and appurtenant facilities that are used to provide water to Lake Oswego and Tigard from West Linn and the Board.
 - b. Cost of Capital Improvements. The cost of any capital improvements or improvements that increase the function of the facilities will be shared in an equitable manner, based upon the benefit to be derived from each Party from each particular period.
11. Access to Water System Intertie Facilities. The Parties and their employees shall have access to the water system intertie facilities.
12. Agreement Not to Resell Water Without Consent. Except for existing wholesale customers or mutual aid agreements, the Parties agree that they will not resell water supplied under the terms of this agreement without prior written consent of all Parties.
13. Supersedes Prior Agreement. The Parties agree that this agreement supersedes and replaces the prior agreement executed in October (Lake Oswego), November (Board) and December (West Linn), 2003.
14. Amendment Provisions. The terms of this agreement may be amended by mutual agreement of the Parties. Any amendments shall be in writing, shall refer specifically to this agreement, and shall be executed by the Parties.
15. Termination of Agreement. This agreement shall remain in perpetuity until such time as it is terminated by the mutual written consent of all Parties. Termination of this agreement shall not affect ownership status of the water system intertie facilities hereinabove described.
16. Written Notices. All written notices required under this agreement shall be sent to:

South Fork Water Board:	General Manager
	South Fork Water Board
	15962 S. Hunter Avenue
	Oregon City, Oregon 97045

City of Lake Oswego: City Manager
City of Lake Oswego
P.O. Box 369
Lake Oswego, Oregon 97034

City of Tigard City Manager
13125 SW Hall Blvd
Tigard, Oregon 97223

City of West Linn: City Manager
City of West Linn
22500 Salamo Road
West Linn, Oregon 97068

17. **Dispute Resolution:** If a dispute arises between the Parties regarding this Agreement, the Parties shall attempt to resolve the dispute through the following steps:

Step One (Negotiation)

The Executive Officer or other persons designated by each of the disputing Parties will negotiate on behalf of the entity they represent. The nature of the dispute shall be reduced to writing and shall be presented to each Executive Officer, who shall then meet and attempt to resolve the issue. If the dispute is resolved at this step, there shall be a written determination of such resolution, signed by each Executive Officer and ratified by their respective Board or Council, which shall then be binding upon the Parties.

Step Two (Mediation)

If the dispute cannot be resolved within thirty (30) days at Step One, the parties shall submit the matter to non-binding mediation. The Parties shall attempt to agree on a mediator. If they cannot agree, the Parties shall request a list of five (5) mediators from the Presiding Judge of the Clackamas County Circuit Court. The Parties will attempt to mutually agree on a mediator from the list provided, but if they cannot agree, the mediator will be selected by the Presiding Judge of Clackamas County Circuit Court. The cost of the mediator shall be borne equally between the Parties, but each Party shall otherwise be responsible for its own costs and fees. If the issue is resolved at this step, a written determination of such resolution shall be signed by each Executive Officer and ratified by their respective Board or Council.

Step Three (Arbitration)

If the Parties are unsuccessful at Steps One and Two, the dispute shall be resolved by binding arbitration proceedings pursuant to ORS Chapter 36. The Parties shall follow the same process as in Step Two for the selection of the arbitrator. Upon breach of this agreement, the nondefaulting Parties shall be entitled to all legal or equitable remedies available, including injunctive relief, declaratory judgment, specific performance and termination. Each party shall be responsible for its own attorney fees and costs.

IN WITNESS WHEREOF, the Parties have set their hands and affixed their seals as of the date and year hereinabove written.

Board has acted in this matter pursuant to Resolution No. _____ adopted on the _____ day of _____, 2013, or by any other acceptable means.

Lake Oswego has acted in this matter pursuant to Resolution No. _____ adopted on the _____ day of _____, 2013, or by any other acceptable means.

West Linn has acted in this matter pursuant to Resolution No. _____ adopted on the _____ day of _____, 2013, or by any other acceptable means.

Tigard has acted in this matter pursuant to Resolution No. _____ adopted on the _____ day of _____, 2013, or by any other acceptable means.

South Fork Water Board,
by and through its officials

APPROVED AS TO FORM

By: _____
Doug Neeley, Vice Chair

By: _____
Chris Crean, Attorney

City of Lake Oswego,
by and through its officials

APPROVED AS TO FORM

By: _____
Kent Studebaker, Mayor

By: _____
David Powell, City Attorney

Attest: _____
Catherine Schneider, City Recorder

City of West Linn,
by and through its officials

APPROVED AS TO FORM

By: _____
John Kovash, Mayor

By: _____
Megan Thornton, Assistant City Attorney

Attest: _____
Kathy Mollusky, City Recorder

City of Tigard
by and through its officials

APPROVED AS TO FORM

By: _____
John L. Cook, Mayor

By: _____
Tim Ramis, Attorney

Attest: _____
Cathy Wheatley, City Recorder

COOPERATIVE AGREEMENT

FOR

ENHANCEMENT AND RESTORATION PROJECTS IN MARY S. YOUNG STATE PARK

THIS COOPERATIVE AGREEMENT is made and entered into by and between the STATE OF OREGON, by and through its Parks and Recreation Department, hereinafter referred to as "OPRD"; and the CITY OF LAKE OSWEGO, a municipal corporation of the State of Oregon, hereinafter referred to as "City"; and the City of West Linn, a municipal corporation of the State of Oregon, hereinafter referred to as "West Linn" and all collectively hereinafter referred to as "Parties".

RECITALS

1. WHEREAS, Mary S. Young State Park, is a part of the Oregon State parks system under the jurisdiction and control of the Oregon Parks and Recreation Department, and
2. WHEREAS, Mary S. Young State Park is located within the corporate boundary of West Linn, and
3. WHEREAS, under ORS Chapter 390 and ORS 190.010 and ORS 190.110, and the delegated authority of the Oregon Parks and Recreation Commission, OPRD entered into a lease agreement with West Linn concerning the management of Mary S. Young State Park and two adjacent greenway parcels ("Premises"), and
4. WHEREAS, the lease agreement between OPRD and West Linn authorizes West Linn to conduct natural resource management activities on the Premises to include ivy and noxious weed removal, restoration and enhancement activities, prevention of trail erosion, landscape and irrigation work, and other activities to benefit park users, and
5. WHEREAS, subject to securing all necessary federal, state, and local permits and approvals, the City plans and proposes to construct a water transmission main under and across the Premises and an upsized and expanded water treatment facility for the purposes of municipal water supply to more than 100,000 Oregonians, hereinafter called "Project". The location and limits of proposed water transmission main is approximately as shown on the attached print marked "Exhibit A", and by this reference made a part hereof.
6. WHEREAS, the City by separate agreement with OPRD, must acquire a temporary surface easement and a permanent surface and a subsurface easement for construction and placement of said water transmission main and therefore, pursuant to OPRD Policy #PSP.010, the City must demonstrate that an overwhelming public benefit accrues from the grant of said easements by OPRD, and

7. WHEREAS, in cooperation with OPRD and subject to the terms of its lease agreement, West Linn has, through action of its Parks Advisory Board, identified several enhancement and restoration projects, that if implemented on the Premises would achieve the intent of OPRD Policy #PSP.010; and
8. WHEREAS, the Parties desire that the aforementioned enhancement and restoration projects be implemented on the Premises subject to the terms enumerated below; and
9. WHEREAS, by the authority granted in chapter ORS 390 and ORS 190.110 as such authority may be delegated, the OPRD Director is authorized to enter into contracts or agreements with local governments for, among other things, the improvement or betterment of State Parks subject to the terms and conditions mutually agreeable to the contracting parties.

NOW, THEREFORE, the understandings being in general as stated in the foregoing RECITALS, it is agreed by and between the Parties hereto as follows:

1. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect until such time as West Linn has satisfied its obligations under this Cooperative Agreement at which time this Agreement will automatically terminate and have no further force or effect upon the Parties unless mutually agreed otherwise.

CITY OBLIGATIONS

1. Upon all permanent and temporary easements being granted from OPRD to the City for the purposes of laying, constructing, operating, maintaining, repairing and replacing the water transmission main on the Premises as described in the recitals to this Agreement, and upon the City also securing all required approvals and permits for the construction of the water transmission main and water treatment plant, including without limitation all land use and other approvals required by West Linn, City shall, at Project expense, make a one-time financial contribution to West Linn for the sum total of \$90,000 to fund the enhancement and restoration projects identified on the attached print marked Exhibit 'B'.
2. City's Project Director for this Cooperative Agreement is: Joel B. Komarek, P.E., City of Lake Oswego, 380 'A' Avenue, P.O. Box 369 Lake Oswego, Oregon 97034. Telephone 503.697.6588.
3. City may change the foregoing Project Director and address by giving prior written notice thereof to OPRD and West Linn at their notice address.

WEST LINN OBLIGATIONS

1. West Linn shall establish a unique revenue and expense account within its Parks Department operating fund to document the receipt of the contribution from City described in Section 1 of this Agreement and to track expenditures from that account as they occur from the undertaking of the projects listed in Exhibit 'B'.

