



Dallas City Council Agenda

Mayor Brian Dalton, Presiding

Monday, March 2, 2015

7:00 pm

Dallas City Hall

187 SE Court St.

Dallas, OR 97338

All persons addressing the Council will please use the table at the front of the Council. All testimony is electronically recorded. If you wish to speak on any agenda item, please sign in on the provided card.

City Council

Mayor
Brian Dalton

Council President
Jim Fairchild

Councilor
Kelly Gabilks

Councilor
Micky Garus

Councilor
Bill Hahn

Councilor
Jackie Lawson

Councilor
Kevin Marshall

Councilor
Murray Stewart

Councilor
LaVonne Wilson

Councilor
Ken Woods, Jr.

City Staff

City Manager
Ron Foggin

City Attorney
Lane Shetterly

Community
Development/
Operations Director
Jason Locke

Finance Director
Cecilia Ward

Fire Chief
Fred Hertel

Police Chief
Tom Simpson

Director of Engineering
& Environmental
Services
Fred Braun

City Recorder
Emily Gagner

Recording Secretary
Jeremy Teal

AGENDA ITEM	RECOMMENDED ACTION
1. ROLL CALL	
2. PLEDGE OF ALLEGIANCE	
3. STATE OF THE CITY ADDRESS	
4. COMMENTS FROM AUDIENCE <i>This time is provided for citizens to comment on municipal issues and any agenda items other than public hearings. The Mayor may place time restrictions on comments. Please supply 14 copies of the material brought to the meeting for distribution.</i>	
5. PUBLIC HEARINGS <i>Public comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.</i>	
6. CONSENT AGENDA <i>The following items are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered separately.</i>	
a. Approve minutes of February 17, 2015 City Council meeting PG . 3	
7. ITEMS REMOVED FROM CONSENT AGENDA	
8. REPORTS OR COMMENTS FROM MAYOR AND COUNCIL MEMBERS	
a. General Comments from the Councilors and Mayor	
b. Report of the February 23, 2015, Public Safety Committee Meeting PG . 8 (Councilor Woods)	
c. Report of the February 23, 2015, Public Works Committee Meeting PG . 34 (Councilor Stewart)	



Our Vision

Our vision is to foster an environment in which Dallas residents can take advantage of a vital, growing, and diversified community that provides a high quality of life.

Our Mission

The mission of the City of Dallas is to maintain a safe, livable environment by providing open government with effective, efficient, and accountable service delivery.

Our Motto

Commitment to the Community
People Serving People

DALLAS CITY HALL

City Hall

Dallas City Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the City Manager's Office, 503-831-3502 or TDD 503-623-7355.

9. REPORTS FROM CITY MANAGER AND STAFF

- a. Deliberations on Comprehensive Plan Chapter 1 – Citizen Involvement PG. 61
- b. If I Were Mayor Contest PG. 71
- c. Council goal update
- d. Other

Motion

Information

Information

10. RESOLUTIONS

- a. Resolution No. 3319: A Resolution approving and authorizing the City Manager to execute the Polk County Fire Defense Board 2014 Inter-County Automatic / Mutual Aid and Emergency Assistance PG. 72 Agreement.

Roll Call Vote

11. FIRST READING OF ORDINANCE

- a. Ordinance No. 1776: An Ordinance adopting new provisions of the Dallas City Code relating to nominations for election. PG. 95
- b. Ordinance No. 1777: An Ordinance amending Dallas City Code Section 1.052, relating to service of civil citations in Dallas Municipal Court; and repealing prior inconsistent ordinances. PG. 100
- c. Ordinance No. 1778: An Ordinance amending Dallas City Code Section 5.584, relating to inoperable vehicles; and repealing prior inconsistent ordinances. PG. 104
- d. Ordinance No. 1779: An Ordinance amending Dallas City Code Section 6.325, relating to parking time limitations; and repealing prior inconsistent ordinances. PG. 108

First Reading

First Reading

First Reading

First Reading

12. SECOND READING OF ORDINANCE

- a. Ordinance No. 1775: An ordinance approving and authorizing a franchise agreement with Astound Broadband, LLC, for telecommunications services within the City of Dallas; and declaring an emergency. PG. 114

Roll Call Vote

13. OTHER BUSINESS

14. ADJOURNMENT

These minutes are supplemented by electronic recordings of the meeting, which may be reviewed upon request to the City Recorder. Audio files from City Council meetings from February 17, 2015, forward can be found online at <http://www.dallasor.gov/archive> under the corresponding agenda date. Staff reports, resolutions, ordinances, and other documents related to this meeting are also available at that site in the "Council Agendas" archive.

DALLAS CITY COUNCIL	Tuesday, February 17, 2015
The Dallas City Council met in regular session on Tuesday, February 17, 2015, at 7:00 p.m. in the Council Chambers of City Hall with Mayor Brian Dalton presiding.	
Council: Council President Jim Fairchild, Councilor Kelly Gabliks, Councilor Micky Garus, Councilor Bill Hahn, Councilor Jackie Lawson, Councilor Murray Stewart, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr. Absent: Councilor Kevin Marshall.	
Staff: City Manager Ron Foggin, City Attorney Theresa Ozias, Chief of Police Tom Simpson, Fire Chief Fred Hertel, Community Development/Operations Director Jason Locke, Director of Engineering and Environmental Services Fred Braun, HR Manager Emily Gagner, and Recording Secretary Jeremy Teal.	
Pledge of Allegiance: Mayor Dalton led the Pledge of Allegiance.	

AGENDA	ACTION
1:07 EMPLOYEE INTRODUCTION/RECOGNITION	Mr. Johnson recognized Emily Demarest for her outstanding work on the changeover with the new library program.
3:30 POLK COUNTY COMMISSIONERS PUBLIC SAFETY LEVY PRESENTATION	Commissioner Mike Ainsworth, Sherriff Bob Wolfe, and Polk County Administrator Greg Hansen gave a presentation on the Polk County Public Safety Levy. Mr. Hansen stated the County would seek a five year levy that would cost the taxpayers 45 cents per thousand of the assessed value of their homes.
38:34 COMMENTS FROM THE AUDIENCE	Gene Henshaw, 2424 SW Oakwood Dr, Dallas, stated the County needed the support of the City for this levy to pass. E.M Easterly, 775 Fir Gardens St. NW, Salem, read a statement regarding the Polk County Safety Levy, a copy of which is attached to these minutes and incorporated herein.
PUBLIC HEARINGS 47:09 DALLAS COMPREHENSIVE PLAN: CHAPTER 1 (PUBLIC INVOLVEMENT)	Mayor Dalton opened the public hearing on the Dallas Comprehensive Plan: Chapter 1 at 7:47 p.m. Locke stated the process to update the entire Comprehensive Plan would take two to three years. He reviewed the proposed changes to the public involvement section of the plan.

<p>1:05:25 SALE OF UNIMPROVED REAL PROPERTY LOCATED WEST OF 1501 SE MARIONBERRY STREET</p>	<p>Mayor Dalton asked for comments or questions from the audience. There were none.</p> <p>Mayor Dalton closed the public hearing at 7:53 p.m.</p> <p>Council President Fairchild stated that he wanted the Council to appoint a citizen committee to assist with the revision of the Comprehensive Plan from the beginning of the process.</p> <p>Mr. Locke noted he would review the proposal and make the necessary language revisions.</p> <p>Mayor Dalton opened the public hearing on the sale of unimproved real property located west of 1501 SE Marionberry Street at 8:05 p.m.</p> <p>Mr. Foggin reported the lot would be sold for \$3.30 a square foot for a total of \$14,008.50. He explained the sale would benefit the City and the buyer.</p> <p>Mayor Dalton asked for comments or questions from the audience. There were none.</p> <p>Mayor Dalton closed the public hearing at 8:18 p.m.</p> <p>Mr. Foggin explained the Council would have a Resolution later in the agenda to authorize the sale.</p>
<p>1:04:50 CONSENT AGENDA</p> <p>Items approved by the Consent Agenda: approve minutes of February 2, 2015 City Council meeting minutes.</p>	<p>It was moved by Councilor Lawson <i>to approve the Consent Agenda as submitted</i>. The motion was duly seconded and carried with a vote of 8-0.</p>
<p>ITEMS REMOVED FROM CONSENT AGENDA</p>	<p>There were none.</p>
<p>1:18:45 REPORTS OR COMMENTS FROM THE MAYOR AND COUNCIL MEMBERS</p>	<p>It was moved by Council President Fairchild to support the Polk County Public Safety Operating Levy on the 2015 election because the levy was important to the operations of the City of Dallas law enforcement and emergency responder system and the safety of economic development and our entire community.</p> <p>Councilor Lawson stated as a property owner she could not support paying additional taxes.</p> <p>The motion was duly seconded and carried with a vote of 7-0 with Councilor Lawson voting No.</p>
<p>REPORTS FROM CITY MANAGER AND STAFF</p>	
<p>1:22:30 CH2M HILL/OMI ANNUAL REPORT</p>	<p>Lori Reed gave a brief presentation of the CH2M Hill annual report.</p>

<p>1:35:00 JANUARY FINANCIAL REPORT</p>	<p>Mr. Foggin noted the departments were tracking well and within their budgets.</p>
<p>1:35:40 RENEW CITY ATTORNEY CONTRACT</p>	<p>It was moved by Councilor Stewart to extend the City Attorney’s contract through December 31, 2016. The motion was duly seconded and carried with a vote of 8-0.</p>
<p>1:36:30 COUNCIL GOAL UPDATE</p>	<p>Mr. Foggin stated the Citizens Academy had a full class for Thursday and all the departments were ready to go.</p>
<p>1:37:30 OTHER</p>	<p>Mr. Foggin announced that effective immediately any project directly linked to the Dallas 2030 Vision project would be noted on the staff report.</p>
<p>1:38:35 RESOLUTIONS</p> <p>Resolution No. 3315 – A Resolution authorizing a grant application under the Oregon Parks and Recreation Department Local Government Grant Program for park improvements on the Rickreall Creek Trail System; and committing available local matching funds.</p> <p>Resolution No. 3316 – A Resolution extending workers’ compensation coverage to certain classes of city volunteer workers; and repealing Resolution No. 3055.</p> <p>Resolution No. 3317 – A Resolution declaring real property described as the easterly portion of River Gleann Estates, Phase 6, Tract B, Dallas, Polk County, Oregon, Polk County Tax Account No. 571606, being 4,245 square feet, more or less, in area, not needed for public use and authorizing the sale thereof.</p> <p>Resolution No. 3318 – A Resolution adopting amendments to the Dallas City Council Rules of Procedure.</p>	<p>A roll call vote was taken and Mayor Dalton declared Resolution No. 3315 to have PASSED BY A UNANIMOUS VOTE with Council President Jim Fairchild, Councilor Kelly Gabliks, Councilor Mick Garus, Councilor Bill Hahn, Councilor Jackie Lawson, Councilor Murray Stewart, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.</p> <p>A roll call vote was taken and Mayor Dalton declared Resolution No. 3316 to have PASSED BY A UNANIMOUS VOTE with Council President Jim Fairchild, Councilor Kelly Gabliks, Councilor Mick Garus, Councilor Bill Hahn, Councilor Jackie Lawson, Councilor Murray Stewart, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.</p> <p>A roll call vote was taken and Mayor Dalton declared Resolution No. 3317 to have PASSED BY A UNANIMOUS VOTE with Council President Jim Fairchild, Councilor Kelly Gabliks, Councilor Mick Garus, Councilor Bill Hahn, Councilor Jackie Lawson, Councilor Murray Stewart, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.</p> <p>A roll call vote was taken and Mayor Dalton declared Resolution No. 3318 to have PASSED BY A UNANIMOUS VOTE with Council President Jim Fairchild, Councilor Kelly Gabliks, Councilor Mick Garus, Councilor Bill Hahn, Councilor Jackie Lawson, Councilor Murray Stewart, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.</p>
<p>1:46:50 FIRST READING OF ORDINANCE</p> <p>Ordinance No. 1775 – An Ordinance approving and authorizing a franchise agreement with Astound Broadband, LLC, for telecommunications services within the City of Dallas; and declaring an emergency.</p>	<p>Mayor Dalton declared Ordinance No. 1775 to have passed its first reading.</p>

<p>SECOND READING OF ORDINANCE</p> <p>1:47:20 Ordinance No. 1774 – A Ordinance repealing Ordinance No. 1735, relating to oath of office.</p>	<p>A roll call vote was taken and Mayor Dalton declared Ordinance No. 1774 to have PASSED BY A UNANIMOUS VOTE with Council President Jim Fairchild, Councilor Kelly Gabliks, Councilor Mick Garus, Councilor Bill Hahn, Councilor Jackie Lawson, Councilor Murray Stewart, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr. voting YES.</p>
<p>EXECUTIVE SESSION</p>	
<p>OTHER BUSINESS</p>	<p>There was none.</p>

<p>ADJOURNMENT</p>	<p>There being no further business, the meeting adjourned at 7:51 p.m.</p>
<p>Read and approved this _____ day of _____ 2015.</p> <p>_____</p> <p>ATTEST: _____ Mayor</p> <p>_____ City Manager</p>	

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DRAFT

Letter read by E.M. Easterly at City Council meeting Tuesday, February 17, 2015

Why are voters being asked to support another tax measure?

1. **Public safety is one of the most important services Polk County government provides.**
2. Until a decade ago the Polk County public safety system was funded by the duality of property taxes and federal subsidies from O & C timber lands. Federal funding resources have disappeared and annual property tax receipts are capped. The cupboard is bare. Reducing jail personnel salaries by \$1000 a month and cutting management salaries in half, even if possible, will not provide the \$2,300,000 needed to restore a viable public safety system.

Why should urban voters support a county wide public safety levy?

1. The Polk County public safety system is more than urban police and rural deputy sheriffs. The public safety system funds Assistant District Attorneys who prosecute urban and rural criminals, pays the corrections officers that man the county jail, supports the parole and probation of juveniles and adults, provides the personnel that backup all emergency service responders and provides courtroom security.
2. Without a functioning public safety system Polk County residents face the cruelest tax of all – the personal and community cost of crime when Polk County no longer has a viable public safety system.

Our work is cut out for us. Less than half of registered Dallas voters participated in the November 2013 public safety election and only 40% voted in favor of the levy. Dallas can do better.

My request: Support the levy by council action. Support the levy personally by public statements and financially by contributing to the PAC.

My challenge: I shall contribute to the levy campaign a dollar amount equal to my 2014 residential assessed value times .45/1000 or \$90.48 provided every member of this council contributes a similar amount. I made the same challenge in Independence last week and will do the same in Monmouth.

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Members Present: Chair Ken Woods, Jr., Micky Garus, Murray Stewart, LaVonne Wilson

Also Present: Mayor Brian Dalton, City Manager Ron Foggin, City Attorney Lane Shetterly, Fire Chief Fred Hertel, Chief of Police Tom Simpson, Community Development/Operations Director Jason Locke, Engineering and Environmental Services Director Fred Braun, and Recording Secretary Jeremy Teal.

Chair Woods called the meeting to order at 4:00 p.m.

AUTO/MUTUAL AID AGREEMENT WITH POLK COUNTY

Chief Hertel reported the Mutual Aid Agreement with Polk County hadn't been updated since 1999 and noted the revisions included in the packet brought it up to date.

It was moved by Councilor Wilson to recommend the Council to approve the Mutual Aid Agreement. The motion was duly seconded and carried by a vote of 3-0.

ORDINANCE FOR MAILING CITATIONS

Chief Simpson explained circumstances required mailing of citations to alleviate the run around of attempting to contact someone via a phone call. He noted an Ordinance would allow that.

It was moved by Councilor Wilson to direct staff to draft an ordinance which specifically provided for delivery of a summons or citation by mail. The motion was duly seconded and carried with a vote of 3-0.

PROPOSED ADDENDUM TO DCC 5.584

Councilor Stewart arrived at 4:14 p.m.

Chief Simpson reported there were inoperable vehicles in Dallas that were covered with blue tarps and he would like to alleviate this issue with an addendum to the current Ordinance.

It was moved by Councilor Garus direct staff to draft an ordinance to amend DCC 5.584 per the staff report. The motion was duly seconded and carried with a vote of 4-0.

CHIEF OF POLICE'S REPORT

Chief Simpson noted that David King had finished his field training, and Jordan Houser was almost completed, then they would each spend 16 weeks at the Police Academy. Chief Simpson reported that POINT was still shut down, but may resume in July depending on personnel in other cities.

FIRE CHIEF'S REPORT

Chief Hertel handed out 2014 highlights and notified the Council that 50 people in Oregon people died due to fire related issues. He noted April Welsh was excelling on her Fire & EMS training. Chief Hertel reported he applied for a \$550,000 grant to obtain the moveable training station for the Fire Department.

OTHER
ADJOURNMENT

There was no other business and the meeting was adjourned at 4:25 p.m.



AGENDA

February 24, 2014

4:00 PM

Council Chambers
Dallas City Hall
187 SE Court St
Dallas, OR 97338

COMMITTEE

Chair Ken Woods, Jr.

Micky Garus

Murray Stewart

LaVonne Wilson

- A. Call to order
- B. Auto/Mutual Aid Agreement with Polk County
- C. Ordinance for mailing citations
- D. Proposed addendum to DCC 5.584
- E. Chief of Police's report
- F. Fire Chief's report
- G. Other
- H. Adjournment



DALLAS CITY COUNCIL

PUBLIC SAFETY SUBCOMMITTEE REPORT

TO: COUNCIL PUBLIC SAFETY SUBCOMMITTEE

<i>City of Dallas</i>	Agenda Item No. B	Topic: Auto/Mutual Aid Agreement
Prepared By: Chief Hertel	Meeting Date: 3/23/2015	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Ron Foggin		

RECOMMENDED MOTION:

Approval of the revised Polk County Auto/Mutual Aid Agreement

BACKGROUND:

During the department review it was noted that Dallas Fire & EMS maintained several different Auto and/or Mutual Aid Agreements with a variety of other agencies. Many of these agreements were not timely and needed updating. The proposed version will supersede all other agreements. It was evaluated by all participating Polk County Fire Defense Board agencies and forwarded to the City for approval.

FISCAL IMPACT:

By its nature an Auto/Mutual Aid Agreement has expenses for the giving agency. The intent is such that we are receiving as much as the giving thus having no financial impact.

DALLAS 2030 VISION IMPACT:

This applies to 5.a. and 5.c. in the City of Dallas 2030 Vision.

ATTACHMENTS:

Polk County Auto/Mutual Aid Agreement

POLK COUNTY FIRE DEFENSE BOARD
2014
INTRA-COUNTY AUTOMATIC AND MUTUAL AID AND
EMERGENCY ASSISTANCE AGREEMENT

WHEREAS, large incidents have the potential of outstripping the capacity of any community to effectively protect life and property; and

WHEREAS, the parties to this Agreement desire to combine and coordinate their resources for responses to large incidents occurring in their jurisdictions; and

WHEREAS, the parties to this Agreement desire to mutually cooperate in an effort to provide the most expedient and affordable service to their respective communities; and

WHEREAS, pursuant to the Oregon Emergency Conflagration Act, ORS 476.510 to 476.610, the State Fire Marshal has prepared the Oregon Fire Service Mobilization Plan ("Mobilization Plan"), which recognizes the necessity of providing immediate response prior to the exercise of authority under the Conflagration Act; and

WHEREAS, this Agreement is intended to be consistent with, and supportive of, the structure and objectives of the Mobilization Plan; and

WHEREAS, Mutual Aid¹ includes an immediate response under the Mobilization Plan, immediate response during an Emergency, or immediate response during a declaration of emergency under ORS Chapter 401; and

¹ Unless otherwise noted, defined terms are set forth in Section 2.0.

WHEREAS, the terms and conditions of the Emergency Assistance required to protect life and property during extended operations need to be defined and agreed upon by the Parties; and

WHEREAS, the Parties are authorized to enter this Agreement by their respective principal acts and by ORS 190.010, which authorizes units of local government to enter into written agreements with other local governments for the performance of any and all functions and activities that the respective parties have the authority to perform;

NOW, THEREFORE, the Parties agree as follows:

1.0 INTRODUCTION.

This Agreement shall be known as the 2014 Intra-County Automatic and Mutual Aid and Emergency Assistance Agreement and shall supercede and repeal any previous versions of this Agreement. This Agreement is entered into for the purpose of securing to each party Automatic Aid, Mutual Aid, and Emergency Assistance for response to Emergencies.

2.0 DEFINITIONS.

2.1. "Assistance Costs" include personnel, equipment and service costs that extend beyond the first Operational Period of an Emergency event that are incurred by the Providing Party. Assistance Costs will be determined at rates according to the Mobilization Plan, and must be eligible costs as determined by the Oregon Fire Mobilization Plan, or under the Public Assistance Program or the Fire Management Assistance Grant Program authorized under the Stafford Act, 42 U.S.C. 5121-5207, and the implementing regulations of 44 CFR § 204 and § 206, as they may be amended from time to time, and as set forth in FEMA policy.

2.2 “Automatic Aid” means means Emergency Assistance requested by the Requesting Party and provided by the Providing Party during Emergencies where the Emergency Assistance is automatically dispatched as provided in Section 4.4. Automatic Aid provided pursuant to this Agreement shall be unpaid assistance for a period of not more than 12 hours, or the first Operational Period of the Emergency, whichever is less. The Providing Party and the Requesting Party may mutually agree to extend the period of time during which Emergency Assistance is unpaid, but the Providing Party is otherwise entitled to reimbursement of Assistance Costs as set forth in this Agreement. Operations during declarations of emergency under ORS 401.055 are excluded from terms of this Agreement.

2.3 “Emergency” is an event within the jurisdiction of a party to this Agreement causing or threatening loss of life, damage to the environment, injury to person or property, human suffering, or financial loss, which is or is likely to be beyond the capacity of the party’s ability to adequately respond and therefore requires Emergency Assistance. Events giving rise to an Emergency may include but are not limited to: fire; explosion; flood; severe weather; drought; earthquake; volcanic activity; spills or releases of hazardous materials; contamination; utility or transportation emergencies; disease; infestation; civil disturbance; riots; acts of terrorism or sabotage; and use of weapons of mass destruction.

2.4 “Emergency Assistance” includes but is not limited to: personnel, services, equipment, materials, or supplies offered during an Emergency by the Providing Party and accepted by the Requesting Party to assist in maintaining or restoring a normal level of services, including but not limited to incident management, search and rescue, debris removal, media relations, emergency medical treatment, and firefighting.

2.5 “Mutual Aid” means Emergency Assistance requested by the Requesting Party and provided by the Providing Party during Emergencies

where the Emergency Assistance is not automatically dispatched as provided in Section 4.4. Mutual Aid provided pursuant to this Agreement shall be unpaid assistance for a period of not more than 12 hours, or the first Operational Period of the Emergency, whichever is less. The Providing Party and the Requesting Party may mutually agree to extend the period of time during which Emergency Assistance is unpaid, but the Providing Party is otherwise entitled to reimbursement of Assistance Costs as set forth in this Agreement. Operations during declarations of emergency under ORS 401.055 are excluded from terms of this Agreement.

2.6 “Operational Period” is defined by the Incident Commander (determined under Section 4.5) as the amount of time necessary to accomplish the operational objectives assigned to personnel and equipment and which is within safe work/rest ratio standards established in the fire service. Operational Periods are event driven and are typically 12 hours; however, Operational Periods may exceed 12 hours during the initial response to an Emergency. As determined by the Incident Commander, Operational Periods will never exceed 24 hours.

For an incident within ODF protected lands, Automatic and/or Mutual Aid provided under this Agreement is limited to the first 12 hour Operational Period unless an extension is approved by the Requesting Party and Providing Party under this Agreement or under a separate agreement.

2.7 “Providing Party” means a party to this Agreement that provides or has received a request to provide Emergency Assistance to a Requesting Party under this Agreement.

2.8 “Requesting Party” means the party that has legal jurisdiction over the Emergency event, that has made a request for Emergency Assistance, and that has received or will receive Emergency Assistance under this Agreement.

2.9 “Polk County Fire Defense Board” means the association and organization of local fire agencies as defined in the Mobilization Plan.

3.0 AUTHORITY AND SCOPE OF AGREEMENT.

This Agreement is entered into under the authority granted to the parties by their respective charters and/or Oregon Revised Statutes (ORS). ORS 190.010 authorizes units of local government to enter into written agreements with any other units of local government for the purpose of any and all functions and activities that the parties to the agreement, their officers or agencies, have authority to perform, and ORS 190.010 authorizes units of state and local governments to enter into agreements with each other to cooperate in the performance of their duties. ORS Chapters 190, 453, 476, 477 and 478 extend the powers and authorities of the parties to this Agreement beyond their boundaries when operating under this Agreement. ORS 402.010 allows the state, counties, and cities, in collaboration with private agencies, to enter into cooperative assistance agreements for emergency aid and resources. ORS 477.406 authorizes the Oregon Department of Forestry to enter into agreements with political subdivisions for the prevention and suppression of fire on forestland or on land other than forestland, or both. Additionally, ORS Chapters 401, 453 and 476 authorize the State Fire Marshal and the Administrator of the Oregon Emergency Management to develop comprehensive statewide plans for the protection of life and property during disasters. This Agreement is intended to be consistent with, and supportive of, such state contingency plans.

4.0 OPERATIONS.

This Agreement, in conformance with the Oregon Fire Service Plan as adopted by the State Fire Marshal, includes the following types and kinds of Automatic and Mutual Aid and operating terms and conditions:

4.1 OPERATION OF THE FIRE DEFENSE BOARD.

The member agencies of the Polk County Fire Defense Board agree to the following conditions in preparation for large scale Emergencies, or simultaneous Emergencies, requiring the utilization of multi-jurisdictional forces for containment, suppression or mitigation.

4.1.1 The Polk County Fire Defense Board shall function as an active body under its adopted bylaws and rules. The Board shall select a Fire Defense Chief who is authorized to take official action under the terms of the Mobilization Plan.

4.1.2 The Fire Defense Chief, or any member of the Fire Defense Board assuming the duties of the Fire Defense Chief, may be called upon to staff the Polk County Emergency Operations Center or the Multi Agency Coordination Center to represent fire jurisdiction interests in incident mitigation.

4.1.3 The Fire Defense Chief, or any member of the Fire Defense Board assuming the duties of the Fire Defense Chief, may direct the resources of any member of the Polk County Fire Defense Board for incident mitigation anywhere within the Polk County Fire Defense District boundaries, or within adjacent fire defense districts that have entered into a mutual aid agreement with the Polk County Fire Defense Board.

4.1.4 The Fire Defense Chief, or any member of the Fire Defense Board assuming the duties of the Fire Defense Chief, has the authority to prioritize Emergencies and allocate Automatic Aid, Mutual Aid or Emergency Assistance in the event of a regional Emergency or simultaneous multiple Emergencies within the Polk County Fire Defense District. However, nothing in this Agreement

shall abridge the right of a party to limit the movement of its resources beyond its boundaries as provided in Section 4.3.

4.1.5 Each of the undersigned parties hereby authorizes the Polk County Fire Defense Board to enter into mutual aid agreements with adjacent Fire Defense Districts, provided the agreements are in substantial conformance with the attached Exhibit A. Upon execution of a mutual aid agreement between Fire Defense Districts, and notification to the Fire Chiefs of the undersigned parties, the undersigned parties agree to comply with the direction of the Polk County Fire Defense Board Chief, and the protocols adopted by the Polk County Fire Defense Board, and to provide Automatic Aid, Mutual Aid, or Emergency Assistance to adjacent Fire Defense Districts consistent with the provisions of this Agreement.

4.2 TYPE OF EQUIPMENT AND PERSONNEL.

The parties agree to provide to all other parties to this Agreement, and to adjacent Fire Defense Districts that have entered into a mutual aid agreement with this Fire Defense District, Automatic Aid, Mutual Aid, or Emergency Assistance subject to the following conditions:

4.2.1 Subject to the limitations of Section 4.3, the minimum requirements of personnel and equipment available for assistance pursuant to this Agreement shall generally comply with the Oregon Fire Service Plan. Other personnel and equipment minimums may be fixed by action of the Fire Defense Board.

4.2.2 All parties acknowledge that the equipment and personnel made available under this Agreement may be periodically unavailable due to normal operating requirements. However, if any significant event occurs which affects or may affect available equipment or personnel for more than 30 days, the party experiencing such event must notify all other parties to this Agreement.

4.2.3 Where Oregon Department of Forestry (“ODF”) equipment and personnel are requested under the terms of this Agreement, the parties agree that such equipment shall be deployed for natural cover fire protection only. The parties to this Agreement also agree that seasonal deployment of ODF resources varies throughout the year due to seasonal fire needs. ODF may orally notify the parties of these seasonal changes to equipment and personnel at bi-monthly Fire Defense Board meetings. The parties understand that the potential for fires requiring suppression efforts beyond initial attack resources is greatest in the areas protected by the ODF.

4.3 AVAILALBLE RESOURCES.

Each of the parties agrees to furnish Automatic Aid as dispatched pursuant to section 4.4. In addition, each of the parties to this Agreement agrees to furnish to a Requesting Party such Mutual Aid as the Requesting Party may deem reasonable and necessary to successfully abate an Emergency in the Requesting Party's jurisdiction. However, a Providing Party shall have the sole discretion to refuse such a request, or to withdraw from a request, if providing Emergency Assistance to a Requesting Party could lead to an unreasonable reduction in the level of protection within its jurisdiction. A Providing Party may also refuse a request for assistance if necessary to comply with any limitations on the use of dedicated funds by that agency. A Requesting Party agrees to release a Providing Party as soon as Emergency Assistance is no longer required.

4.4 DISPATCHING.

A Providing Party will not deploy pursuant to this Agreement without a request for Emergency Assistance by a Requesting Party. Resources requested under this Agreement will typically be assigned automatically under the following principles and procedures:

4.4.1 It is recognized and agreed by the parties that closest unit response is in the best interest of all communities within Polk County County and that from time to time minor response imbalances between participating agencies may occur and shall be considered diminutive and inconsequential as compared to the benefits conferred upon the communities by the terms of this Agreement. The parties agree that Emergency Assistance requested under this Agreement shall be dispatched promptly and that a first response by the Requesting Party shall not be a prerequisite to a request for Emergency Assistance under this Agreement.

4.4.2 The dispatching process for Emergency Assistance is based upon pre-programming of the Willamette Valley Communications Center (“WVCC”) computer aided dispatch system (“CAD”) for incidents based upon “Call Type,” “Response Levels,” “Response Districts,” and “Station Orders.” For the purposes of this Agreement, the kinds and types of resources dispatched under this Agreement shall be determined by the above dispatching process. The parties agree to mutually cooperate in developing and implementing the dispatching process.

4.4.3 ODF resources shall be dispatched through ODF’s dispatch center and by request of WVCC dispatchers or at the request of the parties.

4.5 SUPERVISION/AGENCY AUTHORITY.

The Requesting Party shall retain incident command responsibility for the incident and shall establish overall supervision of the Emergency through the nationally recognised incident command system. However, when officers from the Requesting Party have not arrived at the scene of the incident, the commanding officer of the Providing Party arriving first shall assume incident command until relieved. “Supervision,” as used in this section, refers to oversight of the mission. Personnel participating in the mission remain employees, volunteers or independent contractors of the party that deployed them, and are subject to the policies and procedures of that party.