2. West Linn shall keep accurate cost accounting records pertaining to the enhancement and restoration projects covered by this Agreement, and shall retain those records for a period of three (3) years following the final expenditure. Copies shall be made available to the parties upon request. West Linn shall furnish OPRD and City with an itemized statement of final costs promptly upon completion of the enhancement and restoration projects. In the event all a fund balance remains after completion of the listed projects, the remaining funds shall be used for additional enhancement and restoration projects on the Premises consistent with the lease agreement between OPRD and West Linn.
3. West Linn will contract for and manage implementation of the projects listed in Exhibit 'B' in accordance with all applicable federal, state, and local laws, rules, and regulations including without limitation all applicable public contracting laws within ORS Chapters 279A, 279B and 279C.
4. Project funds received by West Linn may be spent only on the enhancement and restoration projects outlined in this Agreement and all projects must be completed within five (5) years from the beginning of the first fiscal year following receipt of the financial contribution from City.
5. West Linn acknowledges and agrees that OPRD, and the City, and their duly authorized representatives shall have access to all records of West Linn pertinent to this Agreement for the purpose of making audits, examinations, excerpts, and transcripts for a period of three years after completion of all enhancement and restoration projects. Copies of applicable records shall be made available upon request.
6. West Linn shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless the City, State of Oregon, Oregon Parks Commission and its members, Oregon Parks and Recreation Department, and their respective councils, officers, agents, and employees from any and all claims, suits, and liabilities which may arise out of in the performance of the enhancement and restoration projects that are the subject of this Cooperative Agreement. Notwithstanding the foregoing defense obligations under paragraph 8 above, neither West Linn nor any attorney engaged by either of them shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that West Linn is prohibited from defending the State of Oregon, or that West Linn is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue any claims it may have against West Linn if the State of Oregon elects to assume its own defense.
7. West Linn's Project Manager for this Cooperative Agreement is: Ken Worcester, City of West Linn, 22500 Salamo Rd., West Linn, Oregon 97068. Telephone 503.656.4211.
8. West Linn may change the foregoing Project Director and address by giving prior written notice thereof to OPRD and City at their notice address.

OPRD OBLIGATIONS

1. OPRD's Project Manager for this Cooperative Agreement is Jim Morgan, Stewardship Manager, OPRD, 725 Summer St. NE, Suite C, Salem, Oregon 97301-1266. Phone: 503-986-0738.
2. OPRD may change the foregoing Project Manager and address by giving prior written notice thereof to West Linn and City at their notice address.
3. OPRD shall authorize execution of this Cooperative Agreement in accordance with approved administrative practices and the delegated authority of its Commission.

GENERAL PROVISIONS

1. Any Party may terminate this Cooperative Agreement effective upon delivery, or on the second day after deposit as registered or certified mail, of written notice to each of the other parties' Project Directors or Project Managers at the addresses stated in this Agreement (or at such other address as may be designated by that party in writing, under any of the following Conditions:
 - a. If City fails to secure land use or any other required approval from West Linn or any other regulatory authority for construction of the water transmission main under and through the Premises of OPRD or for construction of the planned water treatment plant;
 - b. If OPRD does not grant all necessary temporary construction and permanent subsurface easements to City for construction of the water transmission main on the Premises;
 - c. If West Linn fails to perform any of its obligations under this Cooperative Agreement;
 - d. If federal or state laws, regulations or guidelines are imposed, modified or interpreted in such a way that the enhancement or restoration work under this Cooperative Agreement is prohibited.
2. OPRD and West Linn hereby grant the City authority, at the time any enhancement or restoration project listed in Exhibit 'B' is undertaken by West Linn, to install signage in conspicuous locations adjacent to the enhancement or restoration project site advertising that the project is being funded by the City. OPRD and West Linn will review for approval the language of the signs prior to placement. Such signage will remain in place until the project is completed.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.
4. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Cooperative Agreement. No waiver, consent, modification or change of terms of this Cooperative Agreement shall bind either party unless in writing and signed by the Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of any

Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision.

IN WITNESS WHEREOF, the Parties hereto have set their hands as of the day and year hereinafter written.

CITY OF LAKE OSWEGO

By _____
David Donaldson, City Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
David D. Powell, City Attorney

Date _____

STATE OF OREGON, by and through
its Parks and Recreation Department

By Tim Wood
Director Tim Wood

Date 10/12/12

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Assistant Attorney General

Date: _____

CITY OF WEST LINN

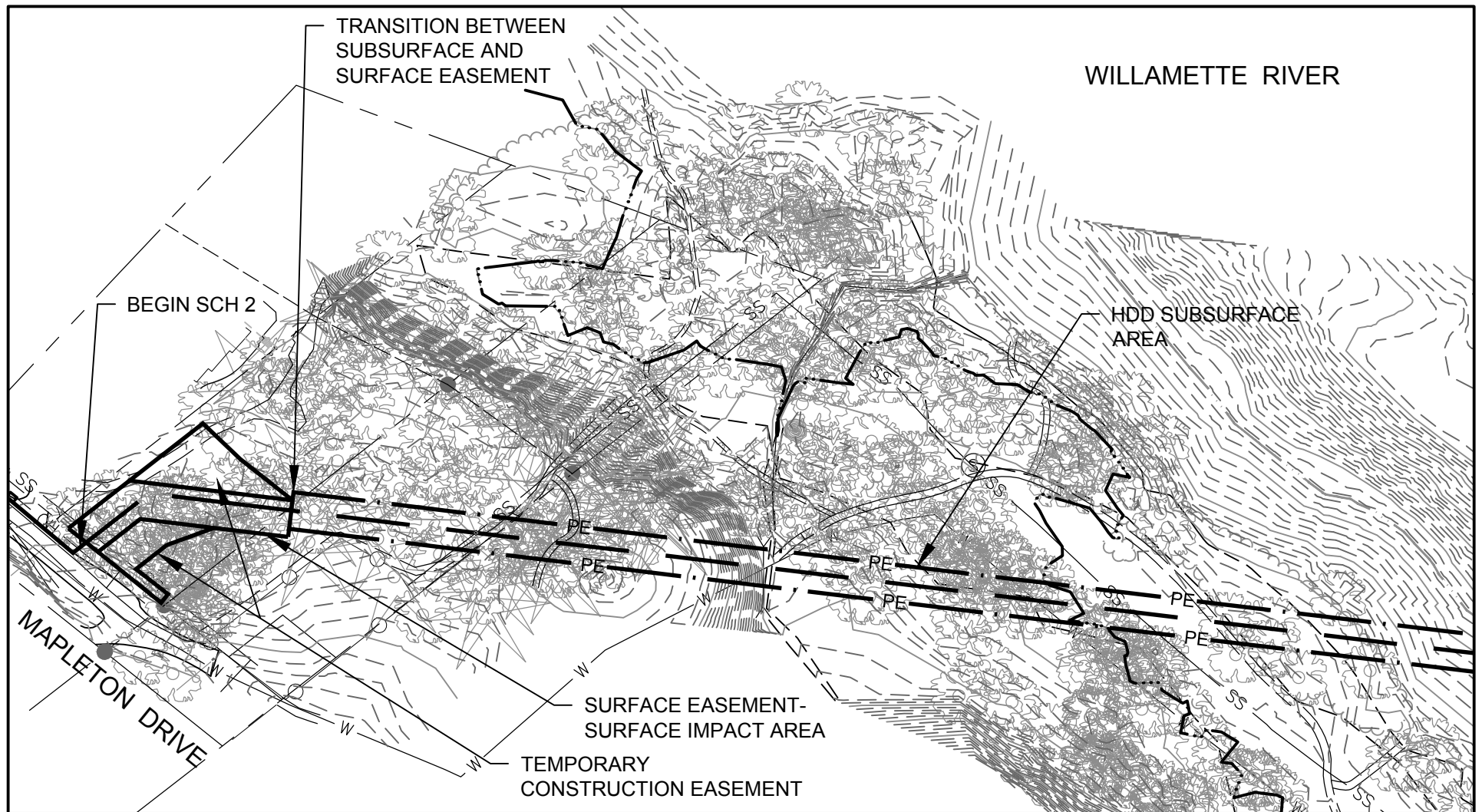
By _____
Chris Jordan, City Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

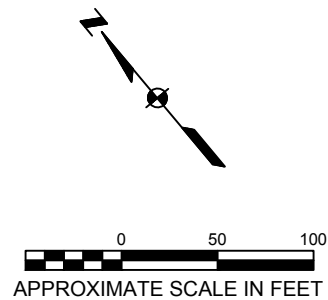
By _____
Chris Crean, Legal Counsel

Date _____



LEGEND

- OPEN CUT PIPE ALIGNMENT**
- HDD PIPE ALIGNMENT**



Kennedy/Jenks Consultants

CITY OF LAKE OSWEGO
RAW WATER PIPELINE
LAKE OSWEGO, OREGON

**RAW WATER PIPELINE ALIGNMENT
MARY S YOUNG STATE PARK**

EXHIBIT A
COOPERATIVE ENHANCEMENT AGREEMENT

EXHIBIT 'B'

Project No.	Project Description	Estimated Cost (2012\$)
1	Re-construction of the main paved trail to the Willamette River	\$20,000
2	Two acre restoration project of the Willamette River bank at the northern half of Mary S. Young Park	20,000
3	Hand removal of English Ivy over 10-acres of the visually prominent areas of Mary S. Young Park	20,000
4	Enhance seasonal access to Cedar Island by extending the floating bridge to meet the bank during the higher water season	10,000
5	Provide native plant material for the areas cleared of Ivy under Projects #2 and #3, above	10,000
6	Provide support funds for volunteers to continue restoration and enhancement efforts in the park e.g., trail construction, ivy removal, and restorative plantings	10,000
		Total Cost - \$90,000

**COOPERATIVE AGREEMENT
FOR
JOINT FUNDING OF WATER SYSTEM IMPROVEMENTS**

This Intergovernmental Cooperative Agreement, hereinafter “Agreement,” is entered into by and between the following parties: The City of Lake Oswego, a municipal corporation of the State of Oregon, hereinafter called “Lake Oswego;” Lake Oswego and the City of Tigard, a municipal corporation of the State of Oregon, hereinafter collectively called “Partnership;” and the City of West Linn, a municipal corporation of the State of Oregon, hereinafter called “City.” Lake Oswego, Partnership, and City shall be collectively referred to as “parties.”