Unless expressly authorized by the Requesting Party, a Providing Party and its officers, employees and agents, are not authorized to make any representation, enter into any agreement, waive any right, or incur any obligation in the name of, on behalf of, or as an agent for, the Requesting Party.

4.6 EMERGENCY CONFLAGRATION ACT OR HAZARDOUS MATERIALS RESPONSE.

Emergency Assistance given under order of the Administrator of the State Emergency Management Division in the event of the emergency proclamation by the Governor, or under the “Emergency Conflagration Act”; or in response to hazardous material incident pursuant to the terms of a contract with the Office of the Oregon State Fire Marshal and in conformance with administrative rules regarding hazardous materials response promulgated by the Office of the Oregon State Fire Marshal and the State or Oregon, is not be governed by this Agreement.

5.0 REPEAL OF OTHER AGREEMENTS.

This Agreement does NOT supersede or repeal any: automatic aid agreements or pre-programmed first response agreements; hazardous materials response agreements with the State of Oregon; mutual aid hazardous materials agreements with other State Response Teams; equipment sharing agreements; emergency planning agreements, such as the Office of Consolidated Emergency Management Cooperative Assistance Agreement, the Oregon Urban Search and Rescue Task Force Mutual Aid Agreement; or agreements with ODF for provision of Emergency Assistance beyond the first 12 hours of an incident.

6.0 GENERAL WAIVERS/INDEMNITY.

6.1 Each party to this Agreement waives all claims against all other parties to this Agreement for compensation for any loss, damage, personal injury, or death occurring to that party’s personnel or equipment as a consequence of the performance, failure to perform, or delay in performance, arising out of this Agreement.

6.2 Within the limits of the Oregon Constitution and the Oregon Tort Claims Act, each party to this Agreement will indemnify, defend, save, and hold harmless the other parties to this Agreement and their officials, employees, agents, and

volunteers from and against any and all actions, suits, claims, or demands arising from the acts or omissions of the indemnifying party, its officials, employees, agents, and volunteers in performance of this Agreement. This provision shall survive termination of this Agreement.

6.3 Notwithstanding paragraphs 6.1 and 6.2 of this section, the parties remain entitled to payment of applicable Assistance Costs as provided by this Agreement.

7.0 INSURANCE.

Each party to this Agreement will obtain and maintain commercial general liability insurance or equivalent coverage, or self-insurance, covering its activities under this Agreement in at least an amount equal to the party's liability limits under the Oregon Tort Claims Act.

8.0 WORKERS' COMPENSATION.

Each party to this Agreement agrees to provide workers' compensation insurance coverage to each of its employees and volunteers, and that while overall incident command supervision will usually be provided by the jurisdiction in which the incident occurs, supervision of individual employees will be provided by their regular supervisors. This Agreement does not create any "special employer" relationships under Oregon workers' compensation law.

9.0 REFUSALS TO PERFORM.

This is an automatic aid and mutual aid agreement and it is assumed that all available assistance will generally be provided. However, any Providing Party may refuse to perform any specific task when the Providing Party's commanding officer determines that the task would create an unreasonable risk of danger to the Providing Party's employees, volunteers, independent contractors, equipment or to any third party.

10.0 COMPENSATION/PUBLIC ASSISTANCE/FIRE MANAGEMENT ASSISTANCE.

The parties agree that the Emergency Assistance promised, available, or provided during the Operational Period constitutes adequate consideration under this Agreement without reimbursement of Assistance Costs. Assistance Costs beyond the Operational Period, however, must be reimbursed by the Requesting Party unless otherwise agreed by the Requesting Party and the Providing Party. The Providing Party will keep records documenting all assistance provided under this Agreement, including the scope and extent of equipment and personnel committed, operating times, out-of-pocket expenses, and other costs which, but for the Emergency Assistance provided under this Agreement would not have been incurred. Upon demand, the Requesting Party may access, examine, and copy all records documenting assistance provided to the Requesting Party under this Agreement. The Requesting Party will take all reasonable actions to apply to FEMA for reimbursement of the Providing Party's eligible costs. The Providing Party will submit its claim for reimbursement to the Requesting Party. Both the Requesting Party and Providing Party will keep detailed records of the Emergency Assistance requested and received, and will provide those records as part of the supporting documentation for a reimbursement request. The parties will cooperate to the fullest extent possible to facilitate reimbursement of eligible Assistance Costs. The parties' reimbursement obligations shall survive termination of this Agreement.

11.0 TERMINATION.

11.1 Any party hereto may terminate its participation in this Agreement without cause at any time by giving 30 days' notice to all other parties. Such notice shall be sent to the Chiefs and the governing bodies of the other parties to this Agreement. This Agreement will remain in effect so long as there are at least two parties remaining.

11.2 Failure by any party to continually meet the requirements established by this Agreement constitutes a default. A majority of the members of the Fire Defense Board may elect to terminate a defaulting party's participation in this Agreement. The defaulting party shall have the right to appear before the Fire Defense Board for the purpose of presenting its case before such action may be taken by the Board. Ten days' written notice of any such hearing, mailed to the defaulting party, shall be deemed adequate. Documentation of termination of a defaulting party shall be attached to this Agreement.

12.0 COST RECOVERY.

Except as provided in Section 10.0 of this Agreement or as otherwise provided by law, the parties agree that any cost recovery actions against third parties shall be brought and coordinated by the jurisdiction in which the incident occurred, in their sole and exclusive discretion. Any sums received shall be applied first to the costs of recovery, and then pro rata, in accordance with the reasonable and recoverable costs incurred by each party. Any cost recovery action shall be communicated to and coordinated with all Providing Parties.

13.0 RETIREMENT SYSTEM STATUS.

No Public Employees Retirement System or Law Enforcement Officers' and Fire Fighters' Retirement System benefits will accrue under this Agreement beyond the normal accruals of the employees of Participating Agencies. Further no benefits accrue solely under this Agreement relating to federal Social Security, unemployment insurance, or worker's compensation.

14.0 ASSIGNMENTS/SUBCONTRACTS.

Except as expressly provided herein, the parties agree not to assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Agreement, in whole or in part, without the prior written approval of the other parties.

15.0 SUCCESSORS IN INTEREST.

The provisions of this Agreement shall be binding upon and inure to the benefit of all the parties to this Agreement and their respective successors and assigns.

16.0 COMPLIANCE WITH GOVERNMENT REGULATIONS.

Each party to this Agreement agrees to comply with federal, state and local laws, codes, regulations, and ordinances applicable to the work performed under this Agreement.

17.0 FORCE MAJEURE.

No party to this Agreement shall be held responsible for delay or default caused by fire, riot, act of God and/or war which is beyond the reasonable control of the parties.

18.0 SEVERABILITY.

If any provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

19.0 AMENDMENTS.

The terms and conditions of this Agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written approval of the parties, except that new parties may sign on to this

Agreement as provided in Section 22.0 without prior written consent from the existing parties to this Agreement.

20.0 GOVERNING LAW/DISPUTE RESOLUTION.

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon as interpreted by the Oregon courts. However, the parties may attempt to resolve any dispute arising under this Agreement by any appropriate means of dispute resolution, except binding arbitration.

21.0 TERM OF AGREEMENT/EFFECTIVE DATE.

This Agreement shall take effect on the date signed by all the parties appearing on the signature page in Section 22.0 of this Agreement and shall continue in full force and effect until execution of a successor agreement or termination as set forth in Section 11 above. The terms and conditions of this Agreement shall apply to a new party to this Agreement on the date of the new party's execution of this Agreement, as provided in Section 22.0 below.

22.0 EXECUTION OF AGREEMENT.

This Agreement shall be adopted by resolution of the governing body and signed by the Fire Chief or other authorized official of each party to this Agreement . Each party will execute two copies of this Agreement, one of which will be held by the office of the District Fire Defense Chief, and the other by the office of the District Fire Defense Board Secretary. All signatures shall be executed in counterparts, using the form appearing on the next of this Agreement.

(Signature page to follow)

IN WITNESS WHEREOF, each of the undersigned has caused the Agreement to be approved by their respective governing authority and its duly authorized officers.

AGENCY	AUTHORIZED SIGNATURE	RESOLUTION & DATE
Amity Fire District		
Dallas Fire & EMS		
Dayton Fire District		
Falls City Fire Department		
Hoskins-Kings Valley RFPD		
Oregon Department of Forestry		
Polk County Emergency Management		
Polk County Fire District #1		
Salem Fire Department		
Salem Suburban RFPD		
Sheridan Fire District		
Southwestern Polk RFPD		
Spring Valley RFPD		
West Valley Fire District		

EXHIBIT A**AUTOMATIC AND MUTUAL AID AND EMERGENCY ASSISTANCE
AGREEMENT BETWEEN**

(Fire Defense District)**AND****POLK COUNTY DISTRICT FIRE DEFENSE BOARD**

WHEREAS, the parties recognize the likelihood that fires, disasters or other like emergencies occurring in their respective districts could exceed their ability to control them with the equipment and personnel of any single agency or Fire Defense District (“District”); and

WHEREAS, the parties recognize the necessity to facilitate and comply with ORS 476.510 to 476.610 (the Oregon Emergency Conflagration Act), and to provide mutual aid during emergencies and during a declaration of emergency under ORS Chapter 401; and

WHEREAS, it is necessary and proper that this Automatic and Mutual Aid Agreement be entered into by and between the Fire Defense Districts for the mutual protection of life and property, and

WHEREAS, the local fire services of each District listed below have approved and agree to be bound by the terms of this Agreement,

NOW, THEREFORE, under the authority of ORS Chapter 190, it is agreed as follows:

1. The defined terms of the Polk County Fire Defense Board 2014 Intra-County Automatic and Mutual Aid Agreement, copy attached, (“Polk County Automatic and Mutual Aid Agreement”) are adopted and incorporated by this reference.
2. The local fire services that are parties to their Fire Defense District’s Intra-County Automatic and Mutual Aid Agreement have each agreed to respond to automatic aid and mutual aid requests between Fire Defense Districts pursuant to mutual aid and move-up procedures developed by the Fire Defense Districts and administered by the Fire Defense District’s respective Fire Defense Board Chiefs. The procedures will be developed in conformance with the State of Oregon Mobilization Plan.
3. The Fire Defense Districts will provide Emergency Assistance upon request, when available, to any of the fire services that are parties to their Fire Defense District intra-county mutual aid agreement, when such assistance is necessary and appropriate.
4. The Fire Defense Districts incorporate the provisions of Sections 4.2, 4.3, 4.5, 4.6, 5 – 10, and 12 – 22 of the Polk County Automatic and Mutual Aid Agreement.

5. The mutual aid and move-up procedures shall be reviewed and updated annually. Each party is responsible for the coordination of resources and responses with other agencies within their local Fire Defense District.
6. Additional fire service agencies may be added as parties by their respective Fire Defense Districts without approval by the other Fire Defense District.
7. Either party may withdraw from this Agreement by giving 30 days' written notice of its intent to withdraw to the other party.
8. Each Fire Defense District represents that it has obtained prior approval from each of the local fire service agencies listed below to enter into this Agreement.

The effective date of this Agreement shall be _____, and it shall remain in effect until modified or repealed.

For _____ County Fire Defense District, the fire service agencies are:

For Polk County Fire Defense Board, the fire service agencies are:

Amity Fire District, Dallas Fire & EMS, Dayton Fire District, Falls City Fire Department, Hoskins-Kings Valley RFPD, Oregon Department of Forestry, Polk County Fire District #1, Salem Fire Department, Salem Suburban RFPD, Sheridan Fire District, Southwestern Polk RFPD, Spring Valley RFPD and West Valley Fire District.

Three (3) original signed copies of this Agreement shall be maintained on file as follows:

- One (1) at the office of the Oregon State Fire Marshal
- One (1) at the office of the _____ County Fire Defense Board Chief
- One (1) at the office of the Polk County Fire Defense Board Chief

Each party and local fire protection agency to this Agreement shall receive a copy of the final signed Agreement.

IN WITNESS WHEREOF each of the undersigned has caused this Agreement to be signed by its duly authorized officers.

DISTRICT SIGNATURES

_____ COUNTY FIRE DEFENSE DISTRICT

Fire Defense Board Chief: _____ Dated: _____

POLK COUNTY FIRE DEFENSE BOARD

Fire Defense Board Chief: _____ Dated: _____

DRAFT

DALLAS CITY COUNCIL

PUBLIC SAFETY SUBCOMMITTEE REPORT

TO: COUNCIL PUBLIC SAFETY SUBCOMMITTEE

<i>City of Dallas</i>	Agenda Item No.	Topic: Ordinance for mailing citations
Prepared By: Tom Simpson, Chief of Police	Meeting Date: February 23, 2015	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Ron Foggin		

RECOMMENDED ACTION:

Develop and adopt an ordinance which specifically provides for delivery of a summons and citation by mail.

BACKGROUND:

Dallas City Code currently is unclear in the manner of “delivery” of a summons and citation. Occasionally—and often when attempting to resolve Code violations of vacant properties throughout the City—investigation reveals owners reside outside of Dallas and frequently outside of Oregon. This causes extensive delays in bringing property owners before the Municipal Court to address Code violations. The ability to mail summons and citations would expedite resolution of the various issues being addressed and make for more efficient and effective use of our staff’s time.

A copy of example language from the City of Milwaukie Municipal Code is attached.

FISCAL IMPACT:

City Attorney time;
Savings police Code staff time

DALLAS 2030 VISION IMPACT:

Our Community & Identity: 1a- attractive community; 1k-clean, safe, livable neighborhoods;

ATTACHMENTS:

Copy of Milwaukie Municipal Code §1.08.180

Milwaukie Municipal Code

[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[TITLE 1 GENERAL PROVISIONS](#)[CHAPTER 1.08 SHORT-FORM UNIFORM COMPLAINT AND CITATION METHOD AND CODE ENFORCEMENT PROCEDURES](#)[ARTICLE II VIOLATION PROCEDURES](#)**1.08.180 UNIFORM VIOLATION SUMMONS AND CITATION—SERVICE—FAILURE TO RECEIVE—DEFAULT**

- A. Service of the uniform summons and citation may be by personal service on the defendant or an agent of the defendant authorized to receive process; by substitute service at the defendant's dwelling or office; or by registered mail, return receipt requested, to the defendant at his or her last known address. In the event of substitute service at the defendant's dwelling, the person served must be at least fourteen (14) years of age and residing in the defendant's place of abode. Service at the defendant's office must be made during regular business hours to the person who is apparently in charge. If substitute service is used, a true copy of the summons and complaint, together with a statement of the date, time, and place at which service was made, must be mailed to the defendant at the defendant's last known address. Service will be considered complete upon such a mailing. Service by any other method reasonably calculated, under all the circumstances, to apprise the defendant of the existence and pendency of the violation and to afford a reasonable opportunity to respond shall be acceptable.
- B. Service on particular defendants, such as minors, incapacitated persons, corporations, limited partnerships, the State of Oregon, other public bodies, and general partnerships, shall be prescribed for the service of a civil summons and complaint by the Oregon Rules of Civil Procedure.
- C. No default shall be entered against any defendant without proof that the defendant had notice of the uniform violation summons and complaint. Either a sworn affidavit of the Code Enforcement Officer outlining the method of service, including the date, time, and place of service, a return receipt of registered mailing which indicates delivery of the summons and complaint to defendant's last known address, or a registered letter returned as "unclaimed" which indicates attempt of the same, shall create a rebuttable presumption that the defendant had such notice. (Ord. 1758 § 1, 1994; Ord. 1659 § 1 (part), 1989)

View the [mobile version](#).

DALLAS CITY COUNCIL
PUBLIC SAFETY SUBCOMMITTEE REPORT

TO: COUNCIL PUBLIC SAFETY SUBCOMMITTEE

<i>City of Dallas</i>	Agenda Item No.	Topic: Addendum to DCC 5.584
Prepared By: Tom Simpson, Chief of Police	Meeting Date: February 23, 2015	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Approved By: Ron Foggin		

RECOMMENDED ACTION:

Develop and incorporate additional language into section 5.584 of the Dallas City Code which specifically prohibits the use of tarpaulins or sections of fabric or other materials to prevent exposure to public view as defined in this section and which are not specifically designed, constructed and intended solely for the covering of a vehicle. This exclusion should specifically include blue or grey tarpaulins manufactured of woven polyester or nylon, and by reference should not be deemed to limit the types of excluded coverings to the colors and materials listed as examples.

BACKGROUND:

Dallas City Code 5.584(3)(a) articulates, in part, that a vehicle which is inoperable as defined in 5.584(2) and for the purposes of this same section, shall not be considered to be exposed to public view if said vehicle is covered with a cover that is specifically designed solely for covering vehicles—in short, a car cover. The intent of this wording was to prevent the use of tarpaulins of various colors, materials and configurations to cover inoperable vehicles which were being stored. Bright blue or grey tarps of woven polyester are the most common example.

A circumstance developed recently where a homeowner, who objected to the requirement to use an actual car cover and was fully aware of the intent of this requirement, purchased the appropriate cover for his vehicle and installed it, then covered the vehicle—and the new cover—with a bright blue tarpaulin. Existing Dallas City Code provides no mechanism to properly address or prevent this action.

FISCAL IMPACT:

City Attorney time

DALLAS 2030 VISION IMPACT:

Our Community & Identity: 1a- attractive community; 1k-clean, safe, livable neighborhoods;

ATTACHMENTS: None.

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Members Present: Chair Murray Stewart, Micky Garus, LaVonne Wilson, Ken Woods, Jr.

Also Present: City Manager Ron Foggin, City Attorney Lane Shetterly, Police Chief Tom Simpson, Fire Chief Fred Hertel, Community Development/Operations Director Jason Locke, Engineering and Environmental Services Director Fred Braun, and Recording Secretary Jeremy Teal.

Chair Stewart called the meeting to order at 4:26 p.m.

STORMWATER MASTER PLAN

Mr. Braun gave a brief overview of the Stormwater Master Plan and outlined six problem areas throughout Dallas that need to be addressed.

It was moved by Councilor Woods to release the draft stormwater master plan for public comment and potential adoption by the City. The motion was duly seconded and carried with a vote of 4-0.

DOWNTOWN PARKING DISCUSSION

Mr. Locke stated there was an ongoing parking issue on Church Street. He noted a serious increase in downtown parking occurring by employees of downtown businesses occupying 90% of the parking on Church Street. He proposed removing the timed parking on 16 spaces on the west end of Mill Street.

It was moved by Councilor Woods to direct staff to draft an Ordinance for Council approval to remove the 2-hour time limit for the 16 spaces on Mill Street between the alley and Church Street. The motion was duly seconded and carried with a vote of 4-0.

COM DEV/OPS DIRECTOR'S REPORT

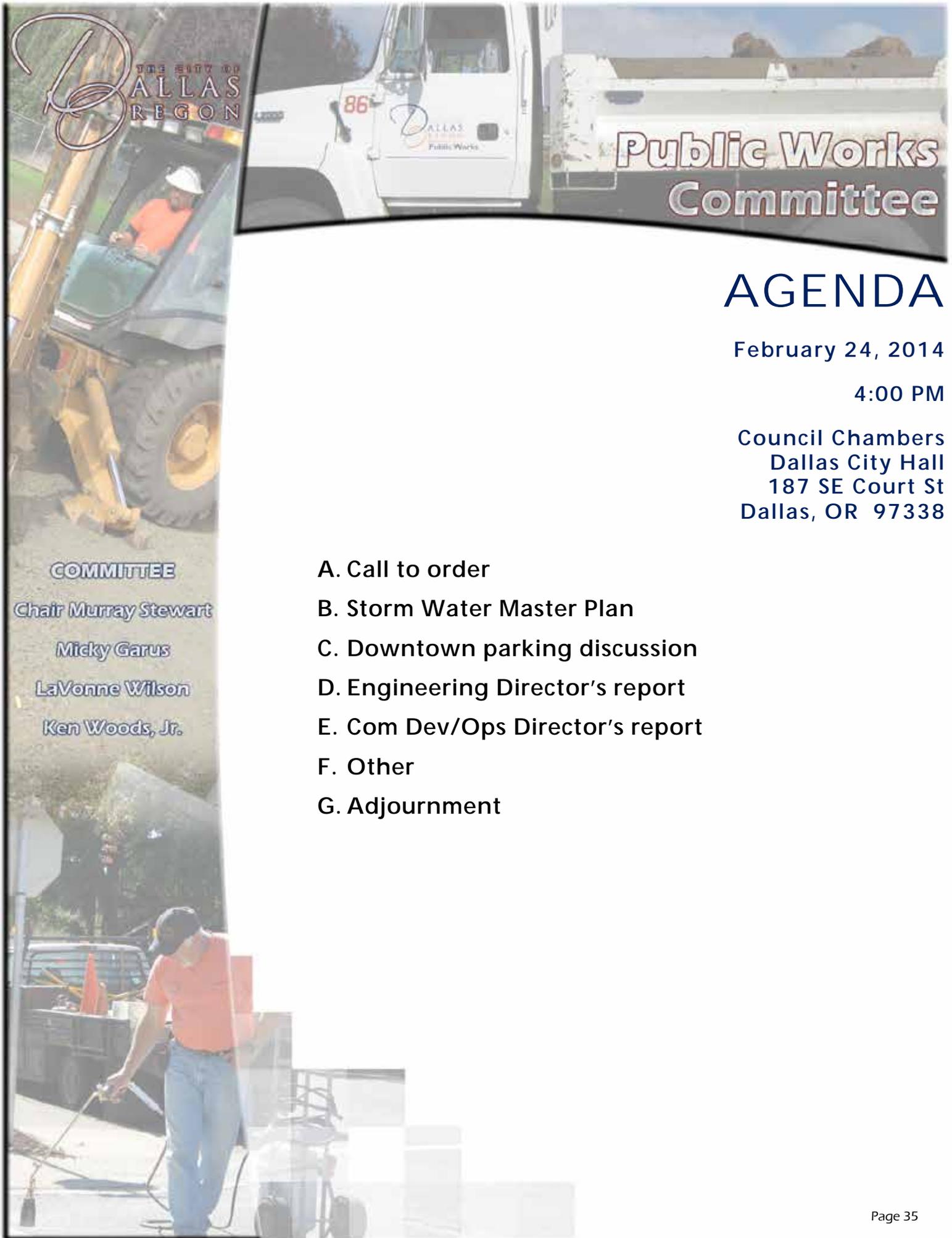
Mr. Locke noted that all his departments were busy with projects.

ENGINEERING DIRECTOR'S REPORT

Mr. Braun stated his department was busy with the meter replacement project which had replaced over 600 meters and would have the remaining 900 done by June. He outlined the Mill street project, the overlay projects, and the west side of Main street project. He noted he had applied for loans totaling \$8,000,000 through the Safe Drinking Water fund with a 1% interest rate.

ADJOURNMENT

There was no other business and the meeting was adjourned at 5:15 p.m.



Public Works Committee

AGENDA

February 24, 2014

4:00 PM

Council Chambers
Dallas City Hall
187 SE Court St
Dallas, OR 97338

COMMITTEE

Chair Murray Stewart

Micky Garus

LaVonne Wilson

Ken Woods, Jr.

- A. Call to order
- B. Storm Water Master Plan
- C. Downtown parking discussion
- D. Engineering Director's report
- E. Com Dev/Ops Director's report
- F. Other
- G. Adjournment

DALLAS PUBLIC WORKS COMMITTEE

REPORT

TO: PUBLIC WORKS COMMITTEE MEMBERS

<i>City of Dallas</i>	Agenda Item No. B	Topic: Draft Stormwater Master Plan
Prepared By: F Braun	Meeting Date: February 23, 2015	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Ron Foggin		

RECOMMENDED MOTION:

A recommendation to release the draft stormwater master plan for public comment and potential adoption by the City.

BACKGROUND:

As a result of the 2012 Dallas Utility Rate Study, the Citizens Utility Rate Advisory Committee recommended that the City prepare a comprehensive Stormwater Master Plan. Development of the master plan was subsequently budgeted by the City Council.

In February 2014, City Staff issued a Request for Proposals for development of the plan. A total of 2 firms subsequently responded to the RPF, and the firm CH2M Hill of Corvallis, Oregon was selected as having submitted the best proposal. Important elements of the master plan include the following:

- 1) The new master plan will identify and prioritize necessary or desirable capital improvements and stormwater operational costs for the City of Dallas.
- 2) The master plan shall include an inventory of the stormwater assets.
- 3) The analysis shall be based on existing and future build-out conditions for the 5-, 10-, 25-, and 100-year, 24-hour rainfall and identify key trouble spots.
- 4) The master plan shall include 20-year Capital Improvement and Maintenance Plans (CIP) for the surface water collection system.
- 5) The master plan shall include an analysis of the City’s staffing level. The analysis shall determine the Stormwater Operations, Engineering, and Administration staffing necessary to adequately maintain and manage the City’s surface water collection system.
- 6) The master plan shall recommend an updated Stormwater Systems Development Charge (SDC), including improvement, reimbursement, and administrative fees, in accordance with State of Oregon SDC statutes.

Discussion:

Attached is a copy of the draft report for your information. Some of the key findings of the master plan include:

Asset Inventory:

The City has 46.9 miles of underground piping of various sizes ranging from 6” to 60” diameter. There are 822 manholes and 1943 catch-basins.

City Drainage Area: Over 99% of the area within the City is covered with soils of limited to poor permeability or impervious materials. Except in localized areas, disposal of stormwater by surface infiltration is not considered to be an effective strategy. Most of the study area is zoned for residential (77.5%), followed by commercial (5.9%), industrial (12.6%), parks/open space (2.4%), and other miscellaneous (1.6%).

Identified Problem Areas & Capital Improvements:

A total of 6 problem areas were identified and are summarized on pages ES-6 through ES-11, and shown on figure ES-2. A summary of each area, along with the approximate capital costs is as follows:

- 1) West Ellendale at Wyatt – Clear and regrade channel and install new box culvert at West Ellendale. Approximate cost = \$495,000.
- 2) Douglas Drainage – Install new inlet and 42” culvert. Replace existing undersized culvert with 48” and modify outlet. Approximate cost = \$ 755,000.
- 3) Rickreall Uglow/Orchard - Replace and upsize existing Fairview culvert. Replace East Ellendale box culvert with dual 48” RCP. Replace and upsize existing culvert from East Ellendale to outfall at Walnut Park area. Approximate cost = \$2,348,000.
- 4) Kings Valley Highway/Highway 223 at Cemetery - Replace and upsize culverts and highway crossing with box culvert near cemetery. Approximate cost = \$131,000.
- 5) North Fork Ash Creek - Extensive improvements have been identified, including replacement of the box culvert through the Weyerhaeuser site and clearing and widening Ash Creek from SE Uglow Ave to the City Limits. The approximate cost of these improvements would exceed \$19 Million. As an alternate, the City could acquire approximately 20 to 30 acres immediately upstream of the Weyerhaeuser site for use as a stormwater detention area. This would significantly reduce the required downstream improvements. The acquired land could also be used as a linear park/natural open space and trail system.
- 6) Hunter Street – Install new 48” culvert and abandon existing deteriorated culvert under single family residence. Approximate cost = \$209,000.

Systems Development Charges:

Table ES-8 lists the recommended stormwater SDC's, based upon the proposed capital improvements. The new fee of \$ 1,141 is slightly higher than the existing fee of \$957 for each single family residential unit (SRU). After adoption of the stormwater master plan, the SDC's should be formally updated according to State requirements.

Stormwater Utility:

The formation of a stormwater utility was evaluated by the study, along with the needed operational and capital costs. The sewer utility currently operates as a combined sanitary sewer and stormwater utility. The physical systems are not combined and serve different purposes and therefore, the operational and capital costs should be accounted for and tracked separately. The analysis is summarized on pages ES-17 through ES-21.

FISCAL IMPACT:

TBD

ATTACHMENTS:

Draft Final Stormwater Master Plan, dated February 2015.

Executive Summary

Purpose

This master plan identifies and prioritizes necessary or desirable capital improvements and stormwater operational staffing needs of the City of Dallas and establishes a schedule and financing plan to implement the recommended necessary improvements.

More specifically, this plan presents the results of the analysis of the existing stormwater collection and conveyance system, focusing on existing problem areas to identify modifications and additions to correct current deficiencies and address predicted future needs.

As part of this master planning project, data about the storm drainage system were converted from computer-aided drafting (CAD) files to a database that can be used with geographical information system (GIS) to facilitate future system analysis and asset management. The available data from the CAD files are limited and will be supplemented with additional information in the future.

Watershed Characteristics

The study area for this plan is defined by the current (2014) City of Dallas boundary, and the La Creole and Barberry growth nodes. These growth nodes are identified as Master Plan Overlay Zones on the City of Dallas Zoning Map dated January 2014; they are outside of the City boundary but within the Urban Growth Boundary (UGB).

The City is bisected by Rickreall Creek, which runs from west to east. The City collects water from the Rickreall Creek watershed for municipal use, and discharges treated water from a wastewater treatment facility downstream of the City. Two additional waterways drain the City of Dallas: Harland Slough (tributary to Baskett Slough) and the North Fork Ash Creek. The west side of the City of Dallas lies along the eastern foothills of the Coastal Mountain Range, but the majority of the City's topography is relatively flat.

Stormwater runoff is drained by pipe and open channel systems throughout the watershed. Most of the runoff from the urbanized areas, especially the central business district, is piped. Runoff is transported through these pipes and discharged into the creeks and streams flowing through the City.

Within the study area, nearly 99 percent of the area is covered with soils of moderate or poor permeability. The predominant soils within the Dallas UGB have low infiltrative capacity during large events. Except in localized areas, disposal of stormwater through surface infiltration is not considered to be an effective strategy. Also for this reason, groundwater and stormwater interactions are assumed to be minimal. The study area is currently zoned for residential (77.5 percent), commercial (5.9 percent), industrial (12.6 percent), parks (2.4 percent), and agricultural and forest uses (1.6 percent).

Analysis Approach and Methodology

Analysis Approach

The primary objective of the analysis was to evaluate the adequacy of the existing drainage systems at sites known to experience flooding and to develop a phased capital improvements plan to upgrade inadequate facilities. The following sites with known flooding problems were identified by the City:

- Douglas Street at the inlet to the piped system
- Fairhaven Street culvert
- Murphy's Grill parking lot at the inlet to the piped system
- Culverts under Kings Valley Highway/Highway 223 near the cemetery
- Kings Valley Highway/Highway 223 crossing of North Fork Ash Creek at the Bridlewood subdivision

- Former Weyerhaeuser property
- Uglow Street
- Monmouth Cutoff crossing of the North Fork Ash Creek
- Monmouth Cutoff crossing of the tributary
- Godsey Road

This study identified improvement alternatives and selected conceptual system improvements for each of the identified problems. The system improvements were selected to enable the system to convey the peak 100-year flow at buildout without causing surface flooding.

In order to evaluate hydraulic deficiencies and potential solutions, hydrologic analysis was first conducted to determine peak flow for multiple recurrence intervals. The results of the hydrologic analysis also provided a planning basis for future infrastructure needs in the Wyatt, La Creole and Barberry growth nodes.