RECITALS

WHEREAS, the Partnership is planning construction of new underground water transmission pipelines within Mapleton Drive and Old River Road, and roadway improvements on Mapleton Drive and Kenthorpe Way and portions of Old River Road, and these roads are public roads under the roadway authority of City; and

WHEREAS, City owns, operates and maintains water transmission and distribution mains that are located within the construction area of the Partnership’s planned water transmission line and roadway improvements described above; and

WHEREAS, City’s water transmission and distribution mains provide the sole source of water supply to its View Drive Reservoir and to hundreds of homes and businesses, and the City finds and declares that interruption of this supply would compromise the public health and safety of residents and businesses located within City; and

WHEREAS, because of the proximity of City’s distribution mains to the Partnership’s water transmission line improvements in Mapleton Drive, both the Partnership and City jointly agree that portions of City’s water distribution main and sanitary sewer main in Mapleton Drive need to be relocated to allow construction of the Partnership’s water transmission pipelines; and

WHEREAS, City’s remaining water transmission and distribution mains in Mapleton Drive, Kenthorpe Way, and Old River Road are considered structurally and hydraulically deficient; and

WHEREAS, the Partnership will be improving Mapleton Drive, Kenthorpe Way, and Old River Road, and City desires to abandon and replace the remaining portions of the transmission and distribution mains within these streets; and

WHEREAS, the Partnership and City recognize that by entering into this Agreement their respective citizens will benefit from cooperative and coordinated planning, cooperative funding and coordinated construction of new water supply transmission and distribution

systems; and

WHEREAS, the Parties enter into this Agreement pursuant to ORS 190.003 to 190.110, which authorize units of local government to enter into such agreements.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I. DESCRIPTION OF PROJECTS

The renewal and replacement of the City's water transmission and distribution mains and replacement with new water mains more particularly described in Article I.A, the road improvements more particularly described in Article I.B, and the intertie improvements more particularly described in Article I.C are collectively referred to as the "Projects" and individually as "Project."

A. Water Pipelines

The City owns, operates, and maintains 6-inch and 10-inch diameter water transmission and distribution mains respectively located within the Partnership's pipeline and roadway improvements project area. To eliminate the risk of damage to the City's water transmission and distribution mains, and to take advantage of the construction of roadway improvements, certain of the City's water transmission and distribution mains will be abandoned and replaced with new water mains more particularly described as follows:

1. The City will abandon approximately 3,250 feet of 6-inch diameter, asbestos cement water distribution main in Mapleton Drive from Highway 43 to 5065 Mapleton Drive and replace it with new 8-inch diameter, ductile iron water distribution main including valves, fittings, service lines, fire hydrants, and appurtenances.
2. The City will abandon approximately 350 feet of 10-inch diameter, asbestos cement water transmission main in Old River Drive/Highway 43 from the intertie to Mapleton Drive and replace it with new 8-inch diameter, ductile iron water distribution main including valves, fittings, water service lines, and appurtenances.
3. The City will abandon approximately 2,550 feet of 6-inch diameter, asbestos cement water distribution main in Kenthorpe Way from Old River Drive to 4610 Kenthorpe Way and replace it with new 8-inch diameter, ductile iron water distribution main including valves, fittings, water service lines, fire hydrants, and appurtenances.
4. Lake Oswego will abandon approximately 370 feet of 6-inch diameter asbestos cement water distribution main partially within easements from 4610 Kenthorpe Way to Mapleton Drive and replace it with approximately 480 feet of new 8-inch diameter, ductile iron water distribution main including valves, fittings, water service lines, and appurtenances in an easement located on the Partnership water treatment plant site.

B. Road Improvements

Mapleton Drive, Kenthorpe Way and Old River Road are public streets under the jurisdiction and maintenance responsibility of City. Because the Partnership's planned expansion of its water treatment plant and construction of new raw and finished water transmission mains and related underground utilities will damage and cause accelerated wear and tear of these roads, certain restoration of the roads is required. Restoration of the roads is more particularly described as follows:

1. Mapleton Drive – From Highway 43 to Mary S. Young Park, the Partnership will remove the existing 5-inches of asphaltic concrete, prepare the existing aggregate base roadway, and overlay the aggregate base with 6-inches of asphaltic concrete in accordance with Division 5 of the West Linn Public Works Standards as reviewed and approved by the City Engineer, to:
 - a. Match existing slope and grade;
 - b. Match the existing average width of edge to edge of pavement; and
 - c. Incorporate right-of-way improvements directly abutting the plant site in accordance with the City Code requirements and submitted site plan.
2. Kenthorpe Way – From Old River Road to the east end of Kenthorpe Way, the Partnership will remove the existing 3-inches of asphaltic concrete, prepare the existing aggregate base roadway, and overlay the aggregate base with 5-inches of asphaltic concrete, in accordance with Division 5 of the West Linn Public Works Standards as reviewed and approved by the City Engineer, to:
 - a. Match existing slope and grade;
 - b. Match the existing average width of edge to edge pavement; and
 - c. Incorporate right-of-way improvements directly abutting the plant site in accordance with the City Code requirements and submitted site plan.
3. Old River Drive– From Cedar Oak Drive to the southerly terminus near Highway 43, the Partnership will remove the existing asphaltic concrete, prepare the existing aggregate base roadway, and overlay the aggregate base with 5-inches of asphaltic concrete, in accordance with Division 5 of the West Linn Public Works Standards, as reviewed and approved by the City Engineer to:
 - a. Match existing slope and grade; and
 - b. Match the existing average width of edge to edge pavement.

C. Intertie Improvements

1. Water Transmission Main – The Partnership will install a new 18-inch diameter ductile iron water transmission main and valving connecting the Partnership's new 48-inch diameter pipeline in Hwy 43 to the existing intertie facilities.
2. Pump – The City will design and install a new third pump at the intertie including any fittings, electrical connections, and controls.
3. Existing Lake Oswego Water Transmission Mains – The City of Lake Oswego owns, operates, and maintains 27-inch and 24-inch diameter steel water transmission mains located within the City limits, portions of which will be abandoned as part of

the Partnership's improvements. The Partnership will dedicate to the City ownership, operation, and maintenance of approximately 4,530 feet of 24-inch diameter, steel water transmission mains in Old River Drive, Cedar Oak Drive, and Highway 43, from the intersection of Old River Drive and Kenthorpe Way to the intersection of Arbor Drive and Highway 43. The transmission mains will be used in the future by the City to replace existing water mains in this corridor. The Partnership will dedicate ownership, operation, and maintenance of approximately 1,700 feet of 24-inch diameter, steel water transmission main in Kenthorpe Way to Portland General Electric for use as a conduit to provide emergency back-up electrical service to the Partnerships' new Water Treatment Plant (WTP). All other Partnership transmission mains no longer in use by Lake Oswego will be abandoned in place in accordance with the requirements of the City Engineer.

ARTICLE II. OBLIGATIONS OF PARTNERSHIP

The Partnership agrees to the following:

1. To provide engineering design and construction inspection/administration services relating to the Projects described in Articles I.A.4, I.B.1 through I.B.3, I.C.1, and I.C.3 and to cause its design engineer to design the Projects in accordance with the generally accepted design standards for public roads and streets and those currently in effect by the City.
2. To exercise the same standard of care in engineering design it provides on the Projects constructed for City's benefit, as it provides to itself for water transmission lines and improvements constructed for its benefit.
3. To cause construction, through its construction contractors and subcontractors, of Projects I.A.4, I.B.1 through I.B.3, I.C.1, and I.C.3 in accordance with the City's adopted Public Works Standards.
4. To furnish preliminary design drawings and specifications to City at the 60%, 90%, and 100% design development stage of the Projects in Articles I.A.4, I.B.1 through I.B.3, I.C.1 and I.C.3 for review and approval by City. City shall have 10 working days to complete its review at each stage and provide comment on the design drawings and specifications. The Partnership will incorporate City's comments into the final construction contract documents for the Projects. The City Engineer shall sign the final project plans cover sheet(s) prior to construction indicating City review and approval. The Partnership shall provide three copies of the final plans to the City following acceptance by the City Engineer.
5. To furnish a copy of the "as built" plans at the time ownership of any of the Projects transferred to the City under Article VI.
6. To solicit competitive bids in accordance with the public contracting rules of the City of Lake Oswego. The City of Lake Oswego, on behalf of the Partnership, shall award the contract to the Contractor submitting the lowest, responsive, responsible bid. The bid form shall allow the Partnership to determine the component bid amounts for the construction costs for Project I.A.4.
7. To provide not less than 72-hours notice to City of the need to interrupt normal water supply service of City's water system in order to construct the Projects.

8. To provide access to the Projects by authorized operating or inspection personnel of the City for purposes of operating the intertie system and inspecting the contractor's work prior to acceptance by City.
9. To provide City copies of all reports of tests and inspections required by the construction contract documents and related to construction of the Projects.
10. To furnish and install at locations and in quantities deemed appropriate by City, informational signage identifying the Projects, the costs and expected duration, and that it is a public works project constructed and funded in part by the Partnership in cooperation with City.
11. To the extent any lawsuit, claim or other action filed by a third party relates to any aspect of the Projects or related activities described in this Agreement, the Partnership will timely notify the City and seek to resolve the claim in the most efficient and economical manner possible. The Partnership agrees to hold the City harmless from all claims, demands, damages, or injuries, except for any claims that arise out of the City's own intentional or negligent acts.
12. The construction contracts shall require the contractor to obtain, and to maintain in full force and effect for the term of the contract, a Workers Compensation insurance policy meeting statutory coverage requirements, together with comprehensive or general liability insurance policies in the amount of at least \$1.5 million per occurrence and \$3 million in the aggregate, and shall require certificates and additional insured endorsements designating the City of West Linn as additional named insureds. In addition, performance and payment bonds as well as two year maintenance bonds shall be required.
13. To dedicate and abandon the existing water transmission mains as described in Project I.C.3.
14. To dedicate a 15-foot wide public utility easement for Project I.A.4 through the WTP site from Kenthorpe Way to Mapleton Drive.

ARTICLE III. OBLIGATIONS OF CITY

The City agrees to the following:

1. To provide all necessary lands, easements, and rights of way sufficient for the Partnership or the City to construct the Projects.
2. To provide engineering design and construction inspection/administration services relating to the Projects described in Article I.A.1 through I.A.3, and I.C.2, and to cause its engineer to design the Projects in accordance with the generally accepted design standards for public potable water systems and those currently in effect by City.
3. To appropriate through its statutory budget process, sufficient funds to pay for the construction costs associated with the Projects in Article I.A.1 through I.A.4, and I.B.3, and I.C.2 that may be incurred in any fiscal year.
4. To timely provide review and comment on the solicitation documents, including the design drawings and construction specifications, and conduct a final review for

acceptance of such drawings and specifications prior to bid solicitation for the Projects. The City Engineer shall sign the final project plans cover sheet(s) for all Projects described in Article I prior to construction indicating City review and approval.

5. To provide construction inspection for the Projects and contract administration services for construction of the Projects in Articles I.A.1 through I.A.3, and I.C.2.
6. To keep accurate cost accounting records. The cost records and accounts pertaining to the Projects covered by this Agreement will be retained by the City in compliance with public records laws. Copies will be made available upon request. The Partnership may request a copy of the City's records as they relate directly to the Projects at any time.
7. To solicit competitive bids in accordance with the public contracting rules of the City of West Linn for Projects I.A.1 through I.A.3, and I.C.2. The City of West Linn shall award the contract to the Contractor submitting the lowest, responsive, responsible bid. The bid shall require the Contractor to segregate, in its bid, the component bid amounts for the construction costs of each of the Projects. Segregation of the bid amounts for each Project shall be the basis of determining the allocable share of the cost to the parties for these Projects pursuant to Article V.
8. To provide notice, in whatever form City determines appropriate, to its water customers whose normal water supply service will be interrupted during the course of the work and until the Projects are completed and accepted by City.
9. To be the primary point of contact for and to respond to complaints or questions from City's water customers that may arise in relation to interruptions in normal water supply.
10. To provide experienced operating personnel in sufficient number to operate any and all portions of City's system to facilitate the timely and efficient construction, testing, and commissioning of the Projects.
11. To provide personnel and equipment necessary to pressure test and disinfect all new pipelines prior to connection of the new pipelines to the City's public water system.
12. To inspect, at a frequency it deems appropriate and that is reasonable for Projects I.A.4, 1.B.1 through I.B.3, I.C.1 and I.C.3, the quality of the contractor's work as it relates to the Projects and report to the Partnership's inspection personnel any apparent defective work. Failure to timely raise, following inspection, any objections to the work, as to the Projects, shall, solely as to the Partnership, constitute a release by City to the Partnership for any claims, causes of action, or damages arising out of or relating to the Partnership's inspection of that Project, and the City shall hold the Partnership harmless from any claims arising therefrom.
13. To provide personnel and equipment necessary to complete Bac-T samples after pressure testing of all new pipelines is complete, and prior to connection of the new pipelines to the City's public water system.
14. To provide personnel and equipment necessary to make final connections to the City's public water system and to individual services for the City's water customers.
15. To the extent any lawsuit, claim or other action filed by a third party relates to any aspect of Projects I.A.1 through I.A.3, and I.C.2 described in this Agreement, the City

will timely notify the Partnership and seek to resolve the claim in the most efficient and economical manner possible. The City agrees to hold the Partnership harmless from all claims, demands, damages, or injuries, except for any claims that arise out of the Partnership's own intentional or negligent acts.

ARTICLE IV. MUTUAL AGREEMENTS OF THE PARTIES

The Parties to this Agreement covenant and mutually agree as follows:

1. That all design drawings, specifications, details and related work products and works in progress of the Partnership produced or in production for the Projects are under the exclusive control and ownership of the Partnership.
2. Prior to the onset of construction of the Projects listed in Article I, if the Partnership does not receive all necessary permits and approvals for its water treatment and pipeline expansion in a timely manner, the Partnership may terminate this Agreement. If termination occurs, the City shall pay the Partnership 8-percent of the construction cost bid for Project I.A.4 to compensate Partnership for the design costs of that Project. Upon termination of this Agreement the Partnership and the City hereby release each other from any further obligation to the other Party under this Agreement.
3. To the extent a contractor claim related to the Projects is deemed by the Partnership or City to have merit, additional costs associated with the claim will be apportioned to the Parties in a fair and equitable manner considering all relevant facts and conditions giving rise to the claim.
4. The Parties shall work together in good faith during construction of the Projects to minimize the potential for contractor claims that may arise from differing site conditions, action of the Parties, or any other reason.
5. In the event this Agreement is terminated, each party shall be responsible for those additional costs attributable to the portion of the Projects for which that party is financially responsible.
6. It is understood by the Parties that in order to minimize the inconvenience to water customers, certain portions of the Projects may be completed outside normal working days and hours. When that is determined necessary by the Partnership and approved by the City, each Party agrees to provide sufficient, experienced operations staff outside normal working hours as necessary to meet the schedule established by the Partnership, which shall be established to ensure timely completion of the Projects.
7. The Partnership and City will coordinate to complete construction of all Projects in a timely manner that is mutually agreeable to the Partnership Project Manager and City Engineer.

ARTICLE V. ALLOCATION OF PROJECT COSTS

The Partnership and City hereby agree to pay their allocable share of expenses for Projects described in Article I, as follows:

A. Water Pipelines

1. Project No. I.A.1 - Mapleton Drive water main replacement.
 - a. Partnership obligation. The Partnership will reimburse the City for its allocable share of all costs relating to the design, construction, and contract administration for the distribution water main project including valves, hydrants, services, appurtenances, connections and modifications to the City's public water system, as shown on City of West Linn, Mapleton Water Main Relocation, PW-13-09, which is incorporated by this reference. This reimbursement will amount to **XX**-percent of the construction costs for the Project and an additional 15-percent of the final construction cost allocable to the Partnership for design and contract administration.
 - b. City obligation. The City will pay all costs relating to the Project design and construction.
2. Project No. I.A.2 – Old River Road water main replacement.
 - a. Partnership obligation. The Partnership will coordinate with the City to allow City or its contractor to complete construction of approximately 350 lineal feet of water main replacement on Old River Road.
 - b. City obligation. The City will pay all costs relating to the Project design and construction.
3. Projects No. I.A.3 - Kenthorpe Way water main replacement.
 - a. Partnership obligation. The Partnership will coordinate with the City to allow City or its contractor to begin construction of approximately 2,550 lineal feet of water main replacement on Kenthorpe Way no earlier than May 2015.
 - b. City obligation. The City will pay all costs relating to the Project design and construction.
4. Project I.A.4 – Kenthorpe Way to Mapleton Drive water main replacement.
 - a. Partnership obligation. The Partnership will design and construct approximately 480 lineal feet of new 8-inch ductile iron water main between the southerly end of Kenthorpe Way and Mapleton Drive and located within a 15-foot wide public waterline easement dedicated to the City.
 - b. City obligation. The City will reimburse the Partnership for 100-percent of construction costs and an additional 15-percent for design, inspection and administration costs for this project. The consideration for the public waterline easement will be \$0.