Methodology

Hydrologic Analysis

Two methods were used to estimate peak flows from drainage areas within the study area. The first was the hydrologic modelling software HEC-HMS (v3.1.0) by U.S. Army Corps of Engineers (USACE) using Soil Conservation Service (SCS) methodology, and the second consisted of prediction equations published by the U.S. Geological Survey (USGS). In general, HEC-HMS was used to estimate peak flows from subbasins with the UGB or tributary to Rickreall Creek, while the USGS regression equations were used for the large rural basins tributary to the North Fork Ash Creek.

Hydraulic Analysis

Hydraulic analysis was focused on the areas of known flooding problems. A systems approach was used to group sites that are hydraulically linked. These groups were then analyzed as functional systems rather than isolated problems.

XPSWMM by XP Solutions was used to model existing and proposed infrastructure to alleviate flooding at several of the identified problem sites with pipe network elements. Bentley FlowMaster was used in conjunction with the Federal Highway Administration's culvert hydraulic analysis program HY-8 to evaluate channel and culvert requirements.

Basin Delineation and Model Parameters

Major drainage basins were defined according to existing drainage routings within the City and topography. The major basins (shown in Figure ES-1) include Ash Creek Bridlewood, Ash Creek Industrial, Ash Creek Residential, Baskett Slough, Douglas, Rickreall Barberry, Rickreall Central Business District (CBD), Rickreall North Central (NC), Rickreall Northeast (NE), Rickreall Northwest (NW), Rickreall Southeast (SE), Rickreall Southwest (SW), and Rickreall Uglow-Orchard (UO).

National Land Cover Database data were analyzed to determine the currently mapped percent impervious areas. Soils in the area were characterized using the hydrologic soil classification system developed by the SCS (now called Natural Resources Conservation Service [NRCS]). Soil parameters were derived from the Soil Survey Geographic Database, which was published by the NRCS in 2003.

Basin Runoff Analysis and Results

Runoff from each subbasin was determined using the SCS methodology in the USACE HEC-HMS hydrologic computer model, except for the three large rural basins outside the UGB that are tributary to North Fork Ash Creek, which were calculated using USGS regression equations. Results are summarized in Table ES-1.

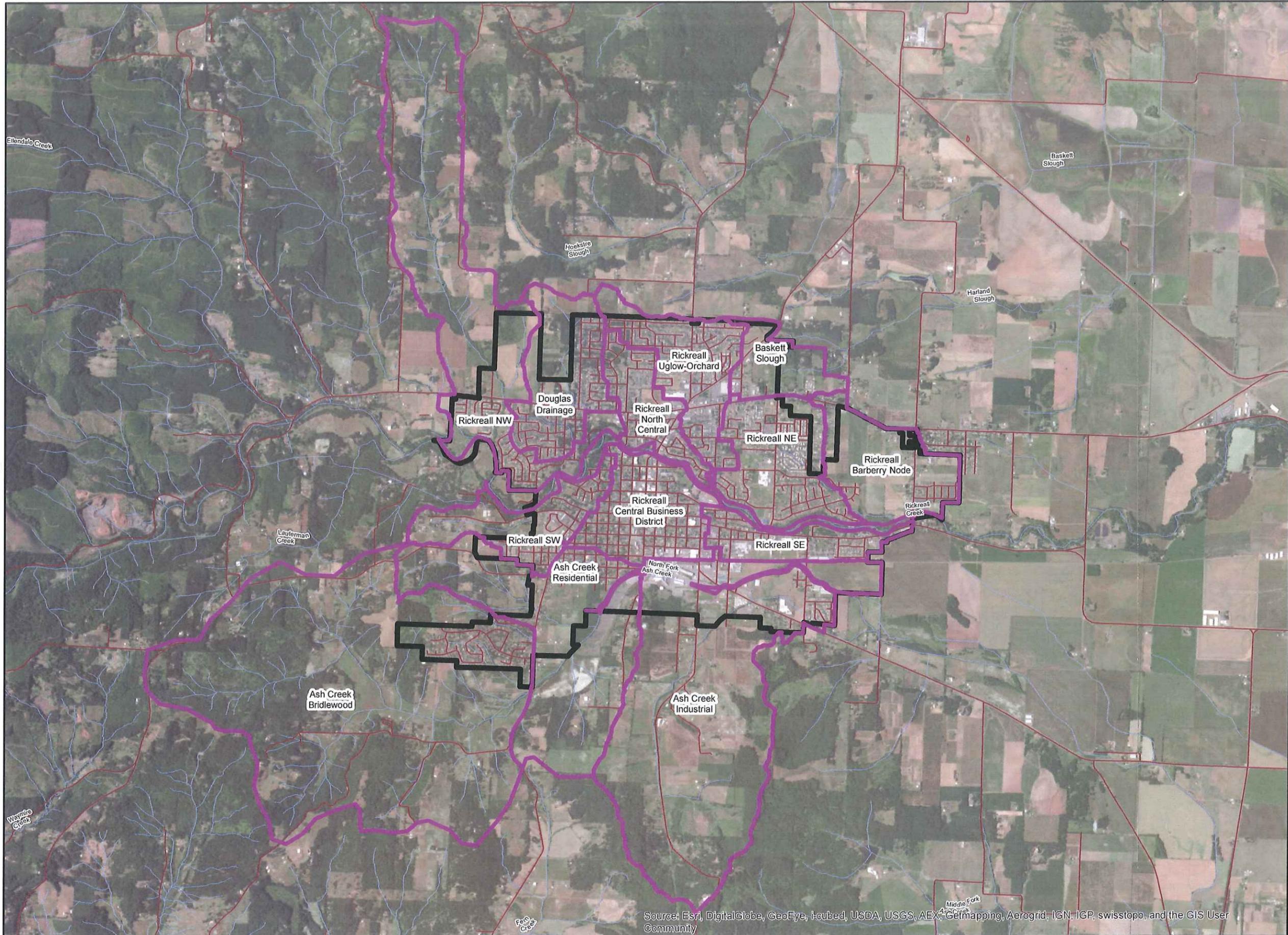


FIGURE ES-1

Major Basins

City of Dallas
Stormwater Master Plan

Legend

-  Major Basins
-  City Boundary
-  Roads
-  Streams



1 inch equals 3,200 feet



Date: 12/18/2014

Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

TABLE ES-1
Peak Major Basin Flows
City of Dallas Stormwater Master Plan

Routed Flow	Total Basin Area (acres)	Current Condition Flows (cfs)				Buildout Flows (cfs)			
		10 yr	25 yr	50 yr	100 yr	10 yr	25 yr	50 yr	100 yr
Ash Creek Bridlewood	2,056	329	402	465	542	329	405	465	544
Ash Creek Industrial	1,379	331	395	449	516	383	450	507	578
Ash Creek Residential	783	263	318	364	421	305	365	413	473
Baskett Slough	160	100	120	137	158	122	145	164	188
Douglas	334	202	240	273	313	224	266	300	342
Rickreall Barberry	315	147	179	205	238	207	246	279	318
Rickreall CBD	302	266	305	338	377	265	305	337	376
Rickreall NE	349	233	273	308	348	269	314	352	397
Rickreall NC	190	161	188	210	237	174	201	224	251
Rickreall NW	986	357	440	511	598	367	449	519	604
Rickreall SE	174	136	159	179	202	146	170	190	214
Rickreall SW	254	169	202	229	263	173	206	233	267
Rickreall UO	311	250	292	327	370	260	300	339	382

cfs = cubic feet per second.
 yr = year.

Water Quality

The City of Dallas is a Designated Management Agency under the Willamette TMDL. As such, the City has developed a comprehensive Willamette TMDL Implementation Plan (Dallas TMDL Plan) to improve the quality stormwater runoff from the City (City of Dallas, 2008a). Several action items have already been implemented. The following recommendations are based on review of the Dallas TMDL Plan, relevant topographical and climatic information, types of source contamination, frequently cited sources of those contaminants, observed levels of contamination, methods of removal, and the overall regulatory climate. Recommendations are as follows:

- Continue implementation of the action items contained in the Dallas TMDL Plan.
- Consider adoption of the sumped style of catch basins for public facilities and either sumped or siphoned private facilities within the City and use this style as new catch basins are built or as old catch basins are replaced within the normal schedule of maintenance and improvements.
- Retain natural existing open channel waterways as such to the extent possible, rather than allow their replacement with piped systems. Exceptions to this policy should include situations where the waterway cannot be maintained free from encroaching vegetation or human activities to prevent flooding of adjacent lands due to such encroachment.
- Consider increased detention requirements to manage hydrologic impacts (e.g., channel down-cutting) or if significant growth is expected in a specific stream basin.
- Establish treatment requirements for developments by setting a treatment threshold for increased impervious area; for example, 5,000 to 10,000 square feet. More discussion of allowable treatment facilities and the interaction with water quantity management techniques, would be appropriate additions to design standards.
- Incorporate measures to ensure adequate long-term operation and maintenance of post-construction best management practices (BMPs) to the overall stormwater management program and policies.

- Develop additional action items related to construction sites, including:
 - Requirements to control other (non-sediment) waste at the construction site
 - Procedures to receive and consider information/complaints submitted by the public
 - Procedures for inspections and enforcement of stormwater requirements at construction sites
 - Removal of sediment control measures following construction

Analysis Results and Recommended Improvements

As noted above, a systems approach was taken to group and analyze hydraulically linked problem areas together. As a result, there are fewer analysis areas than identified problem areas. Though not listed as a flooding site, Hunter Street was identified as an additional location for needed drainage improvements because of the construction of a house directly on top of a concrete culvert. In total, there were six areas of analysis:

- West Ellendale at Wyatt
- Douglas Drainage
- Rickreall Uglow/Orchard
- Kings Valley Highway/Highway 223 at the Cemetery
- North Fork Ash Creek
- Hunter Street

The analysis areas are shown in Figure ES-2. The problems and recommended improvements for these areas are described separately below. In each case, the hydrologic and hydraulic analysis and resulting recommended capital improvement projects are based on the best available data supplemented by reasonable assumptions. Additional detail is required to refine the concept designs and develop construction ready projects.

West Ellendale at Wyatt

Historically, floodwaters overtop West Ellendale and run down Wyatt Street.

Proposed capital improvement projects include:

- Regrade the channel
- Clean and replant channel: replace existing brushy weeds with short grass to achieve greater flow capacity
- Replace circular culvert with larger box culvert

These improvements are recommended assuming that the earthen berm on the north side of Ellendale was not designed as a permanent improvement and will eventually be removed as development occurs.

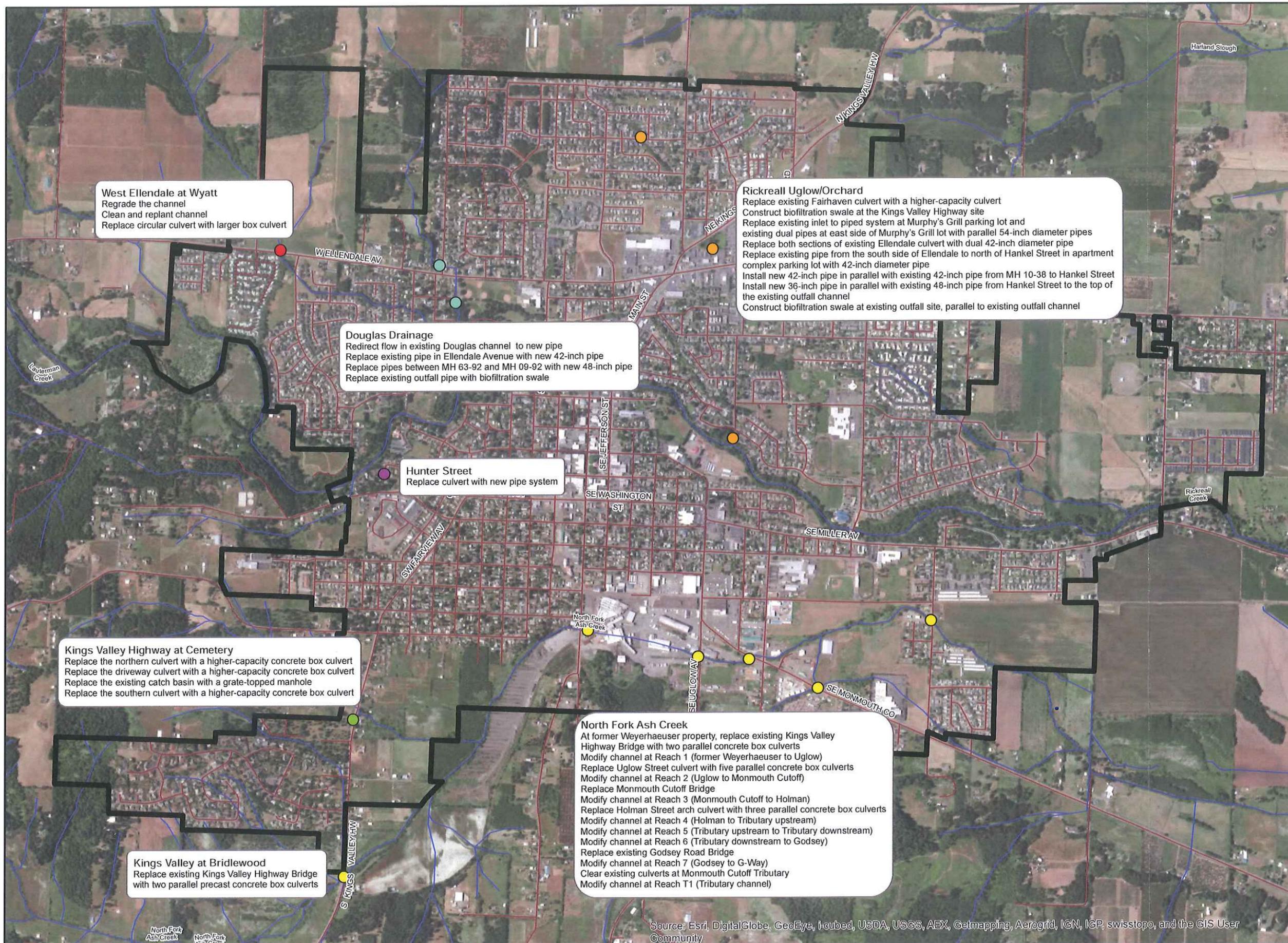
The following next steps are recommended as part of the design process:

- Add detail about the Kingsborough Park detention pond and the connection to the hydraulic model to better understand interactions between the two and potential impacts to recommended improvements
- Determine cause of existing reverse grade at existing culvert outlet and conduct scour analysis to mitigate the cause and prevent reoccurrence
- Confirm channel dimensions and grade; adjust length of channel that must be regraded if necessary to provide hydraulic capacity
- Confirm fish passage requirements and adapt culvert design concept accordingly

FIGURE ES-2

Recommended Capital Improvements

City of Dallas
Stormwater Master Plan



Legend

Analysis Area

- Douglas Drainage
- Hunter Street
- Kings Valley Highway at the Cemetery
- North Fork Ash Creek
- Rickreall Uglow/Orchard
- West Ellendale at Wyatt
- City Boundary
- Roads
- Streams



1 inch equals 1,500 feet



Date: 12/18/2014

Douglas Drainage

Water rises to the surface at the upstream end of the system on Douglas Avenue, where flow from a straightened natural channel enters the piped system.

Proposed capital improvement projects include:

- Redirect flow in existing Douglas channel to new pipe
- Replace existing pipe in Ellendale Avenue with new 42-inch pipe
- Replace pipes between MH 63-92 and MH 09-92 with new 48-inch pipe
- Replace existing outfall pipe with biofiltration swale

The following next steps are recommended as part of the design process:

- Establish groundwater levels and evaluate potential impacts to proposed outfall biofiltration facility
- Check buoyancy conditions for new large manholes

Rickreall Uglow/Orchard

Flooding has been observed in the parking lot of Murphy's Grill; floodwaters cross the parking lot and flow south over Ellendale Avenue to flood the parking areas of the businesses to the south.

Proposed capital improvement projects include:

- Replace existing Fairhaven culvert with a higher-capacity culvert
- Construct biofiltration swale at the Kings Valley Highway/Highway 223 site
- Replace existing inlet to piped system at Murphy's Grill parking lot and existing dual pipes at east side of Murphy's Grill lot with parallel 54-inch diameter pipe
- Replace both sections of existing Ellendale culvert with dual 42-inch diameter pipes
- Replace existing pipe from the south side of Ellendale to north of Hankel Street in apartment complex parking lot with 42-inch diameter pipe
- Install new 42-inch pipe in parallel with existing 42-inch pipe from MH 10-38 to Hankel Street
- Install new 36-inch pipe in parallel with existing 48-inch pipe from Hankel Street to the top of the existing outfall channel
- Construct biofiltration swale at existing outfall site, parallel to existing outfall channel
- The following next steps are recommended as part of the design process:
 - Establish groundwater levels and evaluate potential impacts to proposed biofiltration facilities
 - Additional survey

Kings Valley Highway/Highway 223 at the Cemetery

Floodwaters overtop Kings Valley Highway/Highway 223 at the entrance to the cemetery.

Proposed capital improvement projects include:

- Replace the northern culvert with a higher-capacity concrete box culvert
- Replace the driveway culvert with a higher-capacity concrete box culvert
- Replace the existing catch basin with a grate-topped manhole
- Replace the southern culvert with a higher-capacity concrete box culvert
- Replace existing Kings Valley Highway/Highway 223 Bridge with two parallel precast concrete box culverts

The following next steps are recommended as part of the design process:

- Determine downstream capacity and backwater effects on proposed culvert improvements
- Assess upstream detention storage to mitigate potential effects on downstream system
- Perform additional survey

North Fork Ash Creek

Flooding has been observed at multiple locations in the upper portions of the North Fork Ash Creek watershed, including five road crossings and the former Weyerhaeuser property between Main Street and Uglow Street.

Proposed capital improvement projects include:

- Replace existing Kings Valley Highway/Highway 223 Bridge with two parallel concrete box culverts or alternate detention area
- Modify channel at Reach 1 (former Weyerhaeuser to Uglow) or alternate detention area
- Replace Uglow Street culvert with five parallel concrete box culverts or alternate detention area
- Modify channel at Reach 2 (Uglow to Monmouth Cutoff)
- Replace Monmouth Cutoff Bridge
- Modify channel at Reach 3 (Monmouth Cutoff to Holman)
- Replace Holman Street arch culvert with three parallel concrete box culverts or alternate detention area
- Modify channel at Reach 4 (Holman to Tributary upstream)
- Modify channel at Reach 5 (Tributary upstream to Tributary downstream)
- Modify channel at Reach 6 (Tributary downstream to Godsey)
- Replace existing Godsey Road Bridge
- Modify channel at Reach 7 (Godsey to G-Way)
- Clear existing culverts at Monmouth Cutoff Tributary
- Modify channel at Reach T1 (Tributary channel)

Channel modifications mostly consist of widening the channel to increase conveyance capacity. In some locations, a levee is required to contain the water within the design channel and prevent flooding of low-lying areas on either or both sides.

An alternative approach to increased conveyance through and immediately upstream of the Weyerhaeuser property could be to construct in-line detention storage of the North Fork Ash Creek. Detention of peak flows could reduce the size of downstream conveyance infrastructure. High-level conceptual analysis of this alternative indicates that a 6-foot deep pond approximately 20 acres in size would be required.

The proposed capital improvement projects are based on hydraulic capacity requirements only, with very limited consideration of fish passage or other ecological and permitting challenges. The proposed channel modifications (including levees) and culvert replacements are all located within a regulatory floodplain. The analysis, and resulting proposed capital improvements, did not consider alternatives for overbank flow outside of the proposed channels, nor did it account for potential floodplain storage effects. Wetland mapping was not conducted as part of this project, but it is presumed that this project will have some wetland impacts.

In addition to compliance with City of Dallas and Polk County development code and floodplain ordinances and local permits, the following federal and state permits may be required:

- Clean Water Act Section 404 Permit (USACE)
- National Environmental Policy Act assessment
- Clean Water Act Section 401 Water Quality Certification (DEQ)
- Removal-fill Permit (Oregon Department of State Lands)
- Fish Passage Approval (Oregon Department of Fish and Wildlife)
- Oregon State Historic Preservation Office Concurrence

The following next steps are recommended as part of the design process:

- Comprehensive project feasibility study. The hydraulic interactions between the floodwaters from the former Weyerhaeuser property, the tributary, and the mainstem of the North Fork Ash Creek are complex and are not currently represented by an accurate, interlinked dynamic model. A detailed hydraulic study of this system, including collection of flow monitoring data for model calibration, is recommended before further development of the proposed capital improvements. A full analysis of the conceptual detention storage alternative should be incorporated into this study.
- This study should include early coordination between the City, the Ash Creek Water Control District, and state and federal agencies including Federal Emergency Management Agency, USACE, DEQ, Oregon Department of State Lands, and Oregon Department of Fish and Wildlife.
- Thorough evaluation of permitting requirements should be undertaken as part of the recommended further study in order to understand potential regulatory constraints on the proposed projects. Investment in such a study may result in significant overall capital cost saving.

It is anticipated that project coordination with other vested parties and other planned city activities such as roadway maintenance, permitting, and coordination of funding resources will result in a long lead time before design and construction of the various projects can begin. Implementation and phasing of the projects will depend on these factors.

Hunter Street

A house was built over the top of a 48-inch culvert; the culvert is presumed to be nearing the end of its lifecycle and may start to cause problems for the property owner if not re-aligned.

A new 48-inch diameter pipe system is proposed. The existing culvert can be capped and abandoned in place.

Additional Recommendations

Private Development Drainage Facilities

Other drainage facilities will be needed within developments that occur on the fringes of existing development. These additional facilities are typically provided by the developer as part of the development's infrastructure and are either kept as private drainage facilities or are constructed to City standards and turned over to the City upon acceptance of the construction by the City. It is not the intent of this plan to place restrictions on the alignment of drainage facilities within these currently undeveloped lands, except as specifically provided for in this plan.

Drainage facilities will be planned for these outlying areas as part of the City's normal site design review process. These facilities should have the capacities necessary to handle the flows estimated by this master plan and should provide for continuity of existing drainageways.

Stormwater Detention Considerations

Stormwater detention is an effective tool for limiting the increase in peak runoff resulting from continued urbanization. The location of these facilities within a watershed has a significant impact on their effectiveness at reducing peak flows in the receiving waters. The impact of detention facilities within a

system is dependent on the timing of peak flows in relation to the timing of adjacent and downstream systems. A more detailed look at timing effects is recommended before pursuing detention storage as a strategy to reduce capital improvement cost.

For the purpose of the master planning analysis, the effects of future stormwater detention were ignored in the hydrologic and hydraulic analysis.

Future Service for Growth Nodes

There are three growth nodes within the study area: Wyatt, La Creole, and Barberry.

Wyatt

Flow from the Wyatt growth node was included in the analysis of the West Ellendale at Wyatt and Douglas Drainage capital improvement areas. A new stormwater drainage system will need to be constructed to provide service for future development in the growth node.

La Creole

Based on existing topography, it is most likely that future development in the La Creole growth node will drain to Harland Slough (a tributary to Baskett Slough). New stormwater drainage facilities will need to be installed to convey flow to this drainage.

Barberry

The Barberry growth node lies mostly within the Rickreall Barberry Node major basin, though a small portion in the southwest corner of the growth node and the area west of Hawthorne Avenue are included in the Rickreall SE basin. The southwest corner area within the Rickreall SE basin is currently developed and served by a local drainage system.

The area west of Hawthorne Avenue could be served either by a new system in Hawthorne Avenue, or conveyed to the ditch to the east where there are two stormwater outfalls.

Stormwater runoff from subbasin R-B-C1 can be routed through the existing storm drainage line in Fir Villa Road. Subbasin R-B-D2 is partially developed, with a local storm drainage system in the southern portion of the subbasin. Runoff from future development in this subbasin could be routed to Fir Villa Road or to the existing subdivision drainage system. Runoff from subbasin R-B-D3 drains generally southwest toward Fir Villa Road and subbasin R-B-D2. The existing stormwater drainage systems in those locations could be used to convey runoff from R-B-D3.

Subbasin R-B-D1 drains toward Rickreall Creek. Runoff from future development in this subbasin could be routed to the outfall pipe of the subdivision drainage system in R-B-B2. Additional outfalls could also be constructed, depending on the layout of future developments.

Capacity analysis of the existing systems to convey runoff from future development was not conducted as part of this project.

Subbasins R-B-B2 and R-B-B3 are currently undeveloped and have no existing stormwater infrastructure. A new drainage system will need to be constructed to provide service for future development in these areas.

Data Collection

As part of this project, the City has developed a stormwater system database that includes all information about the existing stormwater pipe network. There are several gaps in the data that prevented a more detailed capacity analysis from being conducted as part of this project, and necessitated use of reasonable assumptions in order to develop recommendations for some of the capital improvement analysis areas. Collection of data to complete this database is recommended. A more complete database will provide the information required for future capacity and repair/rehabilitation analyses.

Condition Assessment

Assessment of the existing condition of the stormwater system is recommended to facilitate prioritization of a proactive pipe rehabilitation and replacement program.

Pipe Rehabilitation and Replacement

The precise age and condition of much of the City's existing stormwater network is not known, but it is acknowledged that much of the system is aging. Development of a prioritized pipe rehabilitation and replacement program is recommended to minimize the risk of failure of the existing infrastructure. Results of the condition assessment should be used to inform rehabilitation and replacement priorities.

Capital Cost Estimate

Costs developed for the Dallas Stormwater Master Plan are Class 4 project definition estimates as defined by the Association for the Advancement of Cost Engineering (AACE) International and adopted by the American National Standards Institute in *Cost Estimate Classification System* (AACE International, 2011) and *Cost Estimating Classification System as Applied in Engineering, Procurement, and Construction for the Process Industries* (AACE International, 2011).

A Class 4 cost estimate corresponds to a level of engineering design detail between project definition and schematic design and is appropriate for this level of capital planning. A Class 4 cost estimate is normally expected to be within +50 percent or -30 percent of the actual construction cost. The final cost of the projects will depend on actual labor and materials costs, actual site conditions, productivity, competitive market conditions, bid dates, seasonal fluctuations, final project scope, final project schedule, and other variables. As a result, the final project costs will vary from the estimates presented in this report.

Additionally, the presented costs include an allowance for fees associated with administration, engineering, and permitting. Given the potential difficulty and complexity associated with permitting the proposed capital improvements for the North Fork Ash Creek between the former Weyerhaeuser property and G-Way Ranch, the allowance was increased to 45 percent of the construction cost. All other project sites addressed in the stormwater master plan include a 30 percent allowance.

Capital cost estimates for recommended capital improvements are summarized in Table ES-2 for the analysis areas. Installed costs have been rounded to the nearest \$1,000.

Capital Plan

Schedule

The capital plan schedule is shown in Table ES-3.

Cost Sharing and Grant Funding

The potential for cost sharing has been identified for several of the proposed projects. Potential cost sharing partners include:

- Ash Creek Water Control District
- Polk County
- ODOT
- Private developers

Bridge replacement projects may be eligible for grant funding through the Federal Highway Administration's Highway Bridge Replacement and Rehabilitation (HBRR) program.

TABLE ES-2
Capital Cost Estimates for Recommended Capital Improvements
City of Dallas Stormwater Master Plan

Analysis Area	Installed Cost ^a	Funding Sources	
		Current and Future Rate Payers	Other
Site-specific Projects			
West Ellendale at Wyatt	\$495,000	\$495,000	\$0
Douglas Drainage	\$755,000	\$755,000	\$0
Rickreall Uglow/Orchard	\$2,348,000	\$2,348,000	\$0
Kings Valley Highway/Highway 223 at the Cemetery	\$131,000	\$131,000	\$0
Kings Valley Highway/Highway 223 at Bridlewood	\$170,000	\$0	\$170,000 ^c
North Fork Ash Creek Weyerhaeuser to G-Way Ranch	\$19,168,000	\$8,819,000	\$10,349,000 ^d
Hunter Street	\$209,000	\$209,000	\$0
Subtotal for Site-specific Projects	\$23,276,000	\$12,757,000^b	\$10,519,000
Growth Node Projects			
Wyatt	\$896,000	\$81,000	\$815,000 ^e
La Creole	\$1,112,000	\$100,000	\$1,012,000 ^e
Barberry	\$1,308,000	\$118,000	\$1,190,000 ^e
Subtotal for Growth Node Projects	\$3,316,000	\$299,000^b	\$3,017,000
Non-site-specific Projects			
Data Collection	\$250,000	\$250,000	\$0
Condition Assessment	\$250,000	\$250,000	\$0
Pipe Rehabilitation and Replacement	\$2,947,000	\$2,947,000	\$0
Subtotal for Non-site-specific Projects	\$3,447,000	\$3,447,000	\$0
Total	30,039,000	\$16,503,000	\$13,536,000

^aClass 4 capital cost estimate, normally expected to be within +50% or -30% of the actual construction cost. The final cost of the projects will depend on actual labor and materials costs, actual site conditions, productivity, competitive market conditions, bid dates, seasonal fluctuations, final project scope, final project schedule, and other variables. Installed costs have been rounded to the nearest \$1,000.

^bBased on the number of current and future dwelling units, approximately 9.5% of these costs will be recovered through the improvement fee component of system development charges. For further detail, refer to Section 12.

^cODOT or Polk County.

^dHighway Bridge Replacement and Rehabilitation program and Flood Control District.

^eDeveloper paid.