B. Road Improvements.

1. Projects I.B.1 and I.B.2 – Mapleton Drive and Kenthorpe Way paving. The Partnership shall pay all costs for design, construction, inspection, and administration associated with these Projects.
2. Project I.B.3 – Old River Road paving. The City will pay 100-percent of the construction cost associated with paving 525 lineal feet of Old River Road between Cedar Oak Drive and the intertie pump station facility.

C. Intertie Improvements.

1. Project I.C.1 – Intertie Piping Improvements. The Partnership shall pay all costs for design, construction, inspection, and administration associated with this Project.
2. Project I.C.2. – Third Pump at Intertie Pump Station.
 - a. Partnership obligation. The Partnership shall reimburse the City for all costs associated with this Project.
 - b. City obligation. The City shall provide all design, permitting, construction, inspection, and administration services for installation of a new pump at the existing intertie pump station located at 20225 Old River Road.
3. Project I.C.2. – Abandonment of Transmission Mains.
 - a. Partnership obligation. The Partnership will pay all design, construction, inspection, and administration costs associated with the abandonment of its existing raw and finished water pipelines.
 - b. City obligation. The City will accept ownership of those portions of the Partnership’s abandoned transmission mains “as is” and described above.

With respect to any contested charges under this Article, the City and the Partnership shall meet within 45 days of the date of the invoice to discuss the charges. The City and Partnership agree to make staff available to meet as necessary to negotiate the contested charges, including but not limited to administration, engineering and legal staff. In the event the parties are not able to resolve the disputed amounts, the parties retain all legal claims and remedies. Any such claims shall be brought in Clackamas County Circuit Court and are subject to Oregon law.

ARTICLE VI. OWNERSHIP OF CONSTRUCTED WORK

Upon completion of Projects I.A.4, I.B.1 through I.B.3, I.C.2 and I.C.3, and acceptance of the Projects by City, ownership of the distribution and transmission systems, road improvements, and intertie piping improvements and all appurtenances will pass to the City, and the improvements shall be operated and maintained exclusively by and for the benefit of City.

ARTICLE VII. CONTRACTOR'S WARRANTY

Upon acceptance of the Projects by the City, the City shall take possession of the Projects. Upon taking possession of a Project, Contractor's warranty of title and general warranty and guarantee against defective work shall pass to the City as to that Project, which is a part of the construction contract. City shall have all of the Partnership's rights under the construction contract related to enforcement of the contract requirements insofar as they are applicable to that Project.

ARTICLE VIII. BINDING OBLIGATION

The parties respectively warrant to the other that this Agreement has been duly approved and executed by an authorized official of the party, and that by the execution hereof by the official and the party's attorney, this Agreement is a binding and enforceable obligation upon the party under applicable laws, including the party's charter and ordinances.

IN WITNESS WHEREOF, the Parties have executed this Cooperative Agreement as set forth opposite their names below.

CITY OF LAKE OSWEGO

CITY OF TIGARD

By: _____

By: _____

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

David D. Powell, City Attorney

Tim Ramis, Legal Counsel

CITY OF WEST LINN

By: _____

Date: _____

APPROVED AS TO FORM

Megan Thornton, Assistant City Attorney

ORDINANCE NO. 1616

AN ORDINANCE GRANTING A NONEXCLUSIVE FRANCHISE TO THE CITY OF LAKE OSWEGO, APPROVING THE FORM OF THE FRANCHISE AGREEMENT, AND AUTHORIZING SIGNATURE OF THE AGREEMENT

WHEREAS, pursuant to Federal law, State statutes, City Charter and local ordinances, the City is authorized to grant a non-exclusive franchise to allow the Franchisee to occupy rights of way in order to place and operate a utility service within the municipal boundaries of the City of West Linn; and

WHEREAS, the City Council approved the Lake Oswego Tigard Water Treatment Plant Expansion (AP-12-02) and installation of Water Transmission Lines (AP-12-03) on February 18, 2013; and

WHEREAS, condition of approval 16 in the final decision regarding the Water Transmission Lines requires Lake Oswego to make a one-time payment of \$5 million for the use of rights of way in West Linn; and

WHEREAS, the City finds that Lake Oswego meets all lawful requirements to obtain a franchise;

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

Section 1. Grant of Franchise. The City of West Linn grants Lake Oswego a nonexclusive franchise allowing Lake Oswego to place and maintain facilities in rights of way within the City of West Linn.

Section 2. Terms of Agreement. The Agreement between the City of West Linn and Lake Oswego is attached as Exhibit A and incorporated by this reference.

Section 3. Signature Authority. Council directs the City Manager to sign a franchise agreement substantially in the form of Exhibit A on behalf of the City.

SECTION 4. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

Section 5. Effective Date. This Ordinance and the associated Franchise Agreement shall become effective 30 days after Council passage and signature by the Mayor.

The foregoing ordinance was first read by title only in accordance with Chapter VIII,
Section 2(C) of the City Charter on the 18th day of November 2013,
and duly PASSED and ADOPTED this _____ day of _____, 2013.

JOHN KOVASH, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

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1 Franchisee further agrees to comply with any City of West Linn requirements for
2 provision of financial security or performance bond by the Franchisee related to work
3 performed under the terms of this Franchise.
4

5 Should there be a direct conflict between any terms or conditions stated in a permit
6 granted by the City and the terms of this Franchise, the terms of the permit shall control,
7 provided however, that permit requirements or standards shall not be used in a manner to
8 frustrate or substantially hinder placement or operation of the utility services provided for
9 under this Agreement.
10

11 **SECTION 3. ADDITIONAL FEES FOR RIGHT OF WAY USE.** The payment
12 required herein for use of the rights of way by Franchisee shall be the only franchise fee, or
13 similar fee, charge or tax payable by Franchisee for this purpose for the Term of this
14 Agreement. This limitation shall not apply to additional Franchisee Facilities as defined in
15 Section 13(A) herein, or to permit, construction inspection or other similar fees applicable to
16 permits issued to Franchisee under this Franchise Agreement.
17

18 **SECTION 4. INSURANCE.** On or before the Effective Date of this Agreement,
19 Franchisee shall provide a certificate of insurance that names the City, its officers, directors,
20 and employees as an additional insured as required by WLMC 3.255 for right of way work.
21

22 **SECTION 5. SEVERABILITY.** If any section, subsection, sentence, paragraph, term, or
23 provision hereof is determined to be invalid, or unenforceable by any court of competent
24 jurisdiction, such determination shall have no effect on the validity of any other section,
25 subsection, sentence, paragraph, term or provision hereof, all of which will remain in full
26 force and effect for the term of the Agreement. If any material portion of the Agreement
27 becomes invalid or unenforceable so that the intent of the Agreement is frustrated, the
28 parties agree to negotiate replacement provisions to fulfill the intent of the Agreement
29 consistent with applicable law. If the parties are unable to agree on such a replacement
30 provision within ninety (90) days after the portion of this Franchise is found to be invalid or
31 unenforceable, either party may terminate this Franchise by delivering one hundred and
32 eighty (180) days' notice to the other party. In such case, to the extent Franchisee continues
33 to own or operate Franchisee Facilities within Public ROW, the Franchisee's operations and
34 Facilities shall be subject to lawful applicable state and local laws and regulations.
35

36 **SECTION 6. REMEDIES.**
37

38 **(A)** The City retains all remedies available to it under applicable law with respect to
39 enforcement of the provisions of this Agreement. In determining which remedy or remedies
40 are appropriate, the City shall consider the nature of the violation, the person or persons
41 burdened by the violation, the nature of the remedy required in order to prevent further
42 such violations, and any other matters the City deems appropriate.
43

44 **(B)** Failure by any party to enforce any term, condition or obligation of this Agreement
45 shall not be construed as a waiver of a breach of any such term, condition or obligation. A
46 specific waiver of a particular breach of any term, condition or obligation imposed upon
47 Franchisee by or pursuant to this Agreement shall not be a waiver of any other, subsequent
48 or future breach of the same or of any other term, condition or obligation, or a waiver of the
49 term, condition or obligation itself.
50

SECTION 7. DEFINITIONS. The following rules of construction and definitions apply to terms in this Agreement:

(A) Captions. Throughout this Franchise, captions to sections are intended solely to facilitate reading and to reference the provisions of this Franchise. The captions shall not affect the meaning and interpretation of this Franchise.

(B) Definitions. For purposes of this Franchise, the following terms, phrases, and their derivations shall have the meanings given below unless the context indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "City" means the City of West Linn, Oregon, a municipal corporation, and all of the territory within its corporate boundaries, as the City boundaries may change from time to time.

(2) "City Council" means the Council of the City.

(3) "City Engineer" means the Engineer of the City.

(4) "City Manager" means the Manager of the City.