TABLE ES-3
Capital Improvement Plan Schedule
City of Dallas Stormwater Master Plan

Project Name	Amount to be financed*	Fiscal Year																				
		2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	2034/35	2035/36
Douglas/Softball Field	\$755,000														\$ 249,000	\$ 506,000						
Cemetery ^a	\$166,000														\$ 35,000	\$ 55,000	\$ 76,000					
Rickreall Uglow/Orchard	\$2,348,000														\$ 704,000	\$ 822,000	\$ 822,000					
West Ellendale at Wyatt	\$496,000			\$ 159,000	\$ 337,000																	
5' x 6' concrete box culvert	\$337,000				\$ 337,000																	
Clear & replant channel	\$152,000			\$ 152,000																		
Regrade channel	\$7,000			\$ 7,000																		
Kings Valley Highway at Bridlewood ^b	\$0																					
North Fork Ash Creek Weyerhaeuser to G-Way Ranch ^c	\$8,121,000	\$ 75,000	\$ 225,000	\$ 550,000	\$ 743,000	\$ 411,667	\$ 672,667	\$ 863,667	\$ 1,380,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Feasibility Study	\$300,000	\$ 75,000	\$ 225,000																			
Restoration, Mitigation, ROW acquisition	\$4,000,000								\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000									
Former Weyerhaeuser property - 2 parallel 6' x 10' concrete box culverts	\$0																					
Uglow Street - 5 parallel 6' x 5' concrete box culverts	\$618,000			\$ 124,000	\$ 185,000	\$ 103,000	\$ 103,000	\$ 103,000														
Monmouth Cutoff west of Holman - new bridge	\$0			\$ -	\$ -	\$ -	\$ -	\$ -														
Holman Street - 3 parallel 8' x 11' concrete box culverts	\$1,085,000			\$ 217,000	\$ 326,000	\$ 180,667	\$ 180,667	\$ 180,667														
Godsey Road - new bridge	\$0			\$ -	\$ -	\$ -	\$ -	\$ -														
Monmouth Cutoff Tributary - clear existing culverts	\$28,000			\$ 28,000																		
Channel modifications - Reach 1 (Former Weyerhaeuser to Uglow)	\$122,000			\$ 8,000	\$ 8,000	\$ 8,000	\$ 25,000	\$ 37,000	\$ 36,000													
Channel modifications - Reach 2 (Uglow to Monmouth Cutoff)	\$262,000			\$ 17,000	\$ 17,000	\$ 17,000	\$ 53,000	\$ 79,000	\$ 79,000													
Channel modifications - Reach 3 (Monmouth Cutoff to Holman)	\$119,000			\$ 8,000	\$ 8,000	\$ 8,000	\$ 24,000	\$ 35,000	\$ 36,000													
Channel modifications - Reach 4 (Holman to Tributary upstream)	\$181,000			\$ 12,000	\$ 12,000	\$ 12,000	\$ 37,000	\$ 54,000	\$ 54,000													
Channel modifications - Reach 5 (Tributary upstream to Tributary downstream)	\$270,000			\$ 18,000	\$ 18,000	\$ 18,000	\$ 54,000	\$ 81,000	\$ 81,000													
Channel modifications - Reach 6 (Tributary downstream to Godsey)	\$319,000			\$ 21,000	\$ 21,000	\$ 21,000	\$ 64,000	\$ 96,000	\$ 96,000													
Channel modifications - Reach 7 (Godsey to G-Way)	\$660,000			\$ 44,000	\$ 44,000	\$ 44,000	\$ 132,000	\$ 198,000	\$ 198,000													
Channel modifications - Reach T1 (Tributary channel)	\$157,000			\$ 53,000	\$ 104,000																	
Hunter Street	\$209,000																		\$ 69,000	\$ 140,000		
Subtotal for Site Specific Projects per Fiscal Year		\$ 75,000	\$ 225,000	\$ 709,000	\$ 1,080,000	\$ 411,667	\$ 672,667	\$ 863,667	\$ 1,380,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 953,000	\$ 1,363,000	\$ 877,000	\$ 76,000	\$ -	\$ 69,000	\$ 140,000	\$ -	\$ -
Non-Site Specific Projects		\$250,000	\$ -	\$ 250,000	\$ -	\$ -	\$ 100,000	\$ 110,000	\$ 120,000	\$ 130,000	\$ 140,000	\$ 150,000	\$ 160,000	\$ 170,000	\$ 180,000	\$ 190,000	\$ 200,000	\$ 220,000	\$ 240,000	\$ 259,000	\$ 279,000	\$ 299,000
Data Collection	\$250,000	\$250,000																				
Condition Assessment	\$250,000			\$250,000																		
Pipe Rehabilitation and Replacement ^d	\$2,947,000						\$100,000	\$110,000	\$120,000	\$130,000	\$140,000	\$150,000	\$160,000	\$170,000	\$180,000	\$190,000	\$200,000	\$220,000	\$240,000	\$259,000	\$279,000	\$299,000
TOTAL PER FISCAL YEAR		\$325,000	\$225,000	\$959,000	\$1,080,000	\$411,667	\$772,667	\$973,667	\$1,500,000	\$930,000	\$940,000	\$950,000	\$960,000	\$1,123,000	\$1,543,000	\$1,067,000	\$276,000	\$220,000	\$309,000	\$399,000	\$279,000	\$299,000

Notes
^a Amount to be financed includes \$35,000 for recommended downstream capacity analysis
^b Kings Valley Highway at Bridlewood will be 100% paid for by others (Polk County or other).
^c Weyerhaeuser project will be 100% developer financed;
 Monmouth Cutoff west of Holman and Godsey Road will be paid by HBRR grant program;
 Reach 6 modifications will be paid 50% by ACWCD;
 Growth node projects are 100% developer paid.
^d Rehabilitation and repair cost assumed to be \$120/foot; costs ramp up from 0.25 percent in 2020 to 0.5 percent in 2030 and leveling off at 1 percent by 2040.

Staffing Analysis

Recommended staffing for all stormwater O&M activities, including administration, are summarized in Table ES-4.

TABLE ES-4
Recommended Staffing Need Summary
City of Dallas Stormwater Master Plan

Role	FTE for CIP and Regular O&M Activities	FTE for Full Implementation of Dallas TMDL Plan*	FTE for NPDES MS4 Permit	Total
Administration	1.0	0.25	0.5	1.75
O&M	3.3	1.2	0.5	5
Total FTEs	4.3	1.45	1.0	6.75

*City of Dallas Willamette TMDL Implementation Plan (City of Dallas, 2008a).

The stormwater system rehabilitation and replacement activities will be gradually increased over the course of the master planning period. O&M staffing levels should be similarly increased to keep pace with increased demands, starting with 0.25 FTE in the first 2 years for the data collection and condition assessment tasks and increasing to a total of 3.3 FTEs at the end of the master planning period. The 1 FTE administrative role should be filled in the first year of the CIP.

Implementation of the Dallas TMDL Plan is behind schedule. The 1.2 FTEs for O&M and 0.25 FTE for administration should be added in the first year of the master planning period.

In summary, a total of 1.45 FTEs for O&M and 1.25 FTEs for administration are recommended to be added in the first year of the capital plan. Maintenance staffing will increase to a total of 3.3 by the end of the master planning period *if an MS4 permit is not required*, and administration will remain at 1.25 FTEs through the planning period *if an MS4 permit is not required*.

Staffing needs of 0.5 FTE for O&M and 0.5 FTE for administration should be added if and when an MS4 permit becomes required.

Rate Study

Stormwater management (SWM) utilities are authorized by Oregon statute as enterprise funds within a City's budget structure. They are defined as being financially self-sufficient and can be designed to furnish a comprehensive set of services related to stormwater quantity and quality management. Services that SWM utilities provide include not only the construction and maintenance of facilities necessary to control flooding and improve the character of surface runoff, but also implementation of BMPs designed to address nonpoint source pollution.

SWM utilities are also a well-established, efficient, and feasible financing option that provides a dedicated revenue source for stormwater management. A SWM utility operates similarly to water or sewer utilities, which are funded through service fees and administered separately from the general tax fund, ensuring stable and adequate funding for these public services. Generally, there are three major advantages of SWM utilities over funds generated through property tax revenues: (1) increased stability and predictability, (2) greater equity, and (3) the opportunity for incorporating incentives for implementation of onsite stormwater management. Most SWM utilities in Oregon generate revenues based on fees, and the basis for those fees is impervious area. The amount of impervious surface on a property is the single most important factor affecting the amount of water flowing off a property, how quickly that water flows off a property, and the amount of pollution picked up by the water from that property. Because of this, basing stormwater

utility fees on the impervious area on a property is one of the most common methods used to determine stormwater utility fees in Oregon and the nation.

For this rate study effort, it was assumed that a Dallas SWM utility fee would be applied to customers based on an “equivalent residential units” (ERU) approach. Under this structure, single-family homes are counted as one ERU and, on average, contain 3,200 square feet of impervious area. All non-single-family residential customers are charged based on their measured impervious area for each developed property, which is then divided by the ERU value of 3,200 square feet of impervious surface. This determines the total number of ERUs billed to that non single-family residential customer.

The technical analysis contained in this master plan produced operations, maintenance, and capital improvement program activities and costs. This financial review assesses the impact of these costs on the City’s SWM Utility rates and SDCs. A funding model simulates the fiscal management of the SWM Utility and accommodates the following conditions:

- A 20-year forecast horizon (the current start year is fiscal year 2014–15)
- A Capital Projects Fund where capital improvement projects are budgeted
- A Stormwater SDC Fund where system development charges are budgeted
- An Operating Fund where revenues and expenses are budgeted
- Issuing and servicing debt to fund capital improvements
- Rate-making based on the revenue requirements for the utility during each forecast year

The Stormwater SDC Fund receives revenues collected from the City’s SDCs and, when required, transfers money to the Stormwater Capital Projects Fund to pay for that portion of the construction budget that includes oversizing to serve growth. Historically, annual revenues from SDCs have been very modest (e.g., \$42,235 was collected in fiscal year 2012–13, and the City is estimating receipts for fiscal year 2013–14 at \$30,000).

The base case forecast for the capital financing plan assumes the City will bond up to \$5 million worth of projects in 5-year design and construction cycles, starting in fiscal year 2017. Cash in the Stormwater SDC Fund is transferred to the Stormwater Capital Projects fund to buy down those borrowing requirements on SDC eligible projects.

This master plan has concluded the City needs to fund approximately \$38 million worth of SWM infrastructure reconditioning, replacement, and expansion projects over the 20-year planning horizon. To fund this level of costs, it became clear that significant use of debt will be required to:

- Deliver completed projects in a timely and economically efficient manner
- Keep user rates manageable and predictable

With these issues in mind, the base case capital projects financing plan assumes the City will not do one project at a time, and bond for each individual project identified in this master plan. Rather, a phased capital funding strategy has been adopted with the benefit of City staff input. This strategy assumes future capital projects will be prioritized in 5-year development packages valued at \$5 million for each package. Over the 20-year forecast, this implies funding for \$20 million worth of projects; not enough to fund the entire master plan capital projects list, but a very significant start toward achievement of that goal.

All operating revenues (i.e., rates, fees, interest income, etc.) flow into the Operating Fund, and all costs of operations, maintenance, and debt service flow out of this fund. Since the City currently does not manage a SWM enterprise operating fund, one was created in the model to test planning assumptions. A pro forma SWM utility budget has been prepared (in fiscal year 2014–15 dollars) that accounts for the operations and maintenance cost estimates that have been developed throughout this master planning effort.

The principal resources for the SWM Operating Fund are working capital, expressed as beginning fund balance and SWM rate revenues. For this modeling effort, the project team assumed the City will provide \$500,000 of working capital to “kick start” the SWM Operating Fund via a cash transfer from the Sewer

Operating Fund. The Sewer Operating Fund currently has an unencumbered fund balance of approximately \$2 million.

The City complies with Oregon budget law, and categorizes expenses in its enterprise funds within the following budget categories:

- **Personnel Services.** The personnel services budget category captures the cost of salaries, overtime, and fringe benefits. The plan calls for a starting staffing plan of 3.0 FTEs, expanding over a 20-year period to up to 7.0 FTEs, to accommodate implementation of TMDL and MS4 permitting requirements.
- **Materials and Services.** This budget category captures the day to day costs of operating and maintaining the SWM program, with the exception of direct labor expenses. For modeling purposes, the project team analyzed the historical expenditure patterns of the City's water and sewer utilities to see if relationships could be made between materials and services expenditures and direct labor expenditures. This relationship is fairly common in the municipal utility industry, and in the case of Dallas, that ratio for both water and sewer services was roughly 45 percent. For rate modeling purposes, the project team extended this cost relationship to the SWM utility and budgeted \$101,125 for materials and supplies in the SWM Operating Fund for a starting point. This figure was arrived at by multiplying the adjusted personnel services budget (discussed above) of \$224,723 by 45 percent.
- **Professional Services.** An additional line item in the materials and services budget category was added to the forecast for professional services. After consulting with City staff, it was felt a small annual budget appropriation of \$25,000 (in 2014 dollars) should be added to the base case budget to account for on-call engineering services, GIS, and outside technical support.
- **Capital Outlays.** The preponderance of the capital funding activity for the SWM utility takes place in the SWM Capital Projects Fund. However, a small, but very beneficial amount of capital outlays happens in the SWM Operating Fund. Capitalized costs for small works, tools, and minor capital equipment are incurred in the day to day operations of a stormwater utility. The project team has included a starting budget for these capitalized costs at \$15,000.
- **Transfers to Other Funds.** In Dallas, the General Fund provides services to the enterprise utilities in the form of payroll management, insurance, franchise fees, and supervision. The water and sewer funds transfer approximately 20 percent of their respective gross rate revenues to the General Fund in payment for these services. In consultation with City staff, it was agreed for the rate study to assume a new SWM utility would only transfer 10 percent of gross rate revenues to the General fund for overhead services.
- **Debt Service.** Principal and interest payment on future revenue bond issuances are captured in this budget category, and become a requirement of SWM rates.

The impact of these revenue and expenditure assumptions on the pro forma cash flows in the SWM Operating fund are shown in Table ES-5.

TABLE ES-5
Analysis of Stormwater Operating Fund Cash Flow
City of Dallas Stormwater Master Plan

	Budget			Forecast		
	2015	2016	2017	2018	2019	2020
Resources:						
Beginning Fund Balance	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
Revenues:						
Stormwater service charges	\$406,498	\$418,093	\$863,875	\$879,352	\$895,462	\$912,235
Stormwater hookup fees	-	-	-	-	-	-
Investment income	-	\$2,700	\$2,700	\$2,700	\$2,700	\$2,700
Miscellaneous	-	-	-	-	-	-
Subtotal revenues	\$406,498	\$420,793	\$866,575	\$882,052	\$898,162	\$914,935
Total Resources	\$906,498	\$920,793	\$1,366,575	\$1,382,052	\$1,398,162	\$1,414,935
Requirements:						
Expenditures:						
Personnel Services:						
Salaries	\$132,642	\$135,958	\$139,357	\$142,840	\$146,412	\$150,072
Overtime	-	-	-	-	-	-
Fringe benefits	\$92,082	\$97,606	\$103,463	\$109,671	\$116,251	\$123,226
Total personnel services	\$224,723	\$233,564	\$242,819	\$252,511	\$262,662	\$273,298
Materials and Services:						
Materials and supplies	\$101,125	\$104,159	\$107,284	\$110,502	\$113,818	\$117,232
DEQ permits	-	-	-	-	-	-
Vehicle/equipment expense	-	-	-	-	-	-
Repairs and maintenance	-	-	-	-	-	-
Material Disposal	-	-	-	-	-	-
Tools	-	-	-	-	-	-
Telecommunications	-	-	-	-	-	-
HVAC, energy and lighting	-	-	-	-	-	-
Computer services	-	-	-	-	-	-
Insurance	-	-	-	-	-	-
Professional services	\$25,000	\$25,750	\$26,523	\$27,318	\$28,138	\$28,982
Employee development	-	-	-	-	-	-
Safety equipment and training	-	-	-	-	-	-
Travel and education	-	-	-	-	-	-
Materials and services - base line	\$126,125	\$129,909	\$133,806	\$137,821	\$141,955	\$146,214
Capital outlays - small works	\$15,000	\$15,450	\$15,914	\$16,391	\$16,883	\$17,389
Transfers to other funds - OUT						
General Fund	\$40,650	\$41,869	\$43,125	\$44,419	\$45,752	\$47,124
Community Development Fund	-	-	-	-	-	-
Stormwater Capital Projects Fund - reserve for future projects	-	-	-	-	-	-
Stormwater Capital Projects Fund - overheads	-	-	-	-	-	-
Subtotal transfers to other funds	\$40,650	\$41,869	\$43,125	\$44,419	\$45,752	\$47,124
Debt service:						
Oregon DEQ Revolving Loan	-	-	-	-	-	-
Revenue bonds	-	-	\$429,571	\$429,571	\$429,571	\$429,571
Subtotal debt service	-	-	\$429,571	\$429,571	\$429,571	\$429,571
Contingencies/Designations						
Total fund expenditures	\$406,498	\$420,793	\$866,236	\$880,713	\$896,823	\$913,596
Unappropriated ending fund balance	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
Total Requirements	\$906,498	\$920,793	\$1,365,236	\$1,380,713	\$1,396,823	\$1,413,596

This SWM rate analysis assumes service charges reflect a rationale that those who contribute runoff to the stormwater system should proportionately contribute to the costs of providing services. This approach is now regarded by most administrators and the courts as an appropriate technique for financing stormwater programs. A basic assumption in this rate analysis is that services will continue to be billed on the basis of impervious surface. For single family residential property owners, the average amount of impervious area on a developed residential lot is assumed to be 3,200 square feet. This value provides the basis for and equates to one ERU. Non-residential property owners are billed based on their measured impervious area divided by 3,200, which is then multiplied by the rate per ERU. Table ES-6 shows the rate forecast per ERU over the forecast horizon.

TABLE ES-6

Projection of Stormwater Operating Fund Revenue Requirements and Derivation of Monthly Rates per ERU
City of Dallas Stormwater Master Plan

	Budget			Forecast		
	2015	2016	2017	2018	2019	2020
Gross revenues required from rates:						
Operations and maintenance expense:						
Personal services	\$224,723	\$233,564	\$242,819	\$252,511	\$262,662	\$273,298
Materials and services	\$126,125	\$129,909	\$133,806	\$137,821	\$141,955	\$146,214
Operating fund capital outlays - small works	\$15,000	\$15,450	\$15,914	\$16,391	\$16,883	\$17,389
Transfers to other funds	\$40,650	\$41,869	\$43,125	\$44,419	\$45,752	\$47,124
Debt service	-	-	\$430,910	\$430,910	\$430,910	\$430,910
(Use)/Replacement of Operating Fund balance	-	-	-	-	-	-
Subtotal gross revenues required from rates	\$406,498	\$420,793	\$865,236	\$880,713	\$896,823	\$913,596
Revenue offsets to cost of service:						
Intergovernmental	-	-	-	-	-	-
Investment income	-	\$2,700	\$2,700	\$2,700	\$2,700	\$2,700
Miscellaneous	-	-	-	-	-	-
Subtotal revenue offsets to cost of service	-	\$2,700	\$2,700	\$2,700	\$2,700	\$2,700
Net revenues required from rates	\$406,498	\$418,093	\$862,536	\$876,013	\$894,123	\$910,896
Forecasted billable retail ERUs	7,573	7,611	7,649	7,687	7,725	7,764
Monthly rate based on revenue requirements	\$4.47	\$4.58	\$9.40	\$9.52	\$9.65	\$9.78

For the budget year 2015, the rate analysis indicates a monthly SWM fee of \$4.47 per ERU will be required to fund the program. That rate more than doubles to \$9.40 per ERU in fiscal year 2017 as the City embarks on the master plan capital improvement program.

For this SDC update, the City established a number of objectives:

- Review the basis for the SDCs to ensure a consistent methodology.
- Develop a reimbursement element of the SDC.
- Consider possible revisions to the structure or basis of the charge that might improve equity or proportionality to demand.

Resolution No. 3053 established the Stormwater SDC for the City. The intent of the City through this stormwater SDC is to ensure that each project contained in the stormwater master plan be evaluated in order to determine whether, or to what extent, each project is eligible to be included in the SDC cost base. The evaluation of these stormwater projects for SDC eligibility employed the following guidelines:

ORS 223 Requirements:

1. Capital improvements mean the facilities or assets used for stormwater management. This definition DOES NOT ALLOW costs for operation or routine maintenance of the improvements.
2. The SDC improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the stormwater system to accommodate future growth.
3. An increase in system capacity is established if a capital improvement increases the “level of performance or service” provided by existing facilities or provides new facilities in order to accommodate anticipated growth.

Under this approach, the following rules were followed:

1. Repair costs are not included.
2. Replacement costs will not be included unless the replacement includes an upsizing of stormwater system capacity.
3. Costs will not be included that bring deficient systems up to established standards.

For the purpose of this study, service charges and SDCs are based on measured impervious area. The average amount of impervious area on a single family residential developed lot within the City is set at 3,200 square feet. This equates to one ERU. Both rates and SDCs are calculated as a function of ERUs, meaning that each property’s fee is calculated as follows: $\text{measured impervious surface} / 3,200 \text{ square feet} = \text{number of ERUs}$. The number of ERUs is then multiplied by the unit rate to determine the service charge or SDC amount.

The number of ERUs currently connected to the City’s system is estimated to be 7,573, as established through master plan hydrologic modeling. Based on growth projections of 0.50 percent per year, the total number of ERUs within the UGB at the end of the forecast period will be 8,367. This reflects growth of 794 ERUs.

In developing an analysis of the improvement portion of the fee, each project in the City’s capital improvement plan was reviewed for capacity expanding properties. Table ES-7 shows the water quantity and quality improvements identified through the stormwater master plan project and allocates these costs proportionally by including the total stormwater customer base in the allocation. The project team concluded this approach was appropriate because the inventory of projects that have been identified serve both existing and future customers in proportion to their respective contributions to flows.

TABLE ES-7

2014 Stormwater SDC Allocation of Stormwater Capital Improvement Projects to Existing and Future Customers
City of Dallas Stormwater Master Plan

Master Plan Project Description	Estimated Cost of Improvement in 2014 Dollars	Funding Source for Projects				
		Existing and Future Dallas Customers	ODOT and/or Polk County	HBRR*	Flood Control District	Developer Contributions or LIDs
West Ellendale:	\$495,000	\$495,000	-	-	-	-
Douglas:	\$755,000	\$755,000	-	-	-	-
Cemetery:	\$131,000	\$131,000	-	-	-	-
Uglove/Orchard:	\$2,348,000	\$2,348,000	-	-	-	-
Bridlewood:	\$170,000	-	\$170,000	-	-	-
North Fork Ash Creek/Weyerhaeuser Property:	\$15,168,000	\$3,819,187	-	\$1,264,362	\$659,730	\$9,424,720
Hunter:	\$209,000	\$209,000	-	-	-	-
Growth Node: Wyatt	\$896,000	\$80,640	-	-	-	\$815,360
Growth Node: La Creole	\$1,112,000	\$100,080	-	-	-	\$1,011,920
Growth Node: Barberry	\$1,308,000	\$117,720	-	-	-	\$1,190,280
Total	\$22,592,000	\$9,505,584	\$170,000	\$1,264,362	\$659,730	\$10,992,323

Total costs to be funded by current and future Dallas customers: **\$9,505,584**

Estimated existing and future Equivalent Residential Units (ERUs): **8,367**

Calculated Storm Drainage Improvement Fee SDC per ERU: **\$1,136**

*Highway Bridge Replacement and Rehabilitation Program; Section 144 of Title 23 USC; US DOT Federal Highway Administration.

The City requested that a reimbursement element of the stormwater SDC also be evaluated as part of this project. Based on the City's fixed asset schedule, the costs for existing stormwater facilities were identified. From this base all developer contributions and grant funded improvements were subtracted from that total as contributed capital not eligible for SDC reimbursement. No attempt was made to allocate specific assets to growth. Rather, the overall stormwater system assets (less contributed capital) provide capacity to new connections, the cost of which has been paid by the City and its ratepayers. These costs should be proportionately shared by new connections to the system. Therefore, the book value of stormwater system assets (less contributed capital and less depreciation) of \$40,473 is divided by the total ERUs in the system (current and future) of 8,367 to derive the reimbursement SDC of \$5. Table ES-8 summarizes the elements of the proposed stormwater SDC.

TABLE ES-8

Proposed Schedule of Stormwater Service Development Charges
City of Dallas Stormwater Master Plan

	\$/ERU
Reimbursement	\$5
Improvement	\$1,136
Total	\$1,141



Community Development/Operations Department

Memo

To: Public Works Committee
From: Jason Locke, Community Development/Operations Director 
Date: February 18, 2015
Re: Mill Street 2-hr parking between Church and the alley

There has been an increasing demand for employee parking downtown. In order to maximize the existing spaces, an evaluation was done of the utilization rate of parking spaces, particularly on Church Street between Washington and Oak, where there are no time limits except in front of the post office. There appears to be a 90+% utilization rate of these spaces, while the area of Mill between the alley and Church Street, which contains 16 2-hour spaces, has a less than 5% utilization rate.

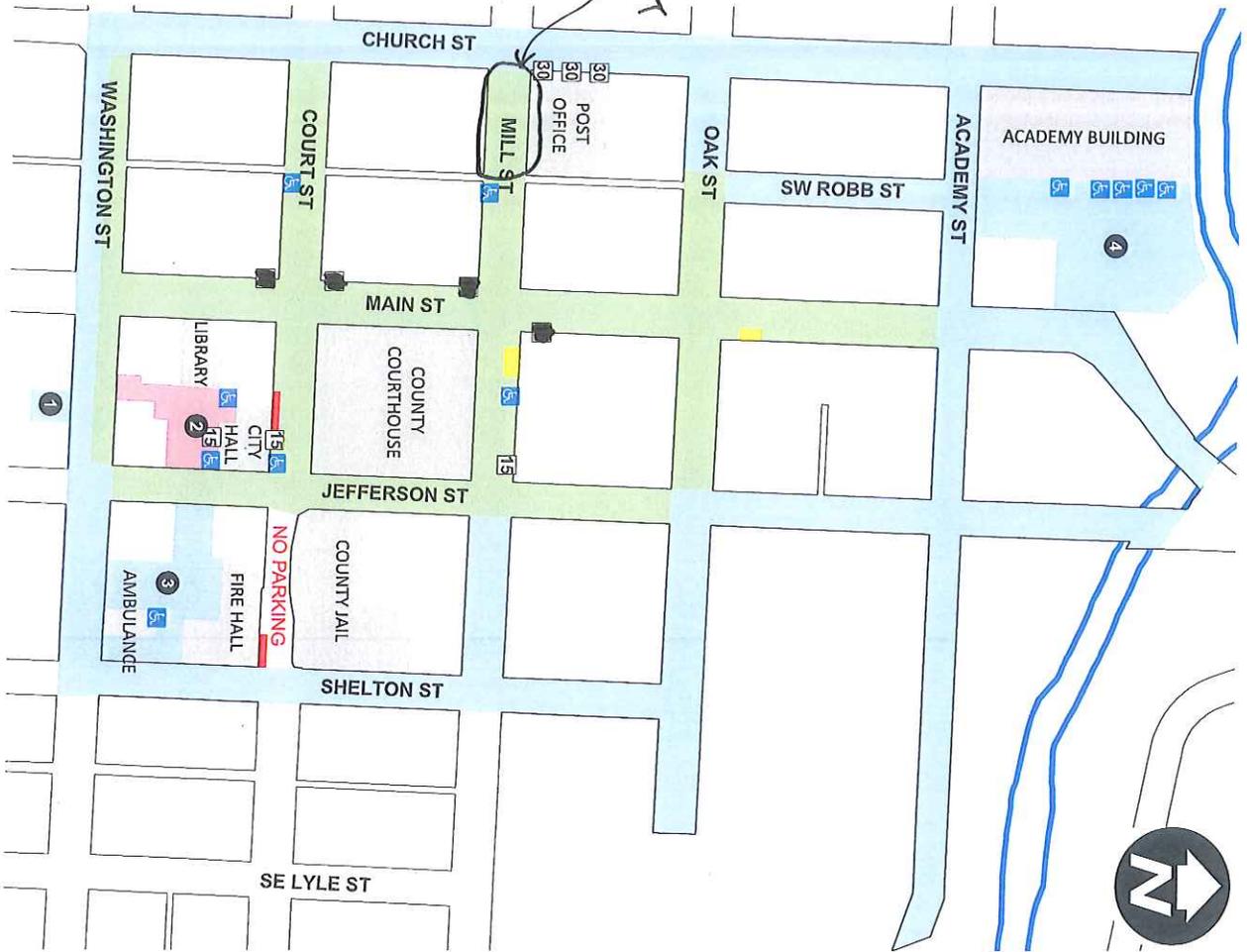
As there are going to be changes coming to Church Street with the addition of the Senior Center, it is recommended that the aforementioned 16 spaces on Mill Street be changed to no time limit parking. Oak Street to the north has a similar parking configuration.

As the situation on Church Street changes, there may be additional parking recommendations that will come back to the Committee.

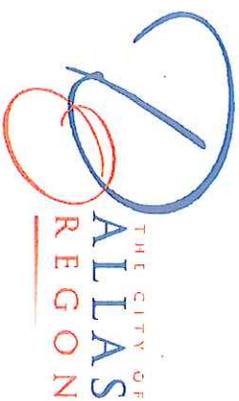
Recommendation: Forward the removal of the 2-hour time limit for the 16 spaces on Mill Street between the alley and Church Street to the Council for discussion and potential action.

Attachment: Downtown Parking Map

DOWNTOWN PUBLIC PARKING



- OPEN PARKING (No Time Limit)
 - 1 - Washington St Lot
 - 3 - Jefferson St Lot
 - 4 - Academy Building Lot
- TIMED PARKING**
- 2 HOUR
 - 3 HOUR
 - 2 - City Hall Lot
 - EMERGENCY PERSONNEL PARKING
 - LOADING ZONE
 - HANDICAP PARKING
 - SHORT-TERM PARKING



DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 9a	Topic: Chapter1, Citizen Involvement Deliberations
Prepared By: Jason Locke, Community Development/ Operations Director	Meeting Date: March 2, 2015	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Ron Foggin, City Manager		

RECOMMENDED ACTION: Direct staff to prepare an Ordinance amending the Dallas Comprehensive Plan and adopting Chapter 1, Citizen Involvement

BACKGROUND: The City Council held a public hearing on this matter on February 17, 2015. At the conclusion of the hearing, Council President Fairchild raised an issue related to the appointment of a Citizens Advisory Committee, and sought some language changes to make the issue clearer. Staff subsequently developed language that addresses the Council President’s concerns, which he has reviewed and agrees (changes are in **bold**). With that, if there are no additional changes, staff recommends moving forward with an Ordinance.

FISCAL IMPACT: Propose \$1000 in Planning Budget for Citizen Involvement Plan Line Item next fiscal year

DALLAS 2030 VISION IMPACT: This matter is consistent with Objective 1- Our Growth and Development, which specifies that the City will update the Dallas Comprehensive Plan.

ATTACHMENTS:

Proposed Chapter 1 w/changes
Revisions to existing Comp Plan

INTRODUCTION: Organization & Implementation

Citizen Involvement and Plan Update Goals

- ~~A. Encourage citizen involvement in all phases of the comprehensive planning and development review processes.~~**
- ~~B. To periodically review and update the Dallas Comprehensive Plan and Dallas Development Code.~~**

Citizen Involvement and Plan Update Policies

The following policies govern comprehensive plan and development code amendments:

- ~~1. The comprehensive plan and implementation measures should be comprehensively reviewed every 7-10 years, in accordance with the LCDC's periodic review schedule.~~
- ~~2. The Dallas Planning Commission shall serve as the Committee for Citizen Involvement and shall be assigned the task of coordinating the citizen involvement program.~~
- ~~3. In addition to the Planning Commission, the Dallas Citizens Advisory Committee shall be involved in the review of legislative plan amendments and revisions to the Dallas Comprehensive Plan Map #1.~~
- ~~4. Proposed amendments to the comprehensive plan and implementation measures shall be considered on an annual basis, and shall be grouped together to allow consideration of cumulative impacts.~~
 - ~~a) The City shall set a certain time period each year, or every other year, for the consideration of minor changes to the Comprehensive Plan.~~
 - ~~b) In addition to the comprehensive plan and statewide planning goals, special studies or other information shall be used as the factual basis to support the change.~~
- ~~1. The City will ensure that the public notification and citizen participation opportunities are provided in the review of all quasi-judicial land use decisions, in accordance with state law.~~

The Dallas Comprehensive Plan

The Dallas Comprehensive Plan is the controlling land use document for the City and its Urban Growth Boundary (UGB). From a land use perspective, the comprehensive plan is like a state or federal constitution: it provides the legal framework and long-term vision for implementing plans and land use regulations. The Dallas Comprehensive Plan has been found by the Land Conservation & Development Commission (LCDC) to comply with the 14 applicable "Statewide Planning Goals," which are, in effect, state planning requirements that must be met by each city and county in Oregon.

The Dallas Comprehensive Plan includes three volumes: Volume I includes goals and policies that provide specific direction in making "quasi-judicial" land use decisions; *i.e.*, decisions that require

judgment in the application of general policies to specific situations, such as zone changes, annexations, conditional use permits and major variances. Goals set a general direction and are not intended to be decision criteria. Policies that are written in mandatory language (e.g., “shall,” “must,” “will”) are mandatory in character: they must be followed when Dallas makes a “quasi-judicial” land use decision. In cases where mandatory policies conflict, the City Council may balance these policies in making a decision. Policies that are written in permissive language (e.g., “should,” “may,” “encourage”) indicate the preferred direction of the City, but are not binding on the Council.

Volume I also includes the Comprehensive Plan Map #1, which indicates on a parcel-specific basis, what land uses will be allowed in the long-term. Where Volume I plan policies conflict with the map #1, the specific text of these policies shall control.

Legislative land use decisions (e.g., changes in the text of Volume I or to the Comprehensive Plan Map #1 that apply generally to the City, and not to a specific property or small group of properties) adopted by the City Council must also conform with Volume I goals, policies and maps; or affected goals, policies and maps must be amended by the City Council to be consistent with the Statewide Planning Goals.

Volume II of the Dallas Comprehensive Plan includes background information that served as the basis for Volume I goals and policies. For example, maps of environmentally-significant stream corridors and the justification for the Dallas UGB is included in Volume II. Thus, Volume II forms a part the “legislative history” that supports the goals, policies and plan map.

Principal Implementing Documents

The Dallas Comprehensive Plan is implemented by two principal documents:

1. The **Dallas Development Code (DDC)** sets forth zoning, land division and environmental protection requirements, and is a chapter of the Dallas City Code. The DDC is the land use law of Dallas, unless it is found to be inconsistent with the Dallas Comprehensive Plan. Consistency with DDC requirements is a pre-condition to granting of building permits under the City’s Building Safety Codes, which are based on state building safety regulations.
2. The **Dallas Public Facilities Plan (PFP)** describes sanitary sewer, water, and storm drainage which must be made in order to provide adequate public facilities to support the types and levels of development prescribed in the Dallas Comprehensive Plan. The public facilities plan is supported by adopted facilities master plans and sets priorities for facilities construction through the six-year capital improvements program and the City’s annual budget. The City Engineering staff also maintain construction specification standards documents which set minimum construction standards for public improvements, such as sewer, water and streets.

Public & Private Participation

Implementation of the comprehensive plan ultimately depends upon the combined efforts of private citizens, businesses, and local, state and federal governments. The private sector implements the plan by giving it their support and continuous input to the planning process of the plan; by developing their businesses and homes in conformance with the plan; and by initiating community projects such as clean-up, fix-up or paint-up campaigns. Government implements the plan through regulatory controls such as zoning and subdivision ordinances; through the timely placement of

public facilities and establishment of public programs; through inducements such as low-interest loans, tax exemptions and direct subsidies; by joint cooperative agreements between one another; and by providing for financing through special grant-in-aids or other financial aids.

One method of implementing the policies of the plan is through intergovernmental cooperative agreements between the City and other public agencies or cities. Many of the policies which the plan encourages the City to perform can best be met through joint arrangements with other agencies. In many cases the burden of solving a problem does not rest entirely with the City. Therefore, the City should seek to join with other agencies in implementing the policies and recommendations of the plan. In other situations, it may be to the City's financial advantage to join with other cities or agencies in an effort to solve a problem common to each of the communities. Through this method, programs and projects that cannot be implemented economically by one community may be initiated by sharing the cost between different cities or agencies. The City of Dallas has worked closely with other municipalities and the County in mutual aid, economic development, and sharing equipment.

Advice and consultation on the part of the Planning Commission, City staff and other City officials can be a very effective tool of implementation. In the course of conducting day-to-day business, individuals can be made aware of the importance of the Comprehensive Plan and a number of alternatives presented to guide development. On a more formal basis, advice and consultation is also given to the City Council.

1.4—Active Citizen Involvement

The success of this and past planning efforts in Dallas is due in large part to the degree of citizen involvement. Local citizens have long had a strong voice in major community projects. Citizen participation will play an even larger role in the future. The first of 14 applicable Statewide Planning Goals and Guidelines (ORS Chapter 197) established by the Land Conservation and Development Commission, requires the development of "...a citizens involvement program that insures the opportunity for citizens to be involved in all phases of the planning process".

In response to this requirement and because of the City's past accomplishment in the area of citizen involvement, the plan proposes, for routine planning matters through its public hearing process, that the Dallas Planning Commission be assigned the task of coordinating the citizen involvement program. However, when items of a more significant nature, such as plan or ordinance revision or specific studies that are recommended in the plan are involved, it is expected that the Dallas City Council and Planning Commission will draw upon the considerable expertise of the local citizenry—just as it has in the past. In implementing this goal the City has continued its reliance upon the Citizen's Advisory Committee for the Comprehensive Plan. The value of this approach is, of course, that it allows more flexibility as to membership, and that it also allows a greater number of citizens to become involved with the planning process.

1.5—Comprehensive Plan and Development Code Revisions

The Dallas Comprehensive Plan should not be perceived as a static document -- a one-time guide to the development of a community. In fact, state law requires that the comprehensive plan and its implementing measures be re-considered every 7-10 years, through the "Periodic Review" process.

Thus, the comprehensive plan should be viewed as a dynamic instrument capable of change to meet the needs of the community. The plan and implementation measures should be revised when public needs and desires change, when state and federal land use laws change, and when development is

different in character or rate than originally contemplated. At the same time, because the comprehensive plan was preceded by an extensive citizen and agency involvement effort, it should be given a chance to work. For this reason, major revisions to the plan that would result in a widespread and significant impact beyond an immediate local area should be considered during the “periodic review” process. In contrast, minor plan amendments may be considered on a regular basis, but should be grouped together so that the cumulative effects of plan amendments can be more fully understood.

CITY OF DALLAS COMPREHENSIVE PLAN

CHAPTER 1

CITIZEN INVOLVEMENT



GOAL: TO ENSURE MEANINGFUL CITIZEN INVOLVEMENT AND PARTICIPATION IN THE LAND USE PLANNING PROCESS

INTRODUCTION

Goal 1 of the Statewide Planning Goals is Citizen Involvement. The City of Dallas, its elected and appointed officials, and city staff, are dedicated to involving citizens in the planning process. This Chapter contains the mechanisms and requirements for Citizen Involvement in Dallas

The Planning Process

The Planning Commission is primarily responsible for making land use decisions and recommending amendments to the Comprehensive Plan and land use regulations.

The City Council is responsible for policy decisions relating to the planning process and for adopting amendments recommended by the Planning Commission. In addition, the Council is responsible for overseeing and giving direction to the Committee for Citizen Involvement (CCI) to ensure that the goal of the citizen involvement program is being met. Citizens are responsible for participation in the planning process, becoming educated about land use issues, and in assisting the City in its evaluation of the planning processes and the Citizen Involvement Program.

The following sections address the Committee for Citizen Involvement, the components of Statewide Planning Goal 1, and contain policy statements and measures to implement the policies. This Chapter constitutes the city of Dallas Citizen Involvement Program (CIP).

COMMITTEE FOR CITIZEN INVOLVEMENT

The Planning Commission shall function as the Committee for Citizen Involvement (CCI) for the City of Dallas. The CCI may recommend **or request** that the City Council appoint, from time to time, a Citizen Advisory Committee (CAC) to assist the Planning Commission. **In addition, the City Council may appoint a Citizens Advisory Committee when it is determined to be necessary in order to review and provide feedback or guidance to the Planning Commission on issues of wide-ranging impact such as major revisions to the Comprehensive Plan or land development regulations. The Council shall set the parameters and make-up of the CAC, and shall endeavor to include a representative cross section of the community and/or subject matter experts as warranted.**

The Planning Commission shall function as the Committee for Citizen Involvement (CCI) for the city of Dallas. The CCI may recommend that the City Council appoint, from time to time, a Citizen Advisory Committee (CAC) to assist the CCI in matters related to long range planning, specific projects, and/or Comprehensive Plan review.

Responsibilities

- 1) The CCI, under the direction of the City Council, shall ensure that the Citizen Involvement Program is being implemented.
- 2) The CCI shall make an annual written report to the City Council that assesses the effectiveness and overall implementation of the Citizen Involvement Program. Copies will be distributed to all Standing Committee members. The annual report should incorporate both quantitative and qualitative measures of citizen involvement efforts (e.g. number and types of communication methods used; number of participants at public hearings; number of website hits; number of non-required citizen involvement events; citywide survey results measuring community attitudes on public information and awareness).
- 3) The CCI shall assist citizens and citizen groups in becoming aware of opportunities provided by the Citizen Involvement Program.
- 4) The CCI shall make recommendations to the City Council for improving the Citizen Involvement Program, as necessary.
- 5) The CCI shall perform such other duties as directed by the City Council.

TWO-WAY COMMUNICATION

Policy: To provide mechanisms which will promote effective two-way communication between citizens and the policy/decision makers.

Implementation Measures:

- 1) All meetings shall be open to the public as required by State law, and as appropriate to the body.
- 2) All public meetings shall be scheduled at times and in places which are conducive to citizen participation.
- 3) Appropriate notice of all public meetings shall be given, including the date and agenda of the meeting. Notice shall be given through advertisements in local newspapers and by posting notices in public places. In no case shall a meeting be noticed less than 24 hours before it is scheduled to occur.
- 4) The City will maintain City Bulletin Boards in public places that contain meeting agendas and other information.

5) The City will promote the City website as a source of information as well as a communication tool for residents to communicate with the City. In addition, the City will continue to expand the use of social media and technology to interact with citizens.

6) The City will conduct, at least every two years, a citywide survey regarding city issues.

7) The City Council will host an annual Town Hall meeting to discuss selected topics of interest to the public.

8) The City will continue to develop outreach programs with service clubs, schools, and other organizations in order to provide planning information and education.

9) A City Newsletter will be sent out via e-mail and distributed by other appropriate methods.

CITIZEN INFLUENCE

Policy: To provide citizens an opportunity to be involved in the planning process.

Implementation Measures:

1) In addition to topics scheduled for discussion, there shall be an opportunity at meetings of public bodies for the public to provide input for items which do not appear on the meeting's agenda.

2) Staff will hold informal, well-publicized educational workshops on proposed revisions to the Comprehensive Plan, Land Development Regulations and other planning topics that have potential widespread impact prior to the hearing. Workshops will be open to the public for participation and discussion. Questions and concerns will be conveyed to the decision-making bodies.

TECHNICAL INFORMATION

Policy: To ensure that all documents and information which will assist citizens in effectively participating in the planning process are available to the public in an understandable form subject to the requirements of state and local laws.

Implementation Measures:

1) The City shall place appropriate planning documents on the website in a timely manner.

2) The City will continue to update planning counter materials, maps, and development pamphlets to reflect regulation and policy changes.

FEEDBACK MECHANISMS

Policy: To ensure that the governing bodies will respond to citizens land use planning questions and concerns.

Implementation Measures:

- 1) The City will continue to implement established mechanisms for responding to questions at Planning Commission and City Council meetings.
- 2) All specific written questions from citizens will be responded to in writing in a timely fashion, with an initial response not to exceed 20 calendar days from the date of receipt.
- 3) The rationale used by a governing body for making policy decisions shall be recorded and made available for review by the general public.

FINANCIAL SUPPORT

Policy: To ensure that there are adequate resources devoted to the Citizen Involvement Program.

Implementation Measures:

- 1) The City budget shall contain a Citizen Involvement Program line item. The amount budgeted shall be recommended yearly by the CCI. The Community Development Director shall include this recommendation in the appropriate Department Budget.
- 2) City staff will assist the CCI in implementing the Citizen Involvement Program and will provide technical assistance to citizens.

Adopted by Ordinance _____, Date : _____

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 9 b	Topic: If I Were Mayor Contest
Prepared By: Brian Dalton	Meeting Date: March 2, 2015	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Ron Foggin		

RECOMMENDED MOTION:

Information

BACKGROUND:

Every year the Oregon Mayors Association sponsors the “If I Were Mayor” Contest. The objective is to involve the youth in our communities in thinking about local government issues and exercise their imagination in this regard. Local winners of the contest compete at the state level for the chance to win an iPad Air along with recognition at the annual OMA Conference, to be held this year in Cottage Grove. Similar to last year, the OMA contest rules solicit posters from the elementary school level, essays from the middle school and a media presentation from the high school.

Last year the budget totaled \$465 initially, allocated as follows : Posters - 1st place \$50, 2nd place \$25, 3rd place \$15; Essay - 1st place \$75, 2nd place \$50, 3rd place \$25; Video - 1st place \$100, 2nd place \$75, 3rd place \$50.

Because we did not get any posters or media entries last year, we awarded only the prizes for the essays.

This year we have been notified by the School District that, due to the lack of a video or media class for a media entry, they will participate with posters from the elementary schools and essays from the middle school. Thus, our plan is to award prizes as follows:

Posters - 1st place \$50, 2nd place \$25, 3rd place \$15; Essay - 1st place \$75, 2nd place \$50, 3rd place \$25;

FISCAL IMPACT:

\$240 from the Administrative budget (budgeted)

DALLAS 2030 VISION IMPACT:

ATTACHMENTS:

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 10 a	Topic: Auto/Mutual Aid Agreement
Prepared By: Fred Hertel	Meeting Date: March 2, 2015	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Ron Foggin		

RECOMMENDED MOTION:

We recommend approval of the attached resolution authorizing the City Manager to execute the Polk County Fire Defense Board 2014 Inter-County Automatic / Mutual Aid and Emergency Assistance Agreement.

BACKGROUND:

During the department review it was noted that Dallas Fire & EMS maintained several different Auto and/or Mutual Aid Agreements with a variety of other agencies. Many of these agreements were not timely and needed updating. The proposed version will supersede all other agreements. It was evaluated by all participating Polk County Fire Defense Board agencies and forwarded to the City for approval.

FISCAL IMPACT:

None

DALLAS 2030 VISION IMPACT:

This applies to 5.a. and 5.c. in the City of Dallas 2030 Vision.

ATTACHMENTS:

Polk County Auto/Mutual Aid Agreement

POLK COUNTY FIRE DEFENSE BOARD
2014
INTRA-COUNTY AUTOMATIC AND MUTUAL AID AND
EMERGENCY ASSISTANCE AGREEMENT

WHEREAS, large incidents have the potential of outstripping the capacity of any community to effectively protect life and property; and

WHEREAS, the parties to this Agreement desire to combine and coordinate their resources for responses to large incidents occurring in their jurisdictions; and

WHEREAS, the parties to this Agreement desire to mutually cooperate in an effort to provide the most expedient and affordable service to their respective communities; and

WHEREAS, pursuant to the Oregon Emergency Conflagration Act, ORS 476.510 to 476.610, the State Fire Marshal has prepared the Oregon Fire Service Mobilization Plan ("Mobilization Plan"), which recognizes the necessity of providing immediate response prior to the exercise of authority under the Conflagration Act; and

WHEREAS, this Agreement is intended to be consistent with, and supportive of, the structure and objectives of the Mobilization Plan; and

WHEREAS, Mutual Aid¹ includes an immediate response under the Mobilization Plan, immediate response during an Emergency, or immediate response during a declaration of emergency under ORS Chapter 401; and

¹ Unless otherwise noted, defined terms are set forth in Section 2.0.

WHEREAS, the terms and conditions of the Emergency Assistance required to protect life and property during extended operations need to be defined and agreed upon by the Parties; and

WHEREAS, the Parties are authorized to enter this Agreement by their respective principal acts and by ORS 190.010, which authorizes units of local government to enter into written agreements with other local governments for the performance of any and all functions and activities that the respective parties have the authority to perform;

NOW, THEREFORE, the Parties agree as follows:

1.0 INTRODUCTION.

This Agreement shall be known as the 2014 Intra-County Automatic and Mutual Aid and Emergency Assistance Agreement and shall supercede and repeal any previous versions of this Agreement. This Agreement is entered into for the purpose of securing to each party Automatic Aid, Mutual Aid, and Emergency Assistance for response to Emergencies.

2.0 DEFINITIONS.

2.1. "Assistance Costs" include personnel, equipment and service costs that extend beyond the first Operational Period of an Emergency event that are incurred by the Providing Party. Assistance Costs will be determined at rates according to the Mobilization Plan, and must be eligible costs as determined by the Oregon Fire Mobilization Plan, or under the Public Assistance Program or the Fire Management Assistance Grant Program authorized under the Stafford Act, 42 U.S.C. 5121-5207, and the implementing regulations of 44 CFR § 204 and § 206, as they may be amended from time to time, and as set forth in FEMA policy.

2.2 “Automatic Aid” means means Emergency Assistance requested by the Requesting Party and provided by the Providing Party during Emergencies where the Emergency Assistance is automatically dispatched as provided in Section 4.4. Automatic Aid provided pursuant to this Agreement shall be unpaid assistance for a period of not more than 12 hours, or the first Operational Period of the Emergency, whichever is less. The Providing Party and the Requesting Party may mutually agree to extend the period of time during which Emergency Assistance is unpaid, but the Providing Party is otherwise entitled to reimbursement of Assistance Costs as set forth in this Agreement. Operations during declarations of emergency under ORS 401.055 are excluded from terms of this Agreement.

2.3 “Emergency” is an event within the jurisdiction of a party to this Agreement causing or threatening loss of life, damage to the environment, injury to person or property, human suffering, or financial loss, which is or is likely to be beyond the capacity of the party’s ability to adequately respond and therefore requires Emergency Assistance. Events giving rise to an Emergency may include but are not limited to: fire; explosion; flood; severe weather; drought; earthquake; volcanic activity; spills or releases of hazardous materials; contamination; utility or transportation emergencies; disease; infestation; civil disturbance; riots; acts of terrorism or sabotage; and use of weapons of mass destruction.

2.4 “Emergency Assistance” includes but is not limited to: personnel, services, equipment, materials, or supplies offered during an Emergency by the Providing Party and accepted by the Requesting Party to assist in maintaining or restoring a normal level of services, including but not limited to incident management, search and rescue, debris removal, media relations, emergency medical treatment, and firefighting.

2.5 “Mutual Aid” means Emergency Assistance requested by the Requesting Party and provided by the Providing Party during Emergencies

where the Emergency Assistance is not automatically dispatched as provided in Section 4.4. Mutual Aid provided pursuant to this Agreement shall be unpaid assistance for a period of not more than 12 hours, or the first Operational Period of the Emergency, whichever is less. The Providing Party and the Requesting Party may mutually agree to extend the period of time during which Emergency Assistance is unpaid, but the Providing Party is otherwise entitled to reimbursement of Assistance Costs as set forth in this Agreement. Operations during declarations of emergency under ORS 401.055 are excluded from terms of this Agreement.

2.6 “Operational Period” is defined by the Incident Commander (determined under Section 4.5) as the amount of time necessary to accomplish the operational objectives assigned to personnel and equipment and which is within safe work/rest ratio standards established in the fire service. Operational Periods are event driven and are typically 12 hours; however, Operational Periods may exceed 12 hours during the initial response to an Emergency. As determined by the Incident Commander, Operational Periods will never exceed 24 hours.

For an incident within ODF protected lands, Automatic and/or Mutual Aid provided under this Agreement is limited to the first 12 hour Operational Period unless an extension is approved by the Requesting Party and Providing Party under this Agreement or under a separate agreement.

2.7 “Providing Party” means a party to this Agreement that provides or has received a request to provide Emergency Assistance to a Requesting Party under this Agreement.

2.8 “Requesting Party” means the party that has legal jurisdiction over the Emergency event, that has made a request for Emergency Assistance, and that has received or will receive Emergency Assistance under this Agreement.

2.9 “Polk County Fire Defense Board” means the association and organization of local fire agencies as defined in the Mobilization Plan.

3.0 AUTHORITY AND SCOPE OF AGREEMENT.

This Agreement is entered into under the authority granted to the parties by their respective charters and/or Oregon Revised Statutes (ORS). ORS 190.010 authorizes units of local government to enter into written agreements with any other units of local government for the purpose of any and all functions and activities that the parties to the agreement, their officers or agencies, have authority to perform, and ORS 190.010 authorizes units of state and local governments to enter into agreements with each other to cooperate in the performance of their duties. ORS Chapters 190, 453, 476, 477 and 478 extend the powers and authorities of the parties to this Agreement beyond their boundaries when operating under this Agreement. ORS 402.010 allows the state, counties, and cities, in collaboration with private agencies, to enter into cooperative assistance agreements for emergency aid and resources. ORS 477.406 authorizes the Oregon Department of Forestry to enter into agreements with political subdivisions for the prevention and suppression of fire on forestland or on land other than forestland, or both. Additionally, ORS Chapters 401, 453 and 476 authorize the State Fire Marshal and the Administrator of the Oregon Emergency Management to develop comprehensive statewide plans for the protection of life and property during disasters. This Agreement is intended to be consistent with, and supportive of, such state contingency plans.

4.0 OPERATIONS.

This Agreement, in conformance with the Oregon Fire Service Plan as adopted by the State Fire Marshal, includes the following types and kinds of Automatic and Mutual Aid and operating terms and conditions:

4.1 OPERATION OF THE FIRE DEFENSE BOARD.

The member agencies of the Polk County Fire Defense Board agree to the following conditions in preparation for large scale Emergencies, or simultaneous Emergencies, requiring the utilization of multi-jurisdictional forces for containment, suppression or mitigation.

4.1.1 The Polk County Fire Defense Board shall function as an active body under its adopted bylaws and rules. The Board shall select a Fire Defense Chief who is authorized to take official action under the terms of the Mobilization Plan.

4.1.2 The Fire Defense Chief, or any member of the Fire Defense Board assuming the duties of the Fire Defense Chief, may be called upon to staff the Polk County Emergency Operations Center or the Multi Agency Coordination Center to represent fire jurisdiction interests in incident mitigation.

4.1.3 The Fire Defense Chief, or any member of the Fire Defense Board assuming the duties of the Fire Defense Chief, may direct the resources of any member of the Polk County Fire Defense Board for incident mitigation anywhere within the Polk County Fire Defense District boundaries, or within adjacent fire defense districts that have entered into a mutual aid agreement with the Polk County Fire Defense Board.

4.1.4 The Fire Defense Chief, or any member of the Fire Defense Board assuming the duties of the Fire Defense Chief, has the authority to prioritize Emergencies and allocate Automatic Aid, Mutual Aid or Emergency Assistance in the event of a regional Emergency or simultaneous multiple Emergencies within the Polk County Fire Defense District. However, nothing in this Agreement

shall abridge the right of a party to limit the movement of its resources beyond its boundaries as provided in Section 4.3.

4.1.5 Each of the undersigned parties hereby authorizes the Polk County Fire Defense Board to enter into mutual aid agreements with adjacent Fire Defense Districts, provided the agreements are in substantial conformance with the attached Exhibit A. Upon execution of a mutual aid agreement between Fire Defense Districts, and notification to the Fire Chiefs of the undersigned parties, the undersigned parties agree to comply with the direction of the Polk County Fire Defense Board Chief, and the protocols adopted by the Polk County Fire Defense Board, and to provide Automatic Aid, Mutual Aid, or Emergency Assistance to adjacent Fire Defense Districts consistent with the provisions of this Agreement.

4.2 TYPE OF EQUIPMENT AND PERSONNEL.

The parties agree to provide to all other parties to this Agreement, and to adjacent Fire Defense Districts that have entered into a mutual aid agreement with this Fire Defense District, Automatic Aid, Mutual Aid, or Emergency Assistance subject to the following conditions:

4.2.1 Subject to the limitations of Section 4.3, the minimum requirements of personnel and equipment available for assistance pursuant to this Agreement shall generally comply with the Oregon Fire Service Plan. Other personnel and equipment minimums may be fixed by action of the Fire Defense Board.

4.2.2 All parties acknowledge that the equipment and personnel made available under this Agreement may be periodically unavailable due to normal operating requirements. However, if any significant event occurs which affects or may affect available equipment or personnel for more than 30 days, the party experiencing such event must notify all other parties to this Agreement.

4.2.3 Where Oregon Department of Forestry (“ODF”) equipment and personnel are requested under the terms of this Agreement, the parties agree that such equipment shall be deployed for natural cover fire protection only. The parties to this Agreement also agree that seasonal deployment of ODF resources varies throughout the year due to seasonal fire needs. ODF may orally notify the parties of these seasonal changes to equipment and personnel at bi-monthly Fire Defense Board meetings. The parties understand that the potential for fires requiring suppression efforts beyond initial attack resources is greatest in the areas protected by the ODF.

4.3 AVAILALBLE RESOURCES.

Each of the parties agrees to furnish Automatic Aid as dispatched pursuant to section 4.4. In addition, each of the parties to this Agreement agrees to furnish to a Requesting Party such Mutual Aid as the Requesting Party may deem reasonable and necessary to successfully abate an Emergency in the Requesting Party's jurisdiction. However, a Providing Party shall have the sole discretion to refuse such a request, or to withdraw from a request, if providing Emergency Assistance to a Requesting Party could lead to an unreasonable reduction in the level of protection within its jurisdiction. A Providing Party may also refuse a request for assistance if necessary to comply with any limitations on the use of dedicated funds by that agency. A Requesting Party agrees to release a Providing Party as soon as Emergency Assistance is no longer required.

4.4 DISPATCHING.

A Providing Party will not deploy pursuant to this Agreement without a request for Emergency Assistance by a Requesting Party. Resources requested under this Agreement will typically be assigned automatically under the following principles and procedures:

4.4.1 It is recognized and agreed by the parties that closest unit response is in the best interest of all communities within Polk County County and that from time to time minor response imbalances between participating agencies may occur and shall be considered diminutive and inconsequential as compared to the benefits conferred upon the communities by the terms of this Agreement. The parties agree that Emergency Assistance requested under this Agreement shall be dispatched promptly and that a first response by the Requesting Party shall not be a prerequisite to a request for Emergency Assistance under this Agreement.

4.4.2 The dispatching process for Emergency Assistance is based upon pre-programming of the Willamette Valley Communications Center (“WVCC”) computer aided dispatch system (“CAD”) for incidents based upon “Call Type,” “Response Levels,” “Response Districts,” and “Station Orders.” For the purposes of this Agreement, the kinds and types of resources dispatched under this Agreement shall be determined by the above dispatching process. The parties agree to mutually cooperate in developing and implementing the dispatching process.

4.4.3 ODF resources shall be dispatched through ODF’s dispatch center and by request of WVCC dispatchers or at the request of the parties.

4.5 SUPERVISION/AGENCY AUTHORITY.

The Requesting Party shall retain incident command responsibility for the incident and shall establish overall supervision of the Emergency through the nationally recognised incident command system. However, when officers from the Requesting Party have not arrived at the scene of the incident, the commanding officer of the Providing Party arriving first shall assume incident command until relieved. “Supervision,” as used in this section, refers to oversight of the mission. Personnel participating in the mission remain employees, volunteers or independent contractors of the party that deployed them, and are subject to the policies and procedures of that party.

Unless expressly authorized by the Requesting Party, a Providing Party and its officers, employees and agents, are not authorized to make any representation, enter into any agreement, waive any right, or incur any obligation in the name of, on behalf of, or as an agent for, the Requesting Party.

4.6 EMERGENCY CONFLAGRATION ACT OR HAZARDOUS MATERIALS RESPONSE.

Emergency Assistance given under order of the Administrator of the State Emergency Management Division in the event of the emergency proclamation by the Governor, or under the “Emergency Conflagration Act”; or in response to hazardous material incident pursuant to the terms of a contract with the Office of the Oregon State Fire Marshal and in conformance with administrative rules regarding hazardous materials response promulgated by the Office of the Oregon State Fire Marshal and the State or Oregon, is not be governed by this Agreement.

5.0 REPEAL OF OTHER AGREEMENTS.

This Agreement does NOT supersede or repeal any: automatic aid agreements or pre-programmed first response agreements; hazardous materials response agreements with the State of Oregon; mutual aid hazardous materials agreements with other State Response Teams; equipment sharing agreements; emergency planning agreements, such as the Office of Consolidated Emergency Management Cooperative Assistance Agreement, the Oregon Urban Search and Rescue Task Force Mutual Aid Agreement; or agreements with ODF for provision of Emergency Assistance beyond the first 12 hours of an incident.

6.0 GENERAL WAIVERS/INDEMNITY.

6.1 Each party to this Agreement waives all claims against all other parties to this Agreement for compensation for any loss, damage, personal injury, or death occurring to that party’s personnel or equipment as a consequence of the performance, failure to perform, or delay in performance, arising out of this Agreement.

6.2 Within the limits of the Oregon Constitution and the Oregon Tort Claims Act, each party to this Agreement will indemnify, defend, save, and hold harmless the other parties to this Agreement and their officials, employees, agents, and

volunteers from and against any and all actions, suits, claims, or demands arising from the acts or omissions of the indemnifying party, its officials, employees, agents, and volunteers in performance of this Agreement. This provision shall survive termination of this Agreement.

6.3 Notwithstanding paragraphs 6.1 and 6.2 of this section, the parties remain entitled to payment of applicable Assistance Costs as provided by this Agreement.

7.0 INSURANCE.

Each party to this Agreement will obtain and maintain commercial general liability insurance or equivalent coverage, or self-insurance, covering its activities under this Agreement in at least an amount equal to the party's liability limits under the Oregon Tort Claims Act.

8.0 WORKERS' COMPENSATION.

Each party to this Agreement agrees to provide workers' compensation insurance coverage to each of its employees and volunteers, and that while overall incident command supervision will usually be provided by the jurisdiction in which the incident occurs, supervision of individual employees will be provided by their regular supervisors. This Agreement does not create any "special employer" relationships under Oregon workers' compensation law.

9.0 REFUSALS TO PERFORM.

This is an automatic aid and mutual aid agreement and it is assumed that all available assistance will generally be provided. However, any Providing Party may refuse to perform any specific task when the Providing Party's commanding officer determines that the task would create an unreasonable risk of danger to the Providing Party's employees, volunteers, independent contractors, equipment or to any third party.

10.0 COMPENSATION/PUBLIC ASSISTANCE/FIRE MANAGEMENT ASSISTANCE.

The parties agree that the Emergency Assistance promised, available, or provided during the Operational Period constitutes adequate consideration under this Agreement without reimbursement of Assistance Costs. Assistance Costs beyond the Operational Period, however, must be reimbursed by the Requesting Party unless otherwise agreed by the Requesting Party and the Providing Party. The Providing Party will keep records documenting all assistance provided under this Agreement, including the scope and extent of equipment and personnel committed, operating times, out-of-pocket expenses, and other costs which, but for the Emergency Assistance provided under this Agreement would not have been incurred. Upon demand, the Requesting Party may access, examine, and copy all records documenting assistance provided to the Requesting Party under this Agreement. The Requesting Party will take all reasonable actions to apply to FEMA for reimbursement of the Providing Party's eligible costs. The Providing Party will submit its claim for reimbursement to the Requesting Party. Both the Requesting Party and Providing Party will keep detailed records of the Emergency Assistance requested and received, and will provide those records as part of the supporting documentation for a reimbursement request. The parties will cooperate to the fullest extent possible to facilitate reimbursement of eligible Assistance Costs. The parties' reimbursement obligations shall survive termination of this Agreement.

11.0 TERMINATION.

11.1 Any party hereto may terminate its participation in this Agreement without cause at any time by giving 30 days' notice to all other parties. Such notice shall be sent to the Chiefs and the governing bodies of the other parties to this Agreement. This Agreement will remain in effect so long as there are at least two parties remaining.

11.2 Failure by any party to continually meet the requirements established by this Agreement constitutes a default. A majority of the members of the Fire Defense Board may elect to terminate a defaulting party's participation in this Agreement. The defaulting party shall have the right to appear before the Fire Defense Board for the purpose of presenting its case before such action may be taken by the Board. Ten days' written notice of any such hearing, mailed to the defaulting party, shall be deemed adequate. Documentation of termination of a defaulting party shall be attached to this Agreement.

12.0 COST RECOVERY.

Except as provided in Section 10.0 of this Agreement or as otherwise provided by law, the parties agree that any cost recovery actions against third parties shall be brought and coordinated by the jurisdiction in which the incident occurred, in their sole and exclusive discretion. Any sums received shall be applied first to the costs of recovery, and then pro rata, in accordance with the reasonable and recoverable costs incurred by each party. Any cost recovery action shall be communicated to and coordinated with all Providing Parties.

13.0 RETIREMENT SYSTEM STATUS.

No Public Employees Retirement System or Law Enforcement Officers' and Fire Fighters' Retirement System benefits will accrue under this Agreement beyond the normal accruals of the employees of Participating Agencies. Further no benefits accrue solely under this Agreement relating to federal Social Security, unemployment insurance, or worker's compensation.

14.0 ASSIGNMENTS/SUBCONTRACTS.

Except as expressly provided herein, the parties agree not to assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Agreement, in whole or in part, without the prior written approval of the other parties.

15.0 SUCCESSORS IN INTEREST.

The provisions of this Agreement shall be binding upon and inure to the benefit of all the parties to this Agreement and their respective successors and assigns.

16.0 COMPLIANCE WITH GOVERNMENT REGULATIONS.

Each party to this Agreement agrees to comply with federal, state and local laws, codes, regulations, and ordinances applicable to the work performed under this Agreement.

17.0 FORCE MAJEURE.

No party to this Agreement shall be held responsible for delay or default caused by fire, riot, act of God and/or war which is beyond the reasonable control of the parties.

18.0 SEVERABILITY.

If any provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

19.0 AMENDMENTS.

The terms and conditions of this Agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written approval of the parties, except that new parties may sign on to this

Agreement as provided in Section 22.0 without prior written consent from the existing parties to this Agreement.

20.0 GOVERNING LAW/DISPUTE RESOLUTION.

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon as interpreted by the Oregon courts. However, the parties may attempt to resolve any dispute arising under this Agreement by any appropriate means of dispute resolution, except binding arbitration.

21.0 TERM OF AGREEMENT/EFFECTIVE DATE.

This Agreement shall take effect on the date signed by all the parties appearing on the signature page in Section 22.0 of this Agreement and shall continue in full force and effect until execution of a successor agreement or termination as set forth in Section 11 above. The terms and conditions of this Agreement shall apply to a new party to this Agreement on the date of the new party's execution of this Agreement, as provided in Section 22.0 below.

22.0 EXECUTION OF AGREEMENT.

This Agreement shall be adopted by resolution of the governing body and signed by the Fire Chief or other authorized official of each party to this Agreement . Each party will execute two copies of this Agreement, one of which will be held by the office of the District Fire Defense Chief, and the other by the office of the District Fire Defense Board Secretary. All signatures shall be executed in counterparts, using the form appearing on the next page of this Agreement.

(Signature page to follow)

IN WITNESS WHEREOF, each of the undersigned has caused the Agreement to be approved by their respective governing authority and its duly authorized officers.

AGENCY	AUTHORIZED SIGNATURE	RESOLUTION & DATE
Amity Fire District		
Dallas Fire & EMS		
Dayton Fire District		
Falls City Fire Department		
Hoskins-Kings Valley RFPD		
Oregon Department of Forestry		
Polk County Emergency Management		
Polk County Fire District #1		
Salem Fire Department		
Salem Suburban RFPD		
Sheridan Fire District		
Southwestern Polk RFPD		
Spring Valley RFPD		
West Valley Fire District		

EXHIBIT A**AUTOMATIC AND MUTUAL AID AND EMERGENCY ASSISTANCE
AGREEMENT BETWEEN**

(Fire Defense District)**AND****POLK COUNTY DISTRICT FIRE DEFENSE BOARD**

WHEREAS, the parties recognize the likelihood that fires, disasters or other like emergencies occurring in their respective districts could exceed their ability to control them with the equipment and personnel of any single agency or Fire Defense District (“District”); and

WHEREAS, the parties recognize the necessity to facilitate and comply with ORS 476.510 to 476.610 (the Oregon Emergency Conflagration Act), and to provide mutual aid during emergencies and during a declaration of emergency under ORS Chapter 401; and

WHEREAS, it is necessary and proper that this Automatic and Mutual Aid Agreement be entered into by and between the Fire Defense Districts for the mutual protection of life and property, and

WHEREAS, the local fire services of each District listed below have approved and agree to be bound by the terms of this Agreement,

NOW, THEREFORE, under the authority of ORS Chapter 190, it is agreed as follows:

1. The defined terms of the Polk County Fire Defense Board 2014 Intra-County Automatic and Mutual Aid Agreement, copy attached, (“Polk County Automatic and Mutual Aid Agreement”) are adopted and incorporated by this reference.
2. The local fire services that are parties to their Fire Defense District’s Intra-County Automatic and Mutual Aid Agreement have each agreed to respond to automatic aid and mutual aid requests between Fire Defense Districts pursuant to mutual aid and move-up procedures developed by the Fire Defense Districts and administered by the Fire Defense District’s respective Fire Defense Board Chiefs. The procedures will be developed in conformance with the State of Oregon Mobilization Plan.
3. The Fire Defense Districts will provide Emergency Assistance upon request, when available, to any of the fire services that are parties to their Fire Defense District intra-county mutual aid agreement, when such assistance is necessary and appropriate.
4. The Fire Defense Districts incorporate the provisions of Sections 4.2, 4.3, 4.5, 4.6, 5 – 10, and 12 – 22 of the Polk County Automatic and Mutual Aid Agreement.

5. The mutual aid and move-up procedures shall be reviewed and updated annually. Each party is responsible for the coordination of resources and responses with other agencies within their local Fire Defense District.
6. Additional fire service agencies may be added as parties by their respective Fire Defense Districts without approval by the other Fire Defense District.
7. Either party may withdraw from this Agreement by giving 30 days' written notice of its intent to withdraw to the other party.
8. Each Fire Defense District represents that it has obtained prior approval from each of the local fire service agencies listed below to enter into this Agreement.

The effective date of this Agreement shall be _____, and it shall remain in effect until modified or repealed.

For _____ County Fire Defense District, the fire service agencies are:

For Polk County Fire Defense Board, the fire service agencies are:

Amity Fire District, Dallas Fire & EMS, Dayton Fire District, Falls City Fire Department, Hoskins-Kings Valley RFPD, Oregon Department of Forestry, Polk County Fire District #1, Salem Fire Department, Salem Suburban RFPD, Sheridan Fire District, Southwestern Polk RFPD, Spring Valley RFPD and West Valley Fire District.

Three (3) original signed copies of this Agreement shall be maintained on file as follows:

- One (1) at the office of the Oregon State Fire Marshal
- One (1) at the office of the _____ County Fire Defense Board Chief
- One (1) at the office of the Polk County Fire Defense Board Chief

Each party and local fire protection agency to this Agreement shall receive a copy of the final signed Agreement.

IN WITNESS WHEREOF each of the undersigned has caused this Agreement to be signed by its duly authorized officers.

DISTRICT SIGNATURES

_____ COUNTY FIRE DEFENSE DISTRICT

Fire Defense Board Chief: _____ Dated: _____

POLK COUNTY FIRE DEFENSE BOARD

Fire Defense Board Chief: _____ Dated: _____

DRAFT

RESOLUTION NO. 3319

A Resolution approving and authorizing the City Manager to execute the Polk County Fire Defense Board 2014 Inter-County Automatic And Mutual Aid Emergency Assistance Agreement, an ORS Chapter 190 Intergovernmental Agreement.

WHEREAS, ORS 190.090 authorizes units of local government to enter into written agreements with other units of local government for the purpose of any and all functions and activities that the parties to the agreement, their officers and agents, have the authority to perform; and

WHEREAS, ORS Chapters 190, 453, 476, 477 and 478 extend the powers and authorities of fire and emergency medical service providers beyond their jurisdictional boundaries when acting under a mutual aid agreement; and

WHEREAS, ORS 402.010 permits the state, counties and cities, in collaboration with private agencies, to enter into cooperative assistance agreements for emergency aid and resources; and

WHEREAS, pursuant to the Oregon Emergency Conflagration Act, ORS 476.510 to 476.610, the State Fire Marshall has prepared the Oregon Fire Service Mobilization Plan, which recognizes the necessity of immediate response prior to the exercise of authority under the Conflagration Act; and

WHEREAS, the City of Dallas, with other state and local fire and emergency management service agencies, has negotiated the 2014 Intra-County Automatic And Mutual Aid Emergency Assistance Agreement, to support and carry out the structure and objectives of the Mobilization Plan;
NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. The Polk County Fire Defense Board 2014 Inter-County Automatic And Mutual Aid Emergency Assistance Agreement, is hereby approved as an Intergovernmental Agreement pursuant to ORS Chapter 190. A copy of the first page of the Agreement is attached hereto as Exhibit 1 and by reference incorporated herein.

Section 2. The City Manager, or his designee, is hereby authorized to execute the Agreement on behalf of the City of Dallas, and to make the City of Dallas a party thereto.

Section 3. This resolution shall be effective upon its passage.

Adopted: March 3, 2015

Approved: March 3, 2015

BRIAN W. DALTON, MAYOR

ATTEST:

APPROVED AS TO FORM:

RONALD W. FOGGIN,
CITY MANAGER

LANE P. SHETTERLY, CITY
ATTORNEY

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 11 a	Topic: Ordinance No 1776 – Nominations for Election
Prepared By: Emily Gagner	Meeting Date: March 2, 2015	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Ron Foggin		

RECOMMENDED MOTION:

Allow Ordinance No 1776 to pass its first reading

BACKGROUND:

As discussed recently, there are some changes we're required to make in order to make a smooth transition to our newly adopted Charter in July of this year. Because the nomination process for elections was not required to be in our Charter, we removed it, leaving us to adopt a new ordinance to formalize the nomination process in our Code.

Staff felt the current process worked well, so we recommend leaving well enough alone. This ordinance simply adds a section to the Dallas City Code outlining the process for nominations for election that was previously in our Charter.

FISCAL IMPACT:

None

DALLAS 2030 VISION IMPACT:

NA

ATTACHMENTS:

Elections section of the 1964 Charter in compared format to view changes for codification Ordinance No. 1776

Section 1. The following provisions are added to and made a part of Chapter 2 of the Dallas City Code.

NOMINATIONS

2.020 Qualifications. Any person possessing the qualifications set forth in ~~Chapter 111~~, Section 12, of the Dallasis charter may be nominated for an elective city position.

2.025 Nomination petitions.

(1) Nomination shall be by petition specifying the position sought in a form prescribed by the council.

(2) ~~Such A nomination~~ petition ~~shall must~~ be signed by not fewer than 25 electors. No elector shall sign more than one petition for each vacant position. If ~~he an elector signs more than one petition does so~~, his the elector's signature shall be valid only on the first sufficient petition filed for the position.

(3) The signatures ~~onto~~ a nomination petition need not all be ~~appended to included on~~ one ~~paperpage~~, but to each separate ~~paper page~~ of the petition ~~shall there must~~ be attached an affidavit of the petition circulator, ~~thereof~~, indicating the number of signers ~~onf~~ the ~~paper page~~ and stating that each signature ~~appended thereto~~ was made in his presence and is the genuine signature of the person whose name it purports to be.

(4) With each signature there shall be stated the signer's place of residence, identified by its street and number or other sufficient description.

(5) All ~~nomination paperspages~~ comprising a nomination petition shall be assembled and filed with the City Mmanager or the manager's designee as one instrument, with signatures duly certified by the Polk County Clerk, not earlier than 100 nor later than 70 days before the election. The manager or the manager's designee shall make a record of the exact time at which each petition is filed and shall ~~take and preserve~~record the name and address of the person by whom it is filed. If the petition is not signed by the required number of qualified electors, the manager or the manager's designee shall notify the candidate and the person who filed the petition within five days after the filing. If the petition is insufficient in any other particular, the manager or the manager's designee shall return it immediately as soon as possible to the person who filed it, certifying stating in writing wherein in what way the petition is insufficient.

(6) ~~Such A~~ deficient petition may be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed, within the regular time for refiling nomination petitions. The manager or the manager's designee shall notify an eligible person of his or her nomination, and ~~such the~~ person shall file with the manager or the manager's designee ~~his~~ written acceptance of nomination, in such form as the council may ~~require~~prescribe, within five days of notification of nomination. Failure to file a written notice of acceptance of nomination will invalidate the nomination.

(6) Upon receipt of acceptance of nomination, the manager or the manager's designee shall cause the nominee's name to be printed on the ballots.

(7) The petition of nomination for a successful candidate at an election shall be preserved in the office of the manager until the term of office for which the candidate ~~is~~has been elected expires.

ORDINANCE NO. 1776

An Ordinance adopting new provisions of the Dallas City Code relating to nominations for election.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The following provisions are added to and made a part of Chapter 2 of the Dallas City Code.

NOMINATIONS

2.020 Qualifications. Any person possessing the qualifications set forth in Section 12, of the Dallas charter may be nominated for an elective city position.

2.025 Nomination petitions.

(1) Nomination shall be by petition specifying the position sought in a form prescribed by the council.

(2) A nomination petition must be signed by not fewer than 25 electors. No elector shall sign more than one petition for each vacant position. If an elector signs more than one petition, the elector's signature shall be valid only on the first sufficient petition filed for the position.

(3) The signatures on a nomination petition need not all be included on one page, but to each separate page of the petition there must be attached an affidavit of the petition circulator, indicating the number of signers on the page and stating that each signature was made in his presence and is the genuine signature of the person whose name it purports to be.

(4) With each signature there shall be stated the signer's place of residence, identified by its street and number or other sufficient description.

(5) All pages comprising a nomination petition shall be assembled and filed with the City Manager or the manager's designee as one instrument, with signatures duly certified by the Polk County Clerk, not earlier than 100 nor later than 70 days before the election. The manager or the manager's designee shall make a record of the exact time at which each petition is filed and shall record the name and address of the person by whom it is filed. If the petition is not signed by the required number of qualified electors, the manager or the manager's designee shall notify the candidate and the person who filed the petition within five days after the filing. If the petition is insufficient in any other

particular, the manager or the manager's designee shall return it as soon as possible to the person who filed it, stating in writing in what way the petition is insufficient.

(6) A deficient petition may be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed, within the regular time for refilling nomination petitions. The manager or the manager's designee shall notify an eligible person of his or her nomination, and the person shall file with the manager or the manager's designee a written acceptance of nomination, in such form as the council may prescribe, within five days of notification of nomination. Failure to file a written notice of acceptance of nomination will invalidate the nomination.

(6) Upon receipt of acceptance of nomination, the manager or the manager's designee shall cause the nominee's name to be printed on the ballots.

(7) The petition of nomination for a successful candidate at an election shall be preserved in the office of the manager until the term of office for which the candidate has been elected expires.

Section 2. This ordinance shall take effect July 1, 2015.

Read for the first time: March 2, 2015
Read for the second time: March 16, 2015
Passed by the City Council: March 16, 2015
Approved by the Mayor: March 16, 2015

BRIAN W. DALTON, MAYOR

ATTEST:

APPROVED AS TO FORM:

RON FOGGIN
CITY MANAGER

LANE P. SHETTERLY
CITY ATTORNEY

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON & CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 11 b	Topic: Ordinance for mailing citations
Prepared By: Tom Simpson, Chief of Police	Meeting Date: March 2, 2015	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Ron Foggin		

RECOMMENDED ACTION:

Allow Ordinance No 1777 to pass its first reading

BACKGROUND:

Dallas City Code currently is unclear in the manner of “delivery” of a summons and citation. Occasionally—and often when attempting to resolve Code violations of vacant properties throughout the City—investigation reveals owners reside outside of Dallas and frequently outside of Oregon. This causes extensive delays in bringing property owners before the Municipal Court to address Code violations. The ability to mail summons and citations would expedite resolution of the various issues being addressed and make for more efficient and effective use of our staff’s time.

A copy of example language from the City of Milwaukie Municipal Code is attached.

FISCAL IMPACT:

City Attorney time;
Savings police Code staff time

DALLAS 2030 VISION IMPACT:

Our Community & Identity: 1a- attractive community; 1k-clean, safe, livable neighborhoods;

ATTACHMENTS:

Copy of Milwaukie Municipal Code §1.08.180

1.052 Citation for Infractions.

(1) The city manager may authorize a city employee to issue and serve a citation to appear in court on a person who the city employee has probable cause to believe has committed an offense defined in this code as a civil infraction.

~~(2) Each The copy of a citation issued under this section shall contain:~~

- ~~—(a) The name of the person cited.~~
- ~~—(b) A brief description of the civil infraction with which the person is charged; the date, time, and place at which the civil infraction occurred; the date on which the citation was issued; and the name of the person who issued the citation.~~
- ~~—(c) The time, date, and place at which the person cited is to appear in municipal court.~~
- ~~—(d) Whether a complaint has been filed at the time the citation was issued.~~
- ~~—(e) If the complaint was made by a private party, the name of the complainant.~~
- ~~—(f) The following:~~

~~—READ CAREFULLY~~

~~—This citation is not a complaint or an information. One may be filed and you will be provided a copy thereof at the time of your first appearance. You MUST appear in court at the time set in the citation. IF YOU FAIL TO APPEAR AND A COMPLAINT OR INFORMATION HAS BEEN FILED, THE COURT WILL IMMEDIATELY ISSUE A WARRANT FOR YOUR ARREST.~~

citation shall be in the form of a Uniform Citation for violations, as provided in ORS 153.045

(3) If a citation is issued, the person issuing the citation shall serve one copy to the person cited, and shall, as soon as practicable, file a duplicate copy with the municipal court, together with proof of service.

(4) If personal service of a citation cannot be made within a reasonable time, after reasonable effort to make personal service, the citation may be served in any manner reasonably calculated, under all the circumstances, to apprise the person cited of the existence and pendency of the proceeding and to afford a reasonable opportunity to appear and defend. In that event, a citation may be served by any of the methods set forth in, and in accordance with, Rule 7.D of the Oregon Rules of Civil Procedure (ORCP), in which case return of summons and proof of service shall be made in accordance with ORCP 7.F.

(54) If a person fails to appear in municipal court at the time fixed by the citation and a complaint has been filed, a warrant for the person's arrest may be issued.

ORDINANCE NO. 1777

An Ordinance amending Dallas City Code Section 1.052, relating to service of civil citations in Dallas Municipal Court; and repealing prior inconsistent ordinances.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. Dallas City Code Section 6.325 is hereby amended and restated in its entirety as follows:

1.052 Citation for Infractions.

(1) The city manager may authorize a city employee to issue and serve a citation to appear in court on a person who the city employee has probable cause to believe has committed an offense defined in this code as a civil infraction.

(2) The citation shall be in the form of a Uniform Citation for violations, as provided in ORS 153.045.

(3) If a citation is issued, the person issuing the citation shall serve one copy to the person cited, and shall, as soon as practicable, file a duplicate copy with the municipal court, together with proof of service.

(4) If personal service of a citation cannot be made within a reasonable time, after reasonable effort to make personal service, the citation may be served in any manner reasonably calculated, under all the circumstances, to apprise the person cited of the existence and pendency of the proceeding and to afford a reasonable opportunity to appear and defend. In that event, a citation may be served by any of the methods set forth in, and in accordance with, Rule 7.D of the Oregon Rules of Civil Procedure (ORCP), in which case return of summons and proof of service shall be made in accordance with ORCP 7.F.

(5) If a person fails to appear in municipal court at the time fixed by the citation and a complaint has been filed, a warrant for the person's arrest may be issued.

Section 2. All prior inconsistent ordinances are hereby repealed.

Read for the first time: March 2, 2015

Read for the second time: March 16, 2015

Adopted by the City Council: March 16, 2015
Approved by the Mayor: March 16, 2015

BRIAN W. DALTON, MAYOR

ATTEST:

APPROVED AS TO FORM:

RONALD W. FOGGIN,
CITY MANAGER

LANE P. SHETTERLY, CITY
ATTORNEY

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON & CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 11 c	Topic: Addendum to DCC 5.584
Prepared By: Tom Simpson, Chief of Police	Meeting Date: March 2, 2015	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Approved By: Ron Foggin		

RECOMMENDED ACTION:

Develop and incorporate additional language into section 5.584 of the Dallas City Code which specifically prohibits the use of tarpaulins or sections of fabric or other materials to prevent exposure to public view as defined in this section and which are not specifically designed, constructed and intended solely for the covering of a vehicle. This exclusion should specifically include blue or grey tarpaulins manufactured of woven polyester or nylon, and by reference should not be deemed to limit the types of excluded coverings to the colors and materials listed as examples and allow Ordinance No 1778 to pass its first reading.

BACKGROUND:

Dallas City Code 5.584(3)(a) articulates, in part, that a vehicle which is inoperable as defined in 5.584(2) and for the purposes of this same section, shall not be considered to be exposed to public view if said vehicle is covered with a cover that is specifically designed solely for covering vehicles—in short, a car cover. The intent of this wording was to prevent the use of tarpaulins of various colors, materials and configurations to cover inoperable vehicles which were being stored. Bright blue or grey tarps of woven polyester are the most common example.

A circumstance developed recently where a homeowner, who objected to the requirement to use an actual car cover and was fully aware of the intent of this requirement, purchased the appropriate cover for his vehicle and installed it, then covered the vehicle—and the new cover—with a bright blue tarpaulin. Existing Dallas City Code provides no mechanism to properly address or prevent this action.

FISCAL IMPACT:

City Attorney time

DALLAS 2030 VISION IMPACT:

Our Community & Identity: 1a- attractive community; 1k-clean, safe, livable neighborhoods;

ATTACHMENTS: None.

5.584 Inoperable Motor Vehicles and Recreational Vehicles.

(1) No person shall permit any inoperable motor vehicle, motor home, utility trailer, house or vacation trailer, boat, camper, or canopy, or any parts thereof, on property owned or controlled by that person to be exposed to public view for longer than is reasonably necessary to dispose of it, and in no event for longer than seven days unless it is in connection with a business dealing with junk vehicles lawfully conducted within the city.

(2) The term "inoperable motor vehicle," and "inoperable recreational vehicle," as used in this section, means a vehicle that is:

- (a) Inoperative;
- (b) Wrecked;
- (c) Partially or totally dismantled;
- (d) Has no current registration or license plates, when such are required for the vehicle; or

(e) In violation of three or more applicable provisions of ORS Chapters 815 and 816, regarding required motor vehicle equipment.

(3) For the purpose of this section, an inoperable vehicle or inoperable recreational vehicle shall not be considered to be exposed to public view if:

(a) The vehicle is entirely covered with a cover that is specifically designed, constructed and intended solely for the covering of a vehicle, with no other type of covering visible from outside the boundary lines of the property upon which it is parked, ~~and~~ the vehicle is parked on a paved or graveled driveway or storage pad; or

(b) All or any portion of the vehicle, or its cover, is not visible from outside the boundary lines of the property upon which it is parked.

ORDINANCE NO. 1778

An Ordinance amending Dallas City Code Section 5.584, relating to inoperable vehicles; and repealing prior inconsistent ordinances.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. Dallas City Code Section 6.325 is hereby amended and restated in its entirety as follows:

5.584 Inoperable Motor Vehicles and Recreational Vehicles.

(1) No person shall permit any inoperable motor vehicle, motor home, utility trailer, house or vacation trailer, boat, camper, or canopy, or any parts thereof, on property owned or controlled by that person to be exposed to public view for longer than is reasonably necessary to dispose of it, and in no event for longer than seven days unless it is in connection with a business dealing with junk vehicles lawfully conducted within the city.

(2) The term "inoperable motor vehicle," and "inoperable recreational vehicle," as used in this section, means a vehicle that is:

(a) Inoperative;

(b) Wrecked;

(c) Partially or totally dismantled;

(d) Has no current registration or license plates, when such are required for the vehicle; or

(e) In violation of three or more applicable provisions of ORS Chapters 815 and 816, regarding required motor vehicle equipment.

(3) For the purpose of this section, an inoperable vehicle or inoperable recreational vehicle shall not be considered to be exposed to public view if:

(a) The vehicle is entirely covered with a cover that is specifically designed, constructed and intended solely for the covering of a vehicle, with no other type of covering visible from outside the boundary lines of the property upon which it is parked, and the vehicle is parked on a paved or graveled driveway or storage pad; or

(b) All or any portion of the vehicle, or its cover, is not visible from outside the boundary lines of the property upon which it is parked.

Section 2. All prior inconsistent ordinances are hereby repealed.

Read for the first time: March 2, 2015
Read for the second time: March 16, 2015
Adopted by the City Council: March 16, 2015
Approved by the Mayor: March 16, 2015

BRIAN W. DALTON, MAYOR

ATTEST:

APPROVED AS TO FORM:

RONALD W. FOGGIN,
CITY MANAGER

LANE P. SHETTERLY, CITY
ATTORNEY

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 11d	Topic: Ordinance 1779, regarding timed parking
Prepared By: Jason Locke, Community Development/ Operations Director	Meeting Date: March 2, 2015	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Ron Foggin, City Manager		

RECOMMENDED ACTION: Move Ordinance 1779 to a second reading

BACKGROUND: The Public Works Committee is recommending amending Section 6.235 of the Dallas City Code to remove the 2-hour time limit for 16 parking spaces on SE Mill Street from the alley to Church Street. This would free up those 16 spaces for all-day parking. As noted in the memo to the PW Committee, these spaces are very rarely utilized and would serve to accommodate some additional employee parking.

FISCAL IMPACT: The cost of removing 2 signs, minimal

DALLAS 2030 VISION IMPACT: None

ATTACHMENTS:

Ordinance 1779
Redline version of 6.235
Memo to PW Committee
Downtown parking map

ORDINANCE NO. 1779

An Ordinance amending Dallas City Code Section 6.325, relating to parking time limitations; and repealing prior inconsistent ordinances.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. Dallas City Code Section 6.325 is hereby amended and restated in its entirety as follows:

6.325 Time Limitations.

(1) No person shall stand or park a motor vehicle upon the street in excess of two hours between 8:00 a.m. and 5:00 p.m., except Sundays and holidays, on the following:

(a) Main Street between its intersection with the north line of Washington Street and its intersection with the south line of Academy Street.

(b) The north side of Washington Street from its intersection with the west line of Jefferson Street to its intersection with the east line of Church Street.

(c) Court Street, from its intersection with the west line of Jefferson Street to its intersection with the east line of Church Street.

(d) Mill Street from its intersection with the west line of Jefferson Street to its intersection with the east line of the alley between Mill Street and Church Street.

(e) Oak Street from its intersection with the west line of Jefferson Street to its intersection with the east line of Robb Street and Robb Street extended.

(f) Jefferson Street from its intersection with the south line of Oak Street to its intersection with the north line of Washington Street.

(2) The repositioning of a motor vehicle from one parked position to another parked position on either side of the street within the same block, and within a 30-minute period of time, shall not be treated as interrupting the continuity of the time the vehicle has been parked for the purposes of this section.

Section 2. All prior inconsistent ordinances are hereby repealed.

Read for the first time: March 2, 2015
Read for the second time: March 16, 2015
Adopted by the City Council: March 16, 2015
Approved by the Mayor: March 16, 2015

BRIAN W. DALTON, MAYOR

ATTEST:

APPROVED AS TO FORM:

RONALD W. FOGGIN,
CITY MANAGER

LANE P. SHETTERLY, CITY
ATTORNEY

6.325 Time Limitations.

(1) No person shall stand or park a motor vehicle upon the street in excess of two hours between 8:00 a.m. and 5:00 p.m., except Sundays and holidays, on the following:

(a) Main Street between its intersection with the north line of Washington Street and its intersection with the south line of Academy Street.

(b) The north side of Washington Street from its intersection with the west line of Jefferson Street to its intersection with the east line of Church Street.

(c) Court Street, from its intersection with the west line of Jefferson Street to its intersection with the east line of Church Street.

(d) Mill Street from its intersection with the west line of Jefferson Street to its intersection with the east line of ~~Church Street~~ the alley between Mill Street and Church Street.

(e) Oak Street from its intersection with the west line of Jefferson Street to its intersection with the east line of Robb Street and Robb Street extended.

(f) Jefferson Street from its intersection with the south line of Oak Street to its intersection with the north line of Washington Street.

(2) The repositioning of a motor vehicle from one parked position to another parked position on either side of the street within the same block, and within a 30-minute period of time, shall not be treated as interrupting the continuity of the time the vehicle has been parked for the purposes of this section.



Community Development/Operations Department

Memo

To: Public Works Committee
From: Jason Locke, Community Development/Operations Director 
Date: February 18, 2015
Re: Mill Street 2-hr parking between Church and the alley

There has been an increasing demand for employee parking downtown. In order to maximize the existing spaces, an evaluation was done of the utilization rate of parking spaces, particularly on Church Street between Washington and Oak, where there are no time limits except in front of the post office. There appears to be a 90+% utilization rate of these spaces, while the area of Mill between the alley and Church Street, which contains 16 2-hour spaces, has a less than 5% utilization rate.

As there are going to be changes coming to Church Street with the addition of the Senior Center, it is recommended that the aforementioned 16 spaces on Mill Street be changed to no time limit parking. Oak Street to the north has a similar parking configuration.

As the situation on Church Street changes, there may be additional parking recommendations that will come back to the Committee.

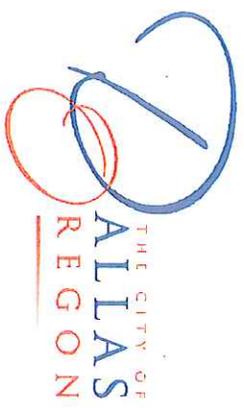
Recommendation: Forward the removal of the 2-hour time limit for the 16 spaces on Mill Street between the alley and Church Street to the Council for discussion and potential action.

Attachment: Downtown Parking Map



DOWNTOWN PUBLIC PARKING

- OPEN PARKING (No Time Limit)
 - 1 - Washington St Lot
 - 3 - Jefferson St Lot
 - 4 - Academy Building Lot
- TIMED PARKING**
- 2 HOUR
 - 3 HOUR
 - 2 - City Hall Lot
 - EMERGENCY PERSONNEL PARKING
 - LOADING ZONE
 - HANDICAP PARKING
 - SHORT-TERM PARKING



DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 12a	Topic: Franchise Agreement with Astound Broadband
Prepared By: Ron Foggin	Meeting Date: March 2, 2015	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Ron Foggin		

RECOMMENDED MOTION:

I recommend the Council adopt the ordinance authorizing the franchise agreement with Astound Broadband.