(5) "City Recorder" means the Recorder of the City.

(6) "Director of Finance" means the Director of Finance of the City.

(7) "Emergency" means any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

(8) "Franchise" means this Franchise Agreement as fully executed by the City and Franchisee and adopted by the City Council by Ordinance.

(9) "Franchisee" means the City of Lake Oswego, Oregon, a municipal corporation.

(10) "Franchisee Facility" means any physical component of Franchisee's Water System subject to this Franchise within the City.

(11) "Franchisee's Water System" means all Franchisee Facilities used by Franchisee in the transmission and distribution of water that are located within the City, without regard to whether Franchisee transfers an interest in a portion of the Facilities or the water to another public entity, provided such transfer is undertaken in compliance with the requirements of this Franchise.

(12) "Person" means any natural person, individual, firm, sole proprietorship, Franchisee, co-Franchisee, association, corporation, cooperative, entity or other form of organization authorized to do business in the State of Oregon.

(13) "Public ROW" shall have the meaning described in Section 1.

(17) "Term" shall have the meaning described in Section 1.

(18) "WLMC" shall mean the West Linn Municipal Code.

SECTION 8. CONSTRUCTION.

(A) Construction. Not less than three business days before the Franchisee conducts work involving construction, relocation, or repair in the right of way, the Franchisee will provide written notice to the City Engineer of the proposed location and nature of the work. Before excavation in the right of way, the Franchisee shall apply for a permit and shall

1 comply with any and all special conditions, not conflicting with the terms of this Franchise,
2 relating to scheduling, coordination, permitting, locating of facilities within the Public ROW,
3 restoration, and public safety as determined by the City, unless Emergency conditions exist.
4 After obtaining any permits required by the City, as well as complying with ORS 757.542 et
5 seq. (Oregon Utility Notification Center) as those statutes may be amended from time to
6 time, the Franchisee may make all necessary excavations within the rights of way for the
7 purpose of installing, repairing, or maintaining the Franchisee's Facilities, except that in the
8 case of an Emergency, no permit shall be required prior to excavation. All of the
9 Franchisee's work under this Section shall be completed in strict compliance with all
10 applicable rules, regulations and ordinances of the City except where they conflict with any
11 applicable rules or regulations of the Oregon Department of Transportation or any
12 successor agency with respect to Highway 43.

13
14 **(B) Emergency Repairs.** In the event emergency repairs to Franchisee's Facilities are
15 necessary, the Franchisee may conduct emergency work at any time and must provide the
16 City Engineer with written or oral notice of emergency work as soon as reasonably possible,
17 no later than five (5) business days after the emergency work has commenced. If permits are
18 required by City, the Franchisee shall apply for appropriate permits the next business day or
19 as soon as reasonably possible following discovery of the Emergency. In any event, within
20 thirty (30) days of beginning emergency repairs or construction, the Franchisee shall provide
21 the City Engineer with a map in electronic, read-only format of the general location of
22 excavations, repaving, and any new facilities. If Emergency work has been completed by
23 Franchisee in the Public ROW and the City determines such work was not completed in a
24 City-approved location or in accordance with applicable regulations, the City shall notify
25 Franchisee and provide Franchisee with sixty (60) days, or as agreed to by the City Engineer
26 after the Emergency repairs are completed, to re-perform the work.

27
28 **(C) Reasonable Care.** All excavations made by the Franchisee in the right of way shall
29 be properly safeguarded for the prevention of accidents. All work completed by the
30 Franchisee shall be conducted with reasonable care to minimize risks to those using the right
31 of way and minimize damage to public and third party property. Any work completed by
32 the Franchisee within the right of way may be inspected by the City to determine whether it
33 has been placed in its approved location and in accordance with City requirements and
34 standards according to the permit issued by the City. Non-conforming work will be
35 corrected with work conforming to the applicable standards at no cost to the City.
36 Franchisee shall be responsible for the costs to repair any damage to City facilities arising out
37 of Franchisee work in the Public ROW.

38
39 **SECTION 9. MAPS AND AS-BUILT DRAWINGS.** After providing Franchisee with
40 twenty-four (24) hours prior notice, the City may inspect Franchisee maps of Franchisee
41 Facilities in the Public ROW at any time during Franchisee's business hours. Upon request
42 of the City and without charge, Franchisee shall furnish current maps to the City by
43 electronic data in read-only format showing the general location of Franchisee Facilities. The
44 Franchisee will furnish the City with record drawings in electronic, read-only format showing
45 the location of all the Franchisee's facilities within sixty (60) days of the completion of
46 construction, relocation, repair, or replacement. In the interests of public safety, and
47 pursuant to ORS 192.501 (22), these "as-built" drawings shall be confidential records
48 exempt from disclosure.

1 **SECTION 10. RESTORATION AFTER EXCAVATION.** The Franchisee shall restore
2 the right of way disturbed by any excavation by the Franchisee to at least the same condition
3 that it was in prior to excavation, in accordance with generally applicable City standards. If
4 the Franchisee fails to restore the right of way to at least the same condition that it was in
5 prior to the excavation, the City shall give the Franchisee written notice and provide the
6 Franchisee a reasonable period of time, not to exceed thirty (30) days, to restore the right of
7 way. If the work of the Franchisee creates a public safety hazard as determined by the City
8 Engineer, the Franchisee may be required to repair or restore the right of way within twenty-
9 four (24) hours' notice from the City, or such time as agreed between the City Engineer and
10 the Franchisee, taking into consideration weather and other relevant factors. Should the
11 Franchisee fail to make such repairs or restorations within the aforementioned time frames,
12 the City may, after providing notice to the Franchisee and a reasonable opportunity to cure,
13 refill or repave (as applicable) any opening made by the Franchisee in the right of way and
14 the associated expense shall be paid by the Franchisee. The City reserves the right, after
15 providing notice to the Franchisee, to remove or repair any work completed by the
16 Franchisee that, in the determination of the City Engineer was not completed in accordance
17 with applicable regulations. The City's cost of repair, including the cost of inspection,
18 management, and supervision, shall be paid by the Franchisee. In the event that the
19 Franchisee's work is coordinated with other construction work in the right of way, the City
20 Engineer may excuse the Franchisee from restoring the right of way, provided that as part of
21 the coordinated work, the right of way is restored to good order and condition in accordance
22 with applicable standards.

23
24 **SECTION 11. CITY PUBLIC WORKS AND IMPROVEMENTS.** Nothing in this
25 Franchise shall be construed in any way to prevent the City from excavating, grading, paving,
26 planking, repairing, widening, altering, or completing any work that may be needed or
27 convenient in the Public ROW. The City shall coordinate any such work with Franchisee to
28 avoid, to the extent reasonably foreseeable, any obstruction, injury or restrictions on the use
29 by Franchisee of any Franchisee Facilities, by providing the Franchisee not less than three (3)
30 business days advance written notice of any work the City will undertake over, under, or
31 within 7.5 feet of the centerline of the Franchisee's Facilities. The City shall confer with the
32 Franchisee to determine methods to avoid or minimize, to the extent reasonably foreseeable,
33 any obstruction, injury or restrictions on the Franchisee's use of its Facilities. The City shall
34 only bear responsibility for damages to the Franchisee's Facilities to the extent the damage
35 or loss is the direct and proximate result of willful, intentionally tortious, negligent or
36 malicious acts and/or omissions by the City, its employees, or agents. In such case, the City
37 shall indemnify and hold the Franchisee harmless against any and all claims, damages, costs
38 and expenses, including attorney's fees and costs, arising from such acts and/or omissions,
39 subject to any applicable limitations in the Oregon Constitution and the Oregon Tort Claims
40 Act.

41
42 **SECTION 12. THIRD PARTY IMPROVEMENTS.** The City shall notify the
43 Franchisee by providing the Franchisee not less than three (3) business days advance written
44 notice of any planned improvements that will be undertaken by a third party over, under, or
45 within 7.5 feet of the centerline of the Franchisee's Facilities. The City shall notify a third
46 party that proposes work within 7.5 feet of the centerline of the Franchisee's Facilities of the
47 existence and type of facility in that location. The Franchisee will be notified and given the
48 option to attend project application meetings for projects that may affect its Facilities. The
49 City shall provide notice for any Emergency repairs undertaken by a third party as soon as
50 reasonably possible, but no later than five (5) business days after becoming aware of

1 commencement of third-party repairs. In the event that a relocation, extension, or alteration
2 of the Franchisee's Facilities is requested by or for the sole benefit of a third party, the
3 Franchisee shall have sole authority to agree or not to the request. Franchisee shall seek
4 reimbursement from the third party and not from the City.
5

6 **SECTION 13. PAYMENT FOR USE OF PUBLIC ROW.** 7

8 **(A) Use of Public ROW.** In consideration for its use of the Public ROW in accordance
9 with the terms of this Franchise, Franchisee agrees to pay the City a single lump sum
10 payment of five million dollars (\$5,000,000.00). The scope of Franchisee's use of the Public
11 ROW as authorized in this Franchise is to accommodate the Franchisee's Facilities as
12 provided for in City land use approvals AP-12-02 and AP-12-03. In the event Franchisee
13 proposes to install Facilities in areas in addition to the identified Facilities, the Franchisee
14 may be required to pay additional compensation for expanding the franchised area.
15

16 **(B) Property Tax Limitations Do Not Apply.** The payment described in this Section
17 13 is not subject to the property tax limitations of Article XI, Sections 11(b) and 11(19) of
18 the Oregon Constitution and is not a fee imposed on property or property owners by fact of
19 ownership.
20

21 **(C) Remittance of Payment.** Franchisee shall remit payment to the City within sixty
22 (60) days after the City issues construction permits and the Franchisee commences
23 construction within City rights of way. Construction shall be deemed to have commenced
24 upon Franchisee's performance of any work within the rights of way. In the event payment
25 is not timely received by the City as required herein, interest on the unpaid amount shall
26 accrue from the due date at the rate of nine percent (9%) per annum, computed weekly, for
27 each week elapsed from the due date until receipt of payment by the City. The City is not
28 required to provide any notice of delinquency.
29

30 **(D) Acceptance of Payment.** Acceptance by the City of any payment due under this
31 Section shall not be a waiver by the City of any breach of this Franchise occurring prior to
32 the acceptance. The City shall use the payment to make capital improvements to West Linn's
33 water system, such as replacement of the Bolton Reservoir or other such improvements, in
34 accordance with the West Linn Water System Master Plan, or improvements to Highway 43,
35 as identified in the Highway 43 Concept Plan.
36

37 **(E) City's Reservation of Rights.** In the event this Franchise is terminated or in any case
38 where Franchisee is operating in the City without a franchise agreement, the City reserves
39 the right to enact regulations which shall apply to Franchisee and its operations in the City,
40 including payment of compensation for use of areas outside the Public ROW.
41

42 **SECTION 14. PUBLIC ROW VACATION.** If any portion of the Public ROW is
43 vacated,, the City shall condition the approval of the vacation on the reservation of an
44 easement adequate for maintenance, operation, repair and replacement for all Franchisee
45 Facilities in their then-current or planned location that prohibits any use of the vacated
46 property that interferes with Franchisee's full use of the Franchisee Facilities and of its
47 easement rights,
48
49

1 **SECTION 15. TERMINATION.** As established in Section 1 hereof, this Franchise is
2 perpetual unless terminated pursuant to the terms of this Section.
3

4 **(A) By City for Cause.** If Franchisee ceases to maintain its Facilities in such a fashion so as
5 to create an increase in the risk to the public of personal injury or property damage, the City
6 shall notify Franchisee and Franchisee shall have thirty (30) days after the date of the notice
7 to eliminate such risk, or if such risk cannot be eliminated within thirty (30) days, or such
8 reasonable time period as both parties agree within the initial thirty (30) day period is
9 required to eliminate such risk, and Franchisee shall bear all costs related to remedying the
10 risk. If Franchisee fails to eliminate such risk in accordance with this Section, the City may
11 then terminate this Franchise by providing written notice of termination to Franchisee.
12

13 **(B) By City for Breach.** If the Franchisee breaches any material provision of this Franchise
14 Agreement, and fails to cure such breach within thirty (30) days following written notice
15 from the City, or fails to initiate measures reasonably satisfactory to the City to cure the
16 breach and to continue the efforts in good faith within the thirty (30) day period and any
17 additional time reasonably necessary to cure the breach, the City may terminate this franchise
18 by providing written notice of termination to Franchisee. For purposes of this subsection
19 14(B), “material” provisions of the Franchise include the failure to pay the franchise fee, and
20 any interest due in the event of a late payment, or failure to comply with any construction or
21 permit requirements related to Franchisee’s operation in the Public ROW.
22

23 **SECTION 16. ASSIGNMENT.** All rights and privileges granted and duties imposed by
24 this Agreement upon Franchisee shall extend to and be binding upon Franchisee’s
25 successors, legal representatives and assigns. Franchisee may not sell, assign, transfer, or
26 convey this Franchise or any interest therein to a third party without the City Council giving
27 its consent in a duly passed ordinance. Upon obtaining such consent, this Franchise shall
28 inure to and bind such third party. City recognizes that Franchisee has entered into an
29 intergovernmental agreement with the City of Tigard providing for the eventual joint
30 ownership of the Franchise Facilities, and further recognizes that the intergovernmental
31 agreement, as it now exists or may be amended in the future, allows or will allow for the
32 transfer of the Franchise Facilities, or interests therein, to other public entities now existing
33 or yet to be formed, including, without limitation, intergovernmental entities. Franchisee
34 shall provide City with at least 60 days’ written notice of any such proposed transfer. City
35 shall not withhold consent to any transfer of this Franchise or any interest therein, to any
36 current or future public entity, provided that, prior to any proposed transfer, Franchisee shall
37 be in full compliance with this Franchise and the proposed transferee shall agree in writing
38 to be bound by this Franchise.
39

40 **SECTION 17. REMOVAL OF FACILITIES.** If this Franchise is terminated and is not
41 replaced by a new franchise agreement or similar authorization, the City may determine
42 whether Franchisee Facilities are to be removed from the Public ROW or remain in place.
43 The City shall provide written notice of any requirement to remove Franchisee Facilities and
44 shall provide Franchisee sixty (60) days to comment on such requirement to move
45 Franchisee Facilities. Following consideration of any such comments, the City Manager may
46 issue an order requiring removal of Franchisee Facilities within a reasonable time as agreed
47 to by the parties after such order is declared.
48

49 **SECTION 18. INDEMNIFICATION.** To the fullest extent permitted by law, but
50 subject to any applicable limitations in the Oregon Constitution and the Oregon Tort Claims

Act, the Franchisee shall indemnify and hold harmless the City against any and all claims, damages, costs and expenses, including attorney's fees and costs, to which the City may be subjected as a result of any willful, intentionally tortious, negligent, or malicious acts and/or omissions of the Franchisee, or its officers, employees, agents, contractors or subcontractors, arising out of the rights and privileges granted by this Franchise.

SECTION 19. ATTORNEYS' FEES. In the event an action, lawsuit or proceeding, including appeal therefrom, is brought for failure to fulfill or comply with any of the terms of this Agreement, each party shall be responsible for their own attorney fees, expenses, costs and disbursements for said action, lawsuit, proceeding or appeal.

SECTION 20. AMENDMENT. The terms of this Agreement may be amended by mutual agreement of the parties. Any amendments shall be in writing, shall refer specifically to this Agreement, and shall be executed by the authorized representative of each party.

SECTION 21. GOVERNING LAW. The law of the State of Oregon governs the validity of this Agreement, and its interpretation, performance and enforcement. Any action or suit to enforce or construe any provision of this Agreement by any party shall be brought in the Circuit Court of the State of Oregon for Clackamas County, or the United States District Court for the District of Oregon.

SECTION 22. EFFECTIVE DATE. The effective date of this Agreement ("Effective Date") shall be _____, 2013.

SECTION 23. NOTICE. Unless specifically provided otherwise herein, any notice provided for under this Franchise shall be sufficient if in writing and (1) delivered personally to the following addressee, (2) deposited in the United States mail, postage prepaid, certified mail, return receipt requested, or (3) sent by overnight or commercial air courier (such as Federal Express or UPS), addressed as follows, or to such other address as the receiving party hereafter shall specify in writing, or (4) sent by facsimile transmission with verification of receipt:

All notices shall be sent to the following addresses or to such other addresses as Franchisee or the City may designate in writing:

If to the City: City of West Linn
Attention: City Manager
22500 Salamo Road
West Linn, Oregon 97068
Facsimile: 503-650-9041

If to the Franchisee: City of Lake Oswego
Attention: City Manager
PO Box 369
Lake Oswego, Oregon 97034
Facsimile: 503-697-6594

City of Tigard
Attention: City Manager
13125 SW Hall Blvd.

Tigard, Oregon 97223
Facsimile: 503-684-7297

Any such notice, communication or delivery shall be deemed effective and delivered upon the earliest to occur of actual delivery, three (3) business days after depositing in the United States mail, one (1) business day after shipment by commercial air courier or the same day as confirmed facsimile transmission (or the first business day thereafter if faxed on a Saturday, Sunday or legal holiday).

IN WITNESS WHEREOF, the parties, through their duly authorized representatives, have executed this Franchise as of the dates indicated below.

CITY OF LAKE OSWEGO, OREGON

CITY OF WEST LINN, OREGON

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



AGENDA BILL 2013-11-18-04

Subject: Resolution 2013-19, Designating the proceeds from the Lake Oswego-Tigard (LOT) Water Partnership franchise agreement to the Bolton reservoir project

For Council: November 18, 2013

Land Use Case Number: NA

Public Hearing

Required: ☐

Optional: X

City Manager's Initials: CJ

Attachments:

Initiated by: The conditions of approval for the LOT water lines and the subsequent franchise agreement

Budget Impact:

Proceeds from the franchise will total \$5 million for the City of West Linn

Sustainability Considerations: None

Policy Question(s) for Council Consideration: Does the City Council wish to designate the \$5 million to the Bolton Reservoir project?