BACKGROUND:

In 2013 the City entered into a utility easement agreement with Astound Broadband. At the time, Astound was running fiber to cellular towers on the north end of the City. With the fiber backbone in place, Astound is now interested in providing high speed fiber service to businesses and government organizations that are located next to or near Astound’s fiber infrastructure. This means we need to transition from the utility easement agreement to a franchise agreement, which will help the City capture more revenue as Astound adds users.

FISCAL IMPACT:

A slight increase in franchise fee revenue

DALLAS 2030 VISION IMPACT:

Our Growth & Development: 4.e. Upgraded and modernized its utilities and infrastructure to support community and economic development, including broadband and wireless access.

ATTACHMENTS:

- Master Services Agreement
- Master Services Agreement Addendum
- Ordinance No. 1775
- Franchise Agreement
- Agreement for Right of Way

MASTER SERVICES AGREEMENT

This Master Services Agreement (“**MSA**”) is entered into as of August 20, 2014 (“**Effective Date**”) by and between WAVE BUSINESS SOLUTIONS, LLC (“**Provider**”) and THE CITY OF DALLAS (“**Customer**”). Provider and its affiliates provide various facilities-based telecommunications, competitive local exchange and related services (collectively, “**Provider Affiliates**”). This MSA sets forth the general terms and conditions applicable to Customer’s purchase, from time to time, of certain communications and related services (“**Services**”). Customer acknowledges that Services may be provided by a Provider Affiliate or a third-party service provider selected by Provider, but Provider will remain responsible to Customer for the delivery and performance of the Services as set forth in the applicable Order.

ARTICLE 1. ORDERS FOR AND PROVISION OF SERVICE

1.1 Submission and Acceptance of Orders. This MSA is not an agreement to purchase or commitment to provide Services. Customer may, from time to time, request Provider provide certain Services by submitting a separate order, in a form provided by Provider (each, an “**Order**”). Each Order will set forth the specific terms and conditions that apply to the applicable Services, and shall incorporate by reference, and be subject to, the terms of this MSA. Additional terms and conditions that apply to each type of Service (e.g., Internet, data transport, or telephone services) shall be set forth in Provider’s standard form of Service Level Agreement for such Service, which shall be included with and constitute an integral part of each Order. Customer shall be responsible for providing complete and accurate information on each Order, which shall include all information requested by Provider for provision of the Services, including Customer’s requested duration for Services (“**Service Term**”). Each Order shall be subject to acceptance by Provider, in its sole discretion, which will be the earlier to occur of (i) Provider delivering written notice to Customer of the date by which Provider shall endeavor to install Services (the “**Install Date**”) or (ii) Provider commencing provision of the Services.

1.2 Order of Precedence. Upon acceptance of an Order by Provider, such Order will become part of this MSA, and this MSA and all accepted Orders are collectively referred to as the “**Agreement.**” In the event of a conflict between the provisions of this MSA and those of an Order, the provisions of this MSA shall prevail unless the applicable Order clearly and conspicuously states that such conflicting term or condition is intended to supersede and replace the terms and conditions of this MSA.

ARTICLE 2. BILLING AND PAYMENT

2.1 Commencement of Billing. Provider shall deliver written notice (a “**Connection Notice**”) stating when Services were installed either as part of Customer’s first invoice for particular Services or in a separate notification. If Customer notifies Provider earlier than three days after delivery of the Connection Notice that Services are not functioning properly, Provider shall correct any deficiencies and, on Customer’s request, credit Customer’s account in the amount of 1/30 of the applicable MRC for each day the Services did not function properly.

2.2 Payment of Invoices and Disputes.

(A) Customer shall be responsible for payment for Services in accordance with the applicable Order, including all recurring and non-recurring fees, usage-based fees and other amounts payable to Provider by Customer (collectively, the “**Fees**”). Fixed Fees are billed in advance and usage-based Fees are billed in arrears. Generally, unless otherwise provided in an Order, invoices will be sent to Customer within 30 days of the implementation of the applicable Services for fixed Fees and within 30 days of the conclusion of the month for which recurring or usage-based Fees are assessed. All amounts due to Provider are payable in full within 30 days after the invoice date (“**Due Date**”). Past due amounts bear interest at 1.5% per month or the highest rate allowed by law (whichever is less). Acceptance of any such interest charges paid by Customer will not constitute a waiver by Provider of any Customer Default (as defined below) with respect to any such overdue amount. Provider’s failure to submit an invoice will not relieve Customer of its obligation to pay all amounts owed when due. Customer is responsible for all Fees with respect to the Services, even if incurred as the result of unauthorized use.

(B) If Customer in good faith disputes any Fees or other charges invoiced by Provider, Customer shall promptly pay all undisputed charges and shall notify Provider in writing of any such disputed amounts within 90 days after the invoice date, identifying in reasonable detail its reasons for the dispute and the nature and amount of the dispute. All amounts not timely and appropriately disputed within 90 days after the invoice date shall be deemed final, not subject to further dispute, and immediately payable in full with interest from the Due Date. The parties shall use all reasonable efforts to resolve such dispute promptly and, in any event, within 30 days after Customer provides written notification of such dispute to Provider. If the dispute is not resolved within such 30-day period, Customer and Provider must promptly submit the dispute to a senior executive officer (vice president or above) of each party, who shall negotiate in good faith to resolve the dispute within 14 days after its submission. If such officers are unable to reach agreement to the satisfaction of each party within such 14-day period, Provider will have the right to terminate the applicable Order under which such dispute arose, in addition to any other right or remedy under this Agreement. If a disputed amount is determined to be a legitimate charge, Customer shall pay such amount within 15 days of such determination. If a disputed amount is determined to be billed in error, a credit for the amount billed incorrectly will be made to the next invoice.

(C) Billing for partial months is prorated. The first billing cycle may include a partial month's recurring fee and a full month's recurring fee if Provider provides Services for a partial month.

(D) Provider may charge a reasonable service fee for all returned checks and bankcard, credit card or other charge card charge-backs.

(E) Customer will be responsible for all expenses, including reasonable attorneys' fees and collection costs, Provider incurs in collecting any unpaid amounts due under the Agreement.

2.3 Taxes. Customer is responsible for the determination, calculation, collection and payment of all taxes, surcharges and other fees (including FCC fees such as universal service fees, TRS, etc.) that may be imposed on Provider, any Provider Affiliate or Customer, arising in any jurisdiction, imposed on or incident to the provision, sale or use of Services, including but not limited to value added, consumption, sales, use, gross receipts, foreign withholding (which will be grossed up), excise, access, bypass, ad valorem, franchise or other taxes, fees, duties or surcharges (including regulatory and 911 surcharges) (collectively "**Taxes**"). Taxes shall not include Provider's taxes based on Provider's net income. Some Taxes are recovered through imposition of a percentage surcharge on the charges for Services. If either party is audited by a taxing authority or other governmental authority, the other party agrees to reasonably cooperate with the party being audited in order to respond to any audit inquiries in a proper and timely manner so that the audit or any resulting controversy may be resolved expeditiously. If Customer is entitled to an exemption from any Taxes, Customer is responsible for presenting Provider with a valid exemption or resale certificate as authorized or required by statute or regulation of the jurisdiction providing such resale or other exemption, and Provider will give effect thereto prospectively. If applicable law excludes or exempts a purchase of Services from Taxes but does not also provide an exemption procedure, then Customer is responsible for presenting Provider with a letter signed by a senior executive officer of Customer claiming an exemption and identifying the applicable law that both allows such exemption and does not require an exemption certificate. If subsequently it is determined that Customer is not exempt, Customer will defend, indemnify and hold Provider harmless from any and all costs, claims, Taxes, expenses (including reasonable attorneys' fees), and penalties levied by a taxing authority against Provider relative to Customer's lack of exempt status.

2.4 Regulatory and Legal Changes. If changes in applicable law, regulation, rule or order materially affect delivery of Services, the parties shall negotiate in good faith appropriate changes to any applicable Order. If the parties cannot reach agreement within 30 days after Provider's notice requesting renegotiation: (A) Provider may, on a prospective basis after such 30 day-period, pass any increased delivery costs on to Customer, and (B) if Provider does so, Customer may terminate the affected Services on written notice to Provider delivered within 30 days of the increased costs.

ARTICLE 3. TERM

3.1 MSA Term. This MSA shall be in effect for a period of three years from the Effective Date, unless terminated earlier as provided in this MSA, and shall automatically renew for successive terms of one-year unless written notice of non-renewal is provided by either party 90 days prior to expiration of the initial term or any renewal term. Notwithstanding the foregoing, in the event any Order remains in effect following termination or non-renewal of this MSA, this MSA shall govern and continue in effect with regard to such Order until the termination or non-renewal of such Order.

3.2 Order Term. Unless expressly stated otherwise in the applicable Order, at the expiration of the Service Term, Services will automatically continue for successive terms of one-year (each, a “**Renewal Term**”), unless written notice of non-renewal is provided by either party 90 days prior to expiration of the Service Term or Renewal Term. Provider may increase the rates and charges for any Renewal Term upon 90 days’ prior written notice to Customer. In addition, Customer shall pay Provider’s then-current rates and charges for moves, adds or changes agreed to by Provider with respect to any Order or Services.

ARTICLE 4. TERMINATION OR SUSPENSION OF SERVICE

4.1 Order Cancellation Prior to Install Date. No later than 10 days prior to the Install Date with respect to any Order, Customer may cancel such Order by providing notice to Provider both (i) by email to disconnects@wavebroadband.com and (ii) by written notice pursuant to Section 8.3. Customer shall not incur any liability or charges for such cancelled Order other than (a) such reasonable costs incurred by Provider prior to cancellation to design, engineer and install the Services and (b) any cancellation or termination charges for which Provider becomes liable to any third party in an effort to provide the Services. Provider will use its commercially reasonable efforts to mitigate any such third-party cancellation or termination charges.

4.2 Order Termination for Customer Convenience. Customer may discontinue any Services and terminate any Order upon not less than 30 days’ notice to Provider both (i) by email to disconnects@wavebroadband.com and (ii) by written notice pursuant to Section 8.3 (“**Termination for Customer Convenience**”).

4.3 Termination or Suspension for Customer Default.

(A) Customer will be in default under the Agreement (“**Customer Default**”) upon the occurrence of any the following (each, a separate Customer Default): (i) Customer fails to pay any amount required under the Agreement within five days of its due date; (ii) Customer breaches any material term of the Agreement and, if curable, Customer fails to correct such breach within 30 days of receipt of written notice from Provider identifying with reasonable particularity the nature of the breach; (iii) Customer files or initiates proceedings or has proceedings filed or initiated against it seeking liquidation, reorganization or other relief (such as appointment of a trustee, receiver, liquidator, custodian or such other official) under any bankruptcy, insolvency or other similar law and such proceedings are not dismissed within 60 days; or (iv) Provider reasonably determines that the use of Services by Customer or any end-user of Customer is resulting or will result in significant damage to Provider’s network or property or create a significant risk of harm to Provider or its employees or representatives.

(B) In the event of Customer Default, Provider may, at its option, and in addition to any other remedies it may have at law or in equity, take any or all of the following actions: (i) immediately suspend any or all Services until such time as the Customer Default has been corrected (provided, however, that any suspension shall not relieve Customer’s on-going obligation to pay Provider all Fees and other amounts due under the Agreement, as if such suspension of Services had not taken place); (ii) terminate any or all Services or Orders; or (iii) after the occurrence of any two Customer Defaults in any 12 month period, or after the occurrence of any Customer Default pursuant to subsection (A)(iii) above, terminate this MSA.

(C) Customer hereby forever waives, releases and discharges Provider and its affiliates from any and all claims, demands, actions, damages and causes of action related in any way to, or arising out of, any suspension or termination in accordance with this Section 4.3.

4.4 Termination for Provider Default.

(A) Provider will be in default under the Agreement (“**Provider Default**”) upon the occurrence of any of the following (each, a separate event of Provider Default): (i) Provider substantially breaches any material term of the Agreement and Provider fails to correct each such noncompliance within 30 days of receipt of written notice from Customer identifying with reasonable particularity the nature of the breach; or (ii) Provider files or initiates proceedings or has proceedings filed or initiated against it seeking liquidation, reorganization or other relief (such as appointment of a trustee, receiver, liquidator, custodian or such other official) under any bankruptcy, insolvency or other similar law and such proceedings are not dismissed within 60 days.

(B) In the event of Provider Default, Customer’s sole and exclusive remedies will be (i) termination of any applicable Services and Order and (ii) reimbursement by Provider of any pre-paid, unused monthly service Fees attributable to such terminated Services or Order.

4.5 Other Termination by Provider. Provider may terminate any Services or Order without incurring further liability hereunder, at any time during the Service Term, upon reasonable notice to Customer if Provider, in its reasonable discretion, determines that: (i) Provider’s installation or provision of Services is resulting or will result in significant damage to Provider’s network or property or create a significant risk of harm to Provider or its employees or representatives; (ii) Provider does not have all rights necessary to provide the Services or Provider is advised by counsel that termination of the Agreement is advisable given current or then-pending laws, regulations or ordinances, whether federal, state or local; (iii) Provider is legally or contractually prohibited from providing the Services; or (iv) delivery of the Services becomes technically infeasible due to equipment changes and reconfiguration or other technical issues. In the event of termination pursuant to this Section 4.5, Customer’s sole and exclusive remedies will be reimbursement by Provider of any pre-paid, unused monthly service Fees attributable to such terminated Services or Order.

4.6 Termination Charges. Customer shall pay a Termination Charge to Provider in the event of (a) Termination for Customer Convenience or (b) any termination for Customer Default. The “**Termination Charge**” shall equal the sum of: (1) all unpaid amounts for Services provided under the terminated Order, including any unpaid non-recurring Fees; plus (2) all non-recurring, disconnection or other third-party termination charges reasonably incurred by Provider or related to the termination of Services to Customer; plus (3) the sum of all remaining monthly recurring Fees and other charges payable for the remainder of the Service Term. Customer acknowledges that the calculation of the Termination Charge is a genuine estimate of Provider’s actual damages and is not a penalty. The Termination Charge will be due and payable within 15 days after the effective date of termination. In the event of termination due to Customer Default, payment of the Termination Charge shall not limit any of Provider’s others rights or remedies available to it at law or in equity.

4.7 Substitution of Services. At any time during the Agreement, Customer may elect to substitute new Services for then-existing Services. Provider will waive the Termination Charge associated with the termination of the then-existing Services, provided: (A) the Fees payable to Provider in connection with the substitute Services are equal to or greater than the Fees of the discontinued Services, (B) Customer commits to retain the substitute Services for the remainder of the Service Term for the discontinued Services, (C) Customer pays all applicable installation and other non-recurring charges, if any, for provision of the substitute Services, and (D) Customer reimburses Provider for all reasonable and documented engineering and construction costs associated with the discontinued Services, calculated on a time and materials basis, that have not already been recovered by Provider by the time of the substitution.

4.8 Effect of Termination. No termination pursuant to this Article 4 will relieve Customer of any of its obligations under the Agreement that are intended to continue. Further, each of the sections in Article 5 and Article 8 of this MSA will survive any termination or non-renewal of the Agreement.

ARTICLE 5. LIABILITIES AND INDEMNIFICATION

5.1 Limited Warranty. At all times during the Service Term, Provider shall use commercially reasonable efforts, in keeping with normal industry standards, to cause the Services to be available to Customer. ***The foregoing limited warranty is exclusive and in lieu of all express and implied warranties whatsoever.*** Customer must make any warranty claim within 30 days after the occurrence of non-compliance with respect to the applicable Services. Unless expressly stated otherwise in the applicable Order, Provider's sole obligation and Customer's sole remedy with respect to any breach of the limited warranty set forth in this section is a prorated refund of the Fees paid by Customer based on the period of time when the Services are out of compliance with this limited warranty.

5.2 Disclaimer of all other Warranties. ***Provider makes no warranties or representations, express or implied, either in fact or by operation of law, statutory or otherwise, including warranties or merchantability, fitness for a particular purpose or title or non-infringement of third party rights, except those expressly set forth in the Agreement. No advice or information given by Provider, its affiliates or its contractors or their respective employees will create a warranty. If, under the applicable Order, Provider provides any Equipment in order to provide Services to Customer, Customer (i) shall pay for and accept all such Provider provided equipment "as is"; (ii) irrevocably and forever waives any right or claim it or any of its affiliates may now have or may hereafter acquire against Provider regarding such Equipment or the installation, maintenance, replacement or the use thereof; and (iii) shall look only to the warranty provided by the manufacturer of such Equipment for any issues, damages, problems or concerns that may arise in connection therewith. Notwithstanding the foregoing, if Customer discovers any material defect in any such Equipment within five days following delivery of the Equipment to Customer, and Customer does not cause such defect, Customer may return such Equipment to Provider. If Provider determines in its sole and absolute discretion that such returned Equipment contains a material defect not caused by Customer, Provider shall make commercially reasonable efforts to replace the defective Equipment at no additional cost to Customer except for any applicable shipping and handling costs associated with the return and replacement.***

5.3 Limitation of Provider Liability. ***Notwithstanding anything to the contrary herein, Provider's total cumulative liability to Customer under the Agreement is limited to the aggregate amount of Fees actually paid by Customer to Provider during the immediately preceding six months for the Service affected. Customer hereby irrevocably and forever releases Provider and its affiliates from all obligations, liability, claims or demands in excess of the foregoing limitation.***

5.4 No Special Damages. ***Without limiting any express provisions provided elsewhere in the Agreement, except for Customer's Indemnification obligations set forth in Section 5.5 of this MSA, neither party will be liable for any damages for lost profits, lost revenues, loss of goodwill, loss of anticipated savings, loss of data or cost of purchasing replacement services, or any indirect, incidental, special, consequential, exemplary or punitive damages arising out of the performance or failure to perform under the Agreement or, even if the party has been advised, knew or should have known of the possibility of such damages.***

5.5 Liability and Indemnification.

(A) In addition to its specific indemnification responsibilities set forth elsewhere in the Agreement, Customer shall, at its own expense, indemnify, defend and hold harmless Provider, the Provider Affiliates and their respective members, managers, officers, employees, representatives and agents (the "**Provider Indemnified Parties**") against any and all claims, liabilities, lawsuits, damages, losses, judgments, settlements, costs, penalties, fees and expenses incurred by any Provider Indemnified Party, including but not limited to, reasonable attorneys' fees and court costs, to the full extent that such arise from (i) Customer's misrepresentation with regard to or noncompliance with the terms of the Agreement, (ii) Customer's failure to comply with applicable law, or (iii) Customer's negligence or willful misconduct. Provider Indemnified Parties will have the right but not the obligation to participate in the defense of the claim at Customer's cost and Customer shall cooperate with Provider Indemnified Parties in such case.

(B) Customer accepts full responsibility for all actions taken by its employees, contractors and agents for work performed on any property of Provider and for any Equipment used in connection with the Services, and Customer shall indemnify Provider Indemnified Parties from any actions of such employees, contractors and agents or arising from such Equipment.

(C) Provider accepts full responsibility for all actions taken by its employees, contractors or agents for work performed on any property of Customer and for any Provider-owned Equipment used in connection with the Services, and Provider shall indemnify Customer from any actions of such employees, contractors and agents or arising from such Provider-owned Equipment.

5.6 Risk of Use of Services. CUSTOMER ASSUMES ALL RESPONSIBILITY AND RISK FOR CUSTOMER'S AND ITS END USERS' USE OF ANY SERVICES PROVIDED BY PROVIDER. PROVIDER HAS NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY OR RESPONSIBILITY WHATSOEVER FOR THE CONTENT OF ANY INFORMATION TRANSMITTED OR RECEIVED THROUGH THE SERVICES, SERVICE INTERRUPTIONS ATTRIBUTABLE TO CUSTOMER'S NETWORK, ANY CUSTOMER EQUIPMENT FAILURES, OR ANY OTHER SUCH CAUSES, AND CUSTOMER AND CUSTOMER'S END USERS ACCESS THE SERVICES AT THEIR OWN RISK. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE SECURITY AND CONFIDENTIALITY OF INFORMATION IT TRANSMITS OR RECEIVES USING ANY SERVICES.

ARTICLE 6. EQUIPMENT, NETWORK, INSTALLATION AND SITE VISITS

6.1 Equipment and Network; Title to Equipment.

(A) **"Equipment"** means components including, but not limited to, any gateway or edge electronic device, antenna, node, concentrator, bridge, receiver, transmitter, transceiver, router, switch, hub or communications lines/cables, and software. **"Network"** means the network of Provider-provided Equipment, facilities and materials necessary to provide the Services.

(B) Unless expressly stated otherwise in the applicable Order, Customer is solely responsible for the acquisition, installation, maintenance and repair of any and all Equipment necessary to receive Services.

(C) Unless expressly stated otherwise in the applicable Order, if Provider provides Equipment, network facilities or other property in order to provide Services, title to all such Equipment, facilities and property shall remain solely and exclusively with Provider, and nothing in the Agreement will give or convey to Customer any right, title or interest whatsoever in any such Equipment, facilities or property. Customer shall not sell, lease, assign or create or permit to be created any liens, encumbrances or security interests on any Provider Equipment, and shall use its reasonable best efforts to promptly discharge any such lien, encumbrance or security interest. No Provider Equipment shall become fixtures of any Customer premises.

(D) Upon termination of any Order or Services, Customer, at its sole cost and expense, shall immediately (i) deliver or cause to be delivered to Provider all Provider-owned or Provider-controlled Equipment or other property located on any premises of Customer, in the condition in which they were received subject to ordinary wear and tear, and (ii) remove all Customer-owned or Customer-controlled Equipment or other property located on any premises of Provider. Failure of Customer to return all Provider Equipment within 10 days after Services are terminated will result in a charge to Customer's account equal to the full retail cost of replacement of the unreturned Equipment. In addition, Customer shall pay for the repair or replacement of any damaged Equipment (whether or not caused by Customer's negligent act, except for such repairs or replacements as may be necessary due to ordinary wear and tear or material/workmanship defects), together with any costs incurred by Provider in obtaining or attempting to regain possession of such Equipment, including, but not limited to, reasonable attorneys' fees.

6.2 Customer Premises. Customer is responsible, at its own expense, for all site preparation activities necessary for delivery and installation of the Equipment and the installation and ongoing provision of Services at such site (the “Service Site”). If access to non-Provider facilities is required for the installation, maintenance or removal of Provider Equipment, Customer shall, at its expense, secure such right of access and shall arrange for the provision and maintenance of electrical, HVAC or other utility service as needed for the proper installation and operation of such Equipment.

6.3 Installation.

(A) Provider may perform an installation review of each Service Site prior to installation of Services. Upon request, Customer shall provide Provider with accurate site or physical network diagrams or maps of a Service Site prior to installation. Provider may directly or through its agents inspect the Service Site before beginning installation, and reserves the right to satisfy itself that safe installation and proper operation of its Equipment and the Services are possible at the Service Site. If Provider determines, in its sole discretion, that safe installation or activation of one or more of the Services will have negative consequences to Provider’s personnel or Network or cause technical difficulties to Provider or its customers, Provider may terminate the applicable Order without liability upon written notice to Customer or may require Customer to correct the situation before proceeding with installation or activation of the Services.

(B) Provider shall schedule one or more installation visits with Customer. Customer’s authorized representative must be present during installation. During installation, Provider shall test to confirm that the Services can be accessed from the Service Site. If, during the course of installation, Provider determines additional work is necessary to enable Provider to deliver the Services to the Service Site, Provider shall notify Customer of any new or additional charges that may be necessary. If Customer does not agree to pay such charges by executing a revised Order reflecting such new charges (and superseding the underlying applicable Order) within five business days of receiving the revised Order, Customer or Provider may terminate the applicable Order. Customer will be responsible for access paths, moving or relocating furniture, furnishings, or equipment, or other preparation activities necessary for Provider to install, access and maintain the Services and Equipment. Customer is responsible for connecting Equipment to Customer’s computer or network to enable access to the Services. With respect to any excavation, Provider will be responsible for reasonable restoration efforts necessary to address any displacement resulting from such excavation.

6.4 Interference. If, during the Service Term of an Order, (i) proper operation of Provider’s Equipment or unhindered provision of the Services is no longer possible as a result of interference or obstruction caused by the acts or omissions of Customer, a third party or any force majeure event (as defined in Section 8.1), or (ii) Provider determines, in its sole discretion, such interference/obstruction or the cause thereof will have negative consequences to Provider’s personnel or Network or cause technical difficulties to Provider or its customers, Provider may terminate any affected Order(s) without liability upon written notice to Customer.

6.5 Ongoing Visits; Repairs.

(A) Provider may access the Service Site from time to time to inspect, construct, install, operate and maintain Provider’s Network facilities, Equipment or materials or any related facilities. Except in emergency situations, Provider shall obtain approval from Customer (not to be unreasonably withheld, conditioned or delayed) before entering the Service Site. At Provider’s request, Customer, or a representative designated by Customer, shall accompany Provider’s employees or agents into any unoccupied unit for the purpose of installing, repairing, maintaining, upgrading, or removing the Equipment.

(B) If Customer’s misuse, abuse or modification of the Services, Equipment or Network facilities supplied by Provider necessitates a visit to a Service Site for inspection, correction or repair, Provider may charge Customer a site visit fee as well as charges for any Equipment or Network repair or replacement necessary to restore Services.

6.6 Scheduled Maintenance and Local Access. Scheduled maintenance will not normally result in Services interruption. If scheduled maintenance requires Services interruption, Provider shall: (i) provide Customer reasonable advance notice; (ii) work with Customer to minimize such interruptions, and (iii) use commercially reasonable efforts to perform such maintenance between midnight and 6:00 a.m. local time.

6.7 Equipment Maintenance.

(A) Except as expressly otherwise provided in this MSA or an Order, neither party is responsible for the maintenance or repair of cable, electronics, structures, Equipment or materials owned by the other party, provided, however, that subject to the indemnification provisions of this MSA and the Order, each party will be responsible to the other for any physical damage or harm such party causes to the other party's personal or real property through the damage-causing party's negligence or willful misconduct.

(B) Customer shall (i) use its commercially reasonable efforts to safeguard Provider-provided Equipment; (ii) not add other equipment or move, modify, disturb, alter, remove, or otherwise tamper with any portion of the Equipment; (iii) not hire or permit anyone other than personnel authorized by Provider acting in their official capacities to perform any work on the Equipment; and (iv) not move or relocate Equipment to another location or use it at an address other than the Service Site(s) without the prior written consent of Provider.

(C) Any unauthorized connection or other tampering with the Services, Equipment, any system or its components will be cause for immediate (without opportunity to cure) disconnection of Services, termination of the Order and other legal and equitable relief, and Provider will be entitled to recover damages, including, but not limited to, the value of any Services and Equipment obtained in violation of the Order in addition to reasonable collection costs including, but not limited to, reasonable attorneys' fees. If any antenna or signal amplification system for use in connection with communication equipment hereafter installed on the Service Site interferes with the Services Provider provides under an Order, Provider will not be obligated to distribute a quality signal to the Service Site better than the highest quality which can be furnished as a result of such interference, until such time as the interference is eliminated or corrected by Customer or a third party.

ARTICLE 7. REPRESENTATIONS AND OBLIGATIONS

7.1 Mutual Representations. Each party represents to the other that

(A) (i) it has the power and legal authority to execute, deliver and carry out the terms of the Agreement, (ii) the execution and delivery of the Agreement and the performance of such parties' obligations hereunder have been duly authorized, (iii) the individual signing this MSA and any Order has the authority to do so; and (iv) the Agreement is a valid and legal agreement binding on such parties and enforceable in accordance with its terms.

(B) to the best of its knowledge and belief, it has all permits, licenses and authorizations that may be required under contract and applicable federal, state and local law, rules, regulations and ordinances to install, operate and maintain any Equipment used in connection with the Agreement, including without limitation, if applicable, the contractual right of entry to any properties on which any such Equipment is or will be located;

(C) to the best of its knowledge and belief, it is in material compliance with all laws, rules and regulations and court and governmental orders related to the operation of its business;

(D) it shall comply with all applicable laws and regulations when carrying out its respective duties under the Agreement; and

(E) it has not and shall not during the Service Term enter into an agreement or arrangement that could materially limit its performance or the fulfillment of its obligations under the Agreement.

7.2 Customer Obligations. Customer shall be responsible to ensure that any person who accesses or uses any Services, including through Customer's or Provider's Equipment, network or facilities, will be an authorized user, will use the Services and Equipment only in an appropriate and legal manner and will not interfere with or impair service over Provider's network or facilities. Customer shall not use or permit third parties to use the Services, including but not limited to any Equipment or software provided by Provider, for any illegal purpose, or to achieve unauthorized access to any computer systems, software, data, or other copyright or patent protected material. Customer shall be responsible for securing its network or facilities to prevent and protect against unauthorized access from third parties that may cause harm or damage to Provider's Equipment, network, vendors or customers. Customer shall not interfere with other customers' use of the Equipment or Services or disrupt the Provider Network, backbone, nodes or other Services. Customer shall not use or permit third parties to use Services in any manner that violates applicable law or causes Provider to violate applicable law. Violation of any part of this Section 7.2 is grounds for immediate (without opportunity to cure) termination of any Order in addition to any other rights or remedies Provider may have hereunder.

ARTICLE 8. GENERAL TERMS

8.1 Force Majeure. Neither party will have any claim or right against the other for any failure of or delay in performance by the other party (other than Customer's payment obligations under Article 2) if the failure or delay is caused by or the result of any act of God, fire, flood, hurricane or other natural catastrophe, terrorist actions, vandalism, cable cut or other similar catastrophe, any law, order, regulation, direction or action of any governmental, civil or military authority, national emergency, insurrection, riot or war; inability to obtain equipment, material or other supplies, strike, lockout or other similar occurrence beyond the control and without the fault or negligence of the affected party. Notwithstanding the foregoing, if the force majeure delay exceeds 30 days, either party may terminate the Agreement or applicable Order immediately on written notice without incurring any liability hereunder.

8.2 Assignment and Resale.

(A) The parties' rights and obligations under the Agreement will bind and inure to the benefit of the parties and each of their respective permitted successors and assigns.

(B) Customer shall not assign, delegate or otherwise transfer the Agreement or its obligations, in whole or in part, whether by operation of law or otherwise, without the prior written consent of Provider, which will not be unreasonably withheld, delayed or conditioned. Any assignment will be contingent on the assignee or transferee agreeing in writing to assume and to perform all of Customer's obligations under the Agreement. Notwithstanding the foregoing, Customer may assign the Agreement to any parent, subsidiary or affiliate of Customer controlling, under the control of or under common control with Customer (a "**Customer Affiliate**"); provided, that Customer shall continue to remain liable for the obligations under the Agreement. If Customer transfers the Agreement, in whole or in part, to a Customer Affiliate or a Customer Affiliate otherwise purchases Services, Customer will be jointly and severally liable for all claims and liabilities related to Services ordered by any Customer Affiliate.

(C) Unless otherwise provided in an Order, Customer may use the Services in connection with goods or services provided by Customer to third parties ("**Customer Provided Services**") provided that Customer shall indemnify, defend and hold Provider and its affiliates harmless from any claims arising from or related to any Customer Provided Services. If Customer sells telecommunications services, Customer shall file all required documentation and at all times have the requisite authority with appropriate regulatory agencies respecting the same.

8.3 Notices. Any notice to be given to either party under the Agreement will be in writing and deemed received (A) when received, if hand delivered, (B) three days after being sent by certified mail, postage prepaid and return receipt requested, (C) when received, if sent by email or facsimile during the business hours of 9:00 a.m. to 5:00 p.m. (recipient's time) with confirmation of delivery, or (D) the next day, when sent by reliable, commercial overnight courier

providing receipt of service to a party at such party's address set forth below. Notice received after 5:00 p.m. (recipient's time) will be effective the next regular business day:

If To Provider:

Wave Broadband
401 Kirkland Parkplace, Suite 500
Kirkland, WA 98033
Attn: Paul Koss
Email: pkoss@wavebroadband.com

If To Customer:

THE CITY OF DALLAS
187 SE Court St, Dallas
Dallas, OR 97338
Attn:
Email:

With A Copy To:

WaveDivision Holdings, LLC
401 Kirkland Parkplace, Suite 500
Kirkland, WA 98033
Attn: Jim Penney
Email: jpenney@wavebroadband.com

For billing inquiries/disputes, requests for Service credits and/or requests for disconnection of Services (other than for default):

If To Provider:

Wave Business Solutions, LLC
401 Kirkland Parkplace, Suite 500
Kirkland, WA 98033
Attn: Julie Caldwell
Email: jucaldwell@wavebroadband.com

If no Customer address is provided above, notices may be provided to any electronic or physical address identified on any applicable Order. Either party may change its notice address by giving notice to the other party in accordance with this section.

8.4 Business Services Subscriber Agreement and Privacy Policy.

(A) Customer's use of Internet and Telephone Services shall comply with the term and conditions of Provider's Business Services Subscriber Agreement (the "**Subscriber Agreement**"), found at www.wavebroadband.com (or the applicable successor URL) (and the Subscriber Agreement is hereby incorporated by reference into each applicable Orders). If Provider is providing Internet Services to Customer, Customer represents and warrants that Customer has read the Subscriber Agreement and agrees to be bound by its terms as they may from time to time be amended, revised, replaced, supplemented or otherwise changed. Customer expressly understands and agrees that Provider may update or modify the Subscriber Agreement from time to time, with or without notice to Customer. Provider may discontinue or disconnect Internet Services immediately for any violation of the Subscriber Agreement with or without notice to Customer.

(B) Provider treats private communications on or through its Network or using any Services as confidential and does not access, use or disclose the contents of private communications, except in limited circumstances and as permitted by law. Provider also maintains a Privacy Policy with respect to the Services in order to protect the privacy of its customers. The Privacy Policy can be found on Provider's website at www.wavebroadband.com (or the applicable successor URL). Customer represents and warrants that Customer has read the Privacy Policy and agrees to be bound by its terms. Customer expressly understands and agrees that the Privacy Policy may be updated or modified from time to time by Provider, with or without notice to Customer.

8.5 Intellectual Property and Publicity. Nothing in the Agreement or its performance grants either party, by implication, estoppel or otherwise, any right, title, interest or license in or to the other party's names, logos, logotypes, trade dress, designs, or other trademarks, patents, patent applications, trade secrets, copyrights, mask work rights or other intellectual property rights of the other party or its affiliates.

8.6 Confidential Information. “**Confidential Information**” means the specific terms of the Agreement and any information, data or other materials provided by one party to the other under or in connection with the Agreement that is (A) clearly and conspicuously marked as “confidential” or with a similar designation; (B) identified by the disclosing party as confidential or proprietary before, during or promptly after presentation or communication; or (C) disclosed in a manner which the disclosing party reasonably communicated, or the receiving party should reasonably have understood under the circumstances, that the disclosure should be treated as confidential, whether or not the specific designation “confidential” or any similar designation is used. Except with the prior written consent of the disclosing party, the receiving party shall not (i) use or disclose any Confidential Information other than to employees and contractors who have a need to know the Confidential Information, with any disclosure only to contractors who have signed a non-disclosure agreement to protect the confidential information of third parties, or (ii) make copies or allow others to make copies of such Confidential Information except as is reasonably necessary for internal business purposes. Nothing in the Agreement prohibits or limits either party's use or disclosure of information (1) previously known to it without obligation of confidence; (2) independently developed by or for it without use of or access to the other party's Confidential Information; (3) acquired by it from a third party which is not under an obligation of confidence with respect to such information; (4) which is or becomes publicly available through no breach of the Agreement; or (5) is required to be disclosed by operation of law, court order or other governmental demand. The parties further acknowledge and agree that exposure to Confidential Information of disclosing party will inevitably enhance receiving party's knowledge and understanding of disclosing party's industry and business activities, including without limitation discoveries, ideas, concepts, know-how and techniques related to or used by disclosing party (collectively, “**General Knowledge**”) in a way that cannot be separated from Receiving Party's other industry and business related knowledge. Each party agrees that, without limiting the non-disclosure obligations under this Section, this Section shall not restrict a party's use of such General Knowledge for its own internal purposes so long as such use does not incorporate Confidential Information that is specific to the disclosing party. Neither party shall take any action, including intentional memorization of Confidential Information, with the intent or purpose of evading obligations contained in this Section. The parties acknowledge and agree that breach of this Section may cause irreparable injury for which monetary damages are not an adequate remedy. Accordingly, each party may seek injunctive relief and any other available equitable remedies to enforce the provisions of this Section, without posting a bond if otherwise required by law. Neither party shall issue any press release or other public statement relating to the Agreement, except as may be required by law or agreed between the parties in writing. Any non-disclosure agreement between the parties applicable to the Agreement supersedes this Section.

8.7 Dispute Resolution by the Parties; Arbitration; Governing Law; Forum Selection.

(A) The parties will use their reasonable efforts to resolve any dispute, claim or controversy (a “**Dispute**”) arising out of or relating to this Agreement through good faith negotiation in the spirit of mutual cooperation. Either party (“**Notifying Party**”) may give the other party (“**Noticed Party**”) written notice of a Dispute. Within 15 days after delivery of such notice, the Noticed Party will submit to the other a written response. The notice and the response will include (A) a statement of each party's position and a summary of arguments supporting that position, and (B) the names and titles of the persons representing each party who will participate in such discussions. Such persons shall include a senior level executive (vice president or above) who has authority to settle the Dispute. Within 15 days after delivery of the parties' respective positions and arguments the executives of both parties will confer at a mutually acceptable time and place to attempt to resolve the Dispute. Unless otherwise agreed in writing by the negotiating parties, the above-described negotiation shall end at the close of the first meeting of executives described above. Such closure shall not preclude continuing or later negotiation. All negotiations and documents exchanged pursuant to this section are confidential and inadmissible for any purpose, in any legal proceeding involving the parties; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the

negotiation. If the parties are unable to resolve the Dispute through negotiation, then the Dispute may be submitted to the Seattle, Washington offices of Judicial Arbitration & Mediation Services, Inc. (“JAMS”) or its successor for non-binding mediation in Seattle, Washington before a single mediator. The parties will cooperate with JAMS and with one another in selecting a mediator from the JAMS panel of neutrals and in scheduling the mediation proceedings. The parties agree that they will participate in the mediation in good faith and that they will share equally in its costs. Any dispute that cannot be resolved through mediation, and any dispute with respect to which a party is claiming equitable relief, shall be resolved by arbitration as provided in Section 8.7(B).

(B) Any Dispute not resolved as provided in Section 8.7(A), including whether a particular Dispute is arbitrable hereunder, or the performance, enforcement, breach, termination or validity of it, including the scope of the agreement to arbitrate, shall be finally resolved exclusively by submission to binding arbitration in accordance with this Section 8.7(B). Unresolved Disputes shall be submitted to arbitration regardless of the theory under which they arise, including without limitation contract, tort, common law, statutory, or federal or state regulatory law or administrative regulations. Any arbitration hearing shall be before a single neutral arbitrator and held in the Seattle, Washington office of JAMS. The arbitration shall be administered pursuant to the JAMS Comprehensive Rules and Procedures then in effect. The parties shall equally share the fees of the arbitrator. The Federal Arbitration Act, 9 U.S.C. §§ 1-15, not state law, shall govern the arbitrability of all disputes. The parties shall submit any documents requested by the arbitrator in advance of the hearing date specified by the arbitrator. The selected arbitrator may grant discovery as required by the reasonable needs of the case and determine motions filed (including motions for preliminary or ancillary relief and for summary disposition), but shall do so in accordance with the parties’ desire to economically and quickly resolve any Dispute between them. As soon as practicable after the hearing, the arbitrator shall issue a written decision specifying such relief as may be appropriate. The arbitrator’s award shall be final and non-appealable. Any award rendered shall be limited to actual damages sustained by the party in whose favor the judgment is rendered, subject to the limitation of damages in this MSA. The arbitrator may not award relief in excess of or inconsistent with the provisions of the Agreement, order consolidation or arbitration on a class-wide basis or award any damages other than the prevailing party’s actual damages. The arbitrator’s award shall be final and binding and may be enforced solely in the courts provided in Section 8.7(C). Each party shall bear its own costs and attorneys’ fees. A demand for arbitration shall be forever barred unless made within one year from the date when the alleged Dispute arose, and shall be made by written notice given to the other party as provided in Section 8.7(A). No party may act as a representative of other claimants or potential claimants in any dispute, and two or more individuals’ disputes may not be consolidated or otherwise determined in one proceeding, without the prior written consent of both parties. The parties agree that the arbitration shall be kept confidential and the existence of the proceeding and any element of it (including, but not limited to, any pleadings, briefs or other documents submitted and exchanged, and testimony or other oral submission and any awards) shall not be disclosed beyond the arbitrator, the parties, their counsel and any person necessary to conduct the proceeding, except as may be ordered by a court of competent jurisdiction.

(C) The laws of the State of Washington govern all matters arising out of the Agreement. The state and federal courts located in King County, Washington will have exclusive jurisdiction and be the exclusive venue of any lawsuit between the parties arising out of this business relationship, including disputes when they arise following termination of the Agreement. Customer waives all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on either party in the manner authorized by applicable law or court rule. Customer acknowledges and agrees that this Section 8.7 serves as a material inducement for Provider to enter into the Agreement. ***Each party waives, to the fullest extent permitted by law, trial by jury of any disputes, claims or issues arising under the Agreement.***

8.8 Further Actions. The parties shall, at their own costs and expense, execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to carry out the intended purposes of the Agreement.

8.9 Amendment. The Agreement constitutes the entire and final agreement and understanding between the parties with respect to the Services and supersedes all prior agreements relating to the Services. The Agreement may only be modified or supplemented by an instrument executed by an authorized representative of each party.

8.10 Waiver. No failure by either party to enforce any rights hereunder will constitute a waiver of such rights. Provider's acceptance of any payment under the Agreement will not constitute an accord or any other form of acknowledgement or satisfaction that the amount paid is in fact the correct amount, and acceptance of a payment will not release any claim by Provider for additional amounts due from Customer. No express or implied waiver by Provider of any event of default will in any way be a waiver of any further subsequent event of default.

8.11 Relationship. The Agreement is a commercial contract between Provider and Customer and the relationship between the parties is that of independent contractors. Nothing in the Agreement creates any partnership, principal-agent, employer-employee or joint venture relationship between the parties or any of their affiliates, agents or employees for any purpose.

8.12 Legal Expenses. If any proceeding is brought by a party to enforce or interpret any term or provision of the Agreement, the substantially prevailing party in such proceeding will be entitled to recover, in addition to all other relief as set forth in the Agreement, that party's reasonable attorneys' and experts' fees and expenses.

8.13 Severability. The invalidity under applicable law of any provision of the Agreement will not affect the validity of any other provision of the Agreement, and if any provision herein is determined to be invalid or otherwise illegal, the Agreement will remain effective and will be construed in accordance with its terms as if the invalid or illegal provision were not contained herein.

8.14 No Inference Against Author. No provision of the Agreement will be interpreted against any party because the party or its legal representative drafted the provision.

8.15 No Third Party Beneficiaries. The Agreement is not intended and does not confer any rights or remedies on any entity or person other than Provider, the Provider Affiliates and Customer.

8.16 Headings; Section and Article References. The article and section headings in this MSA are furnished for the convenience of the parties and are not to be considered in the construction or interpretation of the Agreement. All article and section references herein are to articles and sections of this MSA.

8.17 Counterparts. This MSA and any Order may be executed in several counterparts, each of which will be an original, but all of which will constitute one and the same instrument. Any executed documents sent via facsimile or portable document format (pdf) images will be considered originals.

The parties are signing this MSA as of the Effective Date.

THE CITY OF DALLAS

WAVE BUSINESS SOLUTIONS, LLC

By _____
Name _____
Title _____

By _____
Name _____
Title _____

ADDENDUM TO MASTER SERVICES AGREEMENT

This Addendum to that Master Services Agreement (“MSA”) dated ____, 2015, entered into by and between the City of Dallas, Oregon (referred to in the MSA and herein as "Customer") and Wave Business Solutions, LLC (referred to in the MSA and herein as "Provider") modifies and amends the MSA as provided herein.

RECITALS

A. Customer entered into an Agreement for Use of Right of Way dated December 18, 2013. (the “ROW Use Agreement”), with WaveDivision Holdings, LLC, a Delaware limited liability company (“WDH”), of which Provider is an Affiliate within the meaning of the ROW Use Agreement.

B. Section 12 of the ROW Use Agreement provides that WDH and its Affiliates would pay to Customer the sum of \$5,566 per year, beginning with the first such payment on December 16, 2014, and continuing with a like payment on each December 16 during the term of the ROW Use Agreement.

C. On _____, 2015, Customer entered into a Telecommunications Franchise Agreement (the “Franchise Agreement”) with Astound Broadband, LLC, an Affiliate of Provider and wholly owned subsidiary WDH. Section 3 of the Franchise Agreement provides that Sections 2 and 3 thereof supersede Section 12 of the ROW Use Agreement, subject to the terms of Section 3 of the Franchise Agreement.

D. The parties acknowledge that, as of the Effective Date of the Franchise Agreement, as the term is defined therein, there was accrued to WDH, under Section 12 of the ROW Use Agreement, a pro-rated credit balance of \$_____.

E. The parties have agreed that the discount provided by Provider on charges for services, otherwise due and payable by Customer to Provider under Article 2 of the MSA, will be offset against any franchise fee owing to Customer by WDH or an Affiliate, as such charges may accrue pursuant to the terms of the Franchise Agreement, as further provided in this Addendum.

AGREEMENT

Now, therefore, in consideration of the foregoing and the mutual covenants and obligations set forth herein, the MSA is modified and amended by this Addendum as follows:

1. Pursuant to Section 3 of the Franchise Agreement, as charges for services are assessed to Customer by Provider, the value of discounts provided by Provider to Customer, otherwise due and payable by Customer to Provider under Article 2 of the MSA, shall offset and apply as a credit against the franchise fee owing by Provider's Affiliate to Customer under Section 2 of the Franchise Agreement. If the offset value available to Provider for any calendar year exceeds the amount of the franchise fee due to Customer for such calendar year, Provider may not carry over the excess offset amount into the next calendar year.

2. If the Franchise Agreement and MSA are terminated before the amount owing by WDH to Customer under Section 12 of the ROW Use Agreement would have been reduced to zero pursuant to the terms of the Franchise Agreement and the ROW Use Agreement, WDH and its Affiliates will be jointly and severally liable to Customer for the remaining balance then owing under the ROW Use Agreement, and shall pay such balance to Customer in full within thirty (30) days following written demand.

3. Customer shall refund the credit balance amount in Section D to WDH within thirty (30) days of the Effective Date of the Franchise Agreement.

4. This Addendum modifies and amends and is made a part of the MSA.

Dated _____

Dated _____

City of Dallas, Oregon

Wave Business Solutions, LLC

By: _____

By: _____

Title: _____

Title: _____

APPROVED AS TO FORM:

WaveDivision Holdings, LLC

Lane P. Shetterly
City Attorney

By: _____

Title: _____

ORDINANCE NO. 1775

An Ordinance approving and authorizing a franchise agreement with Astound Broadband, LLC, for telecommunications services within the City of Dallas; and declaring an emergency.

WHEREAS, the City of Dallas and WaveDivision Holdings, LLC, (WDH) entered into an Agreement for Use of Right of Way, dated December 16, 2013, granting to WDH and its affiliates certain rights within the City's public ways for the purpose of providing cellular telephone backhaul service for a telecommunications carrier; and

WHEREAS, Section 2 of the Right of Way Agreement provides that the parties would enter into good faith negotiations for a franchise agreement if WDH desires to provide services to customers within the city limits of City; and

WHEREAS, Astound Broadband, LLC, a wholly owned subsidiary of WDH, desires to provide telecommunications services to customers within the city limits under a franchise agreement, and the City has negotiated a franchise agreement for such services, a copy of which is attached hereto as Exhibit A, and by reference incorporated herein; and

WHEREAS, the City Council of the City of Dallas hereby finds that such franchise agreement is reasonable and in the best interest of the City and the residents of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF DALLAS:

Section 1. The Telecommunications Franchise Agreement between the City of Dallas and Astound Broadband, LLC attached hereto as Exhibit A, including the copy of the Agreement for Use of Right of Way made a part thereof, is hereby approved, and the City Manager is hereby authorized to execute such Franchise Agreement on behalf of the City.

Section 2. This ordinance being necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this ordinance shall take effect on final passage and approval by the Mayor.

Read for the first time on: February 17, 2015
Read for the second time on: March 2, 2015
Adopted by the City Council on: March 2, 2015

Approved by the Mayor on: March 2, 2015

BRIAN W. DALTON, MAYOR

ATTEST:

APPROVED AS TO FORM:

RONALD W. FOGGIN,
CITY MANAGER

LANE P. SHETTERLY,
CITY ATTORNEY

EXHIBIT A

TELECOMMUNICATIONS FRANCHISE AGREEMENT

This Agreement (the “Agreement”) is made and entered into by and between the City of Dallas, Oregon, an Oregon municipal corporation (the “City”) and Astound Broadband, LLC, a wholly-owned subsidiary of WaveDivision Holdings, LLC, a Delaware limited liability company (“WDH”).

RECITALS

- A. The City and WDH entered into an Agreement for Use of Right of Way, dated December 16, 2013 (the “ROW Agreement”), granting to WDH and its Affiliates (capitalized terms used and not otherwise defined in this Agreement shall have the meanings set forth in the ROW Agreement) certain rights within the City’s Public Ways for the purpose of providing cellular telephone backhaul service for a telecommunications carrier. A copy of the ROW Agreement is attached hereto and by reference made a part hereof.
- B. Section 2 of the ROW Agreement requires the parties to enter into good faith negotiations for a franchise agreement if Wave desires to provide services to customers within the city limits of City.
- C. Astound Broadband, LLC desires to provide services to customers within the city limits and the parties have in good faith negotiated this Agreement.

AGREEMENT

Section 1: Franchise Grant.

- a. Subject to the terms and conditions contained herein, the City hereby grants to Astound Broadband, LLC (“Grantee”) a telecommunications franchise to locate its telecommunications facilities within the Public Ways of the City.
- b. Such grant is subject to all of the laws and ordinances of the City and the State of Oregon in existence at the time of this franchise grant or hereafter enacted or amended.
- c. The scope of this grant allows the installation, maintenance and repair of telecommunications facilities by Grantee in the City’s Public Ways to provide telecommunications services and internet access services. In the event the Grantee intends to provide services other than telecommunications services or internet access services, Grantee shall be required to obtain an additional or revised franchise from the City to the extent required by law.

Section 2: Franchise Fee. The annual franchise fee payable to the City shall be five percent (5%) of Grantee’s gross revenues earned from the provision of telecommunications

EXHIBIT A

services to customers in the City. "Gross revenues" shall mean any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectibles, subject to all applicable limitations imposed by federal or state law. The franchise fee shall be paid quarterly, in arrears, for each quarter during the term of this Agreement. The franchise fee shall be due and payable within forty-five (45) days of the end of each calendar quarter. All amounts paid under this Section 2 shall be subject to review and audit by the City; provided that only payments which occurred during a period of thirty-six (36) months prior to the date the Grantor notifies Grantee of its intent to conduct a review shall be subject to such review and audit. Notwithstanding any provision to the contrary, at any time during the term of this Agreement, Grantor may elect to increase the franchise fee amount as may then be allowed by state law. Grantor shall provide Grantee with prior written notice of such increase following adoption of the change in percentage by Grantor. The increase shall be effective sixty (60) days after Grantor has provided such written notice to Grantee.

Section 3: Service to Public Buildings.

During the term of this Agreement Grantee shall provide and maintain Internet access service, at a speed level selected by Grantor, to the following public building, owned by Polk County, Oregon, provided that Polk County does not object to the installation of such services:

- Polk County, 121 SW Academy, Dallas, OR

Grantee will provide the Internet access service at a discounted rate. The Internet access service provided pursuant to this section may be shared by Polk County with Grantor, however it shall not be used by Grantor for any commercial purpose, nor shall Grantor permit any other entity to use such service for a commercial purpose.

a. The value of the discount provided by Grantee will offset against franchise fees described in Section 2. Grantee will present an annual accounting of franchise fees owed and offset achieved through discounts for services. The amount of any discounted services provided by Grantee under this section shall only be applicable to the franchise fee due from Grantee for the calendar year in which the discounted services are provided. If the offset value available to Grantee for any calendar year exceeds the amount of the franchise fee due from Grantee for said calendar year, Grantee may not carry over the excess offset amount into the next calendar year.

b. Sections 2 and 3 of this Agreement supersede Section 12 of the ROW Agreement, and Grantee's obligation to pay the franchise fee and provide service to public buildings under this Agreement supersede and replace the payment obligations under the ROW Agreement; provided, if Grantee fails or is unable, for any reason, to provide or thereafter maintain Internet access service to the Polk County building identified above with a discount off its standard rates, then, in such event, Section 12 of the ROW Agreement shall be reinstated from and after termination of provision of such services.

EXHIBIT A

Section 4: Term. This Agreement shall expire upon the expiration or termination of the ROW Agreement.

Section 5: ROW Agreement. The ROW Agreement remains in full force with respect to the rights granted in it. Except as set forth in this Agreement, the ROW Agreement is not amended or superseded.

Section 6: Effective Date. The Effective Date (“Effective Date”) of this Agreement shall be the date of last signature in the space provided immediately below.

Dated _____, 2015

Dated _____, 2015

City of Dallas, Oregon

Astound Broadband, LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

APPROVED AS TO FORM:

Lane P. Shetterly

City Attorney

AGREEMENT FOR USE OF RIGHT OF WAY

This Agreement is made and entered into by and between the City of Dallas, Oregon, an Oregon municipal corporation (City), and WaveDivision Holdings, LLC, a Delaware limited liability company (WDH).

RECITALS

A. City is an Oregon municipal corporation, with its offices located at 187 SE Court Street, Dallas, Oregon.

B. WDH is a Delaware limited liability company engaged in the business of providing fiber-optic cable and telephone and related services, registered to do business in the State of Oregon, with its Oregon offices located at 669 Glatt Circle, Woodburn, Oregon.

C. WDH desires to obtain rights for itself and its Affiliates (as defined below) to utilize City's right of way to construct, operate and maintain a fiber-optic or copper wire transmission trunk line for the purpose of providing cellular telephone backhaul service for a telecommunications carrier through City and such other services not prohibited by City or federal law, along the course shown on Exhibit A, attached hereto and by reference incorporated herein. The term "Affiliate" means any entity controlled by or under common control with WDH. The term "control" means the power to vote more than fifty percent (50%) of the securities or other equity interests of an entity. The term "controlled" has a meaning correlative thereto. The term "Wave" means WDH and any Affiliates.

D. City is willing to allow Wave to use its right of way for such purpose, according to the terms and conditions set forth in this agreement.

AGREEMENT

Now, therefore, in consideration of the foregoing and the mutual covenants and obligations set forth herein, it is hereby agreed as follows:

1. City hereby grants to Wave the right, privilege and authority to construct, operate and maintain a fiber-optic or copper wire transmission trunk line and related appurtenances, including underground conduits and structures, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively referred to herein as "Facilities") in, under, along, over and across the streets, alleys, bridges, public ways and public places (collectively referred to herein as "Public Ways") within City, along the course shown on Exhibit A, for the purpose of providing cellular telephone backhaul service for a telecommunications carrier and such other services not prohibited by City or

federal law. To the fullest extent possible, Wave's Facilities shall be collocated on or with Facilities owned and operated by PacifiCorp under and pursuant to PacifiCorp's separate Franchise agreement with City, and Wave shall not construct any poles, towers or other installations without City's prior consent.

2. The term of this Agreement is for six (6) years commencing on December 16, 2013 and ending December 15, 2019; provided, Wave may terminate this Agreement for convenience by providing written notice to City. If, during the term of this Agreement, Wave desires to begin providing fiber-optic or other services to customers within the city limits of City, Wave will notify City and the parties agree to enter into good faith negotiations for a franchise agreement. Such a franchise agreement will provide, among other things, that the amount of the annual fee payable by Wave under this Agreement (or any extension or renewal of this Agreement) at the time such franchise agreement is entered into will constitute the initial minimum annual payment to be paid to City under the franchise agreement, and that if the total of franchise fee revenue paid to City for any year under the franchise agreement is less than the amount of such minimum annual payment, Wave will pay the difference directly to City. The amount of the minimum annual payment will be subject to renegotiation and adjustment over the term of the franchise.

3. The right to use and occupy the Public Ways City is nonexclusive and City reserves the right to use the Public Ways for itself or any other entity that provides service to City residences; provided, however, that such use shall not unreasonably interfere with Wave's Facilities or rights granted herein.

4. In addition to the provision herein contained, City reserves the right to adopt such ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of Oregon, the laws of Oregon or City Ordinances.

5. City shall not be responsible for any loss or damage to property or any injury to, or death, of any person that may occur in the construction, operation or maintenance by Wave of its Facilities. Wave shall indemnify, defend and hold City harmless from and against claims, demands, liens and all liability or damage of whatsoever kind brought by third parties on account of Wave's use of the Public Ways within City, and shall pay the costs of defense plus reasonable attorneys' fees for any claim, demand or lien brought thereunder by a third party, provided that City (a) gives prompt written notice to Wave of any claim, demand or lien with respect to which City seeks indemnification hereunder; and (b) permits Wave to assume the defense of such claim, demand, or lien. If such defense is not assumed by Wave, Wave shall not be subject to liability for any

settlement made without its consent. Notwithstanding any provision hereof to the contrary, Wave shall not be obligated to indemnify, defend or hold City harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or willful act or failure to act of City or any of its officers or employees.

6. Wave shall maintain automobile, general liability, including bodily injury and property damage insurance protecting Wave and City, as well as City's officers, agents, and employees, from injuries and damages resulting from the operations related to this agreement, for which Wave is legally liable. The insurance shall provide coverage in the amounts of the maximum limits of liability imposed on municipalities of the State of Oregon during the term of this agreement. These insurance policies may provide coverage in excess of self-insured retentions or deductibles in reasonable amounts that may exceed the maximum limits of liability imposed on municipalities of the State of Oregon. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds City and its officers, agents, and employees. The insurance policies shall provide that the insurance shall not be canceled or amended without thirty (30) days' prior written notice first being given to City. Each party agrees to waive subrogation against the other for any claims described in this section to the extent that the claim is covered by the responsible party's insurance, or would have been covered but for the application of an insurance deductible.

7. All Facilities installed or used under authority of this agreement shall be used, constructed and maintained in accordance with applicable federal, state and city laws, codes and regulations.

8. Except in the case of an emergency, Wave shall, prior to commencing new construction or major reconstruction work in the public way or street or other public places, apply for a permit from City, which permit shall not be unreasonably withheld, conditioned, or delayed. Wave will abide by all applicable ordinances and all reasonable rules, regulations and requirements of City, and City may inspect the manner of such work and require remedies as may be reasonably necessary to assure compliance.

9. All Facilities shall be located so as to cause minimum interference with the Public Ways of the City and shall be constructed, installed, maintained, cleared of vegetation, renovated or replaced in accordance with applicable rules, ordinances and regulations of the City.

10. If, during the course of work on its Facilities, Wave causes damage to or alters any Public Way or public property, Wave shall, at its own cost and expense and in a manner reasonably approved by City, replace and restore it to a condition comparable to that which existed before the work commenced.

11. The parties acknowledge that the Franchise Agreement between City and PacifiCorp reserves to City the right to require PacifiCorp to relocate its overhead Facilities within the Public Ways in the interest of public convenience, necessity, health, safety or welfare at no cost to the City. In the event City exercises such authority with respect to PacifiCorp's Facilities as to which Wave is collocated, Wave shall likewise relocate its Facilities at no cost to City.

12. In consideration of the rights and privileges hereby granted, Wave shall pay to City the sum of \$5,566 per year, payable in advance; provided that City waives payment of the foregoing sum for the first year of this Agreement. The first such payment shall be made not later than December 16, 2014, and a like payment shall be made thereafter on each December 16 during the term of this Agreement.

13. This Agreement shall automatically renew for an additional period of six (6) years unless either party provides notice of non-renewal at least one (1) year prior to the expiration of the initial term.

14. Neither party will be excused from complying with any of the terms and conditions of this Agreement by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

15. Wave shall not transfer or assign any rights under this Agreement to another entity, except transfers and assignments by operation of law, or to Affiliates, parents or subsidiaries of Wave which assume all of its obligations hereunder, or for collateral security purposes to its lenders from time to time, unless City shall first give its approval in writing, which approval shall not be unreasonably withheld.

16. At any time during the term of this Agreement, the City, either party may propose amendments to this Agreement by giving thirty (30) days written notice to the other party of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment to the Agreement shall be effective until mutually agreed upon in writing.

17. City may terminate this Agreement upon the willful failure of Wave to perform promptly and completely any term, condition or obligation imposed upon it under or pursuant to this Agreement. City shall provide Wave written notice of any such failure and Wave shall have sixty (60) days from receipt of notice to cure the failure, or if the failure cannot reasonably be cured within sixty

(60) days, to commence and diligently pursue curing the failure. If Wave does not cure the failure within the sixty day period, or does not commence and diligently pursue curing the failure to City's satisfaction within the 60 day period, then City may declare the Agreement terminated.

18. In the event of suit or action arising under or relating to the terms of this Agreement, the prevailing party shall be entitled to recover such party's reasonable attorney fees, as may be awarded by the court in which such suit or action may be tried, heard or decided, and on any appeal therefrom.

19. All notices from Wave to City pursuant to or concerning this Agreement shall be delivered to the City Manager's Office at the address provided above. Unless otherwise directed, all notices from City to Wave shall be delivered to 669 Glatt Circle, Woodburn, Oregon 97071 with a copy to 401 Kirkland Parkplace, Suite 500, Kirkland, WA 98033 Attention: Jim Penney, E.V.P.

20. If any provision of this Agreement is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Agreement or any renewal or renewals thereof.

Dated December 18, 2013

City of Dallas, Oregon

By: [Signature]

Name: Don Foggia

Title: City Manager

Dated December 12, 2013

WaveDivision Holdings, LLC

By: [Signature]

Name: James A. Penney

Title: Executive Vice President

APPROVED AS TO FORM:

[Signature]

Lane P. Shetterly
City Attorney