Summary:

- Provided that the City Council approves the franchise agreement with the LOT Partnership, the Partnership will be required to provide \$5 million to the City of West Linn for the use of right-of way
- The City must use these funds for a capital project and the City Council has previously directed that the Bolton Reservoir project is the most pressing water infrastructure capital project
- Approval of Resolution 2013-19 will designate the funds for the reservoir project and staff will continue to move forward with the design of the new reservoir

Staff Recommendation: Staff recommends the Council move to approve Resolution 2013-19.

RESOLUTION NO. 2013-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DESIGNATING THE REVENUES FROM THE LAKE OSWEGO-TIGARD WATER PARTNERSHIP FRANCHISE AGREEMENT TO THE CITY OF WEST LINN FOR THE PURPOSE OF DESIGNING AND CONSTRUCTING A NEW BOLTON RESERVOIR

WHEREAS, per the franchise agreement between the Lake Oswego-Tigard Water Partnership (the Partnership) and the City of West Linn allowing the use of West Linn right-of-way for the placement of a water line belonging to the Partnership the City of West Linn will be receiving \$5 million; and

WHEREAS, the City of West Linn must use the \$5 million for water capital projects; and

WHEREAS, the West Linn Water Master Plan requires a new reservoir be located at the site of the 100 year old Bolton Reservoir; and

WHEREAS, the use of the \$5 million from the Partnership for this purpose will help maintain West Linn water rates at one of the lowest rates in the region;

NOW, THEREFORE, THE CITY OF WEST LINN RESOLVES AS FOLLOWS:

1. The proceeds from the franchise agreement between the City of West Linn and the Partnership will be utilized for the purpose of designing and constructing a new Bolton Reservoir.

This resolution was PASSED and ADOPTED this 18th day of November, 2013, and takes effect upon passage.

JOHN KOVASH, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY



CITY OF
West Linn

22500 Salamo Road
West Linn, Oregon 97068
<http://westlinnoregon.gov>

WEST LINN CITY COUNCIL MEETING NOTES November 18, 2013

Call to Order

Council Present:

Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Staff Present:

City Manager Chris Jordan, City Recorder Kathy Mollusky, City Attorney Tim Ramis, and Assistant City Attorney Megan Thornton.

Work Session

Assistant City Attorney Megan Thornton Staff Report.

[Lake Oswego-Tigard Agreements PowerPoint](#)

Adjourn Work Session

Call to Order

Approval of Agenda

Council President Mike Jones moved to approve the revised agenda for the November 18, 2013, West Linn City Council Meeting with the clarifying statement that public comments will be

allowed for business meeting items one and two; there will be one public comment period for both items. Councilor Thomas Frank seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 5 - 0

Consent Agenda

Agenda Bill 2013-11-18-01: October 14 and November 4, 2013 Draft Notes Approval
Draft Meeting Notes Information

Agenda Bill 2013-11-18-02: Willamette Historic Street Sign Grant Approval
Historic Street Sign Information

Council President Mike Jones moved to approve the Consent Agenda for the November 18, 2013, West Linn City Council Meeting which includes the October 14 and November 4, 2013, meeting notes and the Willamette Historic Street Sign grant approval. Councilor Jody Carson seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 5 - 0

Community Comments

Report from the City Manager

Business from the City Council

Business Meeting

Public Comment

Lamont King does not feel this project provides a benefit, there is no guarantee of water. This is a new water plant, not just an expansion. He thinks Lake Oswego-Tigard are trying to become water wholesalers. He thinks the pipe attached to the bottom of the I205 bridge is more secure than the Lake-Oswego emergency water pipe.

Jenne Henderson asked about the Joint Funding of Water System Improvements IGA, what percentage will Lake Oswego and West Linn pay. She thought Lake Oswego was paying the full amount, not Lake Oswego 80 percent and West Linn 20 percent. Councilor Mike Jones clarified

West Linn is extending the pipe beyond the project. That is what West Linn is paying for, our pipe expansion. She does not like that the old pipes are being abandoning in place, she feels it will add time to West Linn and utilities work in the future.

Teri Cummings cannot believe West Linn did not complete these agreements prior to Lake Oswego beginning the work. She feels the onetime payment will not offset Lake Oswego and Tigard's use for perpetuity. She does not feel this serves the best interest of city. She does not care what the attorneys say, she wants people to have a vote.

Alice Richmond thanked the West Linn residents, the West Linn Tidings, and the Adult Community Center friends for voting against the aquatic center. If West Linn has spare funds, they could use it for bonuses or something, not waste it.

Agenda Bill 2013-11-18-03:

Agenda Bill & Staff Memo

Intergovernmental Cooperative Agreement for the Water System Intertie

IGA for Water System Intertie

Council President Mike Jones moved to approve the Intergovernmental Cooperative Agreement for the Water System Intertie and authorize the Mayor to sign it. Councilor Jody Carson seconded the motion.

Councilor Jenni Tan stated the proposed IGA does have many benefits. It has a redundant water line that is approximately \$11.2 million, it connects West Linn to the greater water consortium, and it pays for the \$2.2 million expansion for the intertie between West Linn, Tigard, and Lake Oswego. She discussed with TVF&R Chief Dyke the importance of the intertie, having a robust water system, and that if this intertie did not exist, he believes West Linn's insurance cost would increase because of fire hazard. They would not be able to respond properly to a fire. This Agreement is important and does provide many important benefits and access to water in perpetuity. The problem is, she would like to see the 4 million guarantee past 2041. She is not comfortable with this point.

Councilor Thomas Frank said when he was on the Planning Commission, they looked at a draft IGA and it did have the language of 4 mgd through 2041. Within the Conditions of Approval, he thought it was in perpetuity, not limited to 2041. The Agreement says the quantity can be amended, not the time frame. The intertie does have a strong benefit to West Linn and agrees with most of it except that it is only through 2041; not knowing what the outcome and repercussions of that could be.

Councilor Jody Carson thinks this provides West Linn access to safe drinking water in perpetuity and access to emergency water. The 4.2 million gallons per day is a guaranteed over and above having access in perpetuity. There are many benefits in this agreement that West Linn did not

have in the old agreement besides being in perpetuity, for instance that all parties need to renegotiate the Agreement. The Water Master Plan includes the expansion of the intertie which West Linn really needed to have. The project is estimated at a cost of \$2.2 million, this intertie provides this to West Linn at no additional cost.

Council President Mike Jones thinks the point that needs to be made is that this is for emergency use. The 4 million guarantee really is a bonus. If a future Council wants to negotiate, it has to negotiate the agreement with all cities, so Lake Oswego-Tigard cannot take away West Linn's ability to have water in an emergency at any point.

Mayor John Kovash stated the Parties have been working on this a long time. To get to the point where West Linn is tied to a regional water supply in perpetuity is a huge step for this City and a huge benefit. The guarantee of a fixed amount of water in perpetuity is not feasible.

Ayes: Mayor John Kovash, Council President Mike Jones, and Councilor Jody Carson.

Nays: Councilor Thomas Frank and Councilor Jenni Tan.

The motion carried 3 - 2

[Cooperative Agreement for Enhancement and Restoration Projects in Mary S. Young State Park](#)

[Mary S Young Cooperative Agreement](#)

Council President Mike Jones moved to approve the Cooperative Agreement for Enhancement and Restoration Projects in Mary S. Young State Park and authorize the City Manager to sign it. Councilor Jenni Tan seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 5 - 0

[Cooperative Agreement for Joint Funding of Water System Improvements](#)

[Joint Funding Agreement Information](#)

Council President Mike Jones moved to approve the Cooperative Agreement for Joint Funding of Water System Improvements and authorize the City Manager to sign it. Councilor Jody Carson seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 5 - 0

[Ordinance 1616 Lake Oswego-Tigard Water Partnership Franchise Agreement](#)

[ORD 1616 Franchise Agreement](#)

Council President Mike Jones moved to approve First Reading for "Ordinance 1616 granting a nonexclusive franchise to the City of Lake Oswego, approving the form of the franchise agreement, and authorizing signature of the agreement," and set the matter for Second Reading. Councilor Thomas Frank seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 5 - 0

Council President Mike Jones moved to approve Second Reading for "Ordinance 1616 granting a nonexclusive franchise to the City of Lake Oswego, approving the form of the franchise agreement, and authorizing signature of the agreement," and adopt the ordinance. Councilor Thomas Frank seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 5 - 0

[Agenda Bill 2013-11-18-04: Resolution 2013-19 Designating the Lake Oswego-Tigard Franchise Agreement Proceeds to the Bolton Reservoir Project](#) [Resolution 2013-19 Franchise Proceeds Information](#)

Council President Mike Jones moved to adopt Resolution 2013-19 designating the revenues from the Lake Oswego-Tigard Water Partnership Franchise Agreement to the City of West Linn for the purpose of designing and constructing a new Bolton Reservoir. Councilor Jenni Tan seconded the motion.

Ayes: Mayor John Kovash, Council President Mike Jones, Councilor Jody Carson, Councilor Thomas Frank, and Councilor Jenni Tan.

Nays: None.

The motion carried 5 - 0

[Adjourn](#